

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_/

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 8**

**ROBERT L. EISENBERG**  
**Nevada Bar No. 0950**  
**Lemons, Grundy & Eisenberg**  
**6005 Plumas Street, Third Floor**  
**Reno, Nevada 89519**  
**775-786-6868**  
**[rle@lge.net](mailto:rle@lge.net)**

**KIRK R. HARRISON**  
**Nevada Bar No. 0861**  
**1535 Sherri Lane**  
**Boulder City, Nevada 89005**  
**702-271-6000**  
**[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)**

***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***

## CHRONO INDEX



## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
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2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

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9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

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14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

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21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

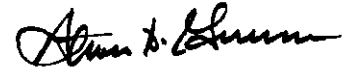
<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675



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DISTRICT COURT

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CLARK COUNTY, NEVADA

6

KIRK ROSS HARRISON,

7

Plaintiff,

8

9

v.

CASE NO. D-11-443611-D

DEPT NO. Q

10

VIVIAN MARIE LEE HARRISON,

11

Defendant.

12

13

NOTICE OF ENTRY OF  
DECREE OF DIVORCE

14

15

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

16

17

18

19

Please take notice that an Order From Hearing has been entered in the above-entitled matter. I hereby certify that on the above file stamped date, I caused a copy of the Decree of Divorce and this Notice of Entry of Decree of Divorce to be:

20

☒ Placed in the folder(s) located in the Clerk's Office of the following attorneys:

21

Edward Kainen, Esq.

22

Thomas Standish, Esq.

23

Radford J. Smith, Esq.

24

25

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27

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YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

A.App.1537

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☒ Mailed postage prepaid, addressed to the following attorney:

Gary Silverman, Esq.  
6140 Plumas St., #200  
Reno, NV 89519

*Kimberly Weiss*

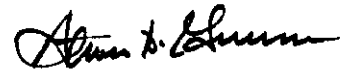
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Kimberly Weiss  
Judicial Executive Assistant  
Department Q

YCE C. DUCKWORTH  
DISTRICT JUDGE

MILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101



  
CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

6 KIRK ROSS HARRISON, )  
7 )  
8 Plaintiff, )  
9 )

v. )

CASE NO. D-11-443611-D  
DEPT NO. Q

10 VIVIAN MARIE LEE HARRISON, )  
11 )  
12 Defendant. )

DECREE OF DIVORCE

14 The above-entitled cause having come on regularly for hearing on the 3<sup>rd</sup> day of  
15 December, 2012, before the above-entitled Court, Plaintiff, KIRK ROSS HARRISON  
16 ("Kirk") appearing in person and through his attorneys, THOMAS J. STANDISH, ESQ.,  
17 of the law firm of JOLLEY, URGAS, WIRTH, WOODBURY & STANDISH, and  
18 EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and Defendant,  
19 VIVIAN MARIE LEE HARRISON ("Vivian") appearing in person and through her  
20 attorney, RADFORD J. SMITH, ESQ., of RADFORD J. SMITH, CHARTERED;  
21 Vivian's Answer having been entered, and the parties having waived the making, filing  
22 and service of Findings of Fact and Conclusions of Law, and the giving of any and all  
23 notices required by law or rules of the District Court; the Court having heard the  
24 testimony of witnesses sworn and examined in open Court, the cause having been  
25 submitted for decision and judgment, and the Court being fully advised, finds:  
26  
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28

☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred  
☐ Disposed After Trial Start  
☐ Judgment Reached by Trial  
☐ Settled/Withdrawn  
☒ Without Judicial Conf/Hrg  
☐ With Judicial Conf/Hrg  
☐ By ADR

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

1 That the Court has jurisdiction in the premises, both as to the subject matter  
2 thereof as well as the parties thereto; that Kirk has been domiciled in this State for more  
3 than six weeks preceding the commencement of this action, and that Kirk is now  
4 domiciled in and is an actual, bona fide resident of the State of Nevada; that the Kirk  
5 is entitled to an absolute Decree of Divorce on the grounds set forth in Kirk's Complaint.  
6

7 The Court further finds that there are two minor children the issue of this  
8 marriage, to-wit: EMMA BROOKE HARRISON ("Brooke"), born June 26, 1999, and  
9 RYLEE MARIE HARRISON ("Rylee"), born January 24, 2003. There are no adopted  
10 children of the parties and to the best of her knowledge, Vivian is not currently  
11 pregnant.  
12

13 The Court further finds that the child custody, support and related issues  
14 regarding the parties' two minor children previously were resolved by way of the  
15 Stipulation and Order Resolving Parent/Child Issues entered into between the parties,  
16 and filed on July 11, 2012.  
17

18 The Court further finds that each party has warranted that the property  
19 adjudicated in this Decree of Divorce constitutes all property belonging to the parties,  
20 and there is no other property (inclusive of any ventures and/or enterprises that might  
21 come to fruition at a later time), income, claims, or intangible rights owed or belonging  
22 to either party not set forth herein. The Court further finds that the adjudication of  
23 property herein is based on the agreement of the parties as reflected in the record made  
24 by the parties at the hearing on December 3, 2012, as well as the common terms set  
25 forth in their proposed Decrees submitted to the Court. The Court further finds that,  
26  
27  
28

1 based on representations made to the Court (and excluding the equalizing division of  
2 retirement accounts to be effectuated by entry of a QDRO), the parties have effectuated  
3 the equal division of the financial accounts adjudicated in this Decree. Further, an  
4 equalizing payment previously was made to equalize the division of assets pursuant to  
5 NRS 125.150, including the division of real and personal property. This Court further  
6 finds that, except for those child-related accounts specifically referenced herein, no other  
7 account for which a child of the parties is an intended beneficiary is adjudicated herein.  
8

9  
10 This Court further finds that each party hereto has represented and warranted to  
11 the other party that he or she has made full and fair disclosure of the property and  
12 interests in property owned or believed to be owned by him and/or her, either directly  
13 or indirectly. The parties have acknowledged that they are aware that each has methods  
14 of discovery available to him or her in the prosecution of their divorce action to  
15 investigate the community and separate assets of the other. Both have acknowledged  
16 that they are entering this settlement without performing any additional discovery, and  
17 that they have instructed their counsel to forego such additional discovery.  
18

19  
20 This Court further finds that each party has admitted and agreed that they each  
21 have had the opportunity to discuss and consult with independent tax counselors, other  
22 than the attorneys of record in the divorce action between the parties, concerning the  
23 income tax and estate tax implications and consequences with respect to the agreed upon  
24 division of the properties and indebtedness herein, and that Jolley, Urga, Wirth,  
25 Woodbury & Standish, Kainen Law Group, PLLC, Radford J. Smith, Chartered, and  
26  
27

28 . . .

1 Silverman, Decaria & Kattelman were not expected to provide and, in fact, did not  
2 provide tax advice concerning this Decree of Divorce.

3  
4 Based on the foregoing findings, and good cause appearing therefore,

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of  
6 matrimony heretofore and now existing between Kirk and Vivian be, and the same are  
7 hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to the  
8 parties, and each of the parties hereto is hereby restored to the status of a single,  
9 unmarried person.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the terms and  
12 provisions of the Stipulation and Order Resolving Parent/Child Issues entered into  
13 between the parties, and filed on July 11, 2012, are hereby incorporated by reference as  
14 if fully stated herein.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties  
17 complete the seminar for separating parents as required by EDCR 5.07 within 30 days  
18 from the date of entry of this Decree.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should either  
21 party intend to move his or her residence to a place outside the State of Nevada, and  
22 take the minor children with him or her, said party must, as soon as possible, and before  
23 the planned move, attempt to obtain the written consent of the other party to move the  
24 minor children from the State. If the other party refuses to give that consent, the party  
25 planning the move shall, before he or she leaves the State with the minor children,  
26 petition the Eighth Judicial District Court of the State of Nevada, in and for the County  
27  
28

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

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are  
7 subject to the provision of NRS 125.510(6) for violation of the Court's Order:  
8

9 PENALTY FOR VIOLATION OF ORDER:

10 The abduction, concealment or detention of a child in violation of  
11 this Order is punishable as a category D felony as provided in NRS  
12 193.130. NRS 200.359 provides that every person having a limited right  
13 of custody to a child or any parent having no right to the child who  
14 willfully detains, conceals or removes the child from a parent, guardian or  
15 other person having lawful custody or a right of visitation of the child in  
16 violation of an order of this court, or removes the child from the  
17 jurisdiction of the court without the consent of either the court or all  
18 persons who have the right to custody or visitation is subject to being  
19 punished for a category D felony as provided in NRS 193.130.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to  
17 NRS 125.510(7) and (8), the terms of the Hague Convention of October 25, 1980,  
18 adopted by the 14th Session of the Hague Conference on Private International Law are  
19 applicable to the parties:  
20

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

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

26 (b) Upon motion of the parties, the Court may order the  
27 parent to post a bond if the Court determines that the parent poses an  
28 imminent risk of wrongfully removing or concealing the child outside the  
country of habitual residence. The bond must be in an amount  
determined by the Court and may be used only to pay for the cost of

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

5 The State of Nevada is the habitual residence of the minor children herein.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, based upon  
7 the current financial condition of the parties, and the fact that neither party currently  
8 engages in full-time employment, neither party shall be required to pay child support to  
9 the other.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a parent  
12 responsible for paying child support is subject to wage assignment with their employer  
13 pursuant to NRS 31A.025 to 31A.190, inclusive, should they become thirty (30) days  
14 delinquent in their child support payments.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount of  
17 child support in this matter shall be reviewed every three (3) years pursuant to NRS  
18 125B.145.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions  
21 regarding child support in this matter conform to the statutory guidelines as set forth in  
22 NRS 125B, as applied in *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998) and  
23 *Wesley v. Foster*, 119 Nev. 110, 65 P.3d 251 (2003).  
24

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall  
26 submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on  
27 a separate form to the Court and the Welfare Division of the Department of Human  
28

1 Resources within ten days from the date this Decree is filed. Such information shall be  
2 maintained by the Clerk in a confidential manner and not part of the public record.  
3  
4 Each party shall update the information filed with the Court and the Welfare Division  
5 of the Department of Human Resources within ten days should any of that information  
6 become inaccurate.

7  
8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to  
9 the agreement placed on the record before this Court, each party hereby irrevocably  
10 waives, releases and relinquishes any rights which either party may have acquired by  
11 virtue of their marriage, to any alimony or spousal support of any kind, including lump  
12 sum alimony or periodic payments, or to any other Court-ordered compensation or  
13 support intended to act as or supplant alimony or spousal support. Each party herein  
14 irrevocably waives and releases to the other party all claims, rights and demands of every  
15 character or description with respect to alimony or spousal support of any type, now or  
16 hereafter, based on any and all circumstances in the present or future, whether  
17 foreseeable or unforeseeable.

18  
19  
20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vivian shall  
21 have confirmed to her as her sole and separate property, free of any claims by Kirk, the  
22 sole ownership in and to the following:

- 23  
24 1. A one-half interest in the income and distributions of Kirk's business  
25 interest in the Tobacco Contract, which Kirk has warranted and  
26 represented is the only asset of the business known as Harrison, Kemp &  
27 Jones Chartered. Kirk shall pay to Vivian one-half of all net income and  
28

1 distributions therefrom, net of the maximum tax rate. To the extent the  
2 actual taxes attributable to the income and distributions are less than the  
3 maximum tax rate, Kirk shall refund to Vivian the corresponding amount  
4 associated with her one-half interest. There shall be an annual accounting  
5 of said income and distributions to determine the extent of any refund.  
6

7  
8 2. The prior balance in the business account associated with Harrison  
9 Dispute Resolution at Bank of America ending in 4668 was previously  
10 equally divided between the parties whereby each party received  
11 \$115,836.47 on or about December 24, 2012.  
12

13 3. A twelve and one-half percent (12.5%) interest in The Measo Associates,  
14 a Nevada General Partnership, currently held in Kirk's sole name. The  
15 parties currently have a 25% interest in The Measo Associates. Following  
16 the entry of the Decree of Divorce, the interest shall be equally divided,  
17 allocating 12.5% to each party as his or her respective sole and separate  
18 property.  
19

20 4. The approximate nine percent (9%) interest in Geothermic Solution, LLC,  
21 currently held in Kirk's sole name, shall be placed in a trust whereby Kirk  
22 and Vivian shall each receive any and all rights or benefits to one-half of  
23 said interest. If, for any reason, it is illegal, will jeopardize the legal status  
24 of the LLC, or is otherwise impermissible under the organizational  
25 documents of Geothermic Solution, LLC, to transfer the interest into a  
26 trust, then the parties agree to work with one another so that Vivian is  
27  
28



1 equitably entitled to one-half of the approximate 9% interest in  
2 Geothermic Solution, LLC, either directly or by control of any and all  
3 rights or benefits arising from that interest.  
4

5 5. One-half of the balance in the Boulder Dam Credit Union savings account  
6 ending in 9005, as of September 11, 2012. Said account is currently in  
7 Vivian's name. Following the equal division of the balance contained in  
8 the account, Vivian shall retain this account.  
9

10 6. One-half of the balance in the Boulder Dam Credit Union DDA account  
11 ending in 9005, as of September 11, 2012. Said account is currently in  
12 Vivian's name. Following the equal division of the balance contained in  
13 the account, Vivian shall retain this account.  
14

15 7. One-half of the balance in the Bank of America DDA account ending in  
16 1400, as of September 11, 2012. Said account is currently in Vivian's  
17 name. Following the equal division of the balance contained in the  
18 account, Vivian shall retain this account.  
19

20 8. The prior balance in the Bank of America money market account ending  
21 in 5111 was previously equally divided between the parties, whereby each  
22 party received \$124,809.55 on or about December 24, 2012.  
23

24 9. One-half of the balance in the Bank of America checking account ending  
25 in 4040, with a balance of \$36,346.02 as of February 5, 2013.  
26

27 10. One-half of the balance in the Bank of America account ending in 8682,  
28 with a balance of \$6,638.54 as of January 7, 2013.

11. One-half of the balance in the Nevada Bank & Trust account ending in 2713, with a balance of \$740.42 as of February 4, 2013.
12. One-half of the balance in the Nevada Bank & Trust account ending in 1275 (Certificate of Deposit), with a balance of \$16,360.45 as of February 5, 2013.
13. One-half of the balance in the Wells Fargo account ending in 8032 (Certificate of Deposit), with a balance of \$28,809.58 as of February 5, 2013.
14. One-half of the balance of the Bank of America account ending in 8278, with a balance of \$46,622.74 as of February 14, 2013.
15. The prior balance in the UBS RMA account ending in 7066 was previously equally divided between the parties, whereby each party received \$455,727.35 on or about September 14, 2012.
16. The prior balance in the UBS RMA account ending in 3201 was previously equally divided between the parties, whereby each party received \$51,458.17 on or about September 11, 2012.
17. The prior balance in the Vanguard account ending in 4530/3952 was previously equally divided between the parties, whereby each party received, on or about September 27, 2012, the following: \$365,071.73, one thousand shares of GLD, \$37,500.00 par value Missouri State Water Pollution Control municipal bonds, and \$37,500.00 par value Elgin, Texas School District municipal bonds.

1 18. The prior balance in the Charles Schwab account ending in 4245 was  
2 previously equally divided between the parties, whereby each party  
3 received \$386,293.42 on or about September 11, 2012.  
4

5 19. With respect to the Legacy Treasury Direct account ending in 6330, this  
6 account previously had a balance of \$4,200,000.00. Of this amount,  
7 \$3,200,00.00 was equally divided by the parties whereby each party  
8 received \$1,600,000.00 on or about September 17, 2012. Following the  
9 settlement between the parties and after the division of assets was  
10 memorialized on the record during the hearing before the Court on  
11 December 3, 2012, the then remaining balance of the Legacy Treasury  
12 Direct account ending in 6330, which was "reserved to equalize the  
13 division of assets," was utilized to equalize the division of assets between  
14 the parties with Vivian receiving \$470,800.00 and Kirk receiving  
15 \$529,200.00 on or about December 20, 2012. Said distributions fully  
16 liquidated the Legacy Treasury Direct account ending in 6330 and it no  
17 longer exists.  
18  
19  
20

21 20. The entire balance in Vivian's Charles Schwab IRA account ending in  
22 2759. Said account is in Vivian's name and Vivian shall retain the  
23 account.  
24

25 21. A portion of Kirk's UBS Profit Sharing Plan account ending in 3354, with  
26 a balance of \$797,335.53 as of December 31, 2012, which shall be utilized  
27 to equalize the difference between the combined total of Kirk's UBS IRA  
28

1 account ending 3211 and UBS KJ&C Pooled account ending 722-140 with  
2 Vivian's Charles Schwab IRA account ending 2759. Following entry of the  
3 Decree of Divorce a Qualified Domestic Relations Order ("QDRO") shall  
4 be utilized for the division of this account. A QDRO has been prepared,  
5 circulated, and is in the process of being finalized. This Court shall retain  
6 jurisdiction to enter said qualified order.  
7

8  
9 22. One-half of the gold and silver coins acquired by the parties during  
10 marriage. Vivian has received the following gold coins: 55 American Eagle  
11 gold coins, 55 Canadian Maple Leaf gold coins, and 55 S. African  
12 Krugerrand gold coins. Vivian has received 2,500 Silver Eagle silver coins.  
13

14 23. The 2011 Toyota Avalon.

15 24. The Colt Government Model 380 semi-automatic pistol and the Smith &  
16 Wesson Model 37 - 38 caliber Chief's Special Airweight revolver.  
17

18 25. All personal property items identified and appraised by Joyce Newman as  
19 set forth in the "Summary Appraisal Report Volume I of II" with an  
20 effective date of November 20, 2012, except for the following enumerated  
21 items: 21 Stairmaster; 24 Elliptical; 25 Vectra; 26 Rotator Cuff; 28 Bike;  
22 29 Shop Stool; 30 Block bells; 31 Bench; 35 Foosball; 38 Grey lockers; 40  
23 2000 truck; 41 Acura; 42 Silverado; 43 Safe; 74 Pool Table; 75 Upright  
24 Piano; 76 Credenza/file; 77 Display Cabinet; 78 Four leather stools; 80  
25 work on paper; 81 work on paper; 82 work on paper; 83 pool Cues; 84  
26 Desk; 85 work on paper; 86 work on paper; 87 work on paper; 88 work on  
27  
28

1 paper; 116 Chest Table; 117 Side Table; 121 Side Table; 126 Rug; 127  
2 Rug; 129 Side Table; 130 Bedroom Suite; 131 Iron bed; 132 Armchair.

3  
4 26. Except as provided otherwise herein, any and all Vivian's clothing, jewelry,  
5 articles of personal adornment, miscellaneous personal possessions, and  
6 personal affects, including family heirlooms and personal property received  
7 by gift or inheritance.

8  
9 27. The residence located at 1514 Sunrise Circle, Boulder City, Nevada (Parcel  
10 #186-17-501-004), with a stipulated value of \$760,000.00, together with  
11 all improvements thereon and all appurtenances thereto. Kirk shall  
12 execute a quitclaim deed waiving and releasing any interest whatsoever in  
13 the residence located at 1514 Sunrise Circle, Boulder City, Nevada.

14  
15 28. The residence located at 213 Jasmine Way, Boulder City, Nevada (Parcel  
16 #186-04-516-097), together with all improvements thereon and all  
17 appurtenances thereto.

18  
19 29. The residence located at 1521 Sunrise Circle, Boulder City, Nevada (Parcel  
20 #186-17-510-011), together with all improvements thereon and all  
21 appurtenances thereto.

22  
23 30. The money and/or property each party receives pursuant to this Decree  
24 shall be included for all purposes in the amount each party receives as part  
25 of the ultimate resolution in the divorce between the parties, including any  
26 and all entities or properties formed or purchased with their respective  
27 portions of the distribution identified herein.  
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kirk shall have  
2 confirmed to him as his sole and separate property, free of any claims by Vivian, the sole  
3 ownership in and to the following:  
4

- 5 1. A one-half interest in the income and distributions of Kirk's business  
6 interest in the Tobacco Contract, which Kirk has warranted and  
7 represented is the only asset of the business known as Harrison, Kemp &  
8 Jones Chartered. Kirk shall pay to Vivian one-half of all net income and  
9 distributions therefrom, net of the maximum tax rate. To the extent the  
10 actual taxes attributable to the income and distributions are less than the  
11 maximum tax rate, Kirk shall refund to Vivian the corresponding amount  
12 associated with her one-half interest. There shall be an annual accounting  
13 of said income and distributions to determine the extent of any refund.  
14
- 15 2. The entire interest in Harrison Dispute Resolution, LLC. The prior  
16 balance in the business account associated with Harrison Dispute  
17 Resolution at Bank of America ending in 4668 was previously equally  
18 divided between the parties whereby each party received \$115,836.47 on  
19 or about December 24, 2012. Kirk shall retain this account.  
20
- 21 3. A twelve and one-half percent (12.5%) interest in The Measo Associates,  
22 a Nevada General Partnership, currently held in Kirk's sole name. The  
23 parties currently have a 25% interest in The Measo Associates. Following  
24 the entry of the Decree of Divorce, the interest shall be equally divided,  
25  
26  
27  
28

1 allocating 12.5% to each party as his or her respective sole and separate  
2 property.  
3

4 4. The approximate nine percent (9% ) interest in Geothermic Solution, LLC,  
5 currently held in Kirk's sole name, shall be placed in a trust whereby Kirk  
6 and Vivian shall each receive any and all rights or benefits to one-half of  
7 said interest. If, for any reason, it is illegal, will jeopardize the legal status  
8 of the LLC, or is otherwise impermissible under the organizational  
9 documents of Geothermic Solution, LLC, to transfer the interest into a  
10 trust, then the parties agree to work with one another so that Vivian is  
11 equitably entitled to one-half of the approximate 9% interest in  
12 Geothermic Solution, LLC, either directly or by control of any and all  
13 rights or benefits arising from that interest.  
14

15 5. One-half of the balance in the Boulder Dam Credit Union savings account  
16 ending in 9005, as of September 11, 2012.  
17

18 6. One-half of the balance in the Boulder Dam Credit Union DDA account  
19 ending in 9005, as of September 11, 2012.  
20

21 7. One-half of the balance in the Bank of America DDA account ending in  
22 1400, as of September 11, 2012.  
23

24 8. The entire balance in the Bank of America money market account ending  
25 in 5111. The prior balance in the Bank of America money market account  
26 ending in 5111 was previously equally divided between the parties.  
27  
28

1 whereby each party received \$124,809.55 on or about December 24, 2012.

2 Said account is in Kirk's name and Kirk shall retain this account.

3  
4 9. One-half of the balance in the Bank of America checking account ending  
5 in 4040, with a balance of \$36,346.02 as of February 5, 2013. Following  
6 the equal division of the balance contained in the account, Kirk shall retain  
7 this account.

8  
9 10. One-half of the balance in the Bank of America account ending in 8682,  
10 with a balance of \$6,638.54 as of January 7, 2013. Said account is  
11 currently in Kirk's name. Following the equal division of the balance  
12 contained in the account, Kirk shall retain this account.

13  
14 11. One-half of the balance in the Nevada Bank & Trust account ending in  
15 2713, with a balance of \$740.42 as of February 4, 2013. Said account is  
16 currently in Kirk's name. Following the equal division of the balance  
17 contained in the account, Kirk shall retain this account.

18  
19 12. One-half of the balance in the Nevada Bank & Trust account ending in  
20 1275 (Certificate of Deposit), with a balance of \$16,360.45 as of February  
21 5, 2013. Said account is currently in Kirk's name. Following the equal  
22 division of the balance contained in the account, Kirk shall retain this  
23 account.

24  
25 13. One-half of the balance in the Wells Fargo account ending in 8032  
26 (Certificate of Deposit), with a balance of \$28,809.58 as of February 5,  
27

28

YCE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101



2013. Said account is currently in Kirk's name. Following the division of the balance contained in the account, Kirk shall retain this account.

14. The prior balance in the UBS RMA account ending in 7066 was previously equally divided between the parties, whereby each party received \$455,727.35 on or about September 14, 2012. Said account is in Kirk's name and Kirk shall retain this account.

15. The entire balance in Kirk's separate property Bank of America account ending in 2521, with a balance of \$112,024.01 as of February 14, 2013. Said account is currently in Kirk's name and Kirk shall retain this account.

16. One-half of the balance of the Bank of America account ending in 8278, with a balance of \$46,622.74 as of February 14, 2013. Said account is currently in Kirk's name. Following the division of the balance contained in the account, Kirk shall retain this account.

17. The entire balance in Kirk's separate property UBS RMA account ending in 8538, with a balance of \$382,166.83 as of January 31, 2013. Said account is in Kirk's name and Kirk shall retain this account.

18. The prior balance in the UBS RMA account ending in 3201 was previously equally divided between the parties, whereby each party received \$51,458.17 on or about September 11, 2012. Said account is in Kirk's name and Kirk shall retain this account.

19. The entire balance in the Vanguard account ending in 4530/3952. The prior balance in the Vanguard account ending in 4530/3952 was previously

1 equally divided between the parties, whereby each party received, on or  
2 about September 27, 2012, the following: \$365,071.73, one thousand  
3 shares of GLD, \$37,500.00 par value Missouri State Water Pollution  
4 Control municipal bonds, and \$37,500.00 par value Elgin, Texas School  
5 District municipal bonds. Said account is in Kirk's name and Kirk shall  
6 retain the account.  
7

8  
9 20. The entire balance in the Charles Schwab account ending in 4245. The  
10 prior balance in the Charles Schwab account ending in 4245 was  
11 previously equally divided between the parties, whereby each party  
12 received \$386,293.42 on or about September 11, 2012. Said account is  
13 in Kirk's name and Kirk shall retain the account.  
14

15 21. With respect to the Legacy Treasury Direct account ending in 6330, this  
16 account previously had a balance of \$4,200,000.00. Of this amount,  
17 \$3,200,00.00 of that amount was equally divided by the parties whereby  
18 each party received \$1,600,000.00 on or about September 17, 2012.  
19 Following the settlement between the parties and after the division of  
20 assets was memorialized on the record during the hearing before the Court  
21 on December 3, 2012, the then remaining balance of the Legacy Treasury  
22 Direct account ending in 6330, which was "reserved to equalize the  
23 division of assets," was utilized to equalize the division of assets between  
24 the parties with Vivian receiving \$470,800.00 and Kirk receiving  
25 \$529,200.00 on or about December 20, 2012. Said distributions fully  
26  
27  
28

1 liquidated the Legacy Treasury Direct account ending in 6330 and it no  
2 longer exists.

3  
4 22. The entire balance in Kirk's UBS IRA account ending in 3211, with a  
5 balance of \$142,404.91 as of January 31, 2013. Said account is in Kirk's  
6 name and Kirk shall retain the account.

7  
8 23. The entire balance in Kirk's UBS KJ&C Pooled account ending in 722-  
9 140, with a balance of \$14,011.95 as of September 30, 2012. Said  
10 account is in Kirk's name and Kirk shall retain the account.

11 24. Kirk's UBS Profit Sharing Plan account ending in 3354, with a balance of  
12 \$797,335.53 as of December 31, 2012, subject to Vivian's right to that  
13 portion of said account necessary to equalize the difference between the  
14 combined total of Kirk's UBS IRA account ending 3211 and UBS KJ&C  
15 Pooled account ending 722-140 with Vivian's Charles Schwab IRA account  
16 ending 2759. Following entry of the Decree of Divorce a Qualified  
17 Domestic Relations Order ("QDRO") shall be utilized for the division of  
18 this account. A QDRO has been prepared, circulated, and is in the process  
19 of being finalized. This Court shall retain jurisdiction to enter said  
20 qualified order.  
21  
22  
23

24 25. One-half of the gold and silver coins acquired by the parties during  
25 marriage. Kirk has received the following gold coins: 55 American Eagle  
26 gold coins, 55 Canadian Maple Leaf gold coins, and 55 S. African  
27 Krugerrand gold coins. Kirk has received 2,500 Silver Eagle silver coins.  
28

- 1 26. The 2009 Chevrolet Z71 Crew Cab pickup truck.
- 2 27. The 2008 Acura MDX.
- 3
- 4 28. The 2000 Chevrolet Z71 Extended Cab pickup truck.
- 5 29. All personal property items identified and appraised by Joyce Newman as
- 6 set forth in the "Summary Appraisal Report Volume II of II" with an
- 7 effective date of November 20, 2012.
- 8
- 9 30. All of the guns (except for the Colt Government Model 380 and the Smith
- 10 & Wesson Model 37 - 38 caliber Airweight which have been previously
- 11 provided to Vivian), together with all accessories, including, but not
- 12 limited to all ammunition, gun cleaning supplies, scopes, cases, etc.
- 13
- 14 31. All of the furniture Kirk received from his parents including: his parent's
- 15 bedroom set (which was in the guest bedroom); his mother's alder china
- 16 cabinet and buffet; his mother's needlepoint bench that was made by her
- 17 brother Ray; his mother's small wooden rocking chair; and his father's high
- 18 back wooden chair with red needlepoint.
- 19
- 20 32. The following personal property items identified and appraised by Joyce
- 21 Newman as set forth in the "Summary Appraisal Report Volume I of II"
- 22 with an effective date of November 20, 2012: 21 Stairmaster; 24 Elliptical;
- 23 25 Vectra; 26 Rotator Cuff; 28 Bike; 29 Shop Stool; 30 Block bells; 31
- 24 Bench; 35 Foosball; 38 Grey lockers; 40 2000 truck; 41 Acura; 42
- 25 Silverado; 43 Safe; 74 Pool Table; 75 Upright Piano; 76 Credenza/file; 77
- 26 Display Cabinet; 78 Four leather stools; 80 work on paper; 81 work on
- 27
- 28

1 paper; 82 work on paper; 83 pool Cues; 84 Desk; 85 work on paper; 86  
2 work on paper; 87 work on paper; 88 work on paper; 116 Chest Table; 117  
3 Side Table; 121 Side Table; 126 Rug; 127 Rug; 129 Side Table; 130  
4 Bedroom Suite; 131 Iron bed; 132 Armchair.  
5

6 33. Except as provided otherwise herein, any and all of Kirk's clothing, jewelry,  
7 articles of personal adornment, miscellaneous personal possessions, and  
8 personal affects, including family heirlooms and personal property received  
9 by or inheritance.  
10

11 34. Parcel #6050-A-1, consisting of approximately 107.26 acres, in  
12 Washington County, Utah, together with all improvements thereon and  
13 all appurtenances thereto, including Water Right #208 (Harrison Spring)  
14 and Water Right #71-4172 (5 acre feet), subject to Vivian's community  
15 property interest therein, as well as any and all reimbursement claims to  
16 the ranch property, the total amount of which the parties stipulated to  
17 being \$285,000.00.  
18

19 35. Parcel #6052, consisting of approximately 39.91 acres, in Washington  
20 County, Utah, together with all improvements thereon and all  
21 appurtenances thereto, including Water Right #413 (Unnamed Spring)  
22 and Water Rights #71-4450 and #71-4173 (total of 4 acre feet for #71-  
23 4450 & #71-4173).  
24  
25  
26  
27  
28

- 1 36. Parcel #6050-C, consisting of approximately 3.23 acres, in Washington  
2 County, Utah, together with all improvements thereon and all  
3 appurtenances thereto including Water Right #71-3613.  
4  
5 37. Parcel #6050-B, consisting of approximately .87 acres, in Washington  
6 County, Utah, together with all improvements thereon and all  
7 appurtenances thereto.  
8  
9 38. Parcel #6049, consisting of approximately 50.62 acres, in Washington  
10 County, Utah, together with all improvements thereon and all  
11 appurtenances thereto, including any and all water rights, including, but  
12 not limited to, the following water rights: Water Right #138 (Tullis Spring  
13 Area), Water Right #295 (Silent Spring), Water Right #296 (Tullis  
14 Spring), Water Right #297 (Tullis Gulch), and Water Right #299  
15 (Hideout Spring).  
16  
17 39. Parcel #6050-D, consisting of approximately 4.36 acres, in Washington  
18 County, Utah, together with all improvements thereon and all  
19 appurtenances thereto, including any and all water rights.  
20  
21 40. Parcel #6050-E, consisting of approximately 20.65 acres, in Washington  
22 County, Utah, together with all improvements thereon and all  
23 appurtenances thereto, including any and all water rights.  
24  
25 41. Parcel #6050-F, consisting of approximately 41.20 acres, in Washington  
26 County, Utah, together with all improvements thereon and all  
27 appurtenances thereto, including any and all water rights.  
28

1 42. Vivian shall execute a quitclaim deed waiving and releasing any interest  
2 whatsoever in the Utah ranch, including any and all water rights (to  
3 include all parcels necessary).  
4

5 43. The money and/or property each party receives pursuant to this Decree  
6 shall be included for all purposes in the amount each party receives as part  
7 of the ultimate resolution in the divorce between the parties, including any  
8 and all entities or properties formed or purchased with their respective  
9 portions of the distribution identified herein.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any personal  
12 property not identified and appraised by Joyce Newman in her Summary Appraisal  
13 Report and not divided or otherwise confirmed to either party pursuant to the terms set  
14 forth above shall be divided by way of an A/B List.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following  
17 accounts were established by Kirk for Brooke and Rylee under the Nevada Uniform Act  
18 on Transfers to Minors (NUATM), and Kirk and Vivian have previously funded these  
19 accounts, through annual gifts:  
20

- 21 1. Charles Schwab Custodial Account of Kirk R. Harrison as Custodian for  
22 Emma Brooke Harrison UNVUTMA until age 18, ending in 6622, with a  
23 balance of \$33,251.70 as of December 31, 2012.  
24  
25 2. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Emma  
26 B. Harrison NV Unif Trans Min Act until age 18, ending in 0709, with a  
27 balance of \$75,115.06 as of December 31, 2012.  
28

1 3. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Emma  
2 B. Harrison NV Unif Trans Min Act until age 25, ending in 4276, with a  
3 balance of \$210,664.16 as of December 31, 2012.  
4

5 4. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Rylee  
6 M. Harrison NV Unif Tras Min Act until age 25, ending in 4250, with a  
7 balance of \$210,094.80 as of December 31, 2012.  
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as Rylee has  
10 \$108,936.12  $[(33,251.70 + 75,115.06 + 210,664.16) - 210,094.80]$  less in her  
11 accounts than Brooke has in her accounts (as a consequence of the difference in their  
12 ages), Kirk and Vivian shall each make the following annual gifts (deposits) into Rylee's  
13 account ending in 4250: (1) for tax year 2012, a deposit of \$10,000.00, which deposit  
14 shall be made prior to April 15, 2013; (2) for tax year 2013, a deposit of \$10,000.00,  
15 which deposit shall be made prior to April 15, 2014; (3) for tax year 2014, a deposit of  
16 \$10,000.00, which deposit shall be made prior to April 15, 2015; (4) for tax year 2015,  
17 a deposit of \$10,000.00, which deposit shall be made prior to April 15, 2016; (5) for tax  
18 year 2016, a deposit of \$10,000.00, which deposit shall be made prior to April 15, 2017,  
19 and (6) for tax year 2017, a deposit of \$5,000.00, which deposit shall be made prior to  
20 April 15, 2018.  
21  
22  
23

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a third party  
25 custodian shall be appointed for each of the accounts identified above. If possible, the  
26 parties shall designate a custodian who does not charge a custodial fee.  
27  
28



1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that that the  
2 following 4-year tuition plans were established by Vivian for Brooke and Rylee with the  
3 Nevada Prepaid Tuition Program, and and Kirk and Vivian have fully funded said plans:  
4

- 5 1. Contract Number 10002618, Purchaser: Vivian L. Harrison, Beneficiary:  
6 Emma B. Harrison; Tuition Plan: 4 Year University Plan; the Contract has  
7 been paid in full with total contract payments of \$7,365.00.  
8
- 9 2. Contract Number 10400042, Purchaser: Vivian L. Harrison; Beneficiary:  
10 Rylee M. Harrison; Tuition Plan: 4 Year University Plan; the Contract has  
11 been paid in full with total contract payments of \$12,750.00.  
12

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that these accounts  
14 shall continue to be overseen by Vivian with copies of the Annual Statements of Account  
15 being provided to Kirk within 10 days of receipt.

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
17 shall sell Parcel #4025-A, consisting of approximately 60 acres, in Washington County,  
18 Utah, together with Water rights #81-4115 (2 acre feet) and #81-433 (5 acre feet). IT  
19 IS FURTHER ORDERED that Parcel #4025-A and Water rights #81-4115 and #81-  
20 433 shall be listed for sale for Two Hundred Forty-Nine Thousand Dollars  
21 (\$249,000.00).  
22  
23

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
25 shall sell Parcel #181-28-810-002, the residential lot located at 610 Lido Drive, Boulder  
26 City, Nevada. Said Parcel #181-28-810-002 shall be listed for sale for Three Hundred  
27 Eighty-Nine Thousand Dollars (\$389,000.00).  
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Parcel #4025-  
2 A and Parcel #181-28-810-002 shall be listed with a mutually selected real estate broker  
3 for a period of six months. In the event either or both subject properties has not been  
4 sold or is not in escrow to be sold during any six month listing period, then beginning  
5 10 days after the expiration of the prior listing, said property or properties shall be listed  
6 with the same real estate broker or, at the parties' mutual election, another real estate  
7 broker, and the listed price of the subject property or properties shall be 5% less than the  
8 list price during the prior six month period. IT IS FURTHER ORDERED that each  
9 party shall equally share the net proceeds from the sale of each subject property. IT IS  
10 FURTHER ORDERED that, upon the expiration of each six month listing period, in the  
11 event the subject property has not been sold or is not in escrow to be sold, either party  
12 hereto shall have the right to purchase the subject property for the listed price, without  
13 the payment of or obligation to pay any real estate commission, upon written notice to  
14 the other party within 5 days of the expiration of the listing.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the furniture  
17 and furnishings in each of the children's bedrooms are the personal property of that  
18 respective child.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that with respect  
21 to the family photographs and videos of the older children when they were younger,  
22 which are in Kirk's possession, and the family photographs, all of the negatives of the  
23 family photographs, and all of the videos of Brooke and Rylee, which are in Vivian's  
24 possession, each party hereto shall pay one-half of the cost to transfer all of the  
25  
26  
27  
28

1 photographs (utilizing the negative whenever it is in existence) and all videos containing  
2 one or more of the children to electronic storage and/or data base and to produce a total  
3 of seven copies of that entire data base so that each party hereto and each of the children  
4 have a copy. Each party shall fully cooperate with the other to facilitate the transfer and  
5 copying of all photographs (negatives whenever possible) and videos which are the  
6 subject of this Order.  
7

8  
9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party  
10 hereto is solely personally responsible for any debt (including any and all credit card  
11 debt) he or she has at the time this Decree of Divorce is entered. The parties agree and  
12 acknowledge that the joint credit card account with Nordstrom Bank has been  
13 previously closed.  
14

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vivian shall  
16 remove her name from Kirk's Costco membership on or before November 1, 2013.  
17

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kirk shall be  
19 responsible for maintaining his own medical insurance following the entry of this Decree  
20 of Divorce, and Vivian shall be responsible for maintaining her own medical insurance  
21 following the entry of this Decree of Divorce.  
22

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall  
24 file separate tax returns for the tax year 2012 and each year thereafter. Until such time  
25 as Brooke is no longer eligible as a tax dependent, Vivian shall be entitled to claim Rylee  
26 as a dependent each year on her tax return, and Kirk shall be entitled to claim Brooke  
27 each year as a dependent on his tax return. In the year following the last year that  
28

1 Trooke is eligible to be claimed as a tax dependent, the parties shall begin alternating  
2 Rylee as a dependent with Vivian claiming Rylee in the first year.  
3

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Joint  
5 Preliminary Injunction that was previously issued in this matter on September 9, 2011,  
6 is dissolved.  
7

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall  
9 retain jurisdiction to adjudicate any reimbursement owed to Vivian for community  
10 expenses paid from separate property monies prior to November 30, 2012. The parties  
11 have designated Cliff Beadle, CPA (for Kirk), and Melissa Attanasio, CFP, (for Vivian),  
12 to meet and confer to prepare an accounting of said community expenses paid from  
13 separate property.  
14

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall  
16 retain jurisdiction to divide any property (or debt) later discovered that has not been  
17 specifically addressed in this Decree. If the Court finds that either party has willfully  
18 withheld disclosure of any property or property interests, the Court may, in its  
19 discretion, award all of that property to the other party. Further, in the event of such  
20 willful non-disclosure, the Court may require the non-disclosing party to pay all  
21 reasonable fees and costs incurred by the other party in pursuing his or her right to a  
22 division or distribution of such property.  
23  
24

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
26 have reserved the issue of attorney's fees incurred in the divorce action. IT IS  
27 FURTHER ORDERED that, pursuant to the terms of the agreement placed on the  
28

1 record, either party (or both parties) may file a motion with the Court seeking an award  
2 of fees. This Court shall enter a separate order addressing the issue of attorney's fees and  
3 costs. Independent of either party's pursuit of said fees and costs, IT IS FURTHER  
4 ORDERED that, should either party be required to commence an action to enforce or  
5 interpret the terms of this Decree, the Court shall order the non-prevailing party in that  
6 action to pay the reasonable attorney's fees and costs incurred by the prevailing party,  
7 including those fees and costs expended during notification or negotiation of the issue  
8 presented to the Court in the action.  
9

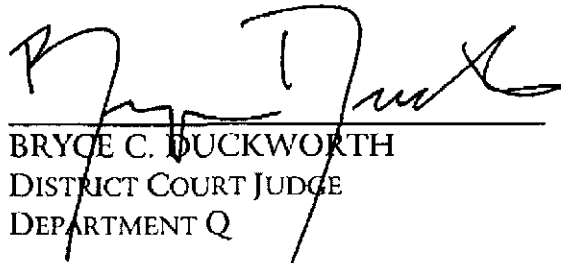
11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
12 hereto shall each execute quitclaim deeds, stock transfers, and any and all other  
13 instruments that may be required in order to effectuate transfer of any and all interest  
14 either may have in and to the said property hereby conveyed to the other as hereinabove  
15 specified. Should either party fail to execute any of said documents to transfer interest  
16 to the other, this Decree of Divorce shall constitute a full and complete transfer of the  
17 interest of one to the other as hereinabove provided. Upon failure of either party to  
18 execute and deliver any such deed, conveyance, title, certificate or other document or  
19 instrument to the other party, this Decree of Divorce shall constitute and operate as  
20 such properly executed document and the County Assessor and County Recorder and  
21 any and all other public and private officials are hereby authorized and directed to  
22 accept this Decree of Divorce, or a properly certified copy thereof, in lieu of the  
23 document regularly required for such conveyance or transfer.  
24  
25  
26  
27  
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except as  
2 otherwise specified herein, any and all property acquired, income received or liabilities  
3 incurred by either of the parties hereto from and after the date of the entry of this  
4 Decree of Divorce, will be the sole and separate property of the one so acquiring the  
5 same, and each of the parties hereto respectively grants to the other all such future  
6 acquisitions of property as the sole and separate property of the one so acquiring the  
7 same and holds harmless and agrees to indemnify the other party from any and all  
8 liabilities incurred.  
9

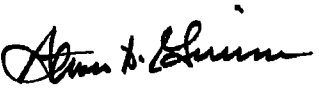
11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if any claim,  
12 action or proceeding is brought seeking to hold one of the parties hereto liable on  
13 account of any debt, obligation, liability, act or omission assumed by the other party, the  
14 responsible party will, at his or her sole expense, defend the innocent party against any  
15 such claim or demand and he or she will indemnify, defend and hold harmless the  
16 innocent party.  
17

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant  
20 shall retain her married name of Vivian Marie Lee Harrison.

21 DATED this 31st day of October, 2013.  
22

23  
24   
25 BRYCE C. DUCKWORTH  
26 DISTRICT COURT JUDGE  
27 DEPARTMENT Q  
28



  
CLERK OF THE COURT

1 MOTN  
EDWARD L. KAINEN, ESQ.  
2 Nevada Bar No. 5029  
KAINEN LAW GROUP, PLLC  
3 10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
4 Telephone (702) 823-4900  
Facsimile (702) 823-4488  
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6 THOMAS STANDISH, ESQ.  
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3800 Howard Hughes Parkway, 16th Fl.  
8 Las Vegas, Nevada 89169  
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9 Facsimile (702) 699-7555  
tjs@juww.com

10 Co-counsel for Plaintiff

11  
12 DISTRICT COURT  
CLARK COUNTY, NEVADA

13 KIRK ROSS HARRISON,

14 Plaintiff,

15 vs.

16 VIVIAN MARIE LEE HARRISON,

17 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 12 / 18 / 2013  
Time of Hearing: 11 : 00 AM

ORAL ARGUMENT REQUESTED:  
YES XX NO     

18  
19 **NOTICE:** PURSUANT TO EDCR 5.25(b) YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO  
20 THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY  
21 OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE  
22 A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT  
OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT  
WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

23 **PLAINTIFF'S MOTION TO ALTER, AMEND, CORRECT AND CLARIFY JUDGMENT**

24 COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys,  
25 THOMAS J. STANDISH, ESQ., of the law firm JOLLEY, URG A WIRTH, WOODBURY &  
26 STANDISH, and EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and hereby  
27 moves this Court, pursuant to NRCP 52(b) and NRCP 59(e), to alter, amend, correct and clarify the  
28 Decree of Divorce entered by this Court on October 31, 2013.

KAINEN LAW GROUP, PLLC  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com



1 This Motion is made and based upon the Points and Authorities submitted herewith, the  
2 Affidavits attached hereto, the Exhibits attached hereto, and upon the oral argument of counsel at the  
3 time of hearing.

4 DATED this 14 day of November, 2013.

5 KAINEN LAW GROUP, PLC

6  
7 By: 

8 EDWARD L. KAINEN, ESQ.

9 Nevada Bar No. 5029

10 10091 Park Run Drive, Suite 110

11 Las Vegas, NV 89145

12 *Attorneys for Plaintiff*

13 **NOTICE OF MOTION**

14 TO: VIVIAN MARIE HARRISON, Defendant; and

15 TO: RADFORD SMITH, ESQ. and GARY SILVERMAN, ESQ., counsel for Defendant:

16 PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for  
17 hearing before the above-entitled Court on the 12/18/2013 day of \_\_\_\_\_, 2013, at the hour of  
18 11:00 AM m., or as soon thereafter as counsel may be heard.

19 DATED this 14 day of November, 2013.

20 KAINEN LAW GROUP, PLLC

21 By: 

22 EDWARD L. KAINEN, ESQ.

23 Nevada Bar No. 5029

24 10091 Park Run Drive, Suite 110

25 Las Vegas, Nevada 89145

26 *Attorney for Plaintiff*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

After the terms of the settlement between the parties were memorialized on the record before the Court during the hearing on December 3, 2012, this Court granted an absolute Decree of Divorce. Kirk's counsel thereafter prepared and provided a Marital Settlement Agreement to Vivian's attorneys on February 19, 2013. Vivian's attorneys made written assurances they would provide a response. (See Kirk's Motion for Scheduling Order, filed 9.14.13, p. 11, l. 13-20.) However, four and one-half months elapsed without a response. Left with no alternative, Kirk's counsel filed a Motion to Enter Decree on May 13, 2013, attaching a proposed Decree of Divorce at that time.

As of September 4, 2013, Vivian's attorneys had still failed to respond to the Marital Settlement Agreement, which had been provided to them on February 19, 2013 – *over six and one-half months earlier*. Pursuant to EDCR 5.25(b), Vivian's attorneys were required to file an opposition to Kirk's Motion to Enter Decree, filed May 13, 2013, within ten (10) days. As of September 4, 2013, Vivian's attorneys had failed to file an opposition to Kirk's Motion to Enter Decree for *one hundred fourteen (114) days*. Again, left with no alternative, Kirk's counsel filed a Motion for Scheduling Order on September 4, 2013.

On September 19, 2013, this Court entered its Order Incident to the Order Resolving Parent/Child Custody Issues and December 3, 2013 Hearing, wherein this Court ordered the submission of a proposed Decree of Divorce from both parties. Since Vivian's attorneys had Kirk's proposed Decree of Divorce since May 13, 2013, they had ample opportunity and did, in fact, respond Kirk's proposed Decree of Divorce by way of Vivian's submission of a proposed Decree of Divorce. In contrast however, although Kirk's counsel responded to Vivian's attorneys' "Notes" and "Explanation," Kirk was not afforded an opportunity to respond to the provisions contained in Vivian's proposed Decree of Divorce and, more particularly, the provisions thereof which are wholly inconsistent with the agreement between the parties and the record memorialized before the Court on December 3, 2012.

...

...

...

1 **II. ARGUMENT**

2  
3 **A. A Motion To Alter or Amend Is Proper As There Has Been Judicial Error Caused  
By the Submission Of Vivian's Proposed Decree of Divorce**

4 A motion to amend is proper when there has been judicial error in the judgement. NRCP 52(b)  
5 provides:

6 Upon a party's motion filed not later than 10 days after service of written notice of entry  
7 of judgment, the court may amend its findings or make additional findings and may  
8 amend the judgment accordingly. The motion may accompany a motion for a new trial  
9 under Rule 59. When findings of fact are made in actions tried without a jury, the  
sufficiency of the evidence supporting the findings may later be questioned whether or  
not in the district court the party raising the question objected to the findings, moved to  
amend them, or moved for partial findings.

10 A motion to amend must be filed within ten days after service of the notice of entry of the  
11 judgment. NRCP 59(e) provides:

12 (e) Motion to Alter or Amend a Judgment. A motion to alter or amend the judgment  
13 shall be filed no later than 10 days after service of written notice of entry of the  
judgment.

14 A motion to alter or amend the judgment is proper where there has been judicial error, as  
15 opposed to clerical error, in a judgment of the Court. *See, e.g., Koester v. Administrator of Estate of*  
16 *Koester*, 101 Nev. 68, 73, 693 P.2d 569, 573 (describing the court's general power to correct clerical  
17 errors); 4 LITIGATING TORT CASES § 46:14 (2011) ("The motion must seek to "alter or amend" the  
18 judgment, i.e., requesting to correct judicial error as opposed to clerical error."). A "judicial error" is  
19 one in which the Court made an error in the consideration of the matters before it, as opposed to an error  
20 in the judgment itself that did not reflect the true intention of the Court. *See, e.g., Presidential Estates*  
21 *Apartment Associates v. Barrett*, 917 P.2d 100, 103-04 (Wash. 1996).

22 As a consequence of the errors contained in Vivian's proposed decree of divorce, there are errors  
23 contained in the Decree of Divorce, entered by the Court on October 31, 2013.

24  
25 **B. Both Parties Have Consistently Acknowledged That Kirk's Separate Property  
Accounts Are Kirk's Separate Property and Were, Therefore, Never To Be Divided**

26 **1. The Difference in the Proposed Decrees of Divorce**

27 The proposed Decree of Divorce provided by Kirk, provided that Kirk would keep the entire  
28 balance in each of his separate property accounts ending in 8682, 2713, 1275, 8032, and 2521. *See,*

1 Kirk's proposed Decree, p. 11, ¶10 & 11; p. 12, ¶12, 13 & 15. Accounts 8682, 2713, 1275, and 8032  
2 are separate property accounts which existed prior to marriage and Kirk has maintained separately or  
3 are an account Kirk established when his father passed away to deposit money he received from his  
4 parents' estates and which also have been maintained separately. The account ending in 2521 is the  
5 separate property account Kirk established during the pendency of the divorce to deposit separate  
6 property funds, which have been utilized to pay Kirk's normal ongoing bills.

7 In the proposed Decree of Divorce provided by Vivian, Vivian proposed that the money in each  
8 of Kirk's separate property accounts ending in 8032, 8682, 2713 and 1275 be equally divided. *See*,  
9 Vivian's submission, filed 9.27.13, Exh. D, p. 8, ¶6.16; p. 6, ¶6.18, 6.19; p. 9, ¶6.21. Vivian's proposed  
10 Decree also proposed that the money in the account ending in 8278 be equally divided. *See*, p. 8, ¶6.17  
11 The account ending in 8278 is the separate property account Kirk established when the Court ordered  
12 that \$700,000.00 in community funds be equally divided to provide each party with \$350,000.00 for the  
13 payment of attorneys' fees and costs. This account was opened on March 2, 2012 and is entitled, "Fee  
14 Account" and has been used solely by Kirk to pay attorneys' fees and costs. After the initial  
15 \$350,000.00 was exhausted, Kirk deposited additional separate property funds into this account to pay  
16 for attorneys' fees and costs.

17 Unfortunately, the Court adopted Vivian's erroneous provisions as set forth in the Decree of  
18 Divorce, entered October 31, 2013, p. 9, ¶10; p. 10, ¶11, 12, 13 & 14. As a consequence, the following  
19 provisions are also in error, p. 16, ¶10, 11, 12, 13; p. 17, ¶16.

20  
21 **2. The Record Before the Court Is Clear That Kirk's Separate Property  
Accounts Were Never To Be Divided**

22 During the hearing on December 3, 2012, a record was made regarding the accounts which were  
23 remaining to be divided. The record before the Court is clear that at the time of the hearing on December  
24 3, 2012, there were only five remaining accounts to be divided. First, there was a million dollar account  
25 which was set aside to equalize the division of assets between the parties. (Hearing Transcript, 12/3/12,  
26 p. 9, l. 15-18). Second, there was a retirement account remaining to be divided based upon the terms  
27 of a qualified domestic relations order. (Hearing Transcript, 12.3.12, p. 9, l. 12-15) Third, there were  
28 three remaining identified accounts to also be divided:

1 There are three accounts that have not been divided, not counting the retirement account  
2 that is in the process. We have a draft of a qualified order that's been circulated. Those  
3 three accounts are Kirk's checking account that ends in 4040, the number, and a money  
4 market account also in Kirk's name ending in 5111, and then the Harrison Dispute  
5 Resolution, LLC account, which actually ends in, the number 4668.

6 (Hearing Transcript, 12.3.12, p. 9, l. 20-25; p. 10, l. 1)

7 The record is absolutely clear that only those five accounts were remaining to be divided. There  
8 was no reference whatsoever to Kirk's separate property accounts, as these are Kirk's separate property  
9 and, for that reason, were never going to be divided. Consistently, when Kirk's attorneys identified the  
10 accounts to be equally divided, Vivian's attorneys **did not** apprise the Court that additional accounts  
11 – these separate property accounts of Kirk – were also to be divided. It was not until the submission of  
12 Vivian's proposed Decree *almost ten months later*, on September 27, 2013, did Vivian's attorneys  
13 advocate that Kirk's separate property accounts should also be divided.<sup>1</sup>

14 There was never an agreement between the parties "regarding the equal division of all cash  
15 accounts" as erroneously alleged in the "Explanation" submitted by Vivian. *See*, Vivian's submission,  
16 9/27/13, p. 4, l. 16-21. Such an agreement is totally nonsensical as it would require Kirk to divide  
17 accounts which were already the result of the parties equally dividing community funds and  
18 transforming them into separate property funds. Vivian, in effect, would then get one-half of Kirk's  
19 one-half.

20 ...

21 ...

22 ...

23 ...

24 <sup>1</sup> It should be noted when Kirk submitted his proposed Decree as an attachment to his Motion To Enter  
25 Decree of Divorce, filed May 13, 2013, Kirk added three accounts which are in Vivian's name, the  
26 community nature of which has never been in dispute. (Kirk's proposed Decree, p. 6, l. ¶5, 6 & 7.)  
27 These three accounts were only added for purposes of completeness so that **all community accounts**  
28 **were identified**, as Kirk believed the amount of money in these accounts was de minimis. To the extent  
the addition of these accounts is inconsistent with the record before the Court on December 3, 2012,  
Kirk will waive any interest in these accounts, despite the fact both parties have always agreed these  
accounts are community property. One of these accounts is the checking account Vivian utilized during  
the marriage. According to Exhibit E, filed by Vivian on September 27, 2013, the total money in all  
three of these accounts is \$477.00 [278 + 7 + 192].

3. **After Vivian's Attorneys Received Extensive Responses in Discovery Confirming the Subject Accounts Only Contained Kirk's Separate Property Funds, the Financial Experts On Behalf of Both Parties, Jointly Determined The Relative Community and Separate Property Interests in the Ranch Parcels that Kirk Had Acquired From His Sisters On the Basis that the Funds in Those Separate Property Accounts Were And Are Kirk's Separate Property**

Kirk filed his Financial Disclosure Form on February 12, 2012. A true and correct copy is attached hereto as **Exhibit "1."** Exhibit 2 to the FDF identifies the same four separate property accounts ending in 8682, 2713, 1275 and 8032 as being Kirk's separate property.<sup>2</sup> The following is a brief history of these four accounts:

1. Bank of America account ending in 8682 – Kirk has had this account since he was in high school. The account was originally with the Pioche Office of Nevada National Bank. Nevada National Bank was later acquired by Security Pacific Bank. Security Pacific Bank was subsequently acquired by Bank of America.
2. Nevada Bank & Trust account ending in 2713 – this was a joint account Kirk had with his father, with full right of survivorship, prior to his marriage to Vivian. When Kirk's father passed away on October 30, 1990, he became the sole owner of the account.
3. Nevada Bank & Trust account ending in 1275 – the account ending in 2713 is a non-interest bearing checking account. Therefore, Kirk purchased a certificate of deposit at Nevada Bank & Trust with most of the funds in that account and thus created this account.
4. Wells Fargo account ending in 8032 – Kirk opened an account at First Interstate Bank on November 29, 1990, to deposit all monies he received from his father's estate and all monies he received from the lease and sale of Kirk's parents' family home, which Kirk and his sisters inherited from their mother when she passed away in 1983. Kirk's father lived in the family home until the time of his death. The home was subsequently leased and sold. Sometime after all monies were received from his father's estate and the family home was sold, Kirk purchased a certificate of deposit at FIB with all of the funds in that account and thus created this account. Wells Fargo subsequently acquired First Interstate Bank.

<sup>2</sup> Also identified as separate property is UBS account ending in 8538, which holds the funds Kirk acquired as separate property pursuant to a separate property agreement with Vivian, whereby she acquired the same amount of funds to purchase the house for the Atkinsons. As noted previously, the account ending in 2521 is the separate property account Kirk established subsequently during the pendency of the divorce to deposit separate property funds, which has been utilized to pay Kirk's normal ongoing bills.

Kirk's extensive discovery responses confirm that each of Kirk's separate property accounts only contain Kirk's separate property. On or about March 8, 2012, Kirk produced Plaintiff's First Supplemental Response to Defendant's First Request for Production of Documents. Included in these documents are the following:

**REQUEST FOR PRODUCTION NO. 11:**

Please produce any and all documents evidencing any inheritance received by Plaintiff or Defendant during the time of the parties' marriage, and any and all property or assets acquired through or attributable to any rents, issues, and profits from such inheritance.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

See the following documents submitted herewith:

1. Probate Final Order dated 5/8/02 ..... PLTF000798 - PLTF000800
2. 1/25/88 letter from Associated Food Stores, Inc.  
regarding Patron's credit receipts ..... PLTF000801
3. 11/21/90 letter from Kirk Harrison to Associate Food Stores, Inc.  
regarding Patron's credit receipts ..... PLTF000802 - PLTF000806
4. Check 1041 payable to Kirk Harrison in the amount  
of \$45,543.68 and supporting deposit documents PLTF000807 - PLTF000809
5. Letter from Kirk Harrison to Nevada Bank & Trust  
requesting cashier's check for \$48,900 ..... PLTF000810 - PLTF000811
6. Check register and backup documents for First Interstate  
Bank account ending 5565 ..... PLTF000812 - PLTF000828

As part of this production, Kirk also produced, in response to request #15, *inter alia*, the following:

5. Bank of America, Ending 8682  
Kirk Harrison  
Period ending: 7/8/09 - 2/3/12 ..... PLTF002656 - PLTF002782
11. Nevada Bank & Trust, Ending 2713  
Kirk Harrison  
Period ending: 6/9/09 - 1/9/12 ..... PLTF003679 - PLTF003759

On or about October 1, 2012, Kirk provided Plaintiff's Response to Defendant's Second Set of Interrogatories. In response to Interrogatory #28, Kirk explained the source of funds utilized to purchase his sisters' interests in the family ranch as follows:

I purchased my sister Janie's undivided one-fourth interest in Parcel #6050-A-1 and her undivided one-third interest in Parcel #6052 on or about December 29, 1994 for the total purchase price of \$60,000.00. \$11,100 of the \$60,000 purchase price came from

1 a separate property account at FIB (#0380145565). My Dad passed away on October 30,  
2 1990. I opened this separate property account with FIB on November 29, 1990 to deposit  
3 all monies I received from my Dad and all monies I received from the lease and sale of  
4 our family home in Caliente, Nevada. \$48,900 of the \$60,000 purchase price came from  
5 what I then believed to be a totally separate property account at Nevada Bank & Trust  
6 (#1802792). I had purchased my home, located at 5100 Bromley Avenue in Las Vegas,  
7 on October 4, 1979 – over three (3) years before my marriage to Vivian. I had purchased  
8 the home for \$72,400 with a \$12,400 down payment and a note for \$60,000.00. When  
9 I sold this house, I calculated what I believed at the time to be a very conservative  
10 estimate of the separate property portion of the proceeds from the sale of that home, and  
11 had the escrow company cut two checks based upon that calculation – one for  
12 \$45,543.68 and one for \$67,000.00. I opened the account at Nevada Bank & Trust in  
13 July of 1992 and deposited \$45,543.68, which I believed to be 100% my separate  
14 property. I deposited the \$67,000.00 into a community property account.

15 I purchased my sister Jo Lyn's undivided one-fourth interest in Parcel #6050-A-1  
16 and her undivided one-third interest in Parcel #6052 in May of 1998 for a total of  
17 \$70,000.00. \$19,000.00 of the \$70,000 purchase price was from the separate property  
18 account at FIB, however, by then it was Wells Fargo Bank.

19 I purchased my sister Kaye's undivided one-fourth interest in Parcel #6050-A-1  
20 and her undivided one-third interest in Parcel #6052 in December of 1998 for a total of  
21 \$110,000.00 utilizing community funds.

22 On or about October 1, 2012, Kirk provided Plaintiff's Response to Defendant's Third Request  
23 for Production of Documents. In response to Request #38, Kirk provided, *inter alia*, the following  
24 documents:

25 Documents evidencing source of funds have been previously provided in  
26 response to a prior request for production. See, Bates-stamped nos. PLTF000798 -  
27 PLTF000809 and PLTF000812 - PLTF000828. The following additional documents  
28 are being produced herewith:

1. Letter dated June 29, 1992 from Minnesota Title Ins. to Kirk R. Harrison  
Re: Escrow No. 23-86407-KO ..... PLTF010061 - PLTF010064
2. Monthly statements for Nevada Bank & Trust account # 1802792  
(July 31, 1992 through January 31, 1995) ..... PLTF010065 - PLTF010101
3. Copy of the cashier's check, in the amount of \$11,100.00  
made payable to Northern Nevada Title, from First Interstate  
Bank, dated December 29, 1994 ..... PLTF010102
4. Copy of personal check, in the amount of \$51,000.00, made  
payable to Walther Key Trust Account, drawn on account number  
ending 4040, and copy of Cashier's Check, in the amount of  
\$19,000.00, dated March 18, 1998, made payable to Walther  
Key Trust Account, drawn on Wells Fargo Bank ..... PLTF010103

29 After the production of all of the documentation relative to Kirk's separate property accounts  
30 and Kirk's answers to interrogatories referenced above, the parties participated in a settlement meeting



1 on or about November 29, 2012. During that settlement meeting, the financial experts on behalf of both  
2 parties – Cliff Beadle, on behalf of Kirk and Melissa Attanasio and Brian Boone (via telephone), on  
3 behalf of Vivian – jointly determined the relative community and separate property interests in the ranch  
4 parcels that Kirk had acquired from his sisters **on the basis that the funds in the separate property**  
5 **accounts were and are Kirk's separate property.** At no time during the negotiations beginning on  
6 November 29, 2012, and culminating in the settlement which was memorialized on the record before  
7 this Court on December 3, 2012, did Vivian's attorneys or financial experts take the position that Kirk's  
8 separate property accounts were not Kirk's separate property. *See*, Affidavit of Clifford R. Beadle,  
9 dated November 8, 2013, which is attached hereto as **Exhibit "2."**

10 In summary, Kirk's separate property accounts were identified in Kirk's Financial Disclosure  
11 Form as being Kirk's separate property. After receiving multiple responses to discovery concerning  
12 these accounts, the financial experts, on behalf of both parties, jointly determined relative separate and  
13 community property interests in certain ranch parcels on the basis these were and are Kirk's separate  
14 property accounts. The record before the Court on December 3, 2013, is indisputably clear there were  
15 only five accounts yet to be divided – none of which were Kirk's separate property accounts. Neither  
16 party indicated to the Court that any of these separate property accounts were to be divided. Inconsistent  
17 with all of the foregoing, Vivian's attorneys submitted their much belated proposed Decree of Divorce  
18 some 10 months later proposing the division of Kirk's separate property accounts.

19  
20 **C. Kirk Respectfully Submits The Further Division Of Personal Property By**  
**Way Of An A/B List Is Unnecessary**

21 The Court's Decree of Divorce provides, "that any personal property not identified and appraised  
22 by Joyce Newman in her Summary Appraisal Report and not divided or otherwise confirmed to either  
23 party pursuant to the terms set forth above shall be divided by way of an A/B List." *See*, Decree of  
24 Divorce, p. 23, l. 11-15. It is clear from the record on December 3, 2012, and the proposed Decrees of  
25 Divorce submitted by the parties, that all of the personal property at the Utah Ranch belongs to Kirk.  
26 (December 3, 2012, Hearing Transcript, p. 7, l. 7 - 8.) Therefore the only items of personal property  
27 which would be subject to division by way of an A/B List are the items of personal property which were  
28 in the marital residence which were not on Joyce Newman's Summary Appraisal. As Kirk has

1 previously represented to the Court, he believes that 95% of these personal items are in Vivian's  
2 possession. Despite this knowledge, Kirk is willing to forego the expense of an A/B List division of  
3 these items and the personal property that Kirk removed from the marital residence when he vacated  
4 the marital residence.

5  
6 **1. Both Parties Agree that All of the Personal Property Presently  
Located at the Ranch Belongs to Kirk**

7 The record of the hearing on December 3, 2012, is unequivocal that all of the personal property  
8 at the Utah Ranch belongs to Kirk. Vivian's proposed Decree is unequivocal that all of the personal  
9 property at the Utah Ranch belongs to Kirk. (Vivian's proposed Decree, p. 15, ¶7.30 & 7.31.) It should  
10 be noted that this submission was made on September 27, 2013 – ten months after Vivian complained  
11 that Kirk improperly took personal property from the marital residence, which is addressed in detail  
12 infra. Kirk's proposed Decree is also unequivocal that all of the personal property at the Utah Ranch  
13 belongs to Kirk. (Kirk's proposed Decree, p. 14, ¶29, 30 & 31.)

14  
15 **2. The Personal Property Which Was Located at the Marital  
Residence But Not Identified by Joyce Newman**

16 As the Court has readily seen from Kirk's response to the "Notes" and "Explanation"  
17 accompanying Vivian's proposed Decree of Divorce, Kirk responded in detail as to those items Vivian  
18 alleged were improperly taken, setting forth the basis upon which it was taken, and the de minimis value  
19 of what was taken. See, Kirk's submission of proposals, filed 9/30/13, p. 5-14.

20 It should be noted that Vivian had previously taken the same position as Kirk that the furniture  
21 and furnishings in the children's bedrooms belonged to the children. However, despite the fact that  
22 Tahnee and Whitney boxed their own belongings from their bedrooms and asked Kirk to remove their  
23 furniture and furnishings from the marital residence, Vivian complained this was somehow improper.

24 ...

25 ...

26 ...

27 ...

28 ...

1 As noted in Kirk's submission of proposals, filed 9/30/13, p. 9, these were the first two items on  
2 Vivian's fifteen item list. Confirming this was the primary objection to the personal items Kirk  
3 removed, Vivian again accused Kirk of improper behavior in removing Tahnee's and Whitney's  
4 furniture and furnishings, which was at their request and on their behalf, in Vivian's opposition to Kirk's  
5 Motion to Modify Order Resolving Parent-Child Issues, filed October 16, 2013, arguing as follows:

6 d. Nothing in the agreement regarding property allowed Kirk to clean out the bedroom  
7 furniture in the children's rooms. The agreement was the (sic) Kirk would leave all  
8 property other than designated. It is questionable this property belongs to the daughters,  
and the Court lacks jurisdiction to address any dispute regarding the property of the adult  
children (like UGMA accounts),<sup>3</sup>

9 (Vivian's Opposition to Modifying Order Resolving Parent-Child Issues, filed 10/16/13, p. 28, l. 23-27.)

10 However, in Vivian's proposed Decree, she proposed, as Kirk has consistently proposed, the  
11 following: "The parties agree that the furniture and furnishings in each of the children's bedrooms is  
12 the personal property of that respective child." (Vivian's proposed Decree, p. 19, ¶11.1.)

13 Vivian has refused and continues to refuse to allow Kirk to obtain the Stairmaster identified as  
14 item 21 on page 20, ¶32 of the Court's Decree of Divorce. This item needs to be provided in accordance  
15 with this Court's Order.

16 This Court's Decree of Divorce contains a number of provisions which address the personal  
17 property which belongs to Kirk, including ¶29, 30, 31, 32, and 33. Paragraph 33 specifically includes  
18 Kirk's "miscellaneous personal possessions." In addition, the Court made clear the furniture and  
19 furnishings in the children's bedrooms belongs to them. *See*, Court's Decree of Divorce, p. 26, l. 19-22.  
20 In light of these provisions, it is difficult to see from the fifteen identified items what remains to which  
21 Vivian has any viable complaint about:

- 22 1. *All furniture and furnishings from Tahnee's room.* Both Kirk and Vivian agreed that  
23 all of the furniture and furnishings in each of the children's bedrooms was their property.
- 24 2. *All of the furniture and furnishings from Whitney's room, except for the glass chandelier.*  
25 Again, both Kirk and Vivian agreed that all of the furniture and furnishings in each of  
26 the children's bedrooms was their property.

27 <sup>3</sup> The Court should note that as of October 16, 2013, Vivian was still taking the absurd position that Kirk  
28 had agreed to vacate the marital residence without, literally, the clothes on his back, since his clothes  
were not designated by Joyce Newman.

3. *Almost all of the DVDs.* Kirk's proposal provided, "Kirk shall receive all of the artwork, collectibles, books, cds, and dvds that Kirk personally purchased." Kirk only took the dvds he purchased.
4. *Rug from the library.* Kirk's proposal provided, "Kirk will receive the furniture, rugs, and accessories in the following rooms: library loft, pool table room, and master bedroom."
5. *Linens (only linens Kirk left are a few towels which had Vivian's initials monogrammed on the left).* This assertion is not accurate, as many linens were left behind, including towels without Vivian's initials monogrammed on them.
6. *Almost all sheets, comforters, cashmere blankets.* This assertion is not accurate, as many of these items were left behind. Kirk, generally took those sheets, comforters, and cashmere (75% wool) blankets which he had purchased. He also took a comforter his mother made for him. There was only one California King bed in the home, which was in the master bedroom. There was a small blue comforter and a small grey comforter – Kirk bought these at Costco probably fifteen years ago to keep in the vehicles. There was bedding for five queen beds in the house. Kirk rightfully took three of those queen beds – his parents', Tahnee's (which was already in California with Tahnee) and Whitney's. He took about 3/5s or 60% of the queen bedding. The two queen beds remaining are Joseph's and Brooke's. Joseph still has all of his bedding and Brooke has all of her bedding. The single bed remaining is Rylee's. Rylee still has all of her bedding.
7. *Almost all CDs.* Kirk's proposal provided, "Kirk shall receive all of the artwork, collectibles, books, cds, and dvds that Kirk personally purchased." It also provided, "Vivian shall receive all of the artwork, collectibles, books, cds, and dvds that Vivian personally purchased." Kirk only took the cds which he had purchased.
8. *All Photo albums, loose photographs, photo screens.* [Already addressed by the Court in the Decree, p. 26, l. 23-28; p. 27, l. 1-8]
9. *Spode Christmas China and Glassware.* Kirk's proposal provided, "Kirk shall receive the brown wood handled steak knives in the marital residence and all of the Spode Christmas dinnerware, glasses and related accessories." None of the Spode Christmas China and Glassware was itemized on any proposal from Vivian. Kirk and Vivian bought the initial Spode Christmas China and Glassware together. Kirk has bought most of the accessories during after Christmas sales. Kirk generally sets these items out each year. Every year, Kirk washes, dries, and puts these items away.
10. *Christmas ornaments.* It is noteworthy that on Vivian's A/B list, she proposed that she and Kirk equally share all of the 'Holiday Decorations.' Kirk's proposal provided, "Vivian shall receive all of the Christmas ornaments gifted to her by her mother and grandfather and grandmother, all of the Christmas outside lighting, and the lighted Christmas tree. Vivian shall receive all of the Christmas ornaments she personally purchased." Most of the Christmas ornaments were left behind, including those Vivian received from her family. Kirk took only those ornaments he had received as gifts and those he had purchased. Tahnee and Whitney took their personal ornaments. Kirk left the Christmas tree, all of the Christmas decorations, and all of the Christmas lighting.
11. *Kitchen bake ware.* The vast majority of the kitchen bake ware was left behind. There are cupboards full of kitchen bake ware. Kirk only took a few items. There were four large green casserole pans, three large red casserole pans, and two small yellow casserole pans. Kirk took the three large red casserole pans and one small yellow casserole pan.

Kirk took one of several cookie sheets.

12. *Dyson vacuum cleaner.* On Vivian's A/B list, she referenced the "cleaning supplies, vacuum, etc." as being non-applicable to the A/B list, without identifying it being either belonging to the husband or wife. There is a built-in vacuum cleaner in the marital residence. In addition, there was a Dyson vacuum cleaner and a Dirt Devil full size vacuum cleaner. Vivian hires people to do the vacuuming in the marital residence and rarely vacuums herself. Kirk does his own vacuuming.
13. *Dumb bells from the workout room.* Kirk's proposal provided Vivian receive "dumbbells (silver)" and Kirk receive "Dumbbells (rubber)." Vivian proposed in her A/B list that Kirk – who she intended to get the B list – would get the "Rubber Head Dumbbells." She proposed she would get the "Chrome Dumbbells" – which she had already removed from the marital residence. This is precisely what occurred. Kirk took the Rubber Head Dumbbells and Vivian took the Chrome Dumbbells.
14. *Almost all the sporting goods from the garage cabinets such as golf clubs, baseball gloves, etc.* Kirk's proposal provided, "Kirk shall receive all of his hunting gear, fishing gear, camping gear, boating gear, golf clubs and gear, bows & arrows, tennis rackets, and similar sporting type items." Kirk took all of his golf clubs, baseball glove, and tennis rackets. Kirk also took the golf clubs he purchased for Brooke and Rylee. Kirk also took all of the tennis rackets and balls he had purchased for his children. Vivian does not play any sports including, golf, tennis, baseball, or softball. Vivian does not play any sports with the children.
15. *Bikes for Brooke, Rylee and Vivian.* When the Harrisons moved to Boulder City in 1993, Kirk bought new bikes for Vivian, Tahnee and Whitney. Kirk taught Tahnee, Whitney, and Joseph how to ride a bike. Vivian rarely rode her bike and, probably, has not ridden a bike since 1994 – over 18 years ago! As the children grew older, the bikes were passed down. Vivian's bike became Tahnee's bike, Tahnee's bike became Whitney's bike, and Whitney's bike became Joseph's bike. When Tahnee, Whitney and Joseph outgrew the bikes and stopped riding them all together, Kirk took all three bikes to the ranch and put them in storage. Kirk retrieved these three bikes from the ranch when he started teaching Brooke and Rylee to ride a bike. Vivian doesn't ride a bike and has not participated in Kirk's efforts to teach Brooke and Rylee to ride a bike. Kirk took all of these bikes to the ranch for the winter. Kirk was later told that Vivian wanted "her" bike returned. The first opportunity Kirk had to go to the ranch he retrieved "Vivian's bike" as well as the road bike Kirk had given Vivian many years ago and delivered them to the marital residence. Kirk also retrieved Vivian's mother's bed, which Vivian had identified she wanted in her A/B list proposal, and delivered it to the marital residence as well.

See, Kirk's submission of proposals, filed 9/30/13, p. 5-14.

It should be noted that Kirk was highly deferential to Vivian regarding the personal items he took from the marital residence. Kirk took nothing that Vivian previously identified she wanted. Most of what Kirk took were his personal items that he previously identified to Vivian in writing that he intended to take – items #3, 4, 7, 9, 10, 13, and 14. At least at this point, there is no dispute that Kirk was entitled to take his bed, his parent's bed, Tahnee's bed, and Whitney's bed. Kirk was reasonably entitled to take the linens and bedding for each of those beds – items #1, 2, and 6. Vivian has never

1 expressed any particular personal affinity with any of the personal items Kirk took. The collective value  
2 of everything Kirk took pales in comparison to the value of personal property he did not take. For  
3 example, just the guitar autographed by members of the Rolling Stones, is worth many many multiples  
4 of the total value of everything Kirk took. The same is true with respect to each of several large hand  
5 made rugs that Vivian purchased during one of her trips to Asia. Just one of those rugs is worth many  
6 multiples of the total value of the personal items Kirk took. The same is also true with respect to each  
7 of the several hand made wall hangings Vivian purchased during one of her trips to Asia. Just one of  
8 those wall hangings is worth more than the total value of the personal items Kirk took.

9 Assuming Vivian is no longer objecting to the personal items Kirk rightfully took when he  
10 vacated the marital residence, then, **upon that condition**, and the provision of the Stairmaster to Kirk,  
11 for which Kirk has already paid, and which is specifically identified in this Court's Order (p. 20, ¶32),  
12 Kirk does not object to Vivian obtaining what he estimates to be over 95% of the personal property in  
13 the marital residence that was not appraised by Joyce Newman. Some of these items were identified  
14 in Kirk's proposed Decree. *See*, Kirk's proposed Decree, p. 7, ¶19; p. 8, ¶20-29 & 32; p. 9, ¶34-37.

15  
16 **D. Any Provision Providing For Reimbursement For Separate Property Funds  
Being Utilized For Community Expenses During the Pendency of The  
Divorce Must Be Mutual and Be Within The Parameters Of This Court's  
Temporary Orders of February 24, 2012, and Formalized on June 13, 2012**

18 This Court ordered that it "shall retain jurisdiction to adjudicate any reimbursement **owed to**  
19 **Vivian** for community expenses paid from separate property monies prior to November 20, 2012."  
20 (Court's Decree of Divorce, 10.31.13, p. 28, l. 7-10.) (Emphasis added.)

21 Kirk respectfully notes that Vivian's claim for "reimbursable expenses" was not provided until  
22 the middle of the hearing on December 3, 2012. However, none of the documentation for those  
23 expenses was provided until January 29, 2013. Most of the documentation does not provide what was  
24 acquired or specifically what services were rendered. Soon thereafter, on February 5, 2013, Kirk sent  
25 an email to Melissa Attanasio, setting forth questions he had about the claimed expenses. On February  
26 5, 2013, Melissa Attanasio sent an email in response wherein she stated, "... *I was not involved I (sic)*  
27 *this accounting, thus I have forwarded to the appropriate parties.*" A copy of Kirk's email to Melissa  
28 Attanasio and her response, both on February 5, 2013, is attached hereto as **Exhibit "3."** *Neither Vivian*

1 nor Vivian's attorneys have ever provided a response. Again, this was ignored for nearly eight months  
2 and then was raised with false claims that Kirk has not complied. The submission filing on September  
3 27, 2013, is the first mention of this issue since the time of Kirk's inquiry. In Kirk's response to  
4 Vivian's "Notes" and "Explanation," filed 9/30/13, Kirk set forth significant community expenses which  
5 he paid from separate property funds, for expenses similar to those alleged by Vivian and also include  
6 significant separate property funds expended for Vivian's sole benefit as a consequence of Vivian's  
7 attorneys' many month delays in responding to the Marital Settlement Agreement on February 19, 2013.  
8 Under such circumstances, Kirk respectfully requests the Court to amend and clarify the Decree to  
9 include Kirk's claim for "reimbursable expenses," which in all equity, should include monies paid for  
10 such items as Vivian's health insurance, Vivian's auto insurance, association fees associated with the  
11 Lido lot, real property taxes, etc. These are Vivian's individual expenses which Kirk paid and/or joint  
12 expenses which Kirk paid alone.

13  
14 **E. The Measo Associates Interest is Presently and Has Always Been in the  
Name of Both Kirk and Vivian**

15 The twenty-five percent (25%) ownership interest in The Measo Associates is currently and has  
16 always been in both Kirk's and Vivian's names. It is a general partnership and Vivian and Kirk,  
17 together, own 25%. (Hearing Transcript, 12/3/12, p. 8, l. 17-19.) Vivian's proposed Decree of Divorce  
18 is in error in this regard, as it provided, "A twelve and one-half percent (12.5%) interest in The Measo  
19 Associates, a Nevada General Partnership **currently held in Kirk's sole name.**" (Vivian's proposed  
20 Decree of Divorce, p. 6, ¶6.3.) (Emphasis added.) This error was adopted by the Court in the Decree  
21 of Divorce, entered October 31, 2013, and should be corrected accordingly. *See*, Decree of Divorce,  
22 p. 8, ¶3; p. 14, ¶3.

23 **III. CONCLUSION**

24 This Court has ample authority to correct the errors in its Decree of Divorce, which were caused  
25 by the errors contained in Vivian's proposed Decree of Divorce, which was filed on September 27,  
26 2013.

27 ...

28 ...

1 Unfortunately, as a consequence of the errors contained in Vivian's submission, Vivian would  
2 otherwise inequitably receive one-half of five accounts which are indisputably, both legally and  
3 equitably, Kirk's separate property, including the "Fee Account" he established to deposit the  
4 \$350,000.00 to pay attorneys' fees and costs, which has been exhausted and presently only contains  
5 additional separate property funds deposited into the account to pay ongoing attorneys' fees and costs.

6 In view of the status of the division of personal property, Kirk respectfully submits that an A/B  
7 List process, certainly at this point, would be problematic as Vivian has had exclusive possession of the  
8 marital residence for almost one year, and if Kirk simply is provided the Stairmaster for which he has  
9 already paid, he is willing to let Vivian retain what he estimates to be over 95% of the personal property  
10 that was in the marital residence, which was not appraised by Joyce Newman.

11 Under the parameters of the Court's Order which itemized the expenses which were to be paid  
12 from community funds, Kirk respectfully submits he is also legally and equitably entitled to seek  
13 reimbursement to the same extent as Vivian, and the Decree of Divorce, should therefore be amended  
14 in that regard. In addition, as a consequence of Vivian's inexcusable delay in not responding to Kirk's  
15 proposed Marital Settlement Agreement from February 19, 2013, until this Court compelled Vivian's  
16 response on September 27, 2013, Kirk individually incurred substantial separate property expenses for  
17 the benefit of Vivian or for them jointly, including such items as Vivian's health insurance, Vivian's  
18 auto insurance, real property taxes, etc.

19 Finally, the Decree should also be amended to correct another error caused by Vivian's  
20 submission, to accurately reflect that the 25% interest in The Measo Associates is and always has been  
21 in both Vivian's and Kirk's names.

22 DATED this 14 day of November, 2013.

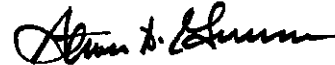
23 KAINEN LAW GROUP, PLLC

24  
25 By: 

26 EDWARD L. KAINEN, ESQ.  
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CLERK OF THE COURT

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**JUN 16 2014**

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

13 KIRK ROSS HARRISON,

14 Plaintiff,

15 vs.

16 VIVIAN MARIE LEE HARRISON,

17 Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q


**FAMILY DIVISION**

**NOTICE OF ENTRY OF ORDER**

20 PLEASE TAKE NOTICE that on the 13<sup>TH</sup> day of June, 2014, the Honorable Judge Duckworth  
21 entered an Order From Hearing, a copy of which is attached hereto.

22 Dated this <sup>15</sup>16 day of June, 2014.

24 RADFORD J. SMITH, CHARTERED

25   
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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of RADFORD J. SMITH, CHARTERED ("the Firm"). I am over the age of 18 and not a party to the within action. I am "readily familiar" with 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 12<sup>th</sup> day of June, 2014 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;

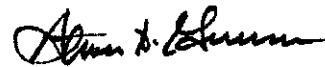
☒ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail to the electronic mail address shown below;

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

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CLERK OF THE COURT

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12 *Attorneys for Defendant*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 KIRK ROSS HARRISON,

18 Plaintiff,

19 vs.

20 VIVIAN MARIE LEE HARRISON,

21 Defendant.

CASE NO.: D-11-443611-D  
DEPT NO.: Q

**FAMILY DIVISION**

**RECEIVED**

JUN 10 2014

23 **ORDER FROM HEARING**

24 DATE OF HEARING: December 18, 2013  
25 TIME OF HEARING: 11:00 a.m.

**FAMILY COURT  
DEPARTMENT Q**

26 This matter, having coming on for hearing for Plaintiff's Motion for Judicial Determination of the  
27 Teenage Discretion and Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment and for  
28 Defendant's Countermotion for Attorney's Fees and Defendant's Countermotion to Clarify Orders on the

1 18<sup>th</sup> day of December, 2013; Plaintiff, Kirk Harrison, being present and represented by Thomas Standish,  
2 Esq., of Standish Law Group and by Edward L. Kainen, Esq., of the Kainen Law Group; and Defendant,  
3 Vivian Harrison, being present and represented by Radford J. Smith, Esq., of Radford J. Smith,  
4 Chartered, and by Gary Silverman, Esq., of Silverman, Decaria & Kattleman; the Court, having heard the  
5 arguments of counsel, having reviewed the pleadings and papers on file in this matter, and being fully  
6 advised in the premises, and good cause appearing therefore, makes the following findings and orders:  
7

8       1. In regards to TEENAGE DISCRETION; the parties had resolved parent/child  
9 issues and a Stipulation was entered on July 11, 2012. Section 6 of that agreement  
10 addresses the issue of TEENAGE DISCRETION and in review of that section, the Court does not  
11 view that language as giving the minor child authority to make decisions or to change custody.  
12 The parties agreed to the language and part of that included implementation of a counselor and  
13 parenting coordinator. The process to implement those has been delayed and is to be  
14 implemented forthwith. Court views the language as that, the counselor (Dr. Ali has been  
15 selected) would be involved in the TEENAGE DISCRETION process, as would the parenting  
16 coordinator. The purpose for such would be to avoid the Court's intervention, though those  
17 processes would not supplant this Court's authority and the parties may still petition the Court  
18 to address any issues they may have.  
19  
20  
21

22       2. The request to suspend, remove or otherwise modify the TEENAGE  
23 DISCRETION provision is DENIED. To be clear, the minor child(Brooke) does not control and  
24 the Court expects the counselor to be involved in this process. The purpose of TEENAGE  
25 DISCRETION is not to remove blocks of time from a party and if a party is being removed for a  
26 period of time (aside from vacations), then the Court would be concerned. TENAGE  
27 DISCRETION should be implemented from time-to-time and there should not be any issues  
28

1 should Brooke wish to make a modification for a few hours and the Court would expect  
2 communication in this regard. Again, the counselor and the parenting coordinator are to be  
3 engaged in this process.

4  
5 3. Per STIPULATION, accounts ending 8278 and 2521 are Plaintiff's sole and separate  
6 property.

7 4. With regard to accounts ending 8682, 1275 and 2713; to the extent that these accounts  
8 were Plaintiff's prior to the marriage, then they are his sole and separate property. It is the Defendant's  
9 burden to show that any community property funds were deposited or placed into those accounts which  
10 would create a community property interest in those accounts. Otherwise, it is clear to the Court that  
11 those three accounts are the Plaintiff's sole and separate property and the Decree of Divorce shall be  
12 corrected to reflect such. Court views this issue as an issue that did not need to be brought before the  
13 Court.  
14

15 5. The Decree of Divorce is to be corrected to reflect that The Measo Associates is held in  
16 both parties name.  
17

18 6. With regard to the A/B list; to the extent items were not included in the list prepared by  
19 Joyce Newman, absent an agreement between the parties, those items are to be divided by way of an A/B  
20 list (which was the intent of the Court's Order).  
21

22 7. With regard to the provision regarding reimbursement; the Court views this is a mutual  
23 provision. To the extent there is a dispute as to any items that should be reimbursed, the items may be  
24 submitted to the Court on a separate list with an explanation and the Court would make the determination  
25 as to whether or not it needs to be reimbursed. It is the Court's understanding that this process with  
26 Melissa Attanasio and Cliff Beadle has not been completed yet. The accounting by Ms. Attanasio and  
27 Mr. Beadle is to be completed by January 31, 2014. The Court expects an exchange of information and  
28

1 documents which are lacking. Again, this provision is mutual and the items are limited to what was in  
2 the Temporary Order and to the extent there is a reimbursable expense, there must be some backup to  
3 demonstrate that the expense was covered by the Temporary Orders.  
4

5 8. The matter is set for a two hour Evidentiary Hearing on January 22, 2014 at 1:30 p.m.  
6 regarding the monies placed into Tahnee's account for the purpose of her education (after the initiation of  
7 this litigation, but prior to the Joint Preliminary Injunction). To be clear, the Court shall not be seeking to  
8 take money away from Tahnee. The issue shall be whether or not there needs to be a reimbursement for  
9 one-half of those monies that were paid to create this account. The Court must determine whether or not  
10 there was an agreement that these funds were to be used solely for medical school education purposes or  
11 not. At this time, the Court views this as an omitted asset as Plaintiff's name was also on the account.  
12

13 9. Discovery is open as to Tahnee's account and how it was created and the account history.  
14

15 10. The Parties are to provide their proposed exhibits to the Court Clerk by the close of  
16 business on January 17, 2014.

17 11. The Court shall allow out of state witnesses to testify by way of video (Skype or  
18 Facetime), so long as the Court is able to see the individual and have them sworn in. The Court would  
19 expect to hear from Ms. Attanasio and Mr. Beadle.  
20

21 12. With regard to any Ranch items which may have belonged to the Plaintiff's father, the  
22 Court views those items as the Plaintiff's sole and separate property. The Court shall review the prove-  
23 up hearing in this regard as Plaintiff is indicating that all the property located at the Ranch was to be  
24 awarded to him. The Court shall address this issue at the Evidentiary Hearing after it has reviewed the  
25 record. To be clear, this issue shall not be a part of the hearing.  
26

27 *Mandatory Provisions:* The following statutory notices relating to custody/visitation of the minor  
28 children are applicable to the parties herein:

1 Pursuant to NRS 125C.200, the parties, and each of them, are hereby placed on notice that if  
2 either party intends to move their residence to a place outside the State of Nevada, and take the minor  
3 child with them, they must, as soon as possible, and before the planned move, attempt to obtain the  
4 written consent of the other party to move the minor children from the State. If the other party refuses to  
5 give such consent, the moving party shall, before they leave the State with the children, petition the Court  
6 for permission to move with the children. The failure of a party to comply with the provision of this  
7 section may be considered as a factor if a change of custody is requested by the other party. This  
8 provision does not apply to vacations outside the State of Nevada planned by either party.  
9

10  
11 The parties, and each of them, shall be bound by the provisions of NRS 125.510(6) which state, in  
12 pertinent part:

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

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

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

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

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



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

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

8 IT IS SO ORDERED.

9 Dated this \_\_\_\_\_ day of JUN 11 2014, 2014.


10  
11   
12 DISTRICT COURT JUDGE *np*

13 Submitted by:

14 RADFORD J. SMITH, CHARTERED

15 Approved as to Form and Content:

16 KAINEN LAW GROUP, PLLC

17   
18 RADFORD J. SMITH, ESQ.

19 Nevada Bar No. 002791

20 64 N. Pecos Road, Suite 700

21 Henderson, Nevada 89074

22 Attorneys for Defendant

23 EDWARD L. KAINEN, ESQ.

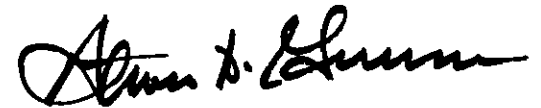
24 Nevada State Bar No. 005029

25 10091 Park Run Drive, Suite 110

26 Las Vegas, Nevada 89145

27 Attorneys for Plaintiff





CLERK OF THE COURT

1 **SNTC**  
EDWARD L. KAINEN, ESQ.  
2 Nevada Bar No. 5029  
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3 Nevada Bar No. 8147  
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9 Las Vegas, Nevada 89169  
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10 Facsimile (702) 699-7555  
tjs@juww.com

11 Co-counsel for Plaintiff

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

14 KIRK ROSS HARRISON,  
15 Plaintiff,

16 vs.

17 VIVIAN MARIE LEE HARRISON,  
18 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: N/A  
Time of Hearing: N/A

19  
20 **NOTICE OF APPEAL**

21 Notice is hereby given that Plaintiff appeals to the Nevada Supreme Court from the  
22 following:

23 1. Order for Appointment of Parenting Coordinator filed on October 29, 2013, a copy of  
24 which is attached hereto as **Exhibit "1."**<sup>1</sup>

25 ...

26  
27 <sup>1</sup> The Order from which this appeal is taken may have been a non-final Order and was entered prior  
28 to the Decree of Divorce (said Decree was filed on October 31, 2013); said Decree was subject to a  
Motion to Alter, Amend, Correct and Clarify Judgment, resulting in the tolling of the appeal time  
until the Notice of Entry of the Order resolving the tolling motion which was served on June 16,  
2014.

2. Decree of Divorce entered on October 31, 2013, only to the extent it deals with child custody related matters, a copy of which is attached hereto as **Exhibit "2."**<sup>2</sup>
3. Order, filed December 17, 2013, denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and For Other Equitable Relief, a copy of which is attached hereto as **Exhibit "3."**<sup>3</sup>
4. Order from Hearing, related to Plaintiff's Motion For A Judicial Determination of the Teenage Discretion Provision, filed on June 13, 2014, a copy of which is attached hereto as **Exhibit "4."**<sup>4</sup>

Plaintiff also appeals from all other rulings and orders made final and appealable by the foregoing.<sup>5</sup>

Dated this 17<sup>th</sup> day of July, 2014.

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ., #5029  
ANDREW L. KYNASTON, ESQ., #8147  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

<sup>2</sup> The Decree of Divorce from which this appeal is taken was filed on October 31, 2013; said Decree was subject to a Motion to Alter, Amend, Correct and Clarify Judgment, resulting in the tolling of the appeal time until the Notice of Entry of the Order resolving the tolling motion which was served on June 16, 2014.

<sup>3</sup> The Order from which this appeal is taken may have been a non-final Order and was entered after the Decree of Divorce (said Decree was filed on October 31, 2013), but during the time that said Decree was subject to a Motion to Alter, Amend, Correct and Clarify Judgment, resulting in the tolling of the appeal time until the Notice of Entry of the Order resolving the tolling motion which was served on June 16, 2014.

<sup>4</sup> The Order from which this appeal is taken may have been a non-final Order and was entered after the Decree of Divorce (said Decree was filed on October 31, 2013), but concurrent with the resolution of the Motion to Alter, Amend, Correct and Clarify Judgment, the Notice of Entry of the Order resolving the tolling motion which was served on June 16, 2014.

<sup>5</sup> Plaintiff previously filed a notice of appeal from certain orders dealing with attorneys' fee issues. The present appeal is entirely separate, dealing only with child custody issues.

## **EXHIBIT “1”**

FILE COPY

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10/29/2013 11:54:57 AM

OCT 30 2013

*Alvin D. Schuman*

CLERK OF THE COURT

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4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 KIRK ROSS HARRISON,

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28 )

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

NOTICE OF ENTRY OF  
ORDER FOR APPOINTMENT OF  
PARENTING COORDINATOR

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

Please take notice that an Order From Hearing has been entered in the above-entitled matter. I hereby certify that on the above file stamped date, I caused a copy of the Order For Appointment of Parenting Coordinator and this Notice of Entry of Order For Appointment of Parenting Coordinator to be:

☒ Placed in the folder(s) located in the Clerk's Office of the following attorneys:

Edward Kainen, Esq.  
Thomas Standish, Esq.

Radford J. Smith, Esq.

YCE C. DUCKWORTH  
DISTRICT JUDGE

MILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

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☒ Mailed postage prepaid, addressed to the following attorney:

Gary Silverman, Esq.  
6140 Plumas St., #200  
Reno, NV 89519

*Kimberly Weiss*

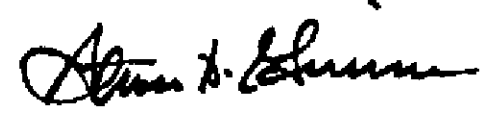
---

Kimberly Weiss  
Judicial Executive Assistant  
Department Q

YCE C. DUCKWORTH  
DISTRICT JUDGE  
MILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

1 ORDR  
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CLERK OF THE COURT

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4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA

6 KIRK ROSS HARRISON, )  
7 )  
8 Plaintiff, )  
9 v. )  
10 VIVIAN MARIE HARRISON, )  
11 )  
12 Defendant. )

CASE NO. D-11-443611-D  
DEPT NO. Q

13  
14 ORDER FOR APPOINTMENT OF  
15 PARENTING COORDINATOR

16 On July 11, 2012, this Court entered the parties' Stipulation and Order Resolving  
17 Parent/Child Issues (hereinafter referred to as "Parenting Plan"). Said Parenting Plan  
18 expressly mandated that the parties "hire a Parenting Coordinator to resolve disputes  
19 between the parties regarding the minor children." Parenting Plan 5:17-18 (Jul. 11,  
20 2012). Thus, pursuant to the express terms of their Parenting Plan, the parties  
21 consented to the appointment of a Parenting Coordinator to resolve disputes, and not  
22 merely to provide mediation services. As this Court's Order, the resolution of disputes  
23 contemplates decision-making authority pursuant to the terms and limitations set forth  
24 herein. The Court having considered all of the pleadings on file herein, and good cause  
25 appearing, does hereby Order the appointment of a Parenting Coordinator under the  
26 following terms and conditions:  
27  
28

YCE C. DUCKWORTH  
DISTRICT JUDGE  
FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101



1  
2 **1.0 APPOINTMENT AND DESIGNATION OF TERMS**

3 Margaret Pickard is hereby appointed as Parenting Coordinator in this matter  
4 (said appointee hereinafter referred to as the "Parenting Coordinator"). The Parenting  
5 Coordinator's full name, title, mailing addresses and phone numbers are as follows:

6 Name: Margaret Pickard

7 Street Address: 10120 S. Eastern Ave #200

8 City: Henderson State: Nevada Zip Code: 89052

9 Telephone #: (701) 595-6771 Fax # (702) 605-7321

10 E-mail: margaretpickard@aol.com

11  
12 **2.0 PARENTING COORDINATOR FEES/EXPENSE SHARING**

13 Hourly fees for the services of the Parenting Coordinator shall be set by the  
14 Parenting Coordinator pursuant to a written agreement with the parties. All fees shall  
15 be advanced equally by the parties. The Parenting Coordinator may recommend a re-  
16 allocation of fees and costs on any single issue if it appears that the conduct of one party  
17 warrants same.

18  
19  
20 **3.0 GENERAL AUTHORITY**

21 The Parenting Coordinator shall have the general authority to recommend a  
22 resolution to parent/child and custody/visitation issues, as set forth below and within the  
23 following guidelines:

24  
25 3.1 Facilitate the resolution of disputes regarding the implementation of the  
26 parenting plan, the schedule, or parenting issues, provided such resolution does not  
27 involve a substantive change to the shared parenting plan. A substantive change is  
28

1 defined as a modification to the parenting plan that (a) significantly changes the  
2 timeshare of the children with either parent; or (b) modifies the timeshare such that it  
3 amounts to a change in the physical custody designation.  
4

5 3.2 Recommend the implementation of non-substantive changes to, and/or  
6 clarify, the parenting plan, including but not limited to issues such as:  
7

8 (a) transitions/exchanges of the children including date, time, place,  
9 means of transportation and transporter;

10 (b) holiday sharing;

11 (c) summer or track break vacation sharing and scheduling;

12 (d) communication between the parents;

13 (e) health care management issues, including choice of medical providers  
14 and payment of unreimbursed medical expenses (including dental, orthodontic,  
15 psychological, psychiatric or vision care), pursuant to the Court's order for payment of  
16 said expenses;  
17

18 (f) education or day care including but not limited to, school choice,  
19 tutoring, summer school, and participation in special education testing and programs;  
20 as well as allocation of the cost for the foregoing items;  
21

22 (g) children's participation in religious observances and religious  
23 education;  
24

25 (h) children's participation in extracurricular activities, including camps  
26 and jobs;  
27

28 (i) children's travel and passport issues;

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1  
2 (j) purchase and sharing of children's clothing, equipment and personal  
3 possessions, including possession and transporting of same between households;

4 (k) children's appearance and/or alteration of children's appearance,  
5 including haircuts, tattoos, ear, face or body piercing;

6  
7 (l) communication between the parents including telephone, fax, e-mail,  
8 etc. as well as communication by a parent with the children including telephone, cell  
9 phone, pager, fax, and e-mail when the children are not in that parent's care; and

10 (m) contact with significant other(s) and/or extended families.

11  
12 **4.0 PROCEDURES AND RELATED REQUIREMENTS**

13 4.1 Each party may provide the Parenting Coordinator with copies of pertinent  
14 pleadings and orders which relate to the issues to be brought to the Parenting  
15 Coordinator. The Parenting Coordinator shall also have direct access to all pertinent  
16 orders and pleadings on file in the case, including files under a Sealing Order of the  
17 Court.  
18

19 4.2 All written communications by a party to the Parenting Coordinator shall  
20 be copied or provided to the other party, concurrently.  
21

22 4.3 Each parent is responsible for contacting the Parenting Coordinator within  
23 ten (10) days of entry of this order to schedule an initial meeting. The parties shall  
24 make themselves and the minor children available for meetings and/or appointments as  
25 deemed necessary by the Parenting Coordinator. The Parenting Coordinator shall  
26 determine in each instance whether an issue warrants a meeting with the parties.  
27  
28

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1 4.4. The parties shall participate in good faith in an initial mediation/conflict  
2 resolution process with the Parenting Coordinator in an effort to resolve a dispute.  
3

4 (a) Should mediation result in an agreement, the Parenting Coordinator  
5 shall prepare a simple "Agreement" on the subject for signature by each party and the  
6 Parenting Coordinator. The Parenting Coordinator shall send a copy of the Agreement  
7 to each party; the parties shall each sign the Agreement, and return their copy to the  
8 Parenting Coordinator within fourteen (14) days from the date of receipt.  
9

10 (b) Should the mediation not result in an Agreement, the Parenting  
11 Coordinator shall prepare and send to the parties a written decision in the form of a  
12 "Recommendation," as well as a courtesy copy to the Court, resolving the dispute. Said  
13 Recommendation shall set forth the reasons for the Parenting Coordinator's decision.  
14

15 (i) Within ten (10) days after the issuance of a Recommendation,  
16 any party may file with the Court and serve upon the other party and Parenting  
17 Coordinator a notice of Objection to the recommendation. The Parenting Coordinator  
18 shall be given a copy of the Objection and notice of the hearing at least ten (10) days  
19 prior to the hearing, unless otherwise ordered by the Court. The notice must include:  
20

21 (1) A copy of the Recommendation;  
22 (2) A concise statement setting forth the reasons that the  
23 party disagrees with the Recommendation; and  
24

25 (3) A statement of the relief requested.  
26

27 ...

28 ...

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1  
2 (ii) If, within ten (10) days after issuance of the  
3 Recommendation, a Notice of Objection is not filed, the Recommendation shall be  
4 deemed approved by the Court and shall become an Order of the Court.

5 4.5 The parties understand that the Parenting Coordinator's Recommendation  
6 is not a final decision and is not immediately effective, but rather can be reviewed by the  
7 Court through the objection procedure. However, the parties are on notice and  
8 understand that the purpose and intent of the Court in appointing a Parenting  
9 Coordinator pursuant to the terms of their Parenting Plan is to resolve disputes between  
10 the parties without the expense of litigation. Therefore, the Court will overturn a  
11 Recommendation of the Parenting Coordinator only upon the showing of evidence to  
12 the satisfaction of the Court to warrant such a result.

13 4.6 The parties shall provide in a timely manner any documents requested by  
14 the Parenting Coordinator and/or execute any releases required for the Parenting  
15 Coordinator to directly obtain documents or records which the Parenting Coordinator  
16 deems relevant to the submitted issues. Failure to do so may result in imposition of  
17 sanctions by the Court.

18 4.7 The Parenting Coordinator shall have the authority to interview and  
19 require the participation of other persons whom the Parenting Coordinator deems to  
20 have relevant information or to be useful participants in the parenting coordination  
21 process, including, but not limited to, custody evaluator, teachers, health and medical  
22 providers, stepparents, and significant others.

23 ...  
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1 5.0 PARENTING COORDINATOR APPEARANCES IN COURT

2  
3 5.1 In the event that the testimony of the Parenting Coordinator is required  
4 for any hearing, including depositions, or other Court action by one or both parties, the  
5 Parenting Coordinator's fees for such services shall be paid by both parties, in advance,  
6 according to the estimate by the Parenting Coordinator. The Court shall determine the  
7 ultimate allocation of such fees between the parties.  
8

9 5.2 A Parenting Coordinator directed by the Court to testify in a Court  
10 proceeding shall not be disqualified from participating in further parenting coordination  
11 efforts with the family, but the Court in its discretion may order the substitution of a  
12 new Parenting Coordinator or may relieve the Parenting Coordinator of his/her duties  
13 or the Parenting Coordinator may voluntarily determine that such substitution would  
14 be appropriate.  
15

16  
17 6.0 GRIEVANCES

18 6.1 The Parenting Coordinator may be disqualified on any of the grounds  
19 applicable to the removal of a Judge, Referee, Arbitrator, or Mediator, except that no  
20 peremptory challenge shall be permitted.  
21

22 6.2 Complaints or grievances from any party regarding the performance, actions  
23 or billing of the Parenting Coordinator shall only be determined according to the  
24 following procedure:

25 (a) A person having a complaint or grievance regarding the Parenting  
26 Coordinator must discuss the matter with the Parenting Coordinator in person before  
27 pursuing it in any other manner;  
28

1  
2 (b) If after discussion the party decides to pursue a complaint, that party  
3 must first submit a written letter detailing the complaint or grievance to the Parenting  
4 Coordinator with a copy to the parties;

5 (c) The Parenting Coordinator shall then provide a written response to  
6 the grievance to the party or parties within thirty (30) days of the written complaint or  
7 grievance; and

8  
9 (d) If the grievance or complaint is not resolved after this exchange, the  
10 complaining party may proceed by noticed motion to the Court addressing the issues  
11 raised in the complaint or grievance.  
12

13 6.3 Neither party may initiate a Court proceeding for a complaint or grievance  
14 regarding the Parenting Coordinator without following the preceding procedure. Failure  
15 to comply with said procedure may result in sanctions by the Court.  
16

17 6.4 Neither party shall file any complaint or make any written submission  
18 regarding the Parenting Coordinator to the Parenting Coordinator's licensing board  
19 without first complying with these grievance procedures.  
20


21 **7.0 TERMS OF APPOINTMENT**

22 7.1 The Parenting Coordinator is appointed until discharged by the Court.  
23 The Parenting Coordinator may apply directly to the Court for a discharge, and shall  
24 provide the parties with notice of the application for discharge. The Court may  
25 discharge the Parenting Coordinator without a hearing unless either party requests a  
26 hearing in writing within ten (10) days from the application for discharge.  
27  
28

1           7.2    Either party may seek to suspend or terminate the Parenting Coordinator  
2  
3 process by filing a motion with the Court. The Parenting Coordinator's services may not  
4 be terminated without order of the Court.

5           7.3    In the event that the Parenting Coordinator is discharged, the Court will  
6 furnish a copy of the Order of termination of the Parenting Coordinator.  
7

8           DATED this 29<sup>th</sup> day of October, 2013.

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12 \_\_\_\_\_  
13 BRYCE C. DUCKWORTH  
14 DISTRICT COURT JUDGE  
15 DEPARTMENT Q  
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BRYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101



## **EXHIBIT “2”**

**FILE COPY**

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*Alma L. Linn*

CLERK OF THE COURT

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DISTRICT COURT

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CLARK COUNTY, NEVADA

6

KIRK ROSS HARRISON,

7

Plaintiff,

8

9

v.

CASE NO. D-11-443611-D

DEPT NO. Q

10

VIVIAN MARIE LEE HARRISON,

11

Defendant.

12

13

NOTICE OF ENTRY OF  
DECREE OF DIVORCE

14

15

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

16

17

18

Please take notice that an Order From Hearing has been entered in the above-entitled matter. I hereby certify that on the above file stamped date, I caused a copy of the Decree of Divorce and this Notice of Entry of Decree of Divorce to be:

19

20

☒ Placed in the folder(s) located in the Clerk's Office of the following attorneys:

21

Edward Kainen, Esq.

22

Thomas Standish, Esq.

23

Radford J. Smith, Esq.

24

25

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27

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YCE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

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☑ Mailed postage prepaid, addressed to the following attorney:

Gary Silverman, Esq.  
6140 Plumas St., #200  
Reno, NV 89519

*Kimberly Weiss*

---

Kimberly Weiss  
Judicial Executive Assistant  
Department Q

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

*Alan B. Schuman*

CLERK OF THE COURT

1 DECD  
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DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 KIRK ROSS HARRISON,  
7

8 Plaintiff,  
9

v.

10 VIVIAN MARIE LEE HARRISON,  
11

12 Defendant.  
13

CASE NO. D-11-443611-D  
DEPT NO. Q

DECREE OF DIVORCE

14 The above-entitled cause having come on regularly for hearing on the 3<sup>rd</sup> day of  
15 December, 2012, before the above-entitled Court, Plaintiff, KIRK ROSS HARRISON  
16 ("Kirk") appearing in person and through his attorneys, THOMAS J. STANDISH, ESQ.,  
17 of the law firm of JOLLEY, URGAS, WIRTH, WOODBURY & STANDISH, and  
18 EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and Defendant,  
19 VIVIAN MARIE LEE HARRISON ("Vivian") appearing in person and through her  
20 attorney, RADFORD J. SMITH, ESQ., of RADFORD J. SMITH, CHARTERED,  
21 Vivian's Answer having been entered, and the parties having waived the making, filing  
22 and service of Findings of Fact and Conclusions of Law, and the giving of any and all  
23 notices required by law or rules of the District Court; the Court having heard the  
24 testimony of witnesses sworn and examined in open Court, the cause having been  
25 submitted for decision and judgment, and the Court being fully advised, finds:  
26  
27  
28

☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Sustained) Dismissal  
☐ Default Judgment  
☐ Transferred  
☐ Disposed After Trial Start  
☐ Judgment Reached by Trial  
☐ Settled/Withdrawn  
☐ Without Judicial Conf/Htg  
☒ With Judicial Conf/Htg  
☐ By ADR

YCE G. DUCKWORTH  
DISTRICT JUDGE

WILY DIVISION, DEPT. Q  
VEGAS, NEVADA 89101

1 That the Court has jurisdiction in the premises, both as to the subject matter  
2 thereof as well as the parties thereto; that Kirk has been domiciled in this State for more  
3 than six weeks preceding the commencement of this action, and that Kirk is now  
4 domiciled in and is an actual, bona fide resident of the State of Nevada; that the Kirk  
5 is entitled to an absolute Decree of Divorce on the grounds set forth in Kirk's Complaint.  
6

7 The Court further finds that there are two minor children the issue of this  
8 marriage, to-wit: EMMA BROOKE HARRISON ("Brooke"), born June 26, 1999, and  
9 RYLEE MARIE HARRISON ("Rylee"), born January 24, 2003. There are no adopted  
10 children of the parties and to the best of her knowledge, Vivian is not currently  
11 pregnant.  
12

13 The Court further finds that the child custody, support and related issues  
14 regarding the parties' two minor children previously were resolved by way of the  
15 Stipulation and Order Resolving Parent/Child Issues entered into between the parties,  
16 and filed on July 11, 2012.  
17

18 The Court further finds that each party has warranted that the property  
19 adjudicated in this Decree of Divorce constitutes all property belonging to the parties,  
20 and there is no other property (inclusive of any ventures and/or enterprises that might  
21 come to fruition at a later time), income, claims, or intangible rights owed or belonging  
22 to either party not set forth herein. The Court further finds that the adjudication of  
23 property herein is based on the agreement of the parties as reflected in the record made  
24 by the parties at the hearing on December 3, 2012, as well as the common terms set  
25 forth in their proposed Decrees submitted to the Court. The Court further finds that,  
26  
27  
28

YOE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1 based on representations made to the Court (and excluding the equalizing division of  
2 retirement accounts to be effectuated by entry of a QDRO), the parties have effectuated  
3 the equal division of the financial accounts adjudicated in this Decree. Further, an  
4 equalizing payment previously was made to equalize the division of assets pursuant to  
5 NRS 125.150, including the division of real and personal property. This Court further  
6 finds that, except for those child-related accounts specifically referenced herein, no other  
7 account for which a child of the parties is an intended beneficiary is adjudicated herein.  
8  
9

10 This Court further finds that each party hereto has represented and warranted to  
11 the other party that he or she has made full and fair disclosure of the property and  
12 interests in property owned or believed to be owned by him and/or her, either directly  
13 or indirectly. The parties have acknowledged that they are aware that each has methods  
14 of discovery available to him or her in the prosecution of their divorce action to  
15 investigate the community and separate assets of the other. Both have acknowledged  
16 that they are entering this settlement without performing any additional discovery, and  
17 that they have instructed their counsel to forego such additional discovery.  
18  
19

20 This Court further finds that each party has admitted and agreed that they each  
21 have had the opportunity to discuss and consult with independent tax counselors, other  
22 than the attorneys of record in the divorce action between the parties, concerning the  
23 income tax and estate tax implications and consequences with respect to the agreed upon  
24 division of the properties and indebtedness herein, and that Jolley, Urga, Wirth,  
25 Woodbury & Standish, Kainen Law Group, PLLC, Radford J. Smith, Chartered, and  
26  
27  
28

1 Silverman, Decaria & Kattelman were not expected to provide and, in fact, did not  
2 provide tax advice concerning this Decree of Divorce.  
3

4 Based on the foregoing findings, and good cause appearing therefore,

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the bonds of  
6 matrimony heretofore and now existing between Kirk and Vivian be, and the same are  
7 hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to the  
8 parties, and each of the parties hereto is hereby restored to the status of a single,  
9 unmarried person.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the terms and  
12 provisions of the Stipulation and Order Resolving Parent/Child Issues entered into  
13 between the parties, and filed on July 11, 2012, are hereby incorporated by reference as  
14 if fully stated herein.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties  
17 complete the seminar for separating parents as required by EDCR 5.07 within 30 days  
18 from the date of entry of this Decree.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, should either  
21 party intend to move his or her residence to a place outside the State of Nevada, and  
22 take the minor children with him or her, said party must, as soon as possible, and before  
23 the planned move, attempt to obtain the written consent of the other party to move the  
24 minor children from the State. If the other party refuses to give that consent, the party  
25 planning the move shall, before he or she leaves the State with the minor children,  
26 petition the Eighth Judicial District Court of the State of Nevada, in and for the County  
27  
28

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

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are  
7 subject to the provision of NRS 125.510(6) for violation of the Court's Order.  
8

9 PENALTY FOR VIOLATION OF ORDER:

10 The abduction, concealment or detention of a child in violation of  
11 this Order is punishable as a category D felony as provided in NRS  
12 193.130. NRS 200.359 provides that every person having a limited right  
13 of custody to a child or any parent having no right to the child who  
14 willfully detains, conceals or removes the child from a parent, guardian or  
15 other person having lawful custody or a right of visitation of the child in  
16 violation of an order of this court, or removes the child from the  
17 jurisdiction of the court without the consent of either the court or all  
18 persons who have the right to custody or visitation is subject to being  
19 punished for a category D felony as provided in NRS 193.130.  
20

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to  
22 NRS 125.510(7) and (8), the terms of the Hague Convention of October 25, 1980,  
23 adopted by the 14th Session of the Hague Conference on Private International Law are  
24 applicable to the parties:  
25

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

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

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

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

5 The State of Nevada is the habitual residence of the minor children herein.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, based upon  
7 the current financial condition of the parties, and the fact that neither party currently  
8 engages in full-time employment, neither party shall be required to pay child support to  
9 the other.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a parent  
12 responsible for paying child support is subject to wage assignment with their employer  
13 pursuant to NRS 31A.025 to 31A.190, inclusive, should they become thirty (30) days  
14 delinquent in their child support payments.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount of  
17 child support in this matter shall be reviewed every three (3) years pursuant to NRS  
18 125B.145.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the provisions  
21 regarding child support in this matter conform to the statutory guidelines as set forth in  
22 NRS 125B, as applied in *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998) and  
23 *Wesley v. Foster*, 119 Nev. 110, 65 P.3d 251 (2003).  
24

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall  
26 submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on  
27 a separate form to the Court and the Welfare Division of the Department of Human  
28

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1 Resources within ten days from the date this Decree is filed. Such information shall be  
2 maintained by the Clerk in a confidential manner and not part of the public record.  
3  
4 Each party shall update the information filed with the Court and the Welfare Division  
5 of the Department of Human Resources within ten days should any of that information  
6 become inaccurate.

7  
8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, pursuant to  
9 the agreement placed on the record before this Court, each party hereby irrevocably  
10 waives, releases and relinquishes any rights which either party may have acquired by  
11 virtue of their marriage, to any alimony or spousal support of any kind, including lump  
12 sum alimony or periodic payments, or to any other Court-ordered compensation or  
13 support intended to act as or supplant alimony or spousal support. Each party herein  
14 irrevocably waives and releases to the other party all claims, rights and demands of every  
15 character or description with respect to alimony or spousal support of any type, now or  
16 hereafter, based on any and all circumstances in the present or future, whether  
17 foreseeable or unforeseeable.

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19  
20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vivian shall  
21 have confirmed to her as her sole and separate property, free of any claims by Kirk, the  
22 sole ownership in and to the following:

- 23  
24 1. A one-half interest in the income and distributions of Kirk's business  
25 interest in the Tobacco Contract, which Kirk has warranted and  
26 represented is the only asset of the business known as Harrison, Kemp &  
27 Jones Chartered. Kirk shall pay to Vivian one-half of all net income and  
28

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1 distributions therefrom, net of the maximum tax rate. To the extent the  
2 actual taxes attributable to the income and distributions are less than the  
3 maximum tax rate, Kirk shall refund to Vivian the corresponding amount  
4 associated with her one-half interest. There shall be an annual accounting  
5 of said income and distributions to determine the extent of any refund.  
6

7  
8 2. The prior balance in the business account associated with Harrison  
9 Dispute Resolution at Bank of America ending in 4668 was previously  
10 equally divided between the parties whereby each party received  
11 \$115,836.47 on or about December 24, 2012.  
12

13 3. A twelve and one-half percent (12.5%) interest in The Measo Associates,  
14 a Nevada General Partnership, currently held in Kirk's sole name. The  
15 parties currently have a 25% interest in The Measo Associates. Following  
16 the entry of the Decree of Divorce, the interest shall be equally divided,  
17 allocating 12.5% to each party as his or her respective sole and separate  
18 property.  
19

20 4. The approximate nine percent (9%) interest in Geothermic Solution, LLC,  
21 currently held in Kirk's sole name, shall be placed in a trust whereby Kirk  
22 and Vivian shall each receive any and all rights or benefits to one-half of  
23 said interest. If, for any reason, it is illegal, will jeopardize the legal status  
24 of the LLC, or is otherwise impermissible under the organizational  
25 documents of Geothermic Solution, LLC, to transfer the interest into a  
26 trust, then the parties agree to work with one another so that Vivian is  
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1 equitably entitled to one-half of the approximate 9% interest in  
2 Geothermic Solution, LLC, either directly or by control of any and all  
3 rights or benefits arising from that interest.  
4

- 5 5. One-half of the balance in the Boulder Dam Credit Union savings account  
6 ending in 9005, as of September 11, 2012. Said account is currently in  
7 Vivian's name. Following the equal division of the balance contained in  
8 the account, Vivian shall retain this account.  
9
- 10 6. One-half of the balance in the Boulder Dam Credit Union DDA account  
11 ending in 9005, as of September 11, 2012. Said account is currently in  
12 Vivian's name. Following the equal division of the balance contained in  
13 the account, Vivian shall retain this account.  
14
- 15 7. One-half of the balance in the Bank of America DDA account ending in  
16 1400, as of September 11, 2012. Said account is currently in Vivian's  
17 name. Following the equal division of the balance contained in the  
18 account, Vivian shall retain this account.  
19
- 20 8. The prior balance in the Bank of America money market account ending  
21 in 5111 was previously equally divided between the parties, whereby each  
22 party received \$124,809.55 on or about December 24, 2012.  
23
- 24 9. One-half of the balance in the Bank of America checking account ending  
25 in 4040, with a balance of \$36,346.02 as of February 5, 2013.  
26
- 27 10. One-half of the balance in the Bank of America account ending in 8682,  
28 with a balance of \$6,638.54 as of January 7, 2013.

11. One-half of the balance in the Nevada Bank & Trust account ending in 2713, with a balance of \$740.42 as of February 4, 2013.
12. One-half of the balance in the Nevada Bank & Trust account ending in 1275 (Certificate of Deposit), with a balance of \$16,360.45 as of February 5, 2013.
13. One-half of the balance in the Wells Fargo account ending in 8032 (Certificate of Deposit), with a balance of \$28,809.58 as of February 5, 2013.
14. One-half of the balance of the Bank of America account ending in 8278, with a balance of \$46,622.74 as of February 14, 2013.
15. The prior balance in the UBS RMA account ending in 7066 was previously equally divided between the parties, whereby each party received \$455,727.35 on or about September 14, 2012.
16. The prior balance in the UBS RMA account ending in 3201 was previously equally divided between the parties, whereby each party received \$51,458.17 on or about September 11, 2012.
17. The prior balance in the Vanguard account ending in 4530/3952 was previously equally divided between the parties, whereby each party received, on or about September 27, 2012, the following: \$365,071.73, one thousand shares of GLD, \$37,500.00 par value Missouri State Water Pollution Control municipal bonds, and \$37,500.00 par value Elgin, Texas School District municipal bonds.

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18. The prior balance in the Charles Schwab account ending in 4245 was previously equally divided between the parties, whereby each party received \$386,293.42 on or about September 11, 2012.
19. With respect to the Legacy Treasury Direct account ending in 6330, this account previously had a balance of \$4,200,000.00. Of this amount, \$3,200,00.00 was equally divided by the parties whereby each party received \$1,600,000.00 on or about September 17, 2012. Following the settlement between the parties and after the division of assets was memorialized on the record during the hearing before the Court on December 3, 2012, the then remaining balance of the Legacy Treasury Direct account ending in 6330, which was "reserved to equalize the division of assets," was utilized to equalize the division of assets between the parties with Vivian receiving \$470,800.00 and Kirk receiving \$529,200.00 on or about December 20, 2012. Said distributions fully liquidated the Legacy Treasury Direct account ending in 6330 and it no longer exists.
20. The entire balance in Vivian's Charles Schwab IRA account ending in 2759. Said account is in Vivian's name and Vivian shall retain the account.
21. A portion of Kirk's UBS Profit Sharing Plan account ending in 3354, with a balance of \$797,335.53 as of December 31, 2012, which shall be utilized to equalize the difference between the combined total of Kirk's UBS IRA

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1 account ending 3211 and UBS KJ&C Pooled account ending 722-140 with  
2 Vivian's Charles Schwab IRA account ending 2759. Following entry of the  
3 Decree of Divorce a Qualified Domestic Relations Order ("QDRO") shall  
4 be utilized for the division of this account. A QDRO has been prepared,  
5 circulated, and is in the process of being finalized. This Court shall retain  
6 jurisdiction to enter said qualified order.  
7

8  
9 22. One-half of the gold and silver coins acquired by the parties during  
10 marriage. Vivian has received the following gold coins: 55 American Eagle  
11 gold coins, 55 Canadian Maple Leaf gold coins, and 55 S. African  
12 Krugerrand gold coins. Vivian has received 2,500 Silver Eagle silver coins.  
13

14 23. The 2011 Toyota Avalon.

15 24. The Colt Government Model 380 semi-automatic pistol and the Smith &  
16 Wesson Model 37 - 38 caliber Chief's Special Airweight revolver.  
17

18 25. All personal property items identified and appraised by Joyce Newman as  
19 set forth in the "Summary Appraisal Report Volume I of II" with an  
20 effective date of November 20, 2012, except for the following enumerated  
21 items: 21 Stairmaster; 24 Elliptical; 25 Vectra; 26 Rotator Cuff; 28 Bike;  
22 29 Shop Stool; 30 Block bells; 31 Bench; 35 Foosball; 38 Grey lockers; 40  
23 2000 truck; 41 Acura; 42 Silverado; 43 Safe; 74 Pool Table; 75 Upright  
24 Piano; 76 Credenza/file; 77 Display Cabinet; 78 Four leather stools; 80  
25 work on paper; 81 work on paper; 82 work on paper; 83 pool Cues; 84  
26 Desk; 85 work on paper; 86 work on paper; 87 work on paper; 88 work on  
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- 1 paper; 116 Chest Table; 117 Side Table; 121 Side Table; 126 Rug; 127  
2 Rug; 129 Side Table; 130 Bedroom Suite; 131 Iron bed; 132 Armchair.  
3  
4 26. Except as provided otherwise herein, any and all Vivian's clothing, jewelry,  
5 articles of personal adornment, miscellaneous personal possessions, and  
6 personal affects, including family heirlooms and personal property received  
7 by gift or inheritance.  
8  
9 27. The residence located at 1514 Sunrise Circle, Boulder City, Nevada (Parcel  
10 #186-17-501-004), with a stipulated value of \$760,000.00, together with  
11 all improvements thereon and all appurtenances thereto. Kirk shall  
12 execute a quitclaim deed waiving and releasing any interest whatsoever in  
13 the residence located at 1514 Sunrise Circle, Boulder City, Nevada.  
14  
15 28. The residence located at 213 Jasmine Way, Boulder City, Nevada (Parcel  
16 #186-04-516-097), together with all improvements thereon and all  
17 appurtenances thereto.  
18  
19 29. The residence located at 1521 Sunrise Circle, Boulder City, Nevada (Parcel  
20 #186-17-510-011), together with all improvements thereon and all  
21 appurtenances thereto.  
22  
23 30. The money and/or property each party receives pursuant to this Decree  
24 shall be included for all purposes in the amount each party receives as part  
25 of the ultimate resolution in the divorce between the parties, including any  
26 and all entities or properties formed or purchased with their respective  
27 portions of the distribution identified herein.  
28

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kirk shall have  
2 confirmed to him as his sole and separate property, free of any claims by Vivian, the sole  
3 ownership in and to the following:  
4

- 5 1. A one-half interest in the income and distributions of Kirk's business  
6 interest in the Tobacco Contract, which Kirk has warranted and  
7 represented is the only asset of the business known as Harrison, Kemp &  
8 Jones Chartered. Kirk shall pay to Vivian one-half of all net income and  
9 distributions therefrom, net of the maximum tax rate. To the extent the  
10 actual taxes attributable to the income and distributions are less than the  
11 maximum tax rate, Kirk shall refund to Vivian the corresponding amount  
12 associated with her one-half interest. There shall be an annual accounting  
13 of said income and distributions to determine the extent of any refund.  
14
- 15 2. The entire interest in Harrison Dispute Resolution, LLC. The prior  
16 balance in the business account associated with Harrison Dispute  
17 Resolution at Bank of America ending in 4668 was previously equally  
18 divided between the parties whereby each party received \$115,836.47 on  
19 or about December 24, 2012. Kirk shall retain this account.  
20
- 21 3. A twelve and one-half percent (12.5%) interest in The Measo Associates,  
22 a Nevada General Partnership, currently held in Kirk's sole name. The  
23 parties currently have a 25% interest in The Measo Associates. Following  
24 the entry of the Decree of Divorce, the interest shall be equally divided,  
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1 allocating 12.5% to each party as his or her respective sole and separate  
2 property.  
3

- 4 4. The approximate nine percent (9% ) interest in Geothermic Solution, LLC,  
5 currently held in Kirk's sole name, shall be placed in a trust whereby Kirk  
6 and Vivian shall each receive any and all rights or benefits to one-half of  
7 said interest. If, for any reason, it is illegal, will jeopardize the legal status  
8 of the LLC, or is otherwise impermissible under the organizational  
9 documents of Geothermic Solution, LLC, to transfer the interest into a  
10 trust, then the parties agree to work with one another so that Vivian is  
11 equitably entitled to one-half of the approximate 9% interest in  
12 Geothermic Solution, LLC, either directly or by control of any and all  
13 rights or benefits arising from that interest.  
14  
15 5. One-half of the balance in the Boulder Dam Credit Union savings account  
16 ending in 9005, as of September 11, 2012.  
17  
18 6. One-half of the balance in the Boulder Dam Credit Union DDA account  
19 ending in 9005, as of September 11, 2012.  
20  
21 7. One-half of the balance in the Bank of America DDA account ending in  
22 1400, as of September 11, 2012.  
23  
24 8. The entire balance in the Bank of America money market account ending  
25 in 5111. The prior balance in the Bank of America money market account  
26 ending in 5111 was previously equally divided between the parties.  
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- whereby each party received \$124,809.55 on or about December 24, 2012.
- Said account is in Kirk's name and Kirk shall retain this account.
9. One-half of the balance in the Bank of America checking account ending in 4040, with a balance of \$36,346.02 as of February 5, 2013. Following the equal division of the balance contained in the account, Kirk shall retain this account.
10. One-half of the balance in the Bank of America account ending in 8682, with a balance of \$6,638.54 as of January 7, 2013. Said account is currently in Kirk's name. Following the equal division of the balance contained in the account, Kirk shall retain this account.
11. One-half of the balance in the Nevada Bank & Trust account ending in 2713, with a balance of \$740.42 as of February 4, 2013. Said account is currently in Kirk's name. Following the equal division of the balance contained in the account, Kirk shall retain this account.
12. One-half of the balance in the Nevada Bank & Trust account ending in 1275 (Certificate of Deposit), with a balance of \$16,360.45 as of February 5, 2013. Said account is currently in Kirk's name. Following the equal division of the balance contained in the account, Kirk shall retain this account.
13. One-half of the balance in the Wells Fargo account ending in 8032 (Certificate of Deposit), with a balance of \$28,809.58 as of February 5,

1 2013. Said account is currently in Kirk's name. Following the division of  
2 the balance contained in the account, Kirk shall retain this account.  
3

4 14. The prior balance in the UBS RMA account ending in 7066 was previously  
5 equally divided between the parties, whereby each party received  
6 \$455,727.35 on or about September 14, 2012. Said account is in Kirk's  
7 name and Kirk shall retain this account.  
8

9 15. The entire balance in Kirk's separate property Bank of America account  
10 ending in 2521, with a balance of \$112,024.01 as of February 14, 2013.  
11 Said account is currently in Kirk's name and Kirk shall retain this account.  
12

13 16. One-half of the balance of the Bank of America account ending in 8278,  
14 with a balance of \$46,622.74 as of February 14, 2013. Said account is  
15 currently in Kirk's name. Following the division of the balance contained  
16 in the account, Kirk shall retain this account.  
17

18 17. The entire balance in Kirk's separate property UBS RMA account ending  
19 in 8538, with a balance of \$382,166.83 as of January 31, 2013. Said  
20 account is in Kirk's name and Kirk shall retain this account.  
21

22 18. The prior balance in the UBS RMA account ending in 3201 was previously  
23 equally divided between the parties, whereby each party received  
24 \$51,458.17 on or about September 11, 2012. Said account is in Kirk's  
25 name and Kirk shall retain this account.  
26

27 19. The entire balance in the Vanguard account ending in 4530/3952. The  
28 prior balance in the Vanguard account ending in 4530/3952 was previously

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1 equally divided between the parties, whereby each party received, on or  
2 about September 27, 2012, the following: \$365,071.73, one thousand  
3 shares of GLD, \$37,500.00 par value Missouri State Water Pollution  
4 Control municipal bonds, and \$37,500.00 par value Elgin, Texas School  
5 District municipal bonds. Said account is in Kirk's name and Kirk shall  
6 retain the account.  
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9 20. The entire balance in the Charles Schwab account ending in 4245. The  
10 prior balance in the Charles Schwab account ending in 4245 was  
11 previously equally divided between the parties, whereby each party  
12 received \$386,293.42 on or about September 11, 2012. Said account is  
13 in Kirk's name and Kirk shall retain the account.  
14

15 21. With respect to the Legacy Treasury Direct account ending in 6330, this  
16 account previously had a balance of \$4,200,000.00. Of this amount,  
17 \$3,200,00.00 of that amount was equally divided by the parties whereby  
18 each party received \$1,600,000.00 on or about September 17, 2012.  
19 Following the settlement between the parties and after the division of  
20 assets was memorialized on the record during the hearing before the Court  
21 on December 3, 2012, the then remaining balance of the Legacy Treasury  
22 Direct account ending in 6330, which was "reserved to equalize the  
23 division of assets," was utilized to equalize the division of assets between  
24 the parties with Vivian receiving \$470,800.00 and Kirk receiving  
25 \$529,200.00 on or about December 20, 2012. Said distributions fully  
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- liquidated the Legacy Treasury Direct account ending in 6330 and it no longer exists.
22. The entire balance in Kirk's UBS IRA account ending in 3211, with a balance of \$142,404.91 as of January 31, 2013. Said account is in Kirk's name and Kirk shall retain the account.
23. The entire balance in Kirk's UBS KJ&C Pooled account ending in 722-140, with a balance of \$14,011.95 as of September 30, 2012. Said account is in Kirk's name and Kirk shall retain the account.
24. Kirk's UBS Profit Sharing Plan account ending in 3354, with a balance of \$797,335.53 as of December 31, 2012, subject to Vivian's right to that portion of said account necessary to equalize the difference between the combined total of Kirk's UBS IRA account ending 3211 and UBS KJ&C Pooled account ending 722-140 with Vivian's Charles Schwab IRA account ending 2759. Following entry of the Decree of Divorce a Qualified Domestic Relations Order ("QDRO") shall be utilized for the division of this account. A QDRO has been prepared, circulated, and is in the process of being finalized. This Court shall retain jurisdiction to enter said qualified order.
25. One-half of the gold and silver coins acquired by the parties during marriage. Kirk has received the following gold coins: 55 American Eagle gold coins, 55 Canadian Maple Leaf gold coins, and 55 S. African Krugerrand gold coins. Kirk has received 2,500 Silver Eagle silver coins.

- 1 26. The 2009 Chevrolet Z71 Crew Cab pickup truck.
- 2 27. The 2008 Acura MDX.
- 3
- 4 28. The 2000 Chevrolet Z71 Extended Cab pickup truck.
- 5 29. All personal property items identified and appraised by Joyce Newman as
- 6 set forth in the "Summary Appraisal Report Volume II of II" with an
- 7 effective date of November 20, 2012.
- 8
- 9 30. All of the guns (except for the Colt Government Model 380 and the Smith
- 10 & Wesson Model 37 - 38 caliber Airweight which have been previously
- 11 provided to Vivian), together with all accessories, including, but not
- 12 limited to all ammunition, gun cleaning supplies, scopes, cases, etc.
- 13
- 14 31. All of the furniture Kirk received from his parents including: his parent's
- 15 bedroom set (which was in the guest bedroom); his mother's alder china
- 16 cabinet and buffet; his mother's needlepoint bench that was made by her
- 17 brother Ray; his mother's small wooden rocking chair; and his father's high
- 18 back wooden chair with red needlepoint.
- 19
- 20 32. The following personal property items identified and appraised by Joyce
- 21 Newman as set forth in the "Summary Appraisal Report Volume I of II"
- 22 with an effective date of November 20, 2012: 21 Stairmaster; 24 Elliptical;
- 23 25 Vectra; 26 Rotator Cuff; 28 Bike; 29 Shop Stool; 30 Block bells; 31
- 24 Bench; 35 Foosball; 38 Grey lockers; 40 2000 truck; 41 Acura; 42
- 25 Silverado; 43 Safe; 74 Pool Table; 75 Upright Piano; 76 Credenza/file; 77
- 26 Display Cabinet; 78 Four leather stools; 80 work on paper; 81 work on
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- paper; 82 work on paper; 83 pool Cues; 84 Desk; 85 work on paper; 86  
work on paper; 87 work on paper; 88 work on paper; 116 Chest Table; 117  
Side Table; 121 Side Table; 126 Rug; 127 Rug; 129 Side Table; 130  
Bedroom Suite; 131 Iron bed; 132 Armchair.
33. Except as provided otherwise herein, any and all of Kirk's clothing, jewelry,  
articles of personal adornment, miscellaneous personal possessions, and  
personal affects, including family heirlooms and personal property received  
by or inheritance.
34. Parcel #6050-A-1, consisting of approximately 107.26 acres, in  
Washington County, Utah, together with all improvements thereon and  
all appurtenances thereto, including Water Right #208 (Harrison Spring)  
and Water Right #71-4172 (5 acre feet), subject to Vivian's community  
property interest therein, as well as any and all reimbursement claims to  
the ranch property, the total amount of which the parties stipulated to  
being \$285,000.00.
35. Parcel #6052, consisting of approximately 39.91 acres, in Washington  
County, Utah, together with all improvements thereon and all  
appurtenances thereto, including Water Right #413 (Unnamed Spring)  
and Water Rights #71-4450 and #71-4173 (total of 4 acre feet for #71-  
4450 & #71-4173).



- 1 36. Parcel #6050-C, consisting of approximately 3.23 acres, in Washington  
2 County, Utah, together with all improvements thereon and all  
3 appurtenances thereto including Water Right #71-3613.  
4  
5 37. Parcel #6050-B, consisting of approximately .87 acres, in Washington  
6 County, Utah, together with all improvements thereon and all  
7 appurtenances thereto.  
8  
9 38. Parcel #6049, consisting of approximately 50.62 acres, in Washington  
10 County, Utah, together with all improvements thereon and all  
11 appurtenances thereto, including any and all water rights, including, but  
12 not limited to, the following water rights: Water Right #138 (Tullis Spring  
13 Area), Water Right #295 (Silent Spring), Water Right #296 (Tullis  
14 Spring), Water Right #297 (Tullis Gulch), and Water Right #299  
15 (Hideout Spring).  
16  
17 39. Parcel #6050-D, consisting of approximately 4.36 acres, in Washington  
18 County, Utah, together with all improvements thereon and all  
19 appurtenances thereto, including any and all water rights.  
20  
21 40. Parcel #6050-E, consisting of approximately 20.65 acres, in Washington  
22 County, Utah, together with all improvements thereon and all  
23 appurtenances thereto, including any and all water rights.  
24  
25 41. Parcel #6050-F, consisting of approximately 41.20 acres, in Washington  
26 County, Utah, together with all improvements thereon and all  
27 appurtenances thereto, including any and all water rights.  
28

1 42. Vivian shall execute a quitclaim deed waiving and releasing any interest  
2 whatsoever in the Utah ranch, including any and all water rights (to  
3 include all parcels necessary).  
4

5 43. The money and/or property each party receives pursuant to this Decree  
6 shall be included for all purposes in the amount each party receives as part  
7 of the ultimate resolution in the divorce between the parties, including any  
8 and all entities or properties formed or purchased with their respective  
9 portions of the distribution identified herein.  
10

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any personal  
12 property not identified and appraised by Joyce Newman in her Summary Appraisal  
13 Report and not divided or otherwise confirmed to either party pursuant to the terms set  
14 forth above shall be divided by way of an A/B List.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the following  
17 accounts were established by Kirk for Brooke and Rylee under the Nevada Uniform Act  
18 on Transfers to Minors (NUATM), and Kirk and Vivian have previously funded these  
19 accounts, through annual gifts:  
20

- 21 1. Charles Schwab Custodial Account of Kirk R. Harrison as Custodian for  
22 Emma Brooke Harrison UNVUTMA until age 18, ending in 6622, with a  
23 balance of \$33,251.70 as of December 31, 2012.  
24  
25 2. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Emma  
26 B. Harrison NV Unif Trans Min Act until age 18, ending in 0709, with a  
27 balance of \$75,115.06 as of December 31, 2012.  
28

1 3. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Emma  
2 B. Harrison NV Unif Trans Min Act until age 25, ending in 4276, with a  
3 balance of \$210,664.16 as of December 31, 2012.  
4

5 4. Vanguard Custodial Account of Kirk R. Harrison as Custodian for Rylee  
6 M. Harrison NV Unif Tras Min Act until age 25, ending in 4250, with a  
7 balance of \$210,094.80 as of December 31, 2012.  
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that as Rylee has  
10 \$108,936.12  $[(33,251.70 + 75,115.06 + 210,664.16) - 210,094.80]$  less in her  
11 accounts than Brooke has in her accounts (as a consequence of the difference in their  
12 ages), Kirk and Vivian shall each make the following annual gifts (deposits) into Rylee's  
13 account ending in 4250: (1) for tax year 2012, a deposit of \$10,000.00, which deposit  
14 shall be made prior to April 15, 2013; (2) for tax year 2013, a deposit of \$10,000.00,  
15 which deposit shall be made prior to April 15, 2014; (3) for tax year 2014, a deposit of  
16 \$10,000.00, which deposit shall be made prior to April 15, 2015; (4) for tax year 2015,  
17 a deposit of \$10,000.00, which deposit shall be made prior to April 15, 2016; (5) for tax  
18 year 2016, a deposit of \$10,000.00, which deposit shall be made prior to April 15, 2017,  
19 and (6) for tax year 2017, a deposit of \$5,000.00, which deposit shall be made prior to  
20 April 15, 2018.  
21  
22  
23

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that a third party  
25 custodian shall be appointed for each of the accounts identified above. If possible, the  
26 parties shall designate a custodian who does not charge a custodial fee.  
27  
28

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that that the  
2 following 4-year tuition plans were established by Vivian for Brooke and Rylee with the  
3 Nevada Prepaid Tuition Program, and and Kirk and Vivian have fully funded said plans:  
4

5 1. Contract Number 10002618, Purchaser: Vivian L. Harrison, Beneficiary:  
6 Emma B. Harrison; Tuition Plan: 4 Year University Plan; the Contract has  
7 been paid in full with total contract payments of \$7,365.00.  
8

9 2. Contract Number 10400042, Purchaser: Vivian L. Harrison; Beneficiary:  
10 Rylee M. Harrison; Tuition Plan: 4 Year University Plan; the Contract has  
11 been paid in full with total contract payments of \$12,750.00.  
12

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that these accounts  
14 shall continue to be overseen by Vivian with copies of the Annual Statements of Account  
15 being provided to Kirk within 10 days of receipt.  
16

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
18 shall sell Parcel #4025-A, consisting of approximately 60 acres, in Washington County,  
19 Utah, together with Water rights #81-4115 (2 acre feet) and #81-433 (5 acre feet). IT  
20 IS FURTHER ORDERED that Parcel #4025-A and Water rights #81-4115 and #81-  
21 433 shall be listed for sale for Two Hundred Forty-Nine Thousand Dollars  
22 (\$249,000.00).  
23

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
25 shall sell Parcel #181-28-810-002, the residential lot located at 610 Lido Drive, Boulder  
26 City, Nevada. Said Parcel #181-28-810-002 shall be listed for sale for Three Hundred  
27 Eighty-Nine Thousand Dollars (\$389,000.00).  
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Parcel #4025-  
2 A and Parcel #181-28-810-002 shall be listed with a mutually selected real estate broker  
3 for a period of six months. In the event either or both subject properties has not been  
4 sold or is not in escrow to be sold during any six month listing period, then beginning  
5 10 days after the expiration of the prior listing, said property or properties shall be listed  
6 with the same real estate broker or, at the parties' mutual election, another real estate  
7 broker, and the listed price of the subject property or properties shall be 5% less than the  
8 list price during the prior six month period. IT IS FURTHER ORDERED that each  
9 party shall equally share the net proceeds from the sale of each subject property. IT IS  
10 FURTHER ORDERED that, upon the expiration of each six month listing period, in the  
11 event the subject property has not been sold or is not in escrow to be sold, either party  
12 hereto shall have the right to purchase the subject property for the listed price, without  
13 the payment of or obligation to pay any real estate commission, upon written notice to  
14 the other party within 5 days of the expiration of the listing.  
15

16 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the furniture  
17 and furnishings in each of the children's bedrooms are the personal property of that  
18 respective child.  
19

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that with respect  
21 to the family photographs and videos of the older children when they were younger,  
22 which are in Kirk's possession, and the family photographs, all of the negatives of the  
23 family photographs, and all of the videos of Brooke and Rylee, which are in Vivian's  
24 possession, each party hereto shall pay one-half of the cost to transfer all of the  
25  
26  
27  
28

1 photographs (utilizing the negative whenever it is in existence) and all videos containing  
2 one or more of the children to electronic storage and/or data base and to produce a total  
3 of seven copies of that entire data base so that each party hereto and each of the children  
4 have a copy. Each party shall fully cooperate with the other to facilitate the transfer and  
5 copying of all photographs (negatives whenever possible) and videos which are the  
6 subject of this Order.  
7  
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party  
10 hereto is solely personally responsible for any debt (including any and all credit card  
11 debt) he or she has at the time this Decree of Divorce is entered. The parties agree and  
12 acknowledge that the joint credit card account with Nordstrom Bank has been  
13 previously closed.  
14

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vivian shall  
16 remove her name from Kirk's Costco membership on or before November 1, 2013.  
17

18 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kirk shall be  
19 responsible for maintaining his own medical insurance following the entry of this Decree  
20 of Divorce, and Vivian shall be responsible for maintaining her own medical insurance  
21 following the entry of this Decree of Divorce.  
22

23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall  
24 file separate tax returns for the tax year 2012 and each year thereafter. Until such time  
25 as Brooke is no longer eligible as a tax dependent, Vivian shall be entitled to claim Rylee  
26 as a dependent each year on her tax return, and Kirk shall be entitled to claim Brooke  
27 each year as a dependent on his tax return. In the year following the last year that  
28

1 Trooke is eligible to be claimed as a tax dependent, the parties shall begin alternating  
2 Rylee as a dependent with Vivian claiming Rylee in the first year.  
3

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Joint  
5 Preliminary Injunction that was previously issued in this matter on September 9, 2011,  
6 is dissolved.  
7

8 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall  
9 retain jurisdiction to adjudicate any reimbursement owed to Vivian for community  
10 expenses paid from separate property monies prior to November 30, 2012. The parties  
11 have designated Cliff Beadle, CPA (for Kirk), and Melissa Attanasio, CFP, (for Vivian),  
12 to meet and confer to prepare an accounting of said community expenses paid from  
13 separate property.  
14

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall  
16 retain jurisdiction to divide any property (or debt) later discovered that has not been  
17 specifically addressed in this Decree. If the Court finds that either party has willfully  
18 withheld disclosure of any property or property interests, the Court may, in its  
19 discretion, award all of that property to the other party. Further, in the event of such  
20 willful non-disclosure, the Court may require the non-disclosing party to pay all  
21 reasonable fees and costs incurred by the other party in pursuing his or her right to a  
22 division or distribution of such property.  
23  
24

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
26 have reserved the issue of attorney's fees incurred in the divorce action. IT IS  
27 FURTHER ORDERED that, pursuant to the terms of the agreement placed on the  
28

1 record, either party (or both parties) may file a motion with the Court seeking an award  
2 of fees. This Court shall enter a separate order addressing the issue of attorney's fees and  
3 costs. Independent of either party's pursuit of said fees and costs, IT IS FURTHER  
4 ORDERED that, should either party be required to commence an action to enforce or  
5 interpret the terms of this Decree, the Court shall order the non-prevailing party in that  
6 action to pay the reasonable attorney's fees and costs incurred by the prevailing party,  
7 including those fees and costs expended during notification or negotiation of the issue  
8 presented to the Court in the action.  
9

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties  
12 hereto shall each execute quitclaim deeds, stock transfers, and any and all other  
13 instruments that may be required in order to effectuate transfer of any and all interest  
14 either may have in and to the said property hereby conveyed to the other as hereinabove  
15 specified. Should either party fail to execute any of said documents to transfer interest  
16 to the other, this Decree of Divorce shall constitute a full and complete transfer of the  
17 interest of one to the other as hereinabove provided. Upon failure of either party to  
18 execute and deliver any such deed, conveyance, title, certificate or other document or  
19 instrument to the other party, this Decree of Divorce shall constitute and operate as  
20 such properly executed document and the County Assessor and County Recorder and  
21 any and all other public and private officials are hereby authorized and directed to  
22 accept this Decree of Divorce, or a properly certified copy thereof, in lieu of the  
23 document regularly required for such conveyance or transfer.  
24  
25  
26  
27  
28

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. 2  
1 VEGAS, NEVADA 89101




1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, except as  
2 otherwise specified herein, any and all property acquired, income received or liabilities  
3 incurred by either of the parties hereto from and after the date of the entry of this  
4 Decree of Divorce, will be the sole and separate property of the one so acquiring the  
5 same, and each of the parties hereto respectively grants to the other all such future  
6 acquisitions of property as the sole and separate property of the one so acquiring the  
7 same and holds harmless and agrees to indemnify the other party from any and all  
8 liabilities incurred.  
9

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if any claim,  
12 action or proceeding is brought seeking to hold one of the parties hereto liable on  
13 account of any debt, obligation, liability, act or omission assumed by the other party, the  
14 responsible party will, at his or her sole expense, defend the innocent party against any  
15 such claim or demand and he or she will indemnify, defend and hold harmless the  
16 innocent party.  
17

19 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant  
20 shall retain her married name of Vivian Marie Lee Harrison.

21 DATED this 31st day of October, 2013.  
22

23  
24   
25 BRYCE C. DUCKWORTH  
26 DISTRICT COURT JUDGE  
27 DEPARTMENT Q  
28

BRYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

## **EXHIBIT “3”**

  
CLERK OF THE COURT

1 NOE  
2 EDWARD L. KAINEN, ESQ., #5029  
3 ANDREW L. KYNASTON, ESQ., #8147  
4 KAINEN LAW GROUP, PLLC  
5 10091 Park Run Drive, Suite 110  
6 Las Vegas, Nevada 89145  
7 Telephone (702) 823-4900  
8 Facsimile (702) 823-4488  
9 Administration@KainenLawGroup.com

6 THOMAS STANDISH, ESQ., #1424  
7 STANDISH LAW GROUP  
8 1635 Village Center Circle, Suite 180  
9 Las Vegas, Nevada 89134  
10 Telephone (702) 998-9344  
11 Facsimile (702) 998-7460  
12 tjs@standishlaw.com  
13 Co-counsel for Plaintiff

11 DISTRICT COURT  
12 CLARK COUNTY, NEVADA

12 KIRK ROSS HARRISON,

13 Plaintiff,

14 vs.

15 VIVIAN MARIE LEE HARRISON,

16 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 12/18/2013  
Time of Hearing: 11:00 a.m.

18 NOTICE OF ENTRY OF ORDER

19 TO: VIVIAN MARIE LEE HARRISON, Defendant; and

20 TO: RADFORD SMITH, ESQ., and GARY SILVERMAN, ESQ., Defendant's Attorneys:

21 PLEASE TAKE NOTICE that on the 17<sup>th</sup> day of December, 2013, the Honorable Bryce  
22 Duckworth entered an Order, a copy of which is attached hereto.

23 DATED this 19<sup>th</sup> day of December, 2013.

24 KAINEN LAW GROUP, PLLC

25 By: 

26 EDWARD L. KAINEN, ESQ.  
27 Nevada Bar No. 5029  
28 ANDREW L. KYNASTON, ESQ.  
Nevada Bar No. 8147  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

KAINEN LAW GROUP, PLLC  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com


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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 19<sup>th</sup> day of December, 2013, I served a true and correct copy of the foregoing *Notice of Entry of Order* via the United States Mail, in a sealed envelope, first class, postage prepaid to the following:

Radford J. Smith, Esq.  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074

Gary Silverman, Esq.  
6140 Plumas St., #200  
Reno, Nevada 89519

  
An Employee of  
KAINEN LAW GROUP, PLLC

KAINEN LAW GROUP, PLLC  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com



CLERK OF THE COURT

1 **ORDR**

2 EDWARD L. KAINEN, ESQ.

3 Nevada Bar No. 5029

4 ANDREW L. KYNASTON, ESQ.

5 Nevada Bar No. 8147

6 KAINEN LAW GROUP, PLLC

7 10091 Park Run Drive, Suite 110

8 Las Vegas, Nevada 89145

9 Telephone (702) 823-4900

10 Facsimile (702) 823-4488

11 Administration@KainenLawGroup.com

12 THOMAS STANDISH, ESQ.

13 Nevada Bar No. 1424

14 JOLLEY URGAS WIRTH WOODBURY & STANDISH

15 3800 Howard Hughes Parkway, 16th Fl.

16 Las Vegas, Nevada 89169

17 Telephone (702) 699-7500

18 Facsimile (702) 699-7555

19 tjs@juww.com

20 Co-counsel for Plaintiff

21 **DISTRICT COURT**

22 **CLARK COUNTY, NEVADA**

23 KIRK ROSS HARRISON,

24 Plaintiff,

25 vs.

26 VIVIAN MARIE LEE HARRISON,

27 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 10/30/13  
Time of Hearing: 10:00 a.m.

28 **ORDER**

29 This matter having come on for hearing this 30<sup>th</sup> day of October, 2013, before the  
30 Honorable Bryce Duckworth, Plaintiff, KIRK ROSS HARRISON ("Father"), present and represented  
31 by and through his attorneys, EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC,  
32 and THOMAS STANDISH, ESQ., of the law firm of JOLLEY URGAS WIRTH WOODBURY &  
33 STANDISH, and Defendant, VIVIAN MARIE HARRISON ("Mother"), present and represented by and

34 ...

35 ...

36 ...

**RECEIVED**

DEC 19 2013

**FAMILY COURT  
DEPARTMENT O**

KAINEN LAW GROUP, PLLC  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
702.823.4900 • Fax 702.823.4488  
www.KainenLawGroup.com

KAINEN LAW GROUP, PLLC  
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Las Vegas, Nevada 89145  
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www.KainenLawGroup.com

1 through her attorneys, RADFORD J. SMITH, ESQ., of the law firm of RADFORD J. SMITH,  
2 CHARTERED, and GARY SILVERMAN, ESQ., of the law firm of SILVERMAN, DECARIA &  
3 KATTELMAN, CHARTERED; the Court having reviewed the papers and pleadings on file herein,  
4 being fully advised in the premises, and good cause appearing, makes the following Orders:

5 IT IS HEREBY ORDERED that Father's "Motion to Modify Order Resolving  
6 Parent/Child Issues and for Other Equitable Relief" and Mother's "Countermotion to Resolve  
7 Parent/Child Issues, To Continue Hearing on Custody Issues, for an Interview of the Minor Children,  
8 and for Attorney's Fees and Sanctions" are denied.

9 IT IS FURTHER ORDERED that the Court will address the issue of a Parenting  
10 Coordinator and therapist for the children in separate, independent Orders.

11 IT IS FURTHER ORDERED that, with respect to any future filings with the Court, both  
12 parties shall adhere to the 30-page limit unless they have received permission from the Court to exceed  
13 said 30-page limit.

14 IT IS FURTHER ORDERED that the Court will issue a separate written Order regarding  
15 each party's request for attorney's fees and costs herein.

16 DATED this **DEC 12 2013** day of December, 2013.

17  
18  
19   
DISTRICT COURT JUDGE

20 Submitted by:

21 KAINEN LAW GROUP, PLLC

22  
23 By: 

24 EDWARD L. KAINEN, ESQ.  
25 Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
26 Las Vegas, Nevada 89145  
Attorney for Plaintiff

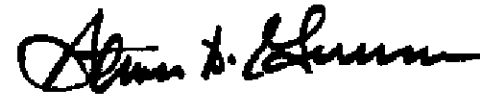
27  
28 Approved as to form and content:

RADFORD J. SMITH, CHARTERED

By: 

RADEFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorney for Defendant

## **EXHIBIT “4”**



CLERK OF THE COURT

**E-SERVED**  
**JUN 16 2014**

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

6 **GARY R. SILVERMAN, ESQ.**  
7 **SILVERMAN, DECARIA, & KATTLEMAN**  
8 Nevada State Bar No. 000409  
9 6140 Plumas St.#200  
10 Reno, NV 89519  
11 T: (775) 322-3223  
12 F: (775) 322-3649  
13 silverman@silverman-decaria.com  
14 Attorneys for Defendant

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

13 **KIRK ROSS HARRISON,**

14 **Plaintiff,**

15 **vs.**

16 **VIVIAN MARIE LEE HARRISON,**

17 **Defendant.**

**CASE NO.: D-11-443611-D**

**DEPT NO.: Q**


**FAMILY DIVISION**

**NOTICE OF ENTRY OF ORDER**

20 PLEASE TAKE NOTICE that on the 13<sup>TH</sup> day of June, 2014, the Honorable Judge Duckworth  
21 entered an Order From Hearing, a copy of which is attached hereto.

22 Dated this <sup>th</sup>16 day of June, 2014.

24 **RADFORD J. SMITH, CHARTERED**

26   
**RADFORD J. SMITH, ESQ.**

27 Nevada Bar No. 002791

28 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 16<sup>th</sup> day of June, 2014 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;

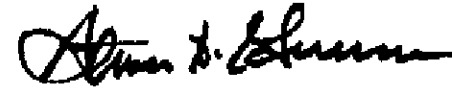
☒ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail to the electronic mail address shown below;

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

Tom J. Standish, Esq.  
Standish Law Group  
1635 Village Center Circle, Suite 180  
Las Vegas, Nevada 89134  
tjs@standishlaw.com  
Attorney for Plaintiff

Edward L. Kainen, Esq.  
Kainen Law Group  
10091 Park Run Dr., #110  
Las Vegas, Nevada 89145  
ed@kainenlawgroup.com  
Attorney for Plaintiff

  
An employee of RADFORD J. SMITH, CHARTERED



CLERK OF THE COURT

**ORDER**

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No. 002791

64 N. Pecos Road, Suite 700

Henderson, Nevada 89074

Telephone: (702) 990-6448

Facsimile: (702) 990-6456

rsmith@radfordsmith.com

GARY R. SILVERMAN, ESQ.

SILVERMAN, DECARIA, & KATTLEMAN

Nevada Bar No. 000409

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Reno, Nevada 89519

Telephone: (775) 322-3223

Facsimile: (775) 322-3649

silverman@silverman-decaria.com

*Attorneys for Defendant*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q

**FAMILY DIVISION**

**RECEIVED**

JUN 10 2014

**ORDER FROM HEARING**

DATE OF HEARING: December 18, 2013

TIME OF HEARING: 11:00 a.m.

**FAMILY COURT  
DEPARTMENT Q**

This matter, having coming on for hearing for Plaintiff's Motion for Judicial Determination of the Teenage Discretion and Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment and for Defendant's Countermotion for Attorney's Fees and Defendant's Countermotion to Clarify Orders on the

1 18<sup>th</sup> day of December, 2013; Plaintiff, Kirk Harrison, being present and represented by Thomas Standish,  
2 Esq., of Standish Law Group and by Edward L. Kainen, Esq., of the Kainen Law Group; and Defendant,  
3 Vivian Harrison, being present and represented by Radford J. Smith, Esq., of Radford J. Smith,  
4 Chartered, and by Gary Silverman, Esq., of Silverman, Decaria & Kattleman; the Court, having heard the  
5 arguments of counsel, having reviewed the pleadings and papers on file in this matter, and being fully  
6 advised in the premises, and good cause appearing therefore, makes the following findings and orders:  
7

8       1. In regards to TEENAGE DISCRETION; the parties had resolved parent/child  
9 issues and a Stipulation was entered on July 11, 2012. Section 6 of that agreement  
10 addresses the issue of TEENAGE DISCRETION and in review of that section, the Court does not  
11 view that language as giving the minor child authority to make decisions or to change custody.  
12 The parties agreed to the language and part of that included implementation of a counselor and  
13 parenting coordinator. The process to implement those has been delayed and is to be  
14 implemented forthwith. Court views the language as that, the counselor (Dr. Ali has been  
15 selected) would be involved in the TEENAGE DISCRETION process, as would the parenting  
16 coordinator. The purpose for such would be to avoid the Court's intervention, though those  
17 processes would not supplant this Court's authority and the parties may still petition the Court  
18 to address any issues they may have.  
19

20       2. The request to suspend, remove or otherwise modify the TEENAGE  
21 DISCRETION provision is DENIED. To be clear, the minor child(Brooke) does not control and  
22 the Court expects the counselor to be involved in this process. The purpose of TEENAGE  
23 DISCRETION is not to remove blocks of time from a party and if a party is being removed for a  
24 period of time (aside from vacations), then the Court would be concerned. TENAGE  
25 DISCRETION should be implemented from time-to-time and there should not be any issues  
26  
27  
28

1 should Brooke wish to make a modification for a few hours and the Court would expect  
2 communication in this regard. Again, the counselor and the parenting coordinator are to be  
3 engaged in this process.  
4

5 3. Per STIPULATION, accounts ending 8278 and 2521 are Plaintiff's sole and separate  
6 property.

7 4. With regard to accounts ending 8682, 1275 and 2713; to the extent that these accounts  
8 were Plaintiff's prior to the marriage, then they are his sole and separate property. It is the Defendant's  
9 burden to show that any community property funds were deposited or placed into those accounts which  
10 would create a community property interest in those accounts. Otherwise, it is clear to the Court that  
11 those three accounts are the Plaintiff's sole and separate property and the Decree of Divorce shall be  
12 corrected to reflect such. Court views this issue as an issue that did not need to be brought before the  
13 Court.  
14

15 5. The Decree of Divorce is to be corrected to reflect that The Measo Associates is held in  
16 both parties name.  
17

18 6. With regard to the A/B list; to the extent items were not included in the list prepared by  
19 Joyce Newman, absent an agreement between the parties, those items are to be divided by way of an A/B  
20 list (which was the intent of the Court's Order).  
21

22 7. With regard to the provision regarding reimbursement; the Court views this is a mutual  
23 provision. To the extent there is a dispute as to any items that should be reimbursed, the items may be  
24 submitted to the Court on a separate list with an explanation and the Court would make the determination  
25 as to whether or not it needs to be reimbursed. It is the Court's understanding that this process with  
26 Melissa Attanasio and Cliff Beadle has not been completed yet. The accounting by Ms. Attanasio and  
27 Mr. Beadle is to be completed by January 31, 2014. The Court expects an exchange of information and  
28

1 documents which are lacking. Again, this provision is mutual and the items are limited to what was in  
2 the Temporary Order and to the extent there is a reimbursable expense, there must be some backup to  
3 demonstrate that the expense was covered by the Temporary Orders.  
4

5 8. The matter is set for a two hour Evidentiary Hearing on January 22, 2014 at 1:30 p.m.  
6 regarding the monies placed into Tahnee's account for the purpose of her education (after the initiation of  
7 this litigation, but prior to the Joint Preliminary Injunction). To be clear, the Court shall not be seeking to  
8 take money away from Tahnee. The issue shall be whether or not there needs to be a reimbursement for  
9 one-half of those monies that were paid to create this account. The Court must determine whether or not  
10 there was an agreement that these funds were to be used solely for medical school education purposes or  
11 not. At this time, the Court views this as an omitted asset as Plaintiff's name was also on the account.  
12

13 9. Discovery is open as to Tahnee's account and how it was created and the account history.  
14

15 10. The Parties are to provide their proposed exhibits to the Court Clerk by the close of  
16 business on January 17, 2014.

17 11. The Court shall allow out of state witnesses to testify by way of video (Skype or  
18 Facetime), so long as the Court is able to see the individual and have them sworn in. The Court would  
19 expect to hear from Ms. Attanasio and Mr. Beadle.  
20

21 12. With regard to any Ranch items which may have belonged to the Plaintiff's father, the  
22 Court views those items as the Plaintiff's sole and separate property. The Court shall review the prove-  
23 up hearing in this regard as Plaintiff is indicating that all the property located at the Ranch was to be  
24 awarded to him. The Court shall address this issue at the Evidentiary Hearing after it has reviewed the  
25 record. To be clear, this issue shall not be a part of the hearing.  
26

27 *Mandatory Provisions:* The following statutory notices relating to custody/visitation of the minor  
28 children are applicable to the parties herein:

1 Pursuant to NRS 125C.200, the parties, and each of them, are hereby placed on notice that if  
2 either party intends to move their residence to a place outside the State of Nevada, and take the minor  
3 child with them, they must, as soon as possible, and before the planned move, attempt to obtain the  
4 written consent of the other party to move the minor children from the State. If the other party refuses to  
5 give such consent, the moving party shall, before they leave the State with the children, petition the Court  
6 for permission to move with the children. The failure of a party to comply with the provision of this  
7 section may be considered as a factor if a change of custody is requested by the other party. This  
8 provision does not apply to vacations outside the State of Nevada planned by either party.  
9

10  
11 The parties, and each of them, shall be bound by the provisions of NRS 125.510(6) which state, in  
12 pertinent part:

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

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

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

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

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

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

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

8 IT IS SO ORDERED.

9 Dated this \_\_\_\_\_ day of JUN 11 2014, 2014.

10  
11   
12 DISTRICT COURT JUDGE

13 Submitted by:

14 RADFORD J. SMITH, CHARTERED

Approved as to Form and Content:

KAINEN LAW GROUP, PLLC

15  
16   
17 RADFORD J. SMITH, ESQ.

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18  
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Attorneys for Plaintiff

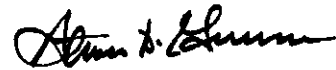




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CLERK OF THE COURT

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO. D-11-443611-D

DEPT NO. Q

**NOTICE OF ENTRY OF**  
**FINDINGS AND ORDERS RE: MAY 21, 2014 HEARING**

**TO: ALL PARTIES AND/OR THEIR ATTORNEYS**

Please take notice that a Findings and Orders Re: May 21, 2014 Hearing has been entered in the above-entitled matter. I hereby certify that on the above file stamped date, I caused a copy of the **Findings and Orders Re: May, 21, 2014 Hearing** and this Notice of Entry of Findings and Orders Re: May 21, 2014 to be:

☒ E-Served pursuant to NEFCR 9 on, or placed in the folder(s) located in the Clerk's Office of, the following attorneys:

Edward Kainen, Esq.  
Thomas Standish, Esq.

Radford J. Smith, Esq.

**RYCE C. DUCKWORTH**  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
35 VEGAS, NEVADA 89101

A.App.1655

1  
2     ☐ E-Served pursuant to NEFCR 9 on, or mailed postage prepaid, addressed to,  
3 the following attorney:

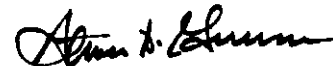
4     Gary Silverman, Esq.  
5     6140 Plumas St., #200  
6     Reno, NV 89519

7                     /s/ Kimberly Weiss  
8     Kimberly Weiss  
9     Judicial Executive Assistant  
10    Department Q

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**RYCE C. DUCKWORTH**  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

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2 ORDR



CLERK OF THE COURT

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 KIRK ROSS HARRISON, )

6 )  
7 Plaintiff, )

8 v. )

CASE NO. D-11-443611-D

DEPT NO. Q

9 VIVIAN MARIE LEE HARRISON, )

10 )  
11 Defendant. )

12 FINDINGS AND ORDERS RE:  
13 MAY 21, 2014 HEARING

14 Plaintiff and Defendant appeared before this Court on May 21, 2014,<sup>1</sup> for a  
15 hearing on Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for  
16

17  
18 <sup>1</sup>Since the hearing on May 21, 2014, both parties have sought appellate relief from the  
19 Supreme Court of the State of Nevada. On July 7, 2014, Plaintiff filed a Notice of Appeal  
20 regarding this Court's Findings, Conclusions and Orders (Feb. 10, 2014). On July 17, 2014,  
21 Plaintiff filed a Notice of Appeal regarding the Decree of Divorce (Oct. 31, 2013), and orders  
22 entered on October 29, 2013, December 17, 2013, and June 13, 2014. On July 21, 2014,  
23 Defendant filed a Notice of Appeal regarding this Court's Findings, Conclusions and Orders  
24 (Feb. 10, 2014). At the time of the hearing, this Court orally issued findings and orders  
25 resolving all issues raised by way of the papers filed by the parties, save and except the amount  
26 of attorney's fees awarded to the Defendant. Following the hearing, this Court issued amended  
27 minutes setting forth additional findings. These amended minutes were issued prior to the  
28 Plaintiff's filing of his Notice of Appeal (Jul. 7, 2014). The findings and orders set forth herein  
are ancillary to the issues currently on appeal. In this regard, with the exception of the *amount*  
of attorney's fees awarded to the Defendant, the findings and orders set forth herein are simply  
a memorialization of the findings and orders stemming from the hearing on May 21, 2013. As  
to the amount of attorney's fees awarded, the said amount similarly is ancillary to the issues on  
appeal as it relates solely to Plaintiff's Motion to Modify Order Resolving Parent Child Issues  
and for Other Equitable Relief (Apr. 21, 2014). Alternatively, this Court finds that said amount  
is the amount this Court would be inclined to award pursuant to *Huneycutt v. Huneycutt*, 94 Nev.  
79, 575 P.2d 585 (1978) (clarified by *Foster v. Dingwall*, 126 Nev. Adv. Op. 5, 228 P.3d 453  
(2010).

RYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
15 VEGAS, NEVADA 89101

A.App.1657

1 Other Equitable Relief (Apr. 21, 2014); Defendant's Opposition to Plaintiff's Motion  
2 to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees  
3 and Sanctions (May 9, 2014); Plaintiff's Reply in Support of Plaintiff's Motion to  
4 Modify Order Resolving Parent/Child Issues and for Other Equitable Relief and  
5 Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions (May 14,  
6 2014); and Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's  
7 Fees and Sanctions (May 20, 2014). Plaintiff, KIRK ROSS HARRISON ("Father"), was  
8 present and represented by and through his attorney, EDWARD L. KAINEN, ESQ., of  
9 the KAINEN LAW GROUP, PLLC, and Defendant, VIVIAN MARIE HARRISON,  
10 ("Mother"), was present and represented by and through her attorneys, RADFORD J.  
11 SMITH, ESQ., of the law firm of RADFORD J. SMITH, CHARTERED.  
12

13  
14 This Court, being fully advised in the premises, and good cause appearing  
15 therefore, makes the following findings:<sup>2</sup>  
16

17  
18 In July 2012, Father and Mother expressly agreed that it is in their children's best  
19 interest to appoint a Parenting Coordinator. *See* Stipulation and Order Resolving  
20 Parent/Child Issues (Jul. 11, 2012) (hereinafter referred to as "Parenting Plan"). Father  
21 and Mother further expressly agreed that it is in the children's best interest to grant the  
22 children "teenage discretion" at age fourteen (14), subject to the parameters specified in  
23 the Parenting Plan. The language regarding "teenage discretion" to which the parties'  
24  
25

26  
27  
28 <sup>2</sup>At the time of the hearing, this Court established the protocol for the preparation of the  
Order therefrom. Nevertheless, it remains this Court's prerogative to memorialize and construe  
this Court's findings and orders that are consistent with the Court's intent.

1 expressly agreed (as set forth in the Parenting Plan), is significantly more detailed and  
2 thorough than the single sentence that is typically submitted to the Court. Indeed, the  
3 specificity of the "teenage discretion" provisions set forth in the Parenting Plan is not  
4 commonplace and is largely unseen.  
5

6  
7 The exercise of "teenage discretion" should not be used as a tool to remove blocks  
8 of time from either party that would result in a modification of the underlying joint  
9 physical custody arrangement. This Court would be concerned if the exercise of  
10 "teenage discretion" was regular and pervasive so as to cause a *de facto* modification of  
11 the underlying custody arrangement. Although this Court expressed its concern about  
12 the two day incident described in the papers, it does not view the "teenage discretion"  
13 provision as having been abused by Brooke. Further, a child's preference standing alone  
14 is generally not a basis to entertain a modification of custody. In summary, the exercise  
15 of "teenage discretion" should not be a tool or resource to undermine the underlying  
16 custody arrangement.  
17  
18

19 This Court finds that there is not a sufficient basis to interview Brooke or Rylee  
20 at this time. Further, there is no present basis for the children to be interviewed by the  
21 Parenting Coordinator at this time.  
22

23 Father's Motion to Modify Order Resolving Parent/Child Issues and for Other  
24 Equitable Relief (Apr. 21, 2014) should be denied. The parties should proceed with the  
25 Parenting Coordinator process as previously ordered. There is not a sufficient basis to  
26 modify the terms of the Order Appointing Parenting Coordinator (Oct. 29, 2013), and  
27 the parties should abide by said terms. The authority of the Parenting Coordinator is  
28

1 defined in the Order Appointment Parenting Coordinator (Oct. 29, 2013), together with  
2 the limitations imposed therein. Neither party should be compelled to sign any  
3 agreements that exceed the Parenting Coordinator's authority as defined in the Order  
4 Appointing Parenting Coordinator (Oct. 28, 2013).  
5

6  
7 This Court does not find that there is a basis to modify the provisions of the  
8 Parenting Plan regarding the "teenage discretion" provisions agreed upon by the parties.  
9 If either party believes the teenage discretion provision is being abused, the Parenting  
10 Coordinator may assist to bring that to light.  
11

12 When school is in session, all child custody exchanges should take place at school  
13 and there should be no exchanges at either party's residence. The issue of the minor  
14 children needing to pick up items from the non-custodial parent's residence after school  
15 is an example of the type of issue that is appropriate for discussion with the Parenting  
16 Coordinator.  
17

18 At the time of the May 21, 2014 hearing, this Court was inclined to strike  
19 Mother's Reply (May 20, 2014) and Dr. Roitman's report attached to Father's Motion  
20 to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief (Apr. 21,  
21 2014). Nevertheless, the parties stipulated that both papers would remain part of the  
22 record. The issue of expert reports attached to papers filed in this case has been  
23 prominent throughout the history of this case. As this Court reviewed and prepared its  
24 decision regarding the issue of attorneys' fees and costs associated with Mother's Motion  
25 for Attorney's Fees and Sanctions (Apr. 3, 2013), the heightened conflict generated by  
26 the *unilateral* reports submitted by *both parties* was evident. Indeed, the parties would  
27  
28

1 have benefitted (and the conflict perhaps would have been ratcheted down) from this  
2 Court striking every report submitted by both parties at the moment each report was  
3 introduced into the record. The existence of these *unilateral* reports submitted for the  
4 purpose of influencing custody determinations without the involvement or input of the  
5 other party has engendered unnecessary angst, anxiety, and litigation in this matter.  
6

7  
8 Finally, at the May 21, 2014 hearing, this Court found that Mother was entitled  
9 to an award of attorney's fees (pursuant to EDCR 7.60). This Court directed each party  
10 to file additional papers relative to the issue of attorney's fees. Thereafter, Mother filed  
11 her Memorandum of Fees and Costs (Jun. 9, 2014), and Father filed his Response to,  
12 Defendant's Memorandum of Fees and Costs (Jun. 23, 2014). This Court has had the  
13 opportunity to consider and evaluate the papers filed by both parties in relation to the  
14 provisions of EDCR 7.60, which provides, in pertinent part, as follows:  
15

16  
17 (b) The court may, after notice and an opportunity to be heard,  
18 impose upon an attorney or a party any and all sanctions which may,  
19 under the facts of the case, be reasonable, including the imposition of fines,  
costs or attorney's fees when an attorney or a party without just cause:

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

22 \* \* \* \*

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

25 The Court also has considered the factors set forth in *Brunzell v. Golden Gate*  
26 *National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Specifically, both parties  
27 were represented by experienced attorneys during these proceedings. Mother submitted  
28

1 a sufficiently detailed statement of fees and costs that reflected the amount of fees  
2 incurred in connection with the issues before the Court. The work actually performed  
3 is adequately represented in Mother's Memorandum (Jun. 9, 2014). Finally, the Court  
4 has reviewed the results obtained.  
5

6  
7 On October 1, 2013, Father filed a Motion to Modify Order Resolving  
8 Parent/Child Issues and for Other Equitable Relief (hereinafter referred to as "Father's  
9 First Motion"). A hearing was scheduled on Father's First Motion (Oct. 1, 2013) for  
10 October 30, 2013. This Court disposed of Father's First Motion by way of this Court's  
11 Order Re: Appointment of Therapist (Oct. 29, 2013) and the Order (Dec. 17, 2013).  
12 On November 18, 2013, Father filed a Motion for a Judicial Determination of the  
13 Teenage Discretion Provision (hereinafter referred to as "Father's Second Motion"). The  
14 hearing on Father's Second Motion (Nov. 18, 2013) was held on December 18, 2013.  
15 Father's present Motion (Apr. 21, 2014) re-asserts similar issues and concerns previously  
16 adjudicated by this Court at the December 18, 2013 hearing. See Order from Hearing  
17 (Jun. 13, 2014). The results of Father's First Motion (Oct. 1, 2013) and Father's  
18 Second Motion (Nov. 18, 2013) were similar.  
19  
20  
21

22 Although this Court recognizes that Father's present Motion (Apr. 21, 2014) cites  
23 to facts arising after the December 18, 2013 hearing, those facts did not justify the filing  
24 of the present Motion (Apr. 21, 2014). Father's present Motion (Apr. 21, 2014) was  
25 unnecessary and unwarranted. Mother should receive the sum of \$5,000 in attorney's  
26 fees and costs associated with defending the present Motion (Apr. 21, 2014).  
27  
28

RYCE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101



1 Based on the foregoing Findings, and good cause appearing therefor,

2  
3 It is hereby ORDERED that Plaintiff's Motion to Modify Order Resolving  
4 Parent/Child Issues and for Other Equitable Relief (Apr. 21, 2014) is hereby DENIED.

5 It is further ORDERED that Defendant is awarded the sum and amount of  
6 \$5,000.00 from the Plaintiff as and for attorney's fees. IT IS FURTHER ORDERED  
7 that said sum is reduced to judgment in Defendant's favor, with interest accruing  
8 thereon at the legal rate.  
9

10 It is further ORDERED that the parties are subject to the following mandatory  
11 provisions: The following statutory notices relating to custody/visitation of the minor  
12 children are applicable to the parties herein:  
13

14 Pursuant to NRS 125C.200, the parties, and each of them, are  
15 hereby placed on notice that if either party intends to move their  
16 residence to a place outside the State of Nevada, and take the minor child  
17 with them, they must, as soon as possible, and before the planned move,  
18 attempt to obtain the written consent of the other party to move the minor  
19 children from the State. If the other party refuses to give such consent, the  
20 moving party shall, before they leave the State with the children, petition  
21 the Court for permission to move with the children. The failure of a party  
22 to comply with the provision of this section may be considered as a factor  
23 if a change of custody is requested by the other party. This provision does  
24 not apply to vacations outside the State of Nevada planned by either  
25 party.

26 The parties, and each of them, shall be bound by the provisions of NRS  
27 125.510(6) which state, in pertinent part:  
28

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,  
CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF  
THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY BY UP  
TO 6 YEARS IN PRISON. NRS 200.359 provides that every person  
having a limited right of custody to a child or any parent having no right  
of custody to the child who willfully detains, conceals or removes the child

1 from a parent, guardian or other person having lawful custody or a right of  
2 visitation of the child in violation of an order of this court, or removes the  
3 child from the jurisdiction of the court without the consent of either the  
4 court or all persons who have the right to custody or visitation is subject  
5 to being punished by imprisonment in the state prison for not less than 1  
6 year nor more than 6 years, or by a fine of not less than \$1,000 nor more  
7 than \$5,000, or by both fine and imprisonment.

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


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

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

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

27 The State of Nevada in the United States of America is the habitual residence of  
28 the parties' children

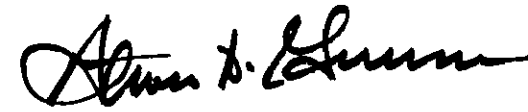
29 DATED this 29<sup>th</sup> day of September, 2014.

  
BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE  
DEPARTMENT Q

BRYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
18 VEGAS, NEVADA 89101





CLERK OF THE COURT

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11 Co-counsel for Plaintiff

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

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 vs.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: N/A  
Time of Hearing: N/A

19  
20 **AMENDED OR SUPPLEMENTAL NOTICE OF APPEAL**

21 Plaintiff KIRK ROSS HARRISON hereby amends or supplements his prior notice of  
22 appeal filed on July 17, 2014 (Nevada Supreme Court No. 66157). Plaintiff hereby appeals to

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

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702.823.4900 • Fax 702.823.4488  
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1 the Nevada Supreme Court from the district court's order entered on September 29, 2014,  
2 entitled "Findings and Orders re: May 21, 2014 Hearing." (Attached hereto as **Exhibit "1"**).

3 DATED: Oct. 16, 2014

4  
5 By: 

6 EDWARD L. KAINEN, ESQ.

7 Nevada Bar No. 5029

8 Kainen Law Group

9 3303 Novat Street, #200

10 Las Vegas, Nevada 89129

11 702-823-4900

12 Service@KainenLawGroup.com

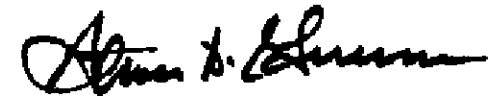
13 Attorney for Plaintiff

## **EXHIBIT “1”**

**E-SERVED**  
SEP 29 2014

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09/29/2014 11:46:50 AM

1  
2 ORDER



CLERK OF THE COURT

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 KIRK ROSS HARRISON,

6 )  
7 Plaintiff,

8 v.

CASE NO. D-11-443611-D  
DEPT NO. Q

9 VIVIAN MARIE LEE HARRISON,

10 )  
11 Defendant.

12  
13 FINDINGS AND ORDERS RE:  
14 MAY 21, 2014 HEARING

15 Plaintiff and Defendant appeared before this Court on May 21, 2014,<sup>1</sup> for a  
16 hearing on Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for

17  
18 <sup>1</sup>Since the hearing on May 21, 2014, both parties have sought appellate relief from the  
19 Supreme Court of the State of Nevada. On July 7, 2014, Plaintiff filed a Notice of Appeal  
20 regarding this Court's Findings, Conclusions and Orders (Feb. 10, 2014). On July 17, 2014,  
21 Plaintiff filed a Notice of Appeal regarding the Decree of Divorce (Oct. 31, 2013), and orders  
22 entered on October 29, 2013, December 17, 2013, and June 13, 2014. On July 21, 2014,  
23 Defendant filed a Notice of Appeal regarding this Court's Findings, Conclusions and Orders  
24 (Feb. 10, 2014). At the time of the hearing, this Court orally issued findings and orders  
25 resolving all issues raised by way of the papers filed by the parties, save and except the amount  
26 of attorney's fees awarded to the Defendant. Following the hearing, this Court issued amended  
27 minutes setting forth additional findings. These amended minutes were issued prior to the  
28 Plaintiff's filing of his Notice of Appeal (Jul. 7, 2014). The findings and orders set forth herein  
are ancillary to the issues currently on appeal. In this regard, with the exception of the *amount*  
of attorney's fees awarded to the Defendant, the findings and orders set forth herein are simply  
a memorialization of the findings and orders stemming from the hearing on May 21, 2013. As  
to the amount of attorney's fees awarded, the said amount similarly is ancillary to the issues on  
appeal as it relates solely to Plaintiff's Motion to Modify Order Resolving Parent Child Issues  
and for Other Equitable Relief (Apr. 21, 2014). Alternatively, this Court finds that said amount  
is the amount this Court would be inclined to award pursuant to *Huneycutt v. Huneycutt*, 94 Nev.  
79, 575 P.2d 585 (1978) (clarified by *Foster v. Dingwall*, 126 Nev. Adv. Op. 5, 228 P.3d 453  
(2010)).

RYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1  
2 Other Equitable Relief (Apr. 21, 2014); Defendant's Opposition to Plaintiff's Motion  
3 to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees  
4 and Sanctions (May 9, 2014); Plaintiff's Reply in Support of Plaintiff's Motion to  
5 Modify Order Resolving Parent/Child Issues and for Other Equitable Relief and  
6 Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions (May 14,  
7 2014); and Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's  
8 Fees and Sanctions (May 20, 2014). Plaintiff, KIRK ROSS HARRISON ("Father"), was  
9 present and represented by and through his attorney, EDWARD L. KAINEN, ESQ., of  
10 the KAINEN LAW GROUP, PLLC, and Defendant, VIVIAN MARIE HARRISON  
11 ("Mother"), was present and represented by and through her attorneys, RADFORD J.  
12 SMITH, ESQ., of the law firm of RADFORD J. SMITH, CHARTERED.  
13  
14  
15

16 This Court, being fully advised in the premises, and good cause appearing  
17 therefore, makes the following findings:<sup>2</sup>

18 In July 2012, Father and Mother expressly agreed that it is in their children's best  
19 interest to appoint a Parenting Coordinator. See Stipulation and Order Resolving  
20 Parent/Child Issues (Jul. 11, 2012) (hereinafter referred to as "Parenting Plan"). Father  
21 and Mother further expressly agreed that it is in the children's best interest to grant the  
22 children "teenage discretion" at age fourteen (14), subject to the parameters specified in  
23 the Parenting Plan. The language regarding "teenage discretion" to which the parties'  
24  
25  
26

27  
28 <sup>2</sup>At the time of the hearing, this Court established the protocol for the preparation of the  
Order therefrom. Nevertheless, it remains this Court's prerogative to memorialize and construe  
this Court's findings and orders that are consistent with the Court's intent.



1 expressly agreed (as set forth in the Parenting Plan), is significantly more detailed and  
2 thorough than the single sentence that is typically submitted to the Court. Indeed, the  
3 specificity of the "teenage discretion" provisions set forth in the Parenting Plan is not  
4 commonplace and is largely unseen.  
5

6  
7 The exercise of "teenage discretion" should not be used as a tool to remove blocks  
8 of time from either party that would result in a modification of the underlying joint  
9 physical custody arrangement. This Court would be concerned if the exercise of  
10 "teenage discretion" was regular and pervasive so as to cause a *de facto* modification of  
11 the underlying custody arrangement. Although this Court expressed its concern about  
12 the two day incident described in the papers, it does not view the "teenage discretion"  
13 provision as having been abused by Brooke. Further, a child's preference standing alone  
14 is generally not a basis to entertain a modification of custody. In summary, the exercise  
15 of "teenage discretion" should not be a tool or resource to undermine the underlying  
16 custody arrangement.  
17

18  
19 This Court finds that there is not a sufficient basis to interview Brooke or Rylee  
20 at this time. Further, there is no present basis for the children to be interviewed by the  
21 Parenting Coordinator at this time.  
22

23 Father's Motion to Modify Order Resolving Parent/Child Issues and for Other  
24 Equitable Relief (Apr. 21, 2014) should be denied. The parties should proceed with the  
25 Parenting Coordinator process as previously ordered. There is not a sufficient basis to  
26 modify the terms of the Order Appointing Parenting Coordinator (Oct. 29, 2013), and  
27 the parties should abide by said terms. The authority of the Parenting Coordinator is  
28

RYCE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1 defined in the Order Appointment Parenting Coordinator (Oct. 29, 2013), together with  
2 the limitations imposed therein. Neither party should be compelled to sign any  
3 agreements that exceed the Parenting Coordinator's authority as defined in the Order  
4 Appointing Parenting Coordinator (Oct. 28, 2013).  
5

6  
7 This Court does not find that there is a basis to modify the provisions of the  
8 Parenting Plan regarding the "teenage discretion" provisions agreed upon by the parties.  
9 If either party believes the teenage discretion provision is being abused, the Parenting  
10 Coordinator may assist to bring that to light.  
11

12 When school is in session, all child custody exchanges should take place at school,  
13 and there should be no exchanges at either party's residence. The issue of the minor  
14 children needing to pick up items from the non-custodial parent's residence after school  
15 is an example of the type of issue that is appropriate for discussion with the Parenting  
16 Coordinator.  
17

18 At the time of the May 21, 2014 hearing, this Court was inclined to strike  
19 Mother's Reply (May 20, 2014) and Dr. Roitman's report attached to Father's Motion  
20 to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief (Apr. 21,  
21 2014). Nevertheless, the parties stipulated that both papers would remain part of the  
22 record. The issue of expert reports attached to papers filed in this case has been  
23 prominent throughout the history of this case. As this Court reviewed and prepared its  
24 decision regarding the issue of attorneys' fees and costs associated with Mother's Motion  
25 for Attorney's Fees and Sanctions (Apr. 3, 2013), the heightened conflict generated by  
26 the *unilateral* reports submitted by *both parties* was evident. Indeed, the parties would  
27  
28

RYCE G. DUCHENOT  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

1 have benefitted (and the conflict perhaps would have been ratcheted down) from this  
2 Court striking every report submitted by both parties at the moment each report was  
3 introduced into the record. The existence of these *unilateral* reports submitted for the  
4 purpose of influencing custody determinations without the involvement or input of the  
5 other party has engendered unnecessary angst, anxiety, and litigation in this matter.  
6  
7

8 Finally, at the May 21, 2014 hearing, this Court found that Mother was entitled  
9 to an award of attorney's fees (pursuant to EDCR 7.60). This Court directed each party  
10 to file additional papers relative to the issue of attorney's fees. Thereafter, Mother filed  
11 her Memorandum of Fees and Costs (Jun. 9, 2014), and Father filed his Response to  
12 Defendant's Memorandum of Fees and Costs (Jun. 23, 2014). This Court has had the  
13 opportunity to consider and evaluate the papers filed by both parties in relation to the  
14 provisions of EDCR 7.60, which provides, in pertinent part, as follows:  
15  
16

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

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

22 \* \* \* \*

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

25 The Court also has considered the factors set forth in *Brunzell v. Golden Gate*  
26 *National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Specifically, both parties  
27 were represented by experienced attorneys during these proceedings. Mother submitted  
28

RYCE G. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
145 VEGAS, NEVADA 89101

1  
2 a sufficiently detailed statement of fees and costs that reflected the amount of fees  
3 incurred in connection with the issues before the Court. The work actually performed  
4 is adequately represented in Mother's Memorandum (Jun. 9, 2014). Finally, the Court  
5 has reviewed the results obtained.  
6

7 On October 1, 2013, Father filed a Motion to Modify Order Resolving  
8 Parent/Child Issues and for Other Equitable Relief (hereinafter referred to as "Father's  
9 First Motion"). A hearing was scheduled on Father's First Motion (Oct. 1, 2013) for  
10 October 30, 2013. This Court disposed of Father's First Motion by way of this Court's  
11 Order Re: Appointment of Therapist (Oct. 29, 2013) and the Order (Dec. 17, 2013).  
12 On November 18, 2013, Father filed a Motion for a Judicial Determination of the  
13 Teenage Discretion Provision (hereinafter referred to as "Father's Second Motion"). The  
14 hearing on Father's Second Motion (Nov. 18, 2013) was held on December 18, 2013.  
15 Father's present Motion (Apr. 21, 2014) re-asserts similar issues and concerns previously  
16 adjudicated by this Court at the December 18, 2013 hearing. See Order from Hearing  
17 (Jun. 13, 2014). The results of Father's First Motion (Oct. 1, 2013) and Father's  
18 Second Motion (Nov. 18, 2013) were similar.  
19  
20  
21

22 Although this Court recognizes that Father's present Motion (Apr. 21, 2014) cites  
23 to facts arising after the December 18, 2013 hearing, those facts did not justify the filing  
24 of the present Motion (Apr. 21, 2014). Father's present Motion (Apr. 21, 2014) was  
25 unnecessary and unwarranted. Mother should receive the sum of \$5,000 in attorney's  
26 fees and costs associated with defending the present Motion (Apr. 21, 2014).  
27  
28

RYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
15 VEGAS, NEVADA 89101

1  
2 Based on the foregoing Findings, and good cause appearing therefor,

3 It is hereby ORDERED that Plaintiff's Motion to Modify Order Resolving  
4 Parent/Child Issues and for Other Equitable Relief (Apr. 21, 2014) is hereby DENIED.

5 It is further ORDERED that Defendant is awarded the sum and amount of  
6 \$5,000.00 from the Plaintiff as and for attorney's fees. IT IS FURTHER ORDERED  
7 that said sum is reduced to judgment in Defendant's favor, with interest accruing  
8 thereon at the legal rate.  
9

10 It is further ORDERED that the parties are subject to the following mandatory  
11 provisions: The following statutory notices relating to custody/visitation of the minor  
12 children are applicable to the parties herein:  
13

14 Pursuant to NRS 125C.200, the parties, and each of them, are  
15 hereby placed on notice that if either party intends to move their  
16 residence to a place outside the State of Nevada, and take the minor child  
17 with them, they must, as soon as possible, and before the planned move,  
18 attempt to obtain the written consent of the other party to move the minor  
19 children from the State. If the other party refuses to give such consent, the  
20 moving party shall, before they leave the State with the children, petition  
21 the Court for permission to move with the children. The failure of a party  
22 to comply with the provision of this section may be considered as a factor  
23 if a change of custody is requested by the other party. This provision does  
24 not apply to vacations outside the State of Nevada planned by either  
25 party.

26 The parties, and each of them, shall be bound by the provisions of NRS  
27 125.510(6) which state, in pertinent part:

28 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,  
CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF  
THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY BY UP  
TO 6 YEARS IN PRISON. NRS 200.359 provides that every person  
having a limited right of custody to a child or any parent having no right  
of custody to the child who willfully detains, conceals or removes the child

RYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. OF  
JUVENILE JUSTICE, LAS VEGAS, NEVADA 89101

1  
2 from a parent, guardian or other person having lawful custody or a right of  
3 visitation of the child in violation of an order of this court, or removes the  
4 child from the jurisdiction of the court without the consent of either the  
5 court or all persons who have the right to custody or visitation is subject  
6 to being punished by imprisonment in the state prison for not less than 1  
7 year nor more than 6 years, or by a fine of not less than \$1,000 nor more  
8 than \$5,000, or by both fine and imprisonment.

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


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

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

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

28 The State of Nevada in the United States of America is the habitual residence of  
the parties' children

DATED this 29<sup>th</sup> day of September, 2014.

  
BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE  
DEPARTMENT Q

BRYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
18 VEGAS, NEVADA 89101

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_ /

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 7**

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***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***

## CHRONO INDEX



## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

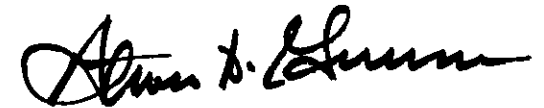
29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675





CLERK OF THE COURT

1 **RPLY**  
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10

11 Co-counsel for Plaintiff

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

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 vs.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: May 21, 2014  
Time of Hearing: 10:00 a.m.

19

20 **PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION TO MODIFY ORDER**  
21 **RESOLVING PARENT/CHILD ISSUES AND FOR OTHER EQUITABLE RELIEF**  
22 **AND**  
23 **OPPOSITION TO DEFENDANT'S COUNTERMOTION FOR ATTORNEY'S FEES AND**  
24 **SANCTIONS**

25 COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys EDWARD  
26 L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and THOMAS J. STANDISH, ESQ., of the  
27 law firm STANDISH NAIMI LAW GROUP, and hereby submits his Reply to Defendant's Opposition  
28 ...

...

...

...

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To Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc. and his Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions.

DATED this 14<sup>th</sup> day of May, 2014.

KAINEN LAW GROUP, PLC

By: 

EDWARD L. KAINEN, ESQ.

Nevada Bar No. 5029

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. ARGUMENT

#### A. The Within Motion Is Well Grounded, Made In Good Faith, And Was Filed In The Best Interests of the Children

The attorneys for the parties in this matter have exchanged letters wherein they have set forth their respective understanding of the meaning of the teenage discretion provision. The attorneys have also submitted affidavits before the Court setting forth their understanding of the teenage discretion provision. These respective understandings are diametrically opposite. Vivian's attorneys assert the ambiguous language means a 14 year old can **order** the parent to make weekly modifications to the custody schedule, which the parent must **obey** without question or discussion and without any regard to prior plans or arrangements or the best interest of the other minor child. Although Vivian's attorneys drafted the ambiguous language which is at issue, they chose not to use the words which they now claim the ambiguous words to mean. In sharp contrast, Kirk's attorneys have set forth their understanding of the meaning of the language in question as providing the 14 year old can make a **request**, which request can be either granted or denied by the parent in the parent's good judgment. In other words, the parent still has the responsibility and authority to act as a parent – not the child.

As set forth in the prior motions, Vivian materially violated the teenage discretion provision by manipulating Brooke by undeniably prompting and suggesting to Brooke to make adjustments to the weekly schedule as well as making an adjustment to permanent custody. The implementation of the



1 teenage discretion provision by Vivian has caused and continues to cause considerable problems for the  
2 children and Kirk.

3 Kirk's prior motions, as does the within motion, requested the Court to **interpret** the provision  
4 to provide the 14 year old can make a request of a parent, but not order the parent to make changes to  
5 the weekly custody schedule or, in the alternative, to nullify the provision on several different bases,  
6 including the best interests of the children, the provision has been so undermined by the improper  
7 suggestions, prompting, and inaccurate explanations by Vivian to Brooke, there was no meeting of the  
8 minds as to its meaning as evidenced by the letters and affidavits of counsel as well as Kirk's affidavit  
9 setting forth his understanding of its meaning, public policy reasons, etc. Importantly, in denying the  
10 prior motions and countermotions regarding the teenage discretion provision, the Court declined to rule  
11 on the merits of the motions, but rather stated its preference for issues involving modifications to the  
12 weekly custody schedule to be addressed with the parenting coordinator. (Hearing Transcript, 10.30.13,  
13 p. 18, l. 3-14 A true and correct copy of this hearing transcript is attached hereto as Exhibit "7.") The  
14 Court did not rule the 14 year old can make a request of a parent, nor did the Court rule a 14 year old  
15 can order a parent. For the sake of the children and the parties, a ruling on the merits is needed.

16 Respectfully, under these circumstances where there has been no ruling on the merits, both  
17 motions were denied without prejudice, opposing counsel have diametrically opposed interpretations  
18 of the operative language, the continued implementation of the provision by Vivian is causing problems  
19 for the children, an expert opinion has been obtained which indicates the provision, as implemented,  
20 may well have long term emotional adverse impacts for the children, it is unthinkable that Kirk would  
21 be sanctioned in any way for trying to protect their children from further and perhaps, irreversible harm.

22 The opinion of Dr. Roitman was submitted to assist the Court. In light of that opinion, it is in  
23 the best interests of the children that this matter be resolved by the Court as soon as possible. Vivian's  
24 baseless assertion that Dr. Roitman's opinion was submitted to this Court "for purposes of bolstering  
25 his record on appeal, not any good faith attempt to persuade the Court" is baseless and utter nonsense.

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1 (Opposition, p. 10, l. 13-14) Kirk urges the Court to make a ruling on the merits in the best interests of  
2 their children, which will eliminate the continued existence of the teenage discretion provision as  
3 implemented by Vivian and therefore eliminate the unnecessary serious risk to which the children have  
4 been exposed.

5 **B. Vivian's Attorneys Caused Kirk Not To Be Present When The Parenting**  
6 **Coordinator and Teenage Discretion Provisions Were Discussed Between Counsel**

7 Vivian's attorneys refused to negotiate custody in this matter in Kirk's presence. Kirk was  
8 therefore relegated to a conference room on the first floor of Mr. Smith's office, while the attorneys for  
9 both sides and Vivian were on the second floor conducting the negotiations. As a consequence of this  
10 demand, Kirk was not present when the parenting coordinator and teenage discretion provisions were  
11 discussed between counsel. Kirk was therefore not privy to what was said.

12 When Kirk first read the parenting coordinator provision, he questioned what a parenting  
13 coordinator did. He was told a parenting coordinator functioned as a mediator. Kirk responded he  
14 thought that was a good idea as he believed strongly in the benefit of using a mediator. Having no prior  
15 experience whatsoever in Family Court, Kirk assumed a parenting coordinator was a mediator who  
16 specialized in Family Court cases.

17 When Kirk was shown the teenage discretion provision, he interpreted the provision as only  
18 enabling the 14 year old to feel comfortable in making reasonable requests, which the parent, in good  
19 faith and considering all of the circumstances, could grant or deny. Kirk did not like the provision  
20 because he thought it would create uncertainty for the children and he was concerned Vivian would  
21 view the provision as a justification to manipulate Brooke to make all to frequent requests and the denial  
22 of those requests would cause friction between Kirk and Brooke. Tom Standish's affidavit is clear as  
23 to how the provision was explained to Kirk:

24 8. Kirk had never seen a teenage discretion provision before and did not  
25 know what it was. When he read it he expressed concern. I assured him with the  
26 changes I ultimately had made, it did not provide anything differently than the law  
27 otherwise provides. Kirk questioned if that was the case, then why was the provision  
28 necessary. I told him it was because Vivian was aware of teenage discretion and Mr.  
Smith said he had to have it in the agreement to satisfy his client.

(Exh. 2 to Motion, Tom Standish Aff. ¶8)

Consistent with the foregoing statement, Mr. Standish further attested as follows:

9. I have read Mr. Silverman's affidavit wherein he wrote, "Mr. Harrison must know that the 'teen' exception in the custody agreement will be exploited by the girls and it is Vivian who will have de facto primary custody."

10. I negotiated the provision and I certainly did not know what Mr. Silverman claims Mr. Harrison must have known. As written, it was my interpretation of the provision that after the age of 14 years, the child could make a request. It was never my understanding under this provision that a child could order a parent to make a change to the weekly schedule and the parent had to obey without question or discussion and it would be irrelevant what prior plans have been made or whether, under the circumstances, it would be harmful to the younger sibling.

(Exh. 2 to Motion, Tom Standish Aff. ¶9 & 10)

Ed Kainen's interpretation is consistent, as evidenced by the following paragraphs from his affidavit:

3. I am familiar with the terms of Paragraph 6 of the Stipulation and Order Resolving Parent/Child Issues, filed July 11, 2012. I have read the letters from Radford J. Smith, Esq. setting forth his interpretation of this provision, which are both dated, November 6, 2013. As set forth in my letter of November 6, 2013, I strongly disagree with the interpretation made by Mr. Smith and it is directly contrary to my own interpretation. All three letters are attached to the prior motions regarding teenage discretion.

5. In all of the years I have practiced, I have never seen a teenage discretion provision interpreted in the manner this provision has been interpreted by Messrs. Smith and Silverman and certainly would never advise a client to agree to such a provision, as interpreted by Messrs. Smith and Silverman.

(Exh. 1 to Motion, Ed Kainen Aff. ¶3 & 5)

The specific language of the teenage discretion provision at issue was drafted by Vivian's attorneys. It is undeniably ambiguous, as it is obviously subject to more than one interpretation, as evidenced by the diametrically opposite interpretations by the parties' respective counsel. *Margrave v. Dermody Properties, Inc.*, 110 Nev. 824, 878 P.2d 291 (1994) (A contract or provision is ambiguous if it is reasonably susceptible to more than one interpretation.) The fact the Nevada Supreme Court has used the "and/or" term in two unrelated opinions does not make it any less ambiguous.

Vivian argues that the teenage discretion and parenting coordinator provisions were a fundamental part of her agreement for joint custody. The same argument is true for Kirk. He thought he was settling for joint custody and had a mediator in place to resolve any disputes. Kirk does not belittle the importance of resolution by mediation. Since the mediator does not have the power of

1 ordering the parties, through recommendations or otherwise, the mediator focuses on reaching  
2 **amicable resolutions** which are in the **mutual best interest** of the parties and their children. This  
3 process is relationship building going forward. It would be a positive environment in which this family  
4 could heal. However, there is an important difference between the parties positions in the context of  
5 settling for joint custody. Kirk did not have an undisclosed plan to use any component of the settlement  
6 to inequitably obtain “de facto primary custody” in a callously created environment which would  
7 foreseeably place unnecessary emotional stress upon Brooke and Rylee by separating these children.  
8 Kirk thought his attorneys had bargained for and obtained a joint custody settlement which would put  
9 the adversarial positioning in the rear view mirror.

10 **C. Vivian’s Attorneys Did Not Submit a Proposed Order Appointing Parenting**  
11 **Coordinator until March of 2013 And The Delays Associated With This Issue Did**  
12 **Not Occur In A Vacuum**

13 Kirk’s counsel have consistently taken the position that it was premature to nominate a parenting  
14 coordinator prior to an agreement between the parties as to what the parenting coordinator can and  
15 cannot do. *See* (Plaintiff’s Opposition to Defendant’s Motion for An Order Appointing A Parenting  
16 Coordinator, filed July 19, 2013, p. 3, l. 18-24) It made no sense whatsoever to nominate prospective  
17 parenting coordinators before an agreement was reached between the parties setting forth the role of the  
18 parenting coordinator.

19 As previously set forth in Kirk’s opposition to Vivian’s motion for an order appointing a  
20 parenting coordinator, Vivian’s attorneys did not provide a proposed order for the appointment of a  
21 parenting coordinator until March of 2013. During that same time period, Kirk’s attorneys were trying  
22 to get a response from Vivian regarding the proposed MSA, which had been provided to Vivian’s  
23 attorneys on February 19, 2013.<sup>1</sup> In fact, in March of 2013, Vivian’s counsel informed Kirk’s counsel,  
24 “We have reviewed the proposed MSA; I will be providing you a revised MSA next week for review.”  
25 Despite this representation, nothing was provided. For approximately four months, Kirk’s attorneys  
26 tried to obtain Vivian’s response to the MSA in exchange for Kirk’s response to the proposed parenting

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27 <sup>1</sup> The parties were also in the process of exchanging billing information during that same time period,  
28 with Kirk filing his opposition and countermotions for attorneys’ fees on May 28, 2013.

1 coordinator order. An agreement was reached between the attorneys to exchange alternative drafts on  
2 July 12, 2013. Although Kirk was ready to make the exchange, Vivian still was not. Rather than waste  
3 any more time trying to make the exchange, Kirk submitted his proposed order for the appointment of  
4 a parenting coordinator as part of the opposition to Vivian's motion on July 19, 2013. As the Court is  
5 well aware, Vivian failed to provide any response to Kirk's proposed MSA for well over **seven months**  
6 – until September 30, 2013 and only after being directed to do so by this Court. *See* (Plaintiff's  
7 Opposition to Defendant's Motion for An Order Appointing A Parenting Coordinator, filed July 19,  
8 2013, p. 2, l. 14-25; p. 3, l. 1-24) In an effort to progress the effort to reach an agreement on an MSA  
9 and enter a decree of divorce from the hearing on December 3, 2012, Kirk was forced to file a Motion  
10 To Enforce Decree of Divorce on May 13, 2013. However, over four and one-half months later, Vivian  
11 had still failed to file an opposition.

12 **D. Vivian All But Concedes That Under Nevada Law No Contract Was Formed**  
13 **Regarding the Appointment of a Parenting Coordinator**

14 Noticeably absent from the Opposition is any attempt whatsoever to distinguish any of the  
15 Nevada controlling cases providing that no contract was ever formed between the parties regarding the  
16 appointment of a parenting coordinator. The parenting coordinator provision does not contain sufficient  
17 specificity to form a contract as almost every necessary material provision is absent. The parties  
18 agreement that the Court can "resolve any disputes regarding the terms of the appointment" does  
19 nothing to change this fact, as the requisite specificity and material provisions are still absent. The law  
20 in Nevada is clear – an **agreement to agree** in a settlement agreement is not a contract. The law in  
21 Nevada is so clear on this point that Vivian did not even attempt to argue otherwise.

22 Although, in effect, conceding there is no enforceable agreement between the parties regarding  
23 the appointment of a parenting coordinator, Vivian then takes a giant leap, and argues – despite no  
24 agreement between the parties and Kirk believing at the time that a parenting coordinator functioned  
25 as a mediator – this Court should simply order the appointment of a parenting coordinator under NRCP  
26 53. There is no motion. There is no Nevada case law or statutory basis for such an argument. Instead,  
27 for such an extreme proposition, which raises substantial due process issues for the parties, Vivian relies  
28 solely upon a decision from the District of Columbia. However, in the District of Columbia there is a

1 specific **domestic relations** statute – “Rule 53 of the Superior Court Rules Governing Domestic  
2 Relations” – which authorized the appointment of a parenting coordinator in exceptional circumstances.

3 In the sole case relied upon by Vivian regarding the appointment of a parenting coordinator,  
4 *Jordan v. Jordan*, 14 A.3d 1136 (D.D. 2011), the court held, “that Rule 53 of the Superior Court Rules  
5 Governing Domestic Relations Proceedings authorized the trial court both to appoint a parenting  
6 coordinator under the exceptional circumstances presented by this case, and to delegate decision-making  
7 authority to the parenting coordinator over day-to-day issues that **do not implicate the court’s**  
8 **exclusive responsibility to adjudicate the parties’ rights to custody and visitation.**” 14 A.3d at 1151  
9 (emphasis added).

10 Ironically, Vivian presents *Jordan* for the proposition that without any agreement between the  
11 parties for the appointment of a parenting coordinator, this Court has the authority to appoint a parenting  
12 coordinator, who, according to Vivian, would have decision making authority to make  
13 recommendations which would affect the parties’ rights to custody and visitation! Vivian not only  
14 wants the parenting coordinator to determine the parties rights under the ambiguous provision  
15 concerning modifications to the weekly custody schedule, make recommendations, and to **interview**  
16 **the children** as part of that process, but Vivian also wants the parenting coordinator to **interview the**  
17 **children** for the purpose of permanently modifying the regular custodial schedule in accordance with  
18 Subparagraph 6.4 of the Stipulation and Order Resolving Parent/Child Issues, filed July 11, 2012.  
19 (Opposition, p. 5, l. 3-12; p. 11, l. 3) This is despite this Court’s effective nullification of Subparagraph  
20 6.4 of the stipulation and order, pursuant to Subparagraph 3.1 of this Court’s Order for Appointment  
21 of Parenting coordinator, filed October 29, 2013. This is also despite this Court’s prior unequivocal  
22 statement to the parties that absent something more, the Court would not grant a 14 year old’s request  
23 to permanently modify the regular custodial schedule:

24 THE COURT: I don’t need a child interview. I - - the less I can embroil a  
25 child in this process, ultimately the better I feel a child is insulated from this process.  
26 The parties agreed that it was in the best interest of the children to exercise joint physical  
27 custody. I don’t want this to become a situation where it’s just a matter of time and as  
28 soon as you turn 14 you get to decide where you want to live. That’s - - that’s not how  
it works and under NRS 125.490, there is a presumption now because you agreed to joint  
physical custody, there is a presumption that joint physical custody is in the best interest  
of the children.

1 And to overcome that, I - - I don't find - - let's say an interview came forward  
2 and that's - - that's what I hear, that there's a desire to - - to live primarily with Mom.  
3 If - - if that is - - I - - I find - - I would be hard pressed to find the expressions standing  
4 alon[e] of a 14-year-old child would be sufficient to overcome the presumption.

(Hearing Transcript, 10.30.13, p. 32, l. 22-24; p. 33, l. 1-14.)

5 Despite this Court's actions and statements to the contrary, Vivian has a clear agenda to continue  
6 to enmesh the children in custodial battles and to utilize the parenting coordinator to facilitate that  
7 agenda by interviewing the children.

8 The *Jordan* decision is consistent with the line of cases cited in the moving papers that parenting  
9 coordinators should **not** be given any power to determine, adjudicate, or make recommendations *which*  
10 *affect* the parties' rights to custody and visitation. See Motion, p. 21, l. 22-28; p. 22, l. 1-19. The  
11 *Jordan* court noted that in the order appointing the parenting coordinator, "The order permits the  
12 parenting coordinator to 'make decisions resolving day-to-day conflicts between the parties **that do not**  
13 **affect the court's exclusive jurisdiction to determine[ ] fundamental issues of custody and**  
14 **visitation.**' Moreover, it provides that '[n]othing in this order shall be construed to be or confer on  
15 **the Special Master the right or obligation to conduct a custody evaluation. . .**'" A.3d at 1145  
16 (emphasis added). The *Jordan* appellate court also emphasized that it read the order appointing the  
17 parenting coordinator, "to permit the parenting coordinator to make decisions, or to delegate tie-  
18 breaking authority to either parent, **only regarding 'day-to-day' issues.**" *Id.* at 1157 (emphasis added).

19 There are several reasons why Vivian's desperate end run must fail. First, as noted, there is no  
20 motion before the Court for the appointment of a parenting coordinator. Second, the appointment of  
21 a parenting coordinator who is empowered *to affect* the parties rights to custody and visitation, without  
22 the parties' informed agreement, presents substantial due process issues. Third, in Nevada, absent an  
23 agreement between the parties to retain a parenting coordinator, there is no authority to appoint a  
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26 <sup>2</sup> The due process challenge in *Jordan* failed because the appointment of the parenting coordinator in  
27 that case was specifically excluded from determining, adjudicating, recommending or *affecting*, in any  
28 way, the "parties' rights to custody and visitation" and the parenting coordinator's authority was limited  
to "only regarding day-to-day issues."

1 parenting coordinator.<sup>3</sup> Therefore, the only circumstance in which one can be appointed is when the  
2 parties agree to such an appointment, and importantly, when the parties agree to the **terms** of the  
3 appointment. *Schilder v. Hazelton*, 84 Mass. App. Ct. 1131, 2014 WL 288896.

4 **E. Dr. Roitman's Opinions Regarding the Teenage Discretion Provision Are Based**  
5 **Upon The Documents Enumerated On The First Two Pages Of His Opinion**

6 Contrary to Vivian's false assertion, Dr. Roitman did not diagnose Rylee in his opinion.  
7 (Opposition, p. 10, l. 9-10) Vivian also falsely asserts that Dr. Roitman's opinions are "based solely  
8 on Kirk's input." (Opposition, p. 10, l. 10-11) This also is totally baseless. Dr. Roitman's opinions  
9 are based upon what has been filed by both parties in this case. The first and second pages of Dr.  
10 Roitman's opinion sets forth the documents he reviewed. (Motion, Exh. 3) The documents reviewed  
11 are the motions and countermotions filed in connection with the teenage discretion provision, including  
12 the letters and affidavits submitted by **both** parties.

13 The opinions expressed by Dr. Roitman in Exhibit 3 to the motion should cause serious concern  
14 to everyone involved in this case, including Vivian and Vivian's attorneys. The best interests of the  
15 children should be the focus. Vivian's attorneys continued baseless disparagement of Dr. Roitman  
16 needs to stop. Dr. Roitman did not "previously unethically submit[ ] an opinion."<sup>4</sup> As previously  
17 addressed, Dr. Roitman based his opinions upon much more trustworthy information than any of the  
18 custody expert opinions offered by Vivian – especially Drs. Applebaum and Ronningstam, who each  
19 based their opinions solely upon a brief interview with Vivian, and who appropriately qualified their  
20 opinions on that basis.<sup>5</sup>

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21 <sup>3</sup> The Court has previously noted that Nevada does not have a statute that specifically references  
22 parenting coordinators. (Hearing Transcript, 10.30.13, p. 16, l. 6-7)

23 <sup>4</sup> It should be noted that Dr. Roitman's earlier opinions were consistent with the opinions of Vivian's  
24 own treating psychologist and Vivian's own treating psychiatrist, which were subsequently obtained in  
25 discovery, and also consistent with the results of the MPPI which was subsequently administered by Dr.  
Margolis.

26 <sup>5</sup> Dr. Roitman, appropriately, qualified his opinions as well, based upon the fact he was unable to  
27 interview Vivian at the time. It should be noted, in contrast, that Dr. Applebaum and Dr. Ronningstam  
28 had the opportunity to review extensive collateral source information, which, by that time, included not  
only Kirk's January 4, 2010 letter to Dr. Roitman and the affidavits of Tahnee, Whitney and Kirk, but  
the medical records of all of Vivian's treating physicians including Dr. Squiterri, Dr. Duffy, and Dr.



1 Vivian baselessly asserts, “Dr. Roitman also does not contemplate the essential facts present at  
2 the time of the entry of the agreement.” (Opposition, p. 10, l. 16-17) There is no basis whatsoever for  
3 this statement. Vivian’s baseless claims that Kirk disparaged Vivian to Brooke were clearly set forth  
4 by Vivian’s attorneys in the enumerated documents reviewed by Dr. Roitman.

5 Vivian makes yet another baseless assertion, “Kirk and Dr. Roitman seem to suggest that the  
6 ideal forum for resolution of any dispute between the parents, or the children and the parents, is lengthy,  
7 repetitive and scathing court filings.” (Opposition, p.11, l. 11-13) Nothing could be further from the  
8 truth. The continued existence of the teenage discretion provision, as interpreted by Vivian’s attorneys  
9 and implemented by Vivian, is what is creating the problems. The continued adversarial positioning  
10 between the parties created by this provision, as implemented, is the source of the emotional stress being  
11 unnecessarily placed upon their children. The callous empowerment of a 14 year old child by the  
12 provision, as interpreted, is undermining parental authority in all areas.

13 Vivian’s assertions of having “always been the parent” fly in the face of the undisputed record.  
14 Kirk had to walk away from his practice to take care of the children, because Vivian no longer wanted  
15 to care for the children and spend time with the children on a day to day basis. Discovery from multiple  
16 diet centers and doctors’ offices confirmed that Vivian took Phentermine and other controlled  
17 substances for over seven years, which caused her to have severe insomnia and exhibit extremely  
18 delusional behavior to the detriment of not only herself, but every member of the family. Vivian chose  
19 to leave the children for extended periods of time – over five months just in 2010 – in the delusional  
20 pursuit of men half her age and living half way around the world. When Vivian wasn’t out of town, she  
21 would sequester herself alone behind a closed door in the home.

22 It is Vivian who is attempting to alienate these children from Kirk – not the other way around.  
23 Vivian started her campaign to alienate Brooke and Rylee from Kirk soon after the service of the motion  
24 for temporary custody in September of 2011. It has become evident that if Vivian perceives she has any  
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26 Life, all of the medical records confirming Vivian’s seven years of drug abuse, the documentation  
27 Vivian completed for Dr. Life, and the results of the MPPI conducted by Dr. Margolis. Both Dr.  
28 Applebaum and Dr. Ronningstam chose to ignore all of this information, so they could render the  
opinions they did.

1 prospect of obtaining “de facto primary custody,” Vivian will continue this campaign, even if it means  
2 permanently emotionally harming Brooke and Rylee in the process. Kirk does not disparage Vivian to  
3 the children. It is not in the children’s best interest for one parent to disparage the other parent to the  
4 children. Vivian does not understand that fact.

5 Kirk has taken the children to the Court appointed therapist, Dr. Ali, and when Dr. Ali’s office  
6 did not follow up with additional appointments, Kirk telephoned his office to insure that Dr. Ali  
7 continued to see the children. Kirk is worried about Brooke and Rylee and wants to insure they see Dr.  
8 Ali on a regular basis.

## 9 **II. CONCLUSION**

10 If Vivian wanted a teenage discretion provision which provided a 14 year old can **order** the  
11 parent to make weekly modifications to the custody schedule, which the parent must **obey** without  
12 question or discussion and without any regard to prior plans or arrangements or the best interest of the  
13 other minor child, her attorneys were capable of using these very words and presenting such language  
14 for Kirk to accept or reject. However, no parent in their right mind, who genuinely is sensitive to the  
15 best interests of their children, would ever agree to such language. Therefore, the language presented  
16 was “the parties intend to allow the children to feel comfortable . . .” The stakes are too high for the  
17 children for the adults to play a game of “gotcha.”

18 Similarly, if Vivian wanted the parties to agree to jointly retain a parenting coordinator  
19 empowered with all of the authority, which was subsequently set forth in Vivian’s proposed order, then  
20 it was incumbent upon Vivian to afford Kirk the opportunity to make an informed decision whether to  
21 accept or reject a parenting coordinator vested with such authority. Kirk was never afforded that  
22 opportunity. Again, the stakes are far to high – the best interests and emotional well being of the  
23 children – for the adults to play a game of “gotcha.”

24 The teenage discretion provision **creates** uncertainty and instability for the children and  
25 adversarial positioning between the parties, within which the children are enmeshed. The continued  
26 existence of this provision can cause permanent severe emotional damage to Brooke and Rylee. There  
27 was no meeting of the minds between the parties regarding its terms. Vivian’s material breaches of  
28 material and essential terms of this provision, including embedding in Brooke’s mind that she has the

1 absolute unfettered right to determine her own custody, has undermined any chance for the provision  
2 to be reasonably applied. Conflicts between the parties regarding custody of any significance were  
3 infrequent between the date of this Court's Order Resolving Parent/Child Issues on July 11, 2012 and  
4 Brooke's 14<sup>th</sup> birthday on June 26, 2013.

5 Only this Court has the judicial authority to determine the meaning of the "teenage discretion"  
6 provision. Kirk was advised the provision, as drafted, provided nothing other than what the law already  
7 provided, which is a fourteen year old can simply make a request. That was Kirk's understanding at the  
8 time he signed the agreement. On the other hand, Vivian's position is that Brooke can *order* Kirk, her  
9 father, at any time to take her to Vivian's house during his custody time and he must *obey* his 14 year  
10 old daughter without question or discussion and it is irrelevant what prior plans have been made or  
11 whether, under the circumstances, it would be harmful to Rylee.

12 The appointment of the parenting coordinator creates the forum to continue the adversarial  
13 positioning created by the "teenage discretion" provision.. Vivian is insistent the parenting coordinator  
14 interview Brooke and Rylee. The proposed parenting coordinator intends to enmesh Brooke and Rylee  
15 further into the conflict by interviewing them. Agreeing to retain a person "to resolve conflicts" is not  
16 sufficient specificity to bind a person to a parenting coordinator, vested with all of the judicial powers  
17 delegated by the Court in its subsequent Order For Appointment of Parenting Coordinator, filed October  
18 29, 2013, and certainly insufficient to compel a person to be bound by the overreaching terms contained  
19 in the parenting coordinator's proposed agreements.

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1 Kirk desperately wants the adversarial positioning to stop for the benefit of Brooke and Rylee  
2 and their entire family, including Vivian. The continued existence of the teenage discretion provision,  
3 as advocated by Vivian, creates and continues the adversarial positioning. The insertion of a parenting  
4 coordinator into the process facilitates the continuation of the adversarial positioning and further  
5 enmeshes Brooke and Rylee in the middle of conflict. The Court is, respectfully, requested, in the best  
6 interests of Brooke and Rylee, to nullify Paragraphs 4 and 6 of the Court's Order Resolving Parent/Child  
7 Issues.

8 DATED this 14<sup>th</sup> day of May, 2014.

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10  
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MAY 22 2014

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-44361-D

DEPT.: Q

**FAMILY DIVISION**

ORAL ARGUMENT REQUESTED

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO COUNTERMOTION  
FOR ATTORNEY'S FEES AND SANCTIONS**

DATE OF HEARING: May 21, 2014

TIME OF HEARING: 10:00 a.m.

COME NOW, Defendant, VIVIAN MARIE LEE HARRISON, through her attorneys Radford J. Smith, Esq., of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm of Silverman, Decaria, & Kattleman, and submits the following points and authorities in Reply to Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions.

I.

INTRODUCTION

The core theme of Kirk's multiple motions on the subject of teenage discretion and the appointment of a Parenting Coordinator is that Kirk, a skilled lawyer, and both his lawyers knowledgeable and experienced, did not understand the language or effect of the teenage discretion provision, or the function of a parenting coordinator. Though his attorneys' signatures appear on the stipulated and Court ordered Parenting Plan which appoints a parenting coordinator to "resolve disputes of the parties regarding the minor children," and though Kirk did not or seek rehearing or judicial review of the Court's October 29, 2013 Order Appointing a Parenting Coordinator, Kirk and his counsel now take the unsupportable position that this Court should find that its order appointing a parenting coordinator is an unconstitutional delegation of judicial power that denies Kirk due process. Vivian respectfully submits the Court may find those illogical, unworthy of credence, and not brought in good faith.

II.

KIRK'S CONTINUED MISTATEMENTS IN HIS FILINGS DEMONSTRATE HIS BAD FAITH

Kirk's 14 page Reply and Opposition contain numerous and repeated misstatements (or sometimes misdirection or pure fantasy) that demonstrate that his third motion to eliminate the teenage discretion provision, and his second motion to "nullify" the Parenting Coordinator. Kirk's claims are addressed in the order presented in his Reply:

**1) The Attorneys in this Action Did not Express Different Views About the Function of the Teenage Discretion Provision at the time of its Negotiation**

Kirk commences his Reply and Opposition by contending that the attorneys have expressed differing views of their understanding of the teenage discretion provision. The notion is that his attorneys did not intend the plain effect of the language of the agreement, that the parties' daughters, at a

1 certain age, would have the discretion to make minor alteration to the parenting plan to spend more time  
2 with either parent. That contention is not supported by the communication between counsel during the  
3 negotiation of the provision.  
4

5 After months of negotiation, on May 25, 2012, Vivian's counsel sent a second<sup>1</sup> proposed  
6 parenting plan to Kirk's counsel. (See, Correspondence from Radford J. Smith, Esq. to Thomas  
7 Standish, Esq. dated 25, 2012, and enclosed draft parenting plan attached hereto as **Exhibit "A"**). In  
8 that draft was a "teenage discretion" provision that read:  
9

10 6. Notwithstanding the foregoing time-share arrangement, the parents agreed that,  
11 once each child reaches the age of fourteen (14) years, such child shall have "teenage  
12 discretion" with respect to the amount of time the child desires to spend with each parent,  
13 with the understanding that the parents will work together to encourage frequent contact  
14 and communication between each parent and the child. Thus, while the parents  
15 acknowledge the foregoing time-share arrangement, the parents further acknowledge and  
16 agree that it is in the best interest of each of their minor children to allow each child the  
17 right to exercise such "teenage discretion" in determining the amount of time the child  
18 desires to spend with each parent once that child reaches 14 years of age.

19 Mr. Standish, responded to that proposed provision in his letter of May 29, 2012 a copy of  
20 which attached hereto as **Exhibit "B."** In that letter Mr. Standish set forth Kirk's complaints the  
21 structure of paragraph 6. Kirk's objections addressed the right of the child to choose a separate custodial  
22 structure: "Kirk also believes that it is not in Brooke's best interest to foist the responsibility upon her to  
23 choose which parent to live with more than the other parent at a particular point in time." Nothing about  
24 that statement suggests any doubt that what Vivian was proposing was to allow the girls to make a  
25 choice, not a request.

26 Vivian clarified her position through counsel by letter dated June 1, 2012:  
27

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28 <sup>1</sup> Vivian first provided Kirk with a parenting plan in June, 2011 granting the parties both joint legal and physical custody of  
the children. That plan formed the basis for the second proffered plan. The primary differences in the plan were the  
provisions addressing counseling for the children (paragraph 5), a parenting coordinator (paragraph 4), and the teenage  
discretion provision (paragraph 6).



1) *Teenage Discretion*: As we have discussed over the last several weeks, part of Vivian's reluctance to enter into a final agreement without the input from Dr. Paglini was based upon what appears to be Brooke's deteriorating relationship with Kirk. Brooke has regularly indicated to Vivian that she desires spend more time with Vivian. Vivian has compromised in large part based upon the desire of the other members of the family to see this matter close. She still has significant concerns about Kirk's relationship with and care of Brooke, but she has listened to the advice that the resolution of the matter would lead to an improvement of that relationship.

What Vivian seeks to avoid by the language of paragraph 6 is the very thing that Kirk fears. At a certain point all Courts begin to place substantial weight on the desire of a teenage child regarding her care – we cannot affect that factor by any agreement. Paragraph 6 contains language designed to avoid litigation regarding this issue if it arises. Based upon what has occurred in litigation to date, this is an extremely important goal.

Moreover, the concerns raised in your letter will be addressed through the system that the agreement puts in place - counseling and a parenting coordinator. Your client will have a year to address the problems in his relationship with Brooke. The provision does not place the responsibility of choosing on Brooke, **it simply gives each child discretion after 14 to spend more time with one parent or the other**, a request that will likely be granted to them in any event by the Court. Again, the provision is designed to avoid litigation.

(Exhibit "C" attached hereto [emphasis supplied]). Mr. Standish responded by letter dated June 7

(Exhibit "D" attached hereto) that reads in pertinent part:

Lastly, Kirk is agreeable to a paragraph allowing teenage discretion, however, I am requesting some revisions. First Kirk proposes that the age for consideration of teenage discretion be **16 years old**.

Additionally, I propose that the following bolded language be added to Vivian's previously proposed paragraph (page 6 beginning at line 10). It would read as follows:

Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that **absent an objection by the therapist and/or the Parenting Coordinator**, it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the amount of time the child desires to spend with each parent once the child reaches 16 years of age. **The subject of teenage discretion may be addressed with the Parenting Coordinator upon the request of either party. Nothing contained in this paragraph is intended to limit the discretion of the District Court in making child custody determinations in this matter.**

1 [Emphasis in original]. The correspondence is conclusive. Kirk specifically and unequivocally offered  
2 to grant the children the right to “exercise such ‘teenage’ discretion in determining the amount of time  
3 the child desires to spend with each parent once the child reaches 16 years of age.” That sentence belies  
4 Kirk’s contention that neither he did not understand that the teenage discretion was anything more than a  
5 request, or that he did not understand the provision at all. Logic tells us that Kirk and his counsel fully  
6 understood that the import of the paragraph was to grant the children the right to alter the timeshare after  
7 a certain age.  
8

9  
10 Through Kirk’s proposed modifications, which grant the Parenting Coordinator the right to  
11 object to the exercise of teenage discretion, Kirk and his counsel acknowledged that the parenting  
12 coordinator was going to be something more than a mediator. It is inconceivable that Mr. Standish and  
13 Kirk never discussed the role or duties of a parenting coordinator as Kirk now falsely contends.  
14

15 Giving due regard to Mr. Standish’s (Kirk’s) concerns, undersigned counsel redrafted the  
16 teenage discretion provision and send the revised Parenting Plan to Mr. Standish on June 15, 2012.  
17 The provision continued to grant discretion to the children at 14, but included: 1) prohibition of the  
18 children altering the custodial schedule by use of teenage discretion (a prohibition that is not contained  
19 in Mr. Standish’s June 7 letter) 2) prohibitions against either parent encouraging the child to exercise  
20 teenage discretion (a concern Mr. Standish raised in his letter of May 29, 2012) (paragraph 6.2); 3)  
21 safeguards for review of the exercise of the “teenage discretion” through the parenting coordinator or the  
22 Court (paragraph 6.3); and, a provision permitting the children to speak to the Parenting Coordinator in  
23 regard to their desire to modify custody, but limiting the determination of any custodial change to the  
24 Court. What the revised paragraph did *not* do, however, was change the right of the children to exercise  
25 discretion - that material element of the agreement was consistent throughout all of the proposals  
26 associated with this paragraph, including Kirk’s.  
27  
28

1 Mr. Standish's response to the June 20, 2012 draft was contained in an email dated July 3, 2012  
2 that reads:

3 Sorry, I got dragged into a couple of emergencies on other cases, and then left town  
4 yesterday on vacation. I should have done a quick e-mail to you earlier than now.

5 We did meet with Kirk and I believe that we are settled. The only thing I would add to  
6 your stipulation would be the provision that Kirk could remove the girls from school on  
7 two Fridays before two of his weekends during the school year, so that he could have  
8 two 3-day weekends, since Vivian will effectively have "his" two 3-day weekends with  
9 Monday holidays during the year.

10 Are you the office Thursday and Friday? I have my laptop with me on vacation and I  
11 can respond to e-mails. I will also be glad to have somebody take a shot at revising the  
12 stipulation if that will help you.

13 Let me know.

14 I think it is still vital that we confirm we have a settlement, and then sign the Stipulation  
15 as soon as we can, before anybody changes their mind! I hope that Vivian is still on  
16 board, and that you will tell her that I apologize for the delay in getting back to you. We  
17 are also responding to Gary's letter to assure him that Kirk will be in touch with Brian  
18 Boone and we will move forward promptly on those financial issues.

19 Have a good 4th-- hopefully I can hear from you on Thursday. You can also call my  
20 cell if that is helpful. Thanks again for all your perseverance on this.

21 (Exhibit "E"), Mr. Standish expresses only Kirk's concern about the distribution of holidays -- he does  
22 not take issue with any of the language contained in the revised teenage discretion provision. Mr.  
23 Standish was aware of Vivian's intent (through the language in her first draft of the provision) to permit  
24 the parties' daughters to make alterations to the parenting schedule at 14 years of age.

25 Plain construction of the English language informs us that the sentence "[T]he parties intend to  
26 allow the children to feel comfortable in requesting and/or making adjustments to their weekly schedule,  
27 from time to time, to spend additional time with either parent or at either parent's home" (Parenting  
28 Plan, paragraph 6.1) means that they could either request or make adjustments. As argued by Vivian the  
first two times she was required to oppose Kirk's newly minted argument that he and his lawyers did not

1 understand the language, the remainder of the language in paragraph 6 would be entirely unnecessary if  
2 paragraph 6.1 were deemed only to allow the child to request a modification.

3  
4 For example, if the child had only the right to request a change, and, as Kirk demands, he would  
5 have the right to deny that request, there would be no reason to include the sentence (found in paragraph  
6 6.2) "If either party feels that his or her time is being unduly eroded by this provision as an attempt by  
7 the other parent to minimize that parent's custodial time, he or she may address this issue with the  
8 Parenting Coordinator and/or the Court." How could a parent's time be eroded by a request the parent  
9 could veto? What need would there be for a parent to bring such requests to the Parenting Coordinator  
10 and/or the Court? Most telling, neither Kirk nor his lawyers ever expressed any doubt or objection to the  
11 effect of that language, and on the contrary, when Mr. Standish set forth Kirk's view, he granted the  
12 children the discretion to modify the parenting schedule, albeit at age 16.  
13

14 **2) Kirk's Motions are Part of His Continued Attempt to Delay the Process Agreed to in the**  
15 **Parenting Plan.**

16 Kirk attempts to justify his nearly one year delay in complying with the terms of the Parenting  
17 Plan (that require each party to select and provide names of a proposed parenting coordinator and  
18 therapist by citing to delays in the response to the proposed Marital Settlement Agreement ("MSA"),  
19 and the preparation of a draft order appointing a parenting coordinator. Kirk ignores key facts. First,  
20 while the Parenting Plan requires notification of choices for a parenting coordinator and therapist  
21 (Parenting Plan, paragraphs 3 and 4) the plan does not require either party to prepare a draft order  
22 appointing a parenting coordinator (paragraph 4). His counsel could have drafted an order, but neither  
23 party did because they were focusing on the property issues for months, and there were few disputes  
24 between the parties that would have required the intervention of a parenting coordinator. Those facts  
25 had nothing to do with the MSA, which Kirk fails to note was prepared months late by his counsel.  
26  
27  
28

Moreover, Kirk's contends that his delay in identifying a parenting coordinator was affected by the preparation of the order appointing one, this is not an excuse as to why he would not identify a proposed therapist as required by the agreement. We now know, from the subtext and tenor of his series of post trial motions, that he will do anything to avoid having the parties' daughters interviewed by *anyone* (or having the results of their interview published as in the case of Dr. Paglini). Vivian submits that his delay was designed to undermine the process that he now seeks to "nullify."

**3) There is no Evidence that Vivian has Manipulated Brooke into Exercising Teenage Discretion.**

Kirk, unable to write any brief without attacking Vivian, claims in his Reply, at pages 2-3, "Vivian materially violated the teenage discretion provision by manipulating Brooke by undeniably prompting and suggesting to Brooke to make adjustments to the weekly schedule as well as making adjustment to permanent custody." That statement is false. As indicated in Vivian's first Opposition to Kirk's Motion to Resolve Parent Child Issues, there are more than adequate reasons (including the extremely close bond the children have with Vivian, and Kirk's use of anger, guilt, and criticism to attempt to control them) that could account for either child's desire to spend more time with Vivian. *See* Opposition to Kirk's Motion to Resolve Parent Child Issues filed on October 17, 2013, pages 5-22.

It is submitted that the pleading reflect that Kirk actively dislikes or abhors Vivian, and it follows that the girls' desire to live with Vivian is fueled by their reluctance to live in a home where they may not openly and unconditionally love their mother. *See* Reply to Plaintiff's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues for an Interview of the Minor Children, and for Attorney's Fees and Sanctions, filed on October 28, 2013, Page 4, lines 24-28, incorporated by this reference.

As indicated before, however, Brooke's exercise of time has had little to do with Kirk, and instead was based upon activities or time that Brooke logically wanted to spend with her mother. *See*

1 Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision;  
2 Countermotion for Attorney's Fees filed on December 6, 2013, pages 7-8. On most, the schedule was  
3 altered only by a few hours, and for are sensible reasons.<sup>2</sup> Brooke has utilized the teenage discretion  
4 provision in how it was intended, and consistent with its express terms. See Defendant's Opposition to  
5 Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's  
6 Fees filed on December 6, 2013, page 7, lines 2-8. As stated in the present motion, the only time  
7 Brooke has exercised the teenage discretion provision in the last several months is when she wanted to  
8 spend the night with her mother before scheduled dental surgery the following day.  
9

10  
11 Vivian submits that Kirk's counsel understood that such minor variations to the parenting plan  
12 were predictable, and that Brooke should be granted the latitude to make such decisions to avoid  
13 inevitable dissension and conflict that would arise from resistance to those choices. Kirk, however,  
14

15  
16 <sup>2</sup> For example, Brooke exercised teenage discretion on the following times --

- 17 (1) The first time when Brooke exercised teenage discretion was when she wanted to be with Vivian when  
18 shopping for Ballet point shoes. Brooke exercised discretion for five (5) hours on that day. See Kirk's Motion  
19 to Modify Order re: Teenage Discretion filed on October 1, 2013, page 7, line 14. Vivian and the children had  
20 bought dance shoes together throughout the years that Brooke and Rylee have been in dance.
- 21 (2) The second time Brooke exercised teenage discretion was on the day of Brooke's Homecoming Dance (a  
22 Saturday) when Brooke desired to be at Vivian's home to dress and do make-up with her friends for the dance.  
23 Brooke wanted to be with her mother who is skilled and experienced in applying make-up, and helped her learn  
24 how to apply make-up. Brooke was with Vivian for approximately two to three hours. See Defendant's  
25 Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for  
26 Attorney's Fees filed on December 6, 2013, pages 7-8.
- 27 (3) The third time Brooke exercised teenage discretion was Brooke exercised overnight stays with Vivian during  
28 only one period (a two day timeframe where Rylee was on a separate trip to Catalina, and Brooke could spend  
alone time with Vivian). See Defendant's Opposition to Motion for Judicial Determination of the Teenage  
Discretion Provision; Countermotion for Attorney's Fees filed on December 6, 2013, pages 7-8.
- (4) The fourth time Brooke exercised teenage discretion was to retrieve from Vivian's home the props, to make  
shopping bags, wrap presents, and prepare costumes, all for her and Rylee's Winter Recital. Vivian has a craft  
and sewing room in her home that is equipped with arts, crafts and sewing supplies. Vivian has been the parent  
that has taken the historical responsibility of preparing the props and costumes for the children's school projects  
and dance. It is understandable that the children wanted to be with Vivian to help them prepare for the recital.  
They were with Vivian for approximately three hours. See Defendant's Opposition to Motion for Judicial  
Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees filed on December 6,  
2013, pages 7-8.

1 demands to be in a position of control, and now attacks Vivian, her counsel, the parties' daughters, and  
2 the entire system of parenting coordination in unjustified motions that have caused Vivian thousands of  
3 dollars to defend.

4  
5 **4) Kirk is not Seeking to Interpret the Court's Orders, and the Court has Stated its Orders**  
6 **Denying Kirk's Previous Attempts to "Nullify" his Agreement to Appoint a Parenting**  
7 **Coordinator, and Agree to a Teenage Discretion Provision**

8 Kirk contends in his Reply that his Motions seek only to "interpret" the court's orders (Reply p.3  
9 line 3-4), and that "there has been no ruling on the merits" of his Motions. (Reply, p.3, lines 16-17).

10 Contrary to these false contention, his present motion reads:

11 The Court is, respectfully, requested, in the best interest of Brooke and Rylee, to nullify  
12 Paragraphs 4 and 6 of the Court's Order Resolving Parent/Child Issues.

13 (Motion, page 24, lines 4-5). "Interpret" and "nullify" do not have the same meaning. Kirk is seeking  
14 to rescind his agreement, not shed light to the meaning of the terms (that are plain).

15 Further, on December 12, 2013, the Court entered its order from Kirk's first motion (Motion to  
16 Modify Order Resolving Parent/Child Issues and for Other Equitable Relief filed October 2, 2013)  
17 seeking to modify the "teenage discretion" provision, by stating that the motion was "denied."  
18 December 12, 2013 Order page 2 line 8. The Court stated in that Order it would address a Parenting  
19 Coordinator and therapist by separate order which it had done by Order filed October 29, 2013. Kirk's  
20 filed his second motion, styled "Plaintiff's Motion for a Judicial Determination of the Teenage  
21 Discretion Provision" on November 18, 2013. That motion was heard on December 18, 2013. The  
22 minutes contain express statements of the Court denying the Kirk's request that the provision be read to  
23 grant no discretion to the children. Kirk contention that his repeated motions were denied without  
24 prejudice is false.  
25  
26  
27  
28

1  
2 **5) Kirk's Contention that Vivian's Lawyers Insisted that he be Excluded from Settlement**  
3 **Negotiations Regarding the Parenting Coordinator Provision and the Teenage Discretion**  
4 **Provision is False**

5 Kirk claims he was precluded from being part of the negotiations leading to the execution of the  
6 Parenting Plan. This claim is demonstrably false. As shown by the drafts exchanged during negotiation,  
7 and attached hereto, there was never any further negotiation of the Parenting Coordinator paragraph  
8 (paragraph 4 of the Parenting Plan) or the "teenage discretion" paragraph (paragraph 6) after June 15,  
9 2012. The date that Kirk references was the date scheduled for his deposition, July 11, 2012 at which  
10 the parties made no changes paragraph 6, and the only change to paragraph 4 was to eliminate the  
11 reference to an attached draft order to appoint a parenting coordinator. All counsel involved discussed  
12 that the that order appointing a parenting coordinator would be drafted amongst the parties, and that any  
13 disputes regarding the agreement would be resolved by the Court  
14

15  
16 **6) Kirk has not Presented Dr. Roitman's Opinion in Good Faith**

17 Kirk contends that he solicited Dr. Roitman's opinion to inform the court regarding the evils of  
18 the teenage discretion provision. He could have done so as part of his previous two motions, but did not.  
19 Kirk could have requested that Dr. Roitman meet the children about whom he was asked to opine, but he  
20 did not. Kirk could have sought an opinion from Dr. Paglini, who has had the benefit of speaking to the  
21 children, but he did not. Vivian has outlined in great detail how Kirk manipulated Dr. Roitman's  
22 opinion of Vivian, and how that opinion was baseless and unethical. See, Defendant's Reply to  
23 Opposition to Motion for Attorney's Fees and Sanctions, filed September 11, 2013, page 10. Kirk's  
24 new contention that Dr. Roitman's original opinion of Vivian followed the diagnosis of her treating  
25 physician and subsequent MMPI departs from the truth and reality. Her treating physician (nor any of  
26 the experts who ever met Vivian) never found she suffered from Narcissistic Personality Disorder as  
27  
28



1 Roitman irresponsibly contended, and her MMPI result was "normal." Even after the Court made  
2 findings there was no credible evidence supporting Dr. Roitman's "diagnosis" of Vivian (*See*, Findings,  
3 Conclusions, and Orders, filed February 10, 2014, page 23), Kirk continues to suggest that his opinion  
4 was valid.  
5

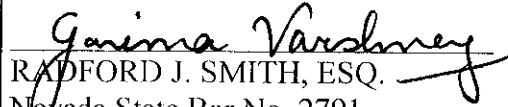
6 IV.

7 CONCLUSION

8 Vivian request the Court stop Kirk from filing repetitive and baseless motions that cost Vivian  
9 substantial attorney's fees to address. A simple sanction of attorney's fees will not deter him by reason  
10 of his wealth. The Court, under EDCR 7.60, is not limited in an award of sanctions. The Court is  
11 requested to enter an order designed to deter Kirk from continuing to litigate in this fashion by requiring  
12 him to seek leave to file any further motions and that Vivian be required to oppose such motions only  
13 upon an order of this Court that she respond to such issues as they deem necessary.  
14

15 Dated this <sup>th</sup>20 day of May, 2014.

16 RADFORD J. SMITH, CHARTERED

17  
18   
19 RADFORD J. SMITH, ESQ.

20 Nevada State Bar No. 2791

21 GARIMA VARSHNEY, ESQ.

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23 64 North Pecos Road, Suite 700

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25 Attorney for Defendant  
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27  
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**CERTIFICATE OF SERVICE**

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

I served the foregoing document described as:

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO COUNTERMOTION**

**FOR ATTORNEY'S FEES AND SANCTIONS** on May 20, 2014, 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;

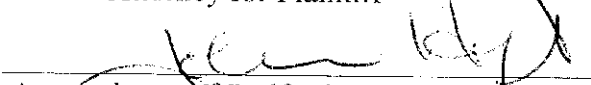
☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☒ 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 enclosed in a sealed envelope, return receipt requested, addressed :

Tom J. Standish, Esq.  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
F: (702) 699-7555  
Attorney for Plaintiff

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F: (702) 823-4488  
Attorney for Plaintiff

  
An employee of Radford J. Smith, Chartered

# **EXHIBIT “A”**

**RADFORD J. SMITH, CHARTERED**

*A Professional Corporation*

**THIS FACSIMILE IS CONFIDENTIAL.**

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**FACSIMILE TRANSMITTAL SHEET**

<b>TO:</b>		<b>FROM:</b>	
Thomas Standish, Esq.		Jolene	
		For Radford J. Smith, Esq.	
<b>COMPANY:</b>		<b>DATE:</b>	
Jolley, Urga, Wirth, Woodbury & Standish		MAY 25, 2012	
<b>PHONE NUMBER:</b>		<b>FAX NUMBER:</b>	
699-7500		699-7555	
<b>RE:</b>		<b>CASE NUMBER:</b>	
Harrison v. Harrison		D-11-443611-D	
<b>TOTAL NO. OF PAGES INCLUDING COVER:</b>			

☐ URGENT    ☒ FOR REVIEW    ☐ PLEASE COMMENT    ☐ PLEASE REPLY    ☐ PLEASE RECYCLE

**DOCUMENT(S) ATTACHED:**

**CORRESPONDENCE WITH STIPULATION AND ORDER ATTACHED**

RADFORD J. SMITH, ESQ.  
DANIELLE TAYLOR, ESQ.  
GARIMA VARSHNEY, ESQ.  
JOLENE HOEFF, PARALEGAL

## SMITH & TAYLOR

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May 25, 2012

**VIA FACSIMILE**

Thomas Standish, Esq.

*Re: Harrison v. Harrison*

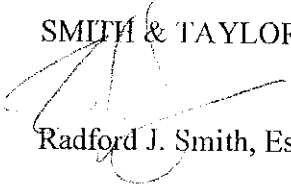
Dear Tom:

Consistent with our conversation this morning, attached is a draft Stipulation and Order Re: Parenting Plan. Please note that because of the timing of the Agreement, I have included specific dates for the summer of 2012 that Vivian would request to have the children in her care. Vivian plans on taking the children outside of the U.S. during her vacation period, and thus she would request that Kirk cooperate with her to locate the children's passports, or replacing those passports.

Please review and advise.

Sincerely,

SMITH & TAYLOR



Radford J. Smith, Esq.

RJS:

Enc: as stated

cc: Vivian Harrison (via email)  
Gary Silverman, Esq. (via email)  
Edward Kainen, Esq. (via email)

1 **STIP**  
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12 *Attorneys for Defendant*

13  
14 **DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**

16 KIRK ROSS HARRISON,

17 Plaintiff,

18 vs.

19 VIVIAN MARIE LEE HARRISON,

20 Defendant.  
21

CASE NO.: D-11-443611-D

DEPT NO.: Q

**FAMILY DIVISION**

22  
23 **STIPULATION AND ORDER RESOLVING PARENT/CHILD ISSUES**

24 DATE OF HEARING: N/A

25 TIME OF HEARING: N/A

26 COME NOW, Defendant VIVIAN MARIE LEE HARRISON (hereinafter VIVIAN”), by and  
27 through her attorneys Radford J. Smith, Esq. and Gary R. Silverman, Esq., and Plaintiff KIRK ROSS  
28

1 HARRISON (hereinafter "KIRK") by and through his attorneys Thomas J. Standish, Esq. and Edward L.  
2 Kainen, Esq., and hereby stipulate and agree and request that the Court FIND AND ORDER AS  
3 FOLLOWS:

4  
5 1. *Resolution of Custody and Support Issues:* The parties (referred to individually as "parent"  
6 or collectively as "parents" below) have two (2) minor children born the issue of this marriage, namely  
7 EMMA BROOKE HARRISON, born June 26, 1999, and RYLEE MARIE HARRISON, born January 24,  
8 2003. The parties have not adopted any children, and VIVIAN is not pregnant. The parties desire by this  
9 stipulation to resolve all issues regarding the care, custody, control and support of their minor children.  
10 The parties hereby represent and agree that the provisions set forth below outline a plan that is in the best  
11 interest of the minor children.  
12

13 2. *Legal Custody:* The parents will share joint legal custody of the minor children. Joint legal  
14 custody shall be defined as follows:

15 2.1. Each parent shall consult and cooperate with the other in substantial questions  
16 relating to religious upbringing, educational programs, significant changes in social environment, and  
17 health care of the children. Each parent shall have access to medical and school records pertaining to the  
18 children, and (except as limited in paragraph 3 below) shall each be permitted to independently consult  
19 with any and all professionals involved with the care, treatment or education of the children.  
20

21 2.2. The parents shall jointly select all schools, day care providers, and counselors for  
22 the children. In the event the parents cannot agree to the selection of a school, the child(ren) shall remain  
23 in the school she is (or they are) then attending pending mediation and/or further court order.  
24

25 2.3. The parents shall jointly select all health care providers for the children, including  
26 all medical providers, dentists or orthodontists, optical care providers, psychological counselors and  
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1 mental health providers, and neither parent shall seek non-emergency health care, whether physical or  
2 mental, for the children without the knowledge and consent of the other.

3           2.4. Each parent shall be empowered to obtain emergency health care for either child  
4 without the consent of the other parent. Each parent shall notify the other parent as soon as reasonably  
5 possible of any illness or injury of either child requiring emergency medical attention, the location of any  
6 emergency care of either child, and the result of such care.

7  
8           2.5. Each parent shall provide the other parent, upon receipt, with any information  
9 concerning the care, education, or activities of the children, including, but not limited to, copies of report  
10 cards, school meeting notices, vacation schedules, class programs, requests for teacher conferences, results  
11 of standardized or diagnostic tests, notices or schedules of activities, samples of school work, order forms  
12 for school pictures, all communications from health care providers, and, the names, addresses, and  
13 telephone numbers of all of the children's schools, health care providers, regular day care providers, and  
14 counselors.

15  
16           2.6. Each parent shall advise the other parent of school, athletic, church, and social  
17 events in which the children participate, and each agrees to notify the other parent within a reasonable  
18 time after first learning of such event so as to allow the other parent to make arrangements to attend the  
19 event if he or she chooses to do so. Both parents may participate in and attend activities involving the  
20 children, including, but not limited to, activities such as open house, school and church activities and  
21 events, athletic events, school plays, graduation ceremonies, school carnivals, and any other activities  
22 involving the children. Regardless of what parent has the custodial care of the children on the date of such  
23 event, each parent shall be afforded a reasonable time to greet, congratulate, take pictures, or participate in  
24 other normal activities with the children acknowledging or memorializing the event.



1           2.7. Each parent shall provide the other parent with the address and telephone number at  
2 which the minor children reside, and each shall notify the other parent at least thirty (30) days prior to any  
3 change of address of the children, and shall provide the telephone number of such address change as soon  
4 as it is assigned.  
5

6           2.8. Each parent shall provide the other parent with a travel itinerary and, whenever  
7 reasonably possible, telephone numbers at which either child can be reached, whenever either child will be  
8 away from that parent's home for a period of twenty-four (24) hours or more. The parties each  
9 acknowledge that pursuant to current federal law, each will need to seek the written permission of the  
10 other party for any travel with the children outside of the United States, which written permission shall not  
11 be unreasonably withheld.  
12

13           2.9. Each parent shall encourage liberal communication between both children and the  
14 other parent. Each parent shall be entitled to reasonable telephone communication with the children.  
15 Each parent agrees to be restrained, and is restrained, from unreasonably interfering with the children's  
16 right to privacy during such telephone conversations.  
17

18           2.10. Neither parent shall interfere with the right of the children to transport clothing,  
19 toys and other personal belongings freely between the parents' respective homes.  
20

21           2.11. Neither parent shall disparage the other in the presence of either child, nor shall  
22 either parent make any comment of any kind that would demean the other parent in the eyes of either  
23 child. Additionally, each parent agrees to instruct their respective family and friends that no disparaging  
24 remarks are to be made regarding the other parent in the presence of either child.  
25

26           2.12. The parents further agree to communicate directly with each other regarding the  
27 needs and well being of their children, and each parent agrees that he or she shall not to use either child to  
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1 communicate with the other parent regarding parental issues, or to transfer notes, payments, or other  
2 documents to the other parent without the other parent's consent.

3         3.       *Therapist for the Minor Children:* The parents agree that, if necessary, the minor children  
4 shall engage in therapeutic sessions with a mutually agreed-upon child psychologist or psychiatrist. The  
5 determination of the need for the children to engage in therapy shall be at the discretion of the therapist,  
6 unless otherwise agreed in writing by the parties. The therapist shall not be called as a witness in the case  
7 in the absence of an issue requiring mandatory reporting under NRS 432B.220. In the absence of a  
8 mandatory reporting issue, the therapist shall be immune from process in this matter, and shall not be  
9 called as a witness. The therapist's role would be entirely therapeutic and one to which the children would  
10 address any issues or problems for peaceful resolution. In any instance in which the therapist believes that  
11 he or she must address the behavior of either parent, the psychologist shall direct any discussion,  
12 suggestions, or questions to the parties' Parenting Coordinator appointed pursuant to paragraph 4 below.  
13 Neither party shall directly contact the therapist in the absence of a written agreement to that effect. The  
14 parties shall equally divide the cost of such therapy.

15         4.       *Parenting Coordinator:* The parties shall engage a Parenting Coordinator to resolve  
16 disputes between the parties regarding the minor children. The parties shall make best efforts to mutually  
17 agree upon a Parenting Coordinator, but in the absence of such agreement, the Court shall retain  
18 jurisdiction to appoint a Parenting Coordinator. The Parenting Coordinator shall serve pursuant to the  
19 terms of an order in the form attached as Exhibit "1" hereto.

20         5.       *Weekly Division of Time with the Minor Child:* The parties shall share joint physical  
21 custody of the minor children. KIRK shall have the children in his care each Monday from after school,  
22 or 9:00 a.m. when the children are not in school, until Wednesday after school, or Wednesday at 9:00 a.m.  
23 when the children are not in school. VIVIAN shall have the children in her care from Wednesday after  
24

1 school, or at 9:00 a.m. when the children are not in school, until Friday after school, or Friday at 9:00 a.m.  
2 when the children are not in school. The parties shall alternate weekends with the children, from Friday  
3 after school, or Friday at 9:00 a.m. when the children are not in school, until Monday after school, or  
4 Monday at 9:00 a.m. when the children are not in school.  
5

6 6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each  
7 child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the  
8 amount of time the child desires to spend with each parent, with the understanding that the parents will  
9 work together to encourage frequent contact and communication between each parent and the child. Thus,  
10 while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and  
11 agree that it is in the best interest of each of their minor children to allow each child the right to exercise  
12 such "teenage discretion" in determining the amount of time the child desires to spend with each parent  
13 once that child reaches 14 years of age  
14

15 7. *Holiday Time with the Minor Children:* Holidays and special times shall take precedence  
16 over but not break the continuity of the plan. The parties will discuss and agree on a schedule of holiday  
17 visitation for any holiday not specifically addressed herein.  
18

19 7.1. *Summer Vacation or Intersession Break:* The parties shall each be entitled to two  
20 weeks of uninterrupted visitation with the children during the children's Summer Vacation/Intersession  
21 periods. The party exercising such visitation shall advise the other party, in writing, thirty (30) days in  
22 advance of the visitation. The parties shall alternate yearly having the priority for scheduling visitation,  
23 with Kirk having the priority in even-numbered years, and Vivian having priority in odd-numbered years.  
24 That priority in scheduling must be exercised by notice to the other party by March 1 of each year, and if  
25 the party with priority fails to notify the other party of a summer vacation schedule by that time, then  
26 priority in that year shall be granted to the first party to notice the other of such vacation plans. The two  
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1 week period may be broken into two one-week periods, but no smaller unit. The visitation periods shall  
2 not be taken during the other parties' holiday visitation periods outlined herein. In addition, VIVIAN  
3 shall be entitled to attend the sewing camp with the children each year that she and the children have  
4 previously participated in. VIVIAN shall advise KIRK of the dates of the sewing camp as soon as she  
5 learns of them so that the parties may schedule summer vacation periods. Also, because of the proximity  
6 of the date of this Agreement, for the Summer Break 2012 Vivian shall have the children in her care from  
7 August 5 through August 19 for her two week vacation period, and July 21 through July 31 for sewing  
8 camp. Kirk shall have the children in his care for the two week period beginning \_\_\_\_\_ and ending on  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_

12 7.2. *Winter Break:* The Winter Break shall be defined utilizing the nine-month school  
13 year calendar for the Clark County, Nevada school district. The holiday shall be divided into two periods,  
14 the first beginning after school the day school recesses for the Winter Break, and ending December 25<sup>th</sup> at  
15 noon. The second period shall be defined as commencing December 25<sup>th</sup> at noon, and ending at 7:00 p.m.  
16 the day before school recommences. The parties shall alternate care of the child during those periods,  
17 with KIRK having the children during the first period in even-numbered years, and for the second period  
18 in odd-numbered years. VIVIAN shall have the children during the first period in odd-numbered years,  
19 and for the second period in even-numbered years.  
20

21 7.3. *Thanksgiving Visitation:* The Thanksgiving holiday shall be defined as  
22 commencing after school (or at 3:00 p.m. if the children are not in school) on the Wednesday before  
23 Thanksgiving, and ending the Sunday following Thanksgiving at 7:00 p.m. The parties shall alternate  
24 having the children during the Thanksgiving holiday, with KIRK having the children in his care during the  
25 Thanksgiving holiday in odd-numbered years, and VIVIAN having the children in her care during the  
26 Thanksgiving holiday in even-numbered years. In odd-numbered years, the parties shall switch visitation  
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1 periods as follows: If KIRK's regularly-scheduled weekend immediately follows Thanksgiving, VIVIAN  
2 shall receive KIRK's Monday to Wednesday visitation preceding Thanksgiving, and KIRK shall receive  
3 VIVIAN's Wednesday to Friday visitation (encompassing Thanksgiving Day). If VIVIAN's regularly  
4 scheduled weekend immediately follows Thanksgiving, VIVIAN shall receive KIRK's Friday to  
5 Wednesday visitation, and KIRK shall receive VIVIAN's Wednesday to Monday visitation (encompassing  
6 Thanksgiving Day).

8           7.4. *Spring Break:* The Spring Break vacation shall be based upon the nine-month  
9 school calendar in Clark County, Nevada. The Spring Break period shall be defined as commencing the  
10 Friday that school recesses before the vacation period, and shall end on at 7:00 p.m. the Sunday before  
11 school recommences. KIRK shall have the children during the Spring Break vacation period in even-  
12 numbered years, and VIVIAN shall have the children during the Spring Break vacation period in odd-  
13 numbered years.

15           7.5. *Independence Day:* The Independence Day holiday shall be defined as  
16 commencing July 4<sup>th</sup> at 9:00 a.m., and ending July 5th at 10:00 a.m. KIRK shall have the children in his  
17 care for the Independence Day holiday during odd-numbered years, and VIVIAN shall have the children  
18 in her care for the Independence Day holiday in even-numbered years.

20           7.6. *Veteran's Day:* The parties shall alternate having the children on Veteran's Day,  
21 which shall be defined as November 11 from 9:00 a.m. to 7:00 p.m. KIRK shall have the children in his  
22 care on Veteran's Day in even-numbered years, and VIVIAN shall have the children in her care on  
23 Veteran's Day during odd-numbered years.

25           7.7. *Other Nationally And State-Observed Holidays:* With respect to such nationally  
26 observed holidays and holidays observed by the State of Nevada, such as Martin Luther King Day,  
27 President's Day, Memorial Day, Labor Day, Nevada Admission Day, and any other such holiday where  
28

1 the Monday or Friday of any particular week is observed as a national or state holiday, the parent who has  
2 the actual physical custody of the children during the immediately preceding weekend shall continue to  
3 have the physical custody of the child until 7:00 p.m. on such holiday.  
4

5 7.8. *Father's Day*: Regardless of which parent is entitled to have the children on the  
6 Sunday which is designated "Father's Day," the KIRK shall be entitled to have the children from at least  
7 10:00 a.m. until 8:00 p.m. that day.

8 7.9. *Mother's Day*: Regardless of which parent is entitled to have the children on the  
9 Sunday designated as "Mother's Day," the VIVIAN shall be entitled to have the children from at least  
10 10:00 a.m. until 8:00 p.m. that day.  
11

12 7.10. *Children's Birthdays*: The parties shall alternate having the children for the  
13 children's birthdays. KIRK shall have the children for their birthday in odd-numbered years, and VIVIAN  
14 shall have the children for their birthday in even-numbered years. The children's birthday shall be defined  
15 as beginning at 9:00 a.m. on the birthday, and ending at 9:00 p.m. on that day.  
16

17 8. *Miscellaneous Provisions Regarding Care of Children*:

18 8.1. While the parties recognize that the majority of exchanges shall be effectuated by  
19 dropping off and picking up the children at school, when school is not in session, the parents agree that in  
20 effectuating and implementing the aforementioned custody arrangements, the parent to whom the physical  
21 custody of the children is to be transferred at any such time that the physical custody of the children is to  
22 be changed from one parent to the other shall be responsible for picking up the children at the other  
23 parent's residence (i.e., when KIRK is to have the actual physical custody of the children, KIRK shall be  
24 responsible for picking up the children at VIVIAN's residence; and, conversely, when VIVIAN is to have  
25 the physical custody of the children, VIVIAN shall be responsible for picking up the children at KIRK's  
26 residence.  
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1           8.2.    The parents agree that the children shall be picked up, and shall be available to be  
2 picked up, at the designated times set forth above. Should a delay become necessary, the parent  
3 responsible for such a necessary delay shall immediately notify the other parent to advise him or her of the  
4 problem. For example, if the receiving parent is unable to pick up the children at the designated time,  
5 such receiving parent shall immediately notify the other parent of that fact. Conversely, if the children are  
6 not available for the receiving parent to pick up at the designated time, the receiving parent shall be  
7 notified immediately by the other parent. Moreover, in the event any scheduled time cannot be kept due  
8 to the illness or other unavailability of a child and/or the receiving parent, the parent unable to comply  
9 with the schedule shall notify the other parent and the children as soon as reasonably possible. In the  
10 event the time-shared arrangement cannot be kept due to the illness or other unavailability of a child, the  
11 receiving parent shall be entitled to comparable time within thirty (30) days after the occurrence of such  
12 missed time with the child(ren).  
13

14           9.    *Child Support:* Based upon the current financial condition of the parties, and the fact that  
15 neither party currently engages in full time employment, neither party shall be required to pay child  
16 support to the other.  
17

18           9.1.   The provisions regarding child support herein are consistent with the statutory  
19 requirements of NRS 125B.070 and NRS 125B.080, as applied in *Wright v. Osburn*, 114 Nev. 1367, 970  
20 P.2d 1071 (1998), and *Wesley v. Foster*, 119 Nev. 110, 65 P.3d 251 (2003).  
21

22           10.   *Tax Exemption:* The parties shall alternate annually the ability to claim the minor children  
23 as dependents for purposes of income tax deductions. VIVIAN shall be entitled to claim the children as  
24 dependents in the 2013 tax year and all odd tax years. KIRK shall be entitled to claim the children as  
25 dependents in the 2012 tax year and all even tax years.  
26  
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1        11. *Health Insurance:* Kirk shall maintain the children on the current policy of health  
2 insurance. Kirk shall be responsible for any premiums for such insurance, and the parties shall be equally  
3 responsible for deductibles or co-pays required by the insurance policy, and any and all expenses for the  
4 healthcare costs of the minor children not covered by the insurance, including orthodontic and optical  
5 expenses, until such time as each child, respectively, reaches the age of eighteen (18), or if still in high  
6 school, the age of nineteen (19), marries, or otherwise becomes emancipated. Until such resolution, all  
7 such costs shall continued to be paid by KIRK from the parties' community funds.  
8

9                11.1. Documentation of Out-of-Pocket Expenses Required: A party who incurs an  
10 out-of-pocket expense for medical care is required to document that expense and provide the other party  
11 proof of payment of that expense. A receipt of payment from the health care provider is sufficient to prove  
12 the expense so long as it has the name of the child on it and shows an actual payment by the party seeking  
13 reimbursement.  
14

15                11.2. Timely Submission of Requests for Reimbursement: The party who has paid or  
16 incurred a health care expense for a minor child must submit a claim for reimbursement to the insurance  
17 company within the deadline required for reimbursement by the insurance policy. If a party fails to timely  
18 submit such a claim for reimbursement, and the claim is denied by the insurance company as untimely,  
19 that party shall pay the entire amount which would have been paid by the insurance company as well as  
20 one-half of the expense which would not have been paid by insurance if the claim had been timely filed.  
21

22                11.3. Mitigation of Health Expenses Required; Use of Covered Insurance Providers: Each  
23 party has a duty to mitigate medical expenses incurred by or for the minor children. Absent compelling  
24 circumstances, a party must take the minor children to a health care provider covered by the insurance in  
25 effect and use preferred or covered providers, if available, in order to minimize the cost of healthcare for  
26 the minor children. The burden is on the party using a non-covered health care provider to demonstrate  
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1 that the choice not to use a covered provider, or the lowest cost option under the policy, was reasonably  
2 necessary in the particular circumstances. If the Court finds the choice of a non-covered or more  
3 expensive covered provider was not reasonably necessary, then the Court may impose a greater portion of  
4 financial responsibility for the cost of that health care on the party who incurred that expense up to the full  
5 amount which would have been provided by the lowest cost insurance choice.  
6

7           11.4. Sharing of Insurance Information Required: The party providing insurance coverage  
8 for the children has a continuing obligation to provide insurance information to the other party including,  
9 but not limited to, copies of policies and policy amendments as they are received, claim forms, preferred  
10 provider lists (as modified from time to time), and identification cards. If the insuring party fails to timely  
11 supply any of the above items to the other party, and that failure results in a denial of a claim because of  
12 the non-insuring party's failure to comply with the procedures required by the amended or updated  
13 insurance policies, the party providing insurance shall be responsible for all healthcare expenses incurred  
14 by the minor child for any claim that would have been covered by insurance.  
15  
16

17           11.5. Reimbursement For Out-of-Pocket Expenses: A party that seeks reimbursement for  
18 one-half of an unreimbursed healthcare expense he or she has incurred on behalf of a minor child must  
19 submit such request for reimbursement to the other party within thirty (30) days of incurring such expense  
20 or being advised by the provider that such expense would not be reimbursed. If a party fails to request  
21 such reimbursement with that time period, that party shall forfeit any right to seek reimbursement. A  
22 party who receives a written request for contribution for an unreimbursed health care expense for a child  
23 incurred by the other party must reimburse the other party one-half of that expense within thirty (30) days  
24 of receipt of the written request for contribution. The party receiving the request for contribution must  
25 raise any objection to the request for contribution within the thirty (30) day period after the request for  
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1 contribution is received or shall be deemed to have waived such objection. Any objection to the request  
2 for contribution must be made in writing.

3           11.6. Sharing Insurance Reimbursement: Any reimbursements for payments made  
4 directly by a party or the parties to any healthcare provider for a minor child shall be distributed according  
5 to the amount of payment by each party. If a party receives such a reimbursement, that party shall  
6 distribute the reimbursement within seven (7) days of its receipt.

7           11.7. Effect of Not Obtaining or Maintaining Required Health Insurance Coverage: If  
8 either party is individually required to provide health insurance or pay other health care related costs for  
9 the parties' minor children and fails to do so, that party shall be responsible for that portion of any medical  
10 expense that would have been paid by a reasonably priced insurance policy available at the time. Should  
11 the party obligated to provide health insurance for the minor children lose that ability, the parties shall  
12 jointly choose and pay for an alternative policy. The Court shall reserve jurisdiction to resolve any  
13 dispute relating to alternative insurance.

14           ***Mandatory provisions***: The following statutory notices relating to custody/visitation of the minor  
15 children are applicable to the parties herein:

16           Pursuant to NRS 125C.200, the parties, and each of them, are hereby placed on notice that if either  
17 party intends to move their residence to a place outside the State of Nevada, and take the minor children  
18 with them, they must, as soon as possible, and before the planned move, attempt to obtain the written  
19 consent of the other party to move the minor children from the State. If the other party refuses to give  
20 such consent, the moving party shall, before they leave the State with the children, petition the Court for  
21 permission to move with the children. The failure of a party to comply with the provision of this section  
22 may be considered as a factor if a change of custody is requested by the other party. This provision does  
23 not apply to vacations outside the State of Nevada planned by either party.

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

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

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

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

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

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

29 The State of Nevada in the United States of America is the habitual residence of the parties'  
30 children.

1 The parties, and each of them, are hereby placed on notice that, pursuant to NRS 125.450, a parent  
2 responsible for paying child support is subject to NRS 31A.010 through NRS 31A.340, inclusive, and  
3 Sections 2 and 3 of Chapter 31A of the Nevada Revised Statutes, regarding the withholding of wages and  
4 commissions for the delinquent payment of support, that these statutes and provisions require that, if a  
5 parent responsible for paying child support is delinquent in paying the support of a child that such person  
6 has been ordered to pay, then that person's wages or commissions shall immediately be subject to wage  
7 assignment and garnishment, pursuant to the provisions of the above-referenced statutes.  
8

9 The parties acknowledge, pursuant to NRS 125B.145, that an order for the support of a child, upon  
10 the filing of a request for review by:  
11

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

15 (b) a parent or legal guardian of the child,  
16

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1 must be reviewed by the court at least every 3 years pursuant to this section to determine whether the  
2 order should be modified or adjusted. Further, if either of the parties is subject to an order of child  
3 support, that party may request a review pursuant the terms of NRS 125B.145. An order for the support of  
4 a child may be reviewed at any time on the basis of changed circumstances.  
5

6 IT IS SO STIPULATED.

7 SMITH & TAYLOR

JOLLEY, URGAS, WIRTH, WOODBURY &  
STANDISH

9 RADFORD J. SMITH, ESQ.  
10 Nevada State Bar No. 002791  
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12 Henderson, Nevada 89074  
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(702) 699-7500  
*Attorney for Plaintiff Kirk Harrison*

14 VIVIAN HARRISON

KIRK HARRISON

15 Good Cause appearing,  
16

17 IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2012.

18  
19 DISTRICT JUDGE

20 *Respectfully submitted:*

21 SMITH & TAYLOR

22  
23 RADFORD J. SMITH, ESQ.  
24 Nevada State Bar No. 002791  
25 64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
*Attorneys for Defendant Vivian Harrison*

# Send Result Report

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Job No.: 030427

Total Time: 0°04'24"

Page: 018

## Complete

Document: doc20120525154756

**RADFORD J. SMITH, CHARTERED**

*A Professional Corporation*

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### FACSIMILE TRANSMITTAL SHEET

TO:

Thomas Standish, Esq.

FROM:

Jolene

For Radford J. Smith, Esq.

COMPANY:

Jolley, Urga, Wirth, Woodbury &  
Standish

DATE:

MAY 25, 2012

No.	Date and Time	Destination	Times	Type	Result	Resolution/ECM
001	05/25/12 15:48	6997555	0°04'24"	FAX	OK	200x100 Normal/On

# **EXHIBIT “B”**

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WOODBURY & STANDISH**

**ATTORNEYS AT LAW**

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May 31, 2012

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WILLIAM R. URG A  
BRUCE L. WOODBURY  
THOMAS J. STANDISH  
BRIAN E. HOLTHUS  
MARTIN A. LITTLE  
L. CHRISTOPHER ROSE  
DAVID J. MALLEY

JENNIFER POYNTER-WILLIS  
ALEXANDER VILLAMAR  
MELISSA L. WAITE  
HOLLY A. FIC  
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OF COUNSEL  
CHARLES T. COOK  
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**VIA EMAIL**

Radford Smith, Esq.

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Las Vegas, Nevada 89074

Fax: (702) 990-6456

[rsmith@radfordsmith.com](mailto:rsmith@radfordsmith.com)

**Re: Proposed Parenting Plan**

Dear Mr. Smith:

I am in receipt of your letter with the proposed parenting plan in the above-referenced matter. This letter is written in response thereto, making suggested revisions in the hope of finalizing this agreement. The suggestions reference only three paragraphs which are specifically identified below.

With respect to paragraph 5, Kirk would prefer to have his custodial periods be inclusive of Wednesday/Thursday each week, rather than Monday/Tuesday. Kirk has no problem paying for 100% of Brooke and Rylee's health insurance, pursuant to Paragraph 11. However, Kirk only has the ability to obtain a group health insurance plan through Harrison Dispute Resolution if he continues to mediate cases. Kirk is already only doing about six or seven mediations each year and it is his experience that attorneys and their clients prefer doing mediations earlier in the week. Moreover, Kirk routinely has mediations go well into the night and therefore there is a strong resistance to scheduling any mediations on Fridays (people seem more willing to mess up their work week, than their weekend). Accordingly, Kirk would request that the designated fixed periods be switched.

As regards paragraph 6, Kirk and I both feel that the uncertainty about the future for minor children particularly Rylee and Brookes, is one of the difficulties of divorce litigation, particularly protracted litigation. Kirk views the proposed "teenage discretion" paragraph 6 as unnecessarily continuing that uncertainty for Brooke and Rylee, as well as for he and Vivian.



Radford Smith, Esq.  
May 29, 2012  
Page 2

Kirk also believes that it is not in Brooke's best interest to foist the responsibility upon her to choose which parent she wants to live with more than the other parent at a particular point in time. Such a decision would force Brooke to choose between living with Rylee all of the time or leaving Rylee to spend more time with one parent than the other, or could lead to one parent or the other "lobbying" Brooke or Rylee, or trying to curry favor with one or both of them.

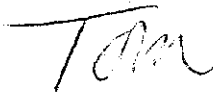
Overall, it is Kirk's earnest desire to move forward with as positive of an arrangement as possible, and therefore, because he views this provision as being potentially divisive, he is concerned that it may perpetuate some measure of the conflict and stress of this case. Accordingly, as Kirk would very much like to finalize an agreement on custody, he respectfully urges Vivian to reconsider this provision.

In addressing paragraph 7.1, Kirk would like to be able to have a similar annual time set aside with Brooke and Rylee, and proposes that each parent, in addition to the annual two week vacation, get 10 days each summer with the children to do an annual activity.

I look forward to hearing from you.

Sincerely,

JOLLEY URGAS WIRTH WOODBURY & STANDISH



Thomas J. Standish, Esq.

TJS/kg

# **EXHIBIT “C”**

**RADFORD J. SMITH, CHARTERED**

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**FACSIMILE TRANSMITTAL SHEET**

TO:	Thomas Standish, Esq.	FROM:	Jolene For Radford J. Smith, Esq.
COMPANY:	Jolley, Urga, Wirth, Woodbury & Standish	DATE:	JUNE 1, 2012
PHONE NUMBER:	699-7500	FAX NUMBER:	699-7555
RE:	Harrison v. Harrison	CASE NUMBER:	D-11-443611-D
		TOTAL NO. OF PAGES INCLUDING COVER:	3

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

**DOCUMENT(S) ATTACHED: CORRESPONDENCE FROM RADFORD J. SMITH, ESQ., DATED TODAY 6/1/12**

June 1, 2012

VIA FACSIMILE

Thomas Standish, Esq.

*Re: Harrison v. Harrison*

Dear Tom:

Thank you for your letter of May 31, 2012. I have had an opportunity to review the letter with Vivian. As I understand Kirk's position, he is requesting three modifications to the proposed MSA I forwarded to you on Friday, May 25, 2012:

- 1) He seeks to eliminate the "teenage discretion" language set forth in paragraph 6 of the draft parenting plan;
- 2) He seeks an additional 10 day period of care during the summer vacation months; and,
- 3) He seeks to change his time to have the girls in his care from Monday and Tuesday to Wednesday and Thursday of each week.

Let me address each of those requests individually:

- 1) *Teenage Discretion*: As we have discussed over the last several weeks, part of Vivian's reluctance to enter into a final agreement without the input from Dr. Paglini was based upon what appears to be Brooke's deteriorating relationship with Kirk. Brooke has regularly indicated to Vivian that she desires spend more time with Vivian. Vivian has compromised in large part based upon the desire of the other members of the family to see this matter close. She still has significant concerns about Kirk's relationship with and care of Brooke, but she has listened to the advice that the resolution of the matter would lead to an improvement of that relationship.

What Vivian seeks to avoid by the language of paragraph 6 is the very thing that Kirk fears. At a certain point all Courts begin to place substantial weight on the desire of a teenage child regarding her care -- we cannot affect that factor by any agreement. Paragraph 6 contains language designed to avoid litigation regarding this issue if it arises. Based upon what has occurred in litigation to date, this is an extremely important goal.

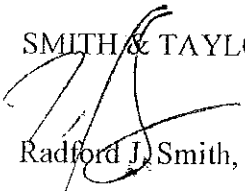
Moreover, the concerns raised in your letter will be addressed through the system that the agreement puts in place - counseling and a parenting coordinator. Your client will have a year to address the problems in his relationship with Brooke. The provision does not place the responsibility of choosing on Brooke, it simply gives each child discretion after 14 to spend more time with one parent or the other, a request that will likely be granted to them in any event by the Court. Again, the provision is designed to avoid litigation.

- 2) *Summer vacation:* The girls have attended sewing camp with Vivian in the past. Brooke has gone to the camp for four years since she was eight years old, and Rylee attended last year at eight years old. It is an activity both girls enjoy, and sewing is considered a life skill. In order for the children to go to this camp, Vivian must accompany them, and she must enroll in the program. The camp is filled with days of instruction and sewing. Kirk is welcome to attend the camp. If the children do not want to attend the camp in the future, this issue is moot. Vivian does not feel it is in the best interest of the children at this time to expand the summer visitation periods, particularly in light of Brooke's current difficulty in her relationship with Kirk.
- 3) *Days of the Week:* Vivian too desires to have the children on Wednesday and Thursday of each week. She permitted Kirk to choose between an alternating week schedule and a five/two - two/five schedule, and she feels she should be able to choose which weekdays she has the children. Moreover, it is not our experience that mediations occur more often on Monday and Tuesday, and because there are so few there does not appear to be a substantial need to change the proposed plan. Vivian would be willing to work with Kirk to arrange exchanges in those instances that Kirk has a mediation that is going to last into the evening after the children are out of school.

Please call with questions.

Sincerely,

SMITH & TAYLOR



Radford J. Smith, Esq.

RJS:

cc: Gary Silverman, Esq.  
Vivian Harrison

# Send Result Report

MFP

TASKalfa 500ci

Firmware Version 2H7\_2F00.012.012 2011.07.14

06/01/2012 15:47  
[2H7\_1000.023.001] [2H7\_1100.002.003] [2H7\_7000.012.012]

Job No.: 030960

Total Time: 0'00'52"

Page: 003

## Complete

Document: doc20120601154639

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### FACSIMILE TRANSMITTAL SHEET

TO:

Thomas Standish, Esq.

FROM:

Jolene

For Radford J. Smith, Esq.

COMPANY:

Jolley, Urga, Wirth, Woodbury &

DATE:

JUNE 1, 2012

No.	Date and Time	Destination	Times	Type	Result	Resolution/ECM
001	06/01/12 15:47	6997555	0'00'52"	FAX	OK	200x100 Normal/On

# **EXHIBIT “D”**

R. GARDNER JOLLEY  
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BRIAN E. HOLTUS  
MARTIN A. LITTLE  
L. CHRISTOPHER ROSE  
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MELISSA L. WAITE  
BOBBY A. FIC  
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BILL SPOHRER, SPHR  
DIRECTOR OF ADMINISTRATION

OF COUNSEL  
CHARLES T. COOK  
ROGER A. WIRTH

June 7, 2012

### VIA EMAIL

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Fax: (702) 990-6456

[rsmith@radfordsmith.com](mailto:rsmith@radfordsmith.com)

**Re: Harrison v Harrison**

Dear Rad Smith,

The purpose of this letter is to respond to your correspondence dated June 1, 2012.

#### Summer Vacation:

Kirk is amenable to the girls attending Sewing Camp with Vivian. The camp is approximately 10 days. Kirk, however, would propose that he have the girls each August for the Utah/Lagoon trip that he has taken with them the last two years. This trip typically lasts approximately 7 days and occurs in late August. Outside of those allocations, Kirk proposes that each party have summer vacations with the girls for two weeks each year (either an uninterrupted two week vacation or two one week vacations). In all fairness, to allow both parties to have substantial, equal and meaningful time with the children this summer, Vivian may have to reschedule the dates of her proposed European trip with the girls. As of now, Vivian has the girls scheduled to do dance classes, sewing camp and traveling leaving only a week or two open for Kirk at the end of June.

#### Timeshare:

Regarding the joint physical timeshare, Kirk has seriously considered the options and because the parties did not agree on the weekday portion of the timeshare, he would now like to propose that the parties observe a week on/week off schedule. This schedule would consist of each party having 7 days with the children with the exchange occurring on Sunday evening.

#### Teenage Discretion:

Lastly, Kirk is agreeable to a paragraph allowing teenage discretion, however, I am requesting some revisions. First - Kirk proposes that the age for consideration of teenage discretion be 16 years old.



Radford Smith, Esq.  
June 7, 2012  
Page 2

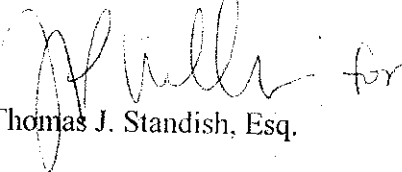
Additionally, I propose that the following bolded language be added to Vivian's previously proposed paragraph (Page 6, beginning at line 10). It would read as follows:

Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that **absent an objection by the therapist and/or the Parenting Coordinator**, it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the amount of time the child desires to spend with each parent once that child reaches 16 years of age. **The subject of teenage discretion may be addressed with the Parenting Coordinator upon the request of either party. Nothing contained in this paragraph is intended to limit the discretion of the District Court in making child custody determinations in this matter.**

As always, should you have any questions or concerns, please feel free to contact this office.

Sincerely,

JOLLEY URGAL WIRTH WOODBURY & STANDISH

 for  
Thomas J. Standish, Esq.

TJS/kg

# **EXHIBIT “E”**

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/20/2014

Time Printed: 2:17PM

Printed By: GVARSHNEY

Date 7/03/2012 Time 5:28PM 12:00AM Duration 0.00 (hours) Code Case Related  
Subject Harrison Stipulation Staff Radford J Smith  
Client Thomas J. Standish MatterRef Harrison adv. Harrison MatterNo D-11-443611-E  
From "Thomas J. Standish" <TJS@juww.com>  
To "rsmith@radfordsmith.com" <rsmith@radfordsmith.com>  
CC To  
BCC To  
Reminders (days before) Follow N Done N Notify N Hide N Trigger N Private N Status  
Custom1 Custom3  
Custom2 Custom4

Rad:

Sorry, I got dragged into a couple of emergencies on other cases, and then left town yesterday on vacation. I should have done a quick e-mail to you earlier than now.

We did meet with Kirk and I believe that we are settled. The only thing I would add to your stipulation would be the provision that Kirk could remove the girls from school on two Fridays before two of his weekends during the school year, so that he could have two 3-day weekends, since Vivian will effectively have "his" two 3-day weekends with Monday holidays during the year.

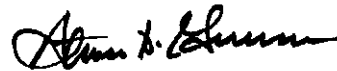
Are you the office Thursday and Friday? I have my laptop with me on vacation and I can respond to e-mails. I will also be glad to have somebody take a shot at revising the stipulation if that will help you.

Let me know.

I think it is still vital that we confirm we have a settlement, and then sign the Stipulation as soon as we can, before anybody changes their mind! I hope that Vivian is still on board, and that you will tell her that I apologize for the delay in getting back to you. We are also responding to Gary's letter to assure him that Kirk will be in touch with Brian Boone and we will move forward promptly on those financial issues.

Have a good 4th-- hopefully I can hear from you on Thursday. You can also call my cell if that is helpful. Thanks again for all your perseverance on this.





CLERK OF THE COURT

1 **ORDR**

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3 RADFORD J. SMITH, ESQ.

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6 Henderson, Nevada 89074

7 Telephone: (702) 990-6448

8 Facsimile: (702) 990-6456

9 rsmith@radfordsmith.com

10 GARY R. SILVERMAN, ESQ.

11 SILVERMAN, DECARIA, & KATTLEMAN

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14 Reno, Nevada 89519

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16 Facsimile: (775) 322-3649

17 silverman@silverman-decaria.com

18 *Attorneys for Defendant*

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 KIRK ROSS HARRISON,

22 Plaintiff,

23 vs.

24 VIVIAN MARIE LEE HARRISON,

25 Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q

FAMILY DIVISION

**RECEIVED**

JUN 10 2014

26 **ORDER FROM HEARING**

27 DATE OF HEARING: December 18, 2013

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

**FAMILY COURT  
DEPARTMENT Q**

✓

This matter, having coming on for hearing for Plaintiff's Motion for Judicial Determination of the Teenage Discretion and Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment and for Defendant's Countermotion for Attorney's Fees and Defendant's Countermotion to Clarify Orders on the

1 18<sup>th</sup> day of December, 2013; Plaintiff, Kirk Harrison, being present and represented by Thomas Standish,  
2 Esq., of Standish Law Group and by Edward L. Kainen, Esq., of the Kainen Law Group; and Defendant,  
3 Vivian Harrison, being present and represented by Radford J. Smith, Esq., of Radford J. Smith,  
4 Chartered, and by Gary Silverman, Esq., of Silverman, Decaria & Kattleman; the Court, having heard the  
5 arguments of counsel, having reviewed the pleadings and papers on file in this matter, and being fully  
6 advised in the premises, and good cause appearing therefore, makes the following findings and orders:

8 1. In regards to TEENAGE DISCRETION; the parties had resolved parent/child  
9 issues and a Stipulation was entered on July 11, 2012. Section 6 of that agreement  
10 addresses the issue of TEENAGE DISCRETION and in review of that section, the Court does not  
11 view that language as giving the minor child authority to make decisions or to change custody.  
12 The parties agreed to the language and part of that included implementation of a counselor and  
13 parenting coordinator. The process to implement those has been delayed and is to be  
14 implemented forthwith. Court views the language as that, the counselor (Dr. Ali has been  
15 selected) would be involved in the TEENAGE DISCRETION process, as would the parenting  
16 coordinator. The purpose for such would be to avoid the Court's intervention, though those  
17 processes would not supplant this Court's authority and the parties may still petition the Court  
18 to address any issues they may have.

21 2. The request to suspend, remove or otherwise modify the TEENAGE  
22 DISCRETION provision is DENIED. To be clear, the minor child(Brooke) does not control and  
23 the Court expects the counselor to be involved in this process. The purpose of TEENAGE  
24 DISCRETION is not to remove blocks of time from a party and if a party is being removed for a  
25 period of time (aside from vacations), then the Court would be concerned. TENAGE  
26 DISCRETION should be implemented from time-to-time and there should not be any issues  
27  
28

1 should Brooke wish to make a modification for a few hours and the Court would expect  
2 communication in this regard. Again, the counselor and the parenting coordinator are to be  
3 engaged in this process.  
4

5 3. Per STIPULATION, accounts ending 8278 and 2521 are Plaintiff's sole and separate  
6 property.

7 4. With regard to accounts ending 8682, 1275 and 2713; to the extent that these accounts  
8 were Plaintiff's prior to the marriage, then they are his sole and separate property. It is the Defendant's  
9 burden to show that any community property funds were deposited or placed into those accounts which  
10 would create a community property interest in those accounts. Otherwise, it is clear to the Court that  
11 those three accounts are the Plaintiff's sole and separate property and the Decree of Divorce shall be  
12 corrected to reflect such. Court views this issue as an issue that did not need to be brought before the  
13 Court.  
14

15 5. The Decree of Divorce is to be corrected to reflect that The Measo Associates is held in  
16 both parties name.  
17

18 6. With regard to the A/B list; to the extent items were not included in the list prepared by  
19 Joyce Newman, absent an agreement between the parties, those items are to be divided by way of an A/B  
20 list (which was the intent of the Court's Order).  
21

22 7. With regard to the provision regarding reimbursement; the Court views this is a mutual  
23 provision. To the extent there is a dispute as to any items that should be reimbursed, the items may be  
24 submitted to the Court on a separate list with an explanation and the Court would make the determination  
25 as to whether or not it needs to be reimbursed. It is the Court's understanding that this process with  
26 Melissa Attanasio and Cliff Beadle has not been completed yet. The accounting by Ms. Attanasio and  
27 Mr. Beadle is to be completed by January 31, 2014. The Court expects an exchange of information and  
28

1 documents which are lacking. Again, this provision is mutual and the items are limited to what was in  
2 the Temporary Order and to the extent there is a reimbursable expense, there must be some backup to  
3 demonstrate that the expense was covered by the Temporary Orders.  
4

5 8. The matter is set for a two hour Evidentiary Hearing on January 22, 2014 at 1:30 p.m.  
6 regarding the monies placed into Tahnee's account for the purpose of her education (after the initiation of  
7 this litigation, but prior to the Joint Preliminary Injunction). To be clear, the Court shall not be seeking to  
8 take money away from Tahnee. The issue shall be whether or not there needs to be a reimbursement for  
9 one-half of those monies that were paid to create this account. The Court must determine whether or not  
10 there was an agreement that these funds were to be used solely for medical school education purposes or  
11 not. At this time, the Court views this as an omitted asset as Plaintiff's name was also on the account.  
12

13 9. Discovery is open as to Tahnee's account and how it was created and the account history.  
14

15 10. The Parties are to provide their proposed exhibits to the Court Clerk by the close of  
16 business on January 17, 2014.

17 11. The Court shall allow out of state witnesses to testify by way of video (Skype or  
18 Facetime), so long as the Court is able to see the individual and have them sworn in. The Court would  
19 expect to hear from Ms. Attanasio and Mr. Beadle.  
20

21 12. With regard to any Ranch items which may have belonged to the Plaintiff's father, the  
22 Court views those items as the Plaintiff's sole and separate property. The Court shall review the prove-  
23 up hearing in this regard as Plaintiff is indicating that all the property located at the Ranch was to be  
24 awarded to him. The Court shall address this issue at the Evidentiary Hearing after it has reviewed the  
25 record. To be clear, this issue shall not be a part of the hearing.  
26

27 *Mandatory Provisions:* The following statutory notices relating to custody/visitation of the minor  
28 children are applicable to the parties herein:



1 Pursuant to NRS 125C.200, the parties, and each of them, are hereby placed on notice that if  
2 either party intends to move their residence to a place outside the State of Nevada, and take the minor  
3 child with them, they must, as soon as possible, and before the planned move, attempt to obtain the  
4 written consent of the other party to move the minor children from the State. If the other party refuses to  
5 give such consent, the moving party shall, before they leave the State with the children, petition the Court  
6 for permission to move with the children. The failure of a party to comply with the provision of this  
7 section may be considered as a factor if a change of custody is requested by the other party. This  
8 provision does not apply to vacations outside the State of Nevada planned by either party.  
9

10  
11 The parties, and each of them, shall be bound by the provisions of NRS 125.510(6) which state, in  
12 pertinent part:

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

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

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

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

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

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

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

8 IT IS SO ORDERED.

9 Dated this \_\_\_\_\_ day of JUN 11 2014, 2014.


10  
11   
12 DISTRICT COURT JUDGE *ml*

13 Submitted by:

14 RADFORD J. SMITH, CHARTERED

15 Approved as to Form and Content:

16 KAINEN LAW GROUP, PLLC

17   
18 RADFORD J. SMITH, ESQ.

19 Nevada Bar No. 002791 *11878*

20 64 N. Pecos Road, Suite 700

21 Henderson, Nevada 89074

22 Attorneys for Defendant

23 EDWARD L. KAINEN, ESQ.

24 Nevada State Bar No. 005029

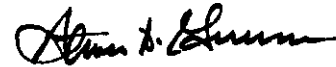
25 10091 Park Run Drive, Suite 110

26 Las Vegas, Nevada 89145

27 Attorneys for Plaintiff  
28



SEP 29 2014

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2 ORDR

CLERK OF THE COURT

3 DISTRICT COURT

4 CLARK COUNTY, NEVADA

5 KIRK ROSS HARRISON, )

6 )  
7 Plaintiff, )

8 v. )

CASE NO. D-11-443611-D

9 VIVIAN MARIE LEE HARRISON, )

DEPT NO. Q

10 )  
11 Defendant. )12 FINDINGS AND ORDERS RE:  
13 MAY 21, 2014 HEARING14 Plaintiff and Defendant appeared before this Court on May 21, 2014,<sup>1</sup> for a  
15 hearing on Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for  
1617  
18 <sup>1</sup>Since the hearing on May 21, 2014, both parties have sought appellate relief from the  
19 Supreme Court of the State of Nevada. On July 7, 2014, Plaintiff filed a Notice of Appeal  
20 regarding this Court's Findings, Conclusions and Orders (Feb. 10, 2014). On July 17, 2014,  
21 Plaintiff filed a Notice of Appeal regarding the Decree of Divorce (Oct. 31, 2013), and orders  
22 entered on October 29, 2013, December 17, 2013, and June 13, 2014. On July 21, 2014,  
23 Defendant filed a Notice of Appeal regarding this Court's Findings, Conclusions and Orders  
24 (Feb. 10, 2014). At the time of the hearing, this Court orally issued findings and orders  
25 resolving all issues raised by way of the papers filed by the parties, save and except the amount  
26 of attorney's fees awarded to the Defendant. Following the hearing, this Court issued amended  
27 minutes setting forth additional findings. These amended minutes were issued prior to the  
28 Plaintiff's filing of his Notice of Appeal (Jul. 7, 2014). The findings and orders set forth herein  
are ancillary to the issues currently on appeal. In this regard, with the exception of the *amount*  
of attorney's fees awarded to the Defendant, the findings and orders set forth herein are simply  
a memorialization of the findings and orders stemming from the hearing on May 21, 2013. As  
to the amount of attorney's fees awarded, the said amount similarly is ancillary to the issues on  
appeal as it relates solely to Plaintiff's Motion to Modify Order Resolving Parent Child Issues  
and for Other Equitable Relief (Apr. 21, 2014). Alternatively, this Court finds that said amount  
is the amount this Court would be inclined to award pursuant to *Huneycutt v. Huneycutt*, 94 Nev.  
79, 575 P.2d 585 (1978) (clarified by *Foster v. Dingwall*, 126 Nev. Adv. Op. 5, 228 P.3d 453  
(2010)).RYCE C. DUCKWORTH  
DISTRICT JUDGEFAMILY DIVISION, DEPT. Q  
LAS VEGAS, NEVADA 89101

A.App.1434

1 Other Equitable Relief (Apr. 21, 2014); Defendant's Opposition to Plaintiff's Motion  
2 to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees  
3 and Sanctions (May 9, 2014); Plaintiff's Reply in Support of Plaintiff's Motion to  
4 Modify Order Resolving Parent/Child Issues and for Other Equitable Relief and  
5 Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions (May 14,  
6 2014); and Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's  
7 Fees and Sanctions (May 20, 2014). Plaintiff, KIRK ROSS HARRISON ("Father"), was  
8 present and represented by and through his attorney, EDWARD L. KAINEN, ESQ., of  
9 the KAINEN LAW GROUP, PLLC, and Defendant, VIVIAN MARIE HARRISON  
10 ("Mother"), was present and represented by and through her attorneys, RADFORD J.  
11 SMITH, ESQ., of the law firm of RADFORD J. SMITH, CHARTERED.  
12

13  
14 This Court, being fully advised in the premises, and good cause appearing  
15 therefore, makes the following findings:<sup>2</sup>  
16

17  
18 In July 2012, Father and Mother expressly agreed that it is in their children's best  
19 interest to appoint a Parenting Coordinator. See Stipulation and Order Resolving  
20 Parent/Child Issues (Jul. 11, 2012) (hereinafter referred to as "Parenting Plan"). Father  
21 and Mother further expressly agreed that it is in the children's best interest to grant the  
22 children "teenage discretion" at age fourteen (14), subject to the parameters specified in  
23 the Parenting Plan. The language regarding "teenage discretion" to which the parties'  
24  
25

26  
27  
28 <sup>2</sup>At the time of the hearing, this Court established the protocol for the preparation of the  
Order therefrom. Nevertheless, it remains this Court's prerogative to memorialize and construe  
this Court's findings and orders that are consistent with the Court's intent.

1 expressly agreed (as set forth in the Parenting Plan), is significantly more detailed and  
2 thorough than the single sentence that is typically submitted to the Court. Indeed, the  
3 specificity of the "teenage discretion" provisions set forth in the Parenting Plan is not  
4 commonplace and is largely unseen.  
5

6  
7 The exercise of "teenage discretion" should not be used as a tool to remove blocks  
8 of time from either party that would result in a modification of the underlying joint  
9 physical custody arrangement. This Court would be concerned if the exercise of  
10 "teenage discretion" was regular and pervasive so as to cause a *de facto* modification of  
11 the underlying custody arrangement. Although this Court expressed its concern about  
12 the two day incident described in the papers, it does not view the "teenage discretion"  
13 provision as having been abused by Brooke. Further, a child's preference standing alone  
14 is generally not a basis to entertain a modification of custody. In summary, the exercise  
15 of "teenage discretion" should not be a tool or resource to undermine the underlying  
16 custody arrangement.  
17

18  
19 This Court finds that there is not a sufficient basis to interview Brooke or Rylee  
20 at this time. Further, there is no present basis for the children to be interviewed by the  
21 Parenting Coordinator at this time.  
22

23 Father's Motion to Modify Order Resolving Parent/Child Issues and for Other  
24 Equitable Relief (Apr. 21, 2014) should be denied. The parties should proceed with the  
25 Parenting Coordinator process as previously ordered. There is not a sufficient basis to  
26 modify the terms of the Order Appointing Parenting Coordinator (Oct. 29, 2013), and  
27 the parties should abide by said terms. The authority of the Parenting Coordinator is  
28

1 defined in the Order Appointment Parenting Coordinator (Oct. 29, 2013), together with  
2 the limitations imposed therein. Neither party should be compelled to sign any  
3 agreements that exceed the Parenting Coordinator's authority as defined in the Order  
4 Appointing Parenting Coordinator (Oct. 28, 2013).  
5

6 This Court does not find that there is a basis to modify the provisions of the  
7 Parenting Plan regarding the "teenage discretion" provisions agreed upon by the parties.  
8 If either party believes the teenage discretion provision is being abused, the Parenting  
9 Coordinator may assist to bring that to light.  
10

11 When school is in session, all child custody exchanges should take place at school  
12 and there should be no exchanges at either party's residence. The issue of the minor  
13 children needing to pick up items from the non-custodial parent's residence after school  
14 is an example of the type of issue that is appropriate for discussion with the Parenting  
15 Coordinator.  
16

17 At the time of the May 21, 2014 hearing, this Court was inclined to strike  
18 Mother's Reply (May 20, 2014) and Dr. Roitman's report attached to Father's Motion  
19 to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief (Apr. 21,  
20 2014). Nevertheless, the parties stipulated that both papers would remain part of the  
21 record. The issue of expert reports attached to papers filed in this case has been  
22 prominent throughout the history of this case. As this Court reviewed and prepared its  
23 decision regarding the issue of attorneys' fees and costs associated with Mother's Motion  
24 for Attorney's Fees and Sanctions (Apr. 3, 2013), the heightened conflict generated by  
25 the *unilateral* reports submitted by *both parties* was evident. Indeed, the parties would  
26  
27  
28

1 have benefitted (and the conflict perhaps would have been ratcheted down) from this  
2 Court striking every report submitted by both parties at the moment each report was  
3 introduced into the record. The existence of these *unilateral* reports submitted for the  
4 purpose of influencing custody determinations without the involvement or input of the  
5 other party has engendered unnecessary angst, anxiety, and litigation in this matter.  
6  
7

8 Finally, at the May 21, 2014 hearing, this Court found that Mother was entitled  
9 to an award of attorney's fees (pursuant to EDCR 7.60). This Court directed each party  
10 to file additional papers relative to the issue of attorney's fees. Thereafter, Mother filed  
11 her Memorandum of Fees and Costs (Jun. 9, 2014), and Father filed his Response to  
12 Defendant's Memorandum of Fees and Costs (Jun. 23, 2014). This Court has had the  
13 opportunity to consider and evaluate the papers filed by both parties in relation to the  
14 provisions of EDCR 7.60, which provides, in pertinent part, as follows:  
15  
16

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

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

22 \* \* \* \*

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

25 The Court also has considered the factors set forth in *Brunzell v. Golden Gate*  
26 *National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Specifically, both parties  
27 were represented by experienced attorneys during these proceedings. Mother submitted  
28



1  
2 a sufficiently detailed statement of fees and costs that reflected the amount of fees  
3 incurred in connection with the issues before the Court. The work actually performed  
4 is adequately represented in Mother's Memorandum (Jun. 9, 2014). Finally, the Court  
5 has reviewed the results obtained.  
6

7 On October 1, 2013, Father filed a Motion to Modify Order Resolving  
8 Parent/Child Issues and for Other Equitable Relief (hereinafter referred to as "Father's  
9 First Motion"). A hearing was scheduled on Father's First Motion (Oct. 1, 2013) for  
10 October 30, 2013. This Court disposed of Father's First Motion by way of this Court's  
11 Order Re: Appointment of Therapist (Oct. 29, 2013) and the Order (Dec. 17, 2013).  
12 On November 18, 2013, Father filed a Motion for a Judicial Determination of the  
13 Teenage Discretion Provision (hereinafter referred to as "Father's Second Motion"). The  
14 hearing on Father's Second Motion (Nov. 18, 2013) was held on December 18, 2013.  
15 Father's present Motion (Apr. 21, 2014) re-asserts similar issues and concerns previously  
16 adjudicated by this Court at the December 18, 2013 hearing. See Order from Hearing  
17 (Jun. 13, 2014). The results of Father's First Motion (Oct. 1, 2013) and Father's  
18 Second Motion (Nov. 18, 2013) were similar.  
19  
20  
21

22 Although this Court recognizes that Father's present Motion (Apr. 21, 2014) cites  
23 to facts arising after the December 18, 2013 hearing, those facts did not justify the filing  
24 of the present Motion (Apr. 21, 2014). Father's present Motion (Apr. 21, 2014) was  
25 unnecessary and unwarranted. Mother should receive the sum of \$5,000 in attorney's  
26 fees and costs associated with defending the present Motion (Apr. 21, 2014).  
27  
28

1  
2 Based on the foregoing Findings, and good cause appearing therefor,

3 It is hereby ORDERED that Plaintiff's Motion to Modify Order Resolving  
4 Parent/Child Issues and for Other Equitable Relief (Apr. 21, 2014) is hereby DENIED.

5 It is further ORDERED that Defendant is awarded the sum and amount of  
6 \$5,000.00 from the Plaintiff as and for attorney's fees. IT IS FURTHER ORDERED  
7 that said sum is reduced to judgment in Defendant's favor, with interest accruing  
8 thereon at the legal rate.  
9

10 It is further ORDERED that the parties are subject to the following mandatory  
11 provisions: The following statutory notices relating to custody/visitation of the minor  
12 children are applicable to the parties herein:  
13

14 Pursuant to NRS 125C.200, the parties, and each of them, are  
15 hereby placed on notice that if either party intends to move their  
16 residence to a place outside the State of Nevada, and take the minor child  
17 with them, they must, as soon as possible, and before the planned move,  
18 attempt to obtain the written consent of the other party to move the minor  
19 children from the State. If the other party refuses to give such consent, the  
20 moving party shall, before they leave the State with the children, petition  
21 the Court for permission to move with the children. The failure of a party  
22 to comply with the provision of this section may be considered as a factor  
23 if a change of custody is requested by the other party. This provision does  
24 not apply to vacations outside the State of Nevada planned by either  
25 party.

26 The parties, and each of them, shall be bound by the provisions of NRS  
27 125.510(6) which state, in pertinent part:  
28

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,  
CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF  
THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY BY UP  
TO 6 YEARS IN PRISON. NRS 200.359 provides that every person  
having a limited right of custody to a child or any parent having no right  
of custody to the child who willfully detains, conceals or removes the child

1  
2 from a parent, guardian or other person having lawful custody or a right of  
3 visitation of the child in violation of an order of this court, or removes the  
4 child from the jurisdiction of the court without the consent of either the  
5 court or all persons who have the right to custody or visitation is subject  
6 to being punished by imprisonment in the state prison for not less than 1  
7 year nor more than 6 years, or by a fine of not less than \$1,000 nor more  
8 than \$5,000, or by both fine and imprisonment.

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


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

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

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

28 The State of Nevada in the United States of America is the habitual residence of  
the parties' children

DATED this 29<sup>th</sup> day of September, 2014.

  
BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE  
DEPARTMENT Q

BRYCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
150 VEGAS, NEVADA 89101



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APR 23 2014

APR 18 2014

*Alvin L. Blum*  
CLERK OF COURT

COPY

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

KIRK HARRISON,

Plaintiff,

vs.

VIVIAN HARRISON,

Defendant.

CASE NO. D-11-443611-D

DEPT. Q

(SEALED)

BEFORE THE HONORABLE BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE

TRANSCRIPT RE: ALL PENDING MOTIONS

WEDNESDAY, OCTOBER 30, 2013

APPEARANCES:

The Plaintiff:  
For the Plaintiff:

KIRK HARRISON  
EDWARD KAINEN, ESQ.  
10091 Park Run Dr., #110  
Las Vegas, Nevada 89145  
(702) 823-4900

The Defendant:  
For the Defendant:

VIVIAN HARRISON  
RADFORD SMITH, ESQ.  
64 N. Pecos Rd., #700  
Las Vegas, Nevada 89074  
(702) 990-6448

1 LAS VEGAS, NEVADA

WEDNESDAY, OCTOBER 30, 2013

2

**PROCEEDINGS**

3

(THE PROCEEDINGS BEGAN AT 10:24:20)

4

5

6

THE COURT: We are on the record in the Harrison matter, case D-11-443611-D. Please confirm your appearances.

7

8

MR. KAINEN: Your Honor, Ed Kainen and Tom -- Tom Standish on behalf of Kirk Harrison who is present.

9

THE COURT: Good morning.

10

MR. SMITH: Rad --

11

THE COURT: Bar numbers, please.

12

MR. KAINEN: 5029 and 1424?

13

MR. STANDISH: 1424, yes.

14

MR. KAINEN: There you go.

15

MR. STANDISH: Thank you.

16

MR. KAINEN: It's been a long time.

17

MR. SMITH: Radford Smith, 2791, and --

18

MR. SILVERMAN: Gary Silverman, 409.

19

20

MR. SMITH: On behalf of Vivian Harrison who is to our left here.

21

22

23

24

THE COURT: Good morning. All right. This is the time set for hearing on a number of motions that -- that still appear on calendar, Defendant's motion -- underlying motion for attorney's fees and sanctions, the Defendant's motion for

1 an order appointing a parenting coordinator and therapist for  
2 the minor children and related relief, the Plaintiff's motion  
3 to enter a decree of divorce, Plaintiff's motion to modify,  
4 order resolving parent-child issues and for other equitable  
5 relief. The Plaintiff's opposition and countermotion for  
6 equitable relief and a countermotion for attorney's fees and  
7 sanctions and a countermotion for declaratory relief. And  
8 also an amended opposition and countermotion to resolve  
9 parent-child issues to continue the hearing on custody issues  
10 and for an interview of the minor children.

11           At the outset, I note for the record that as it  
12 relates to the motion for the appointment of a parenting  
13 coordinator and therapist for the minor children, I did  
14 dispose of that and an order was issued. It may be in your  
15 boxes as we speak. I don't need any discussion on that. I've  
16 issued my -- my orders in that regard. So if you haven't  
17 picked those up, they're probably downstairs in your -- your  
18 boxes. I think that was filed. It may have been yesterday.

19           So that issue has been disposed of. I have prepared  
20 a decree of divorce. I did have some questions that I wanted  
21 to pose today in regards to specific aspects to the --  
22 specific language of the decree. I want to make sure I'm --  
23 I'm clear on what I understand in terms of some of the  
24 language both parties have submitted as it relates to the

1 decree of divorce. I had the opportunity to watch in the  
2 entirety and take some notes from the hearing in which -- at  
3 which time the -- the terms were placed on the record. And so  
4 that's been part of the process.

5           The issue as it relates to attorney's fees and  
6 sanctions in total, understand at the outset I will be issuing  
7 a written decision in that regard, so I'm not issuing any  
8 findings or orders from the bench today.

9           The only real issue I'm going to address today in  
10 terms of making an oral pronouncement of a decision relates to  
11 the motion to modify the order resolving parent-child issues  
12 and -- and the opposition and countermotion related thereto.  
13 The other issues will be addressed by way of a written --  
14 written findings and -- and orders subsequent to this hearing.

15           There have been volumes of documents and exhibits  
16 submitted to the Court. Probably more so than there were  
17 documents filed before this case was settled. And that's  
18 somewhat the irony as I look at this case as it's more --  
19 become more combustible as the issue of fees came to a head.  
20 Then it wasn't even prior to that.

21           So there's been a lot to read. I've started  
22 preparing my written decision, but there's still a number of  
23 exhibits that I haven't examined. I know I've had plenty of  
24 time since this started, but I -- there have been a lot of



1 documents. I've had the chance to scrutinize the -- the  
2 billing statements submitted. I've -- I've prepared  
3 spreadsheets as to the amounts that have been billed, the  
4 amounts that have been paid over time individually by -- the  
5 by the attorneys involved. And I did have a few questions in  
6 -- in that regard.

7 I'm showing based upon the billing statements that  
8 were supplied that the Defendant through the date that those  
9 billing statements were -- were supplied paid a total of  
10 \$686,341.33. That included fees paid to Mr. Silverman's  
11 office, Mr. Smith's office and Mr. Dickerson's office. The  
12 Plaintiff paid a total of \$448,738.21 based upon my review of  
13 the billing statements. That included Mr. Standish's office  
14 and Mr. Kainen's office.

15 The -- this Court had -- had made a -- a  
16 distribution of an allocation of \$350,000 for attorney's fees  
17 to both sides on February 24th, 2012. And I -- and I know  
18 there were other occasions in which we talked about  
19 distributions, equalizing payments in terms of amounts that  
20 have been paid in fees. I want to make sure I understand  
21 today and as much as I -- there have been a lot of paperwork  
22 -- and a lot of papers filed with the Court, I don't know that  
23 I have a -- a true understanding of exactly the source of  
24 those payments. Conceptually, I understand that the source

1 ultimately came from what had been community fund -- community  
2 property funds, but I'm more interested in making sure I have  
3 the timing in -- as it relates to the source of those  
4 payments, understanding the \$350,000 was directed to be paid  
5 from community funds. I -- and I -- I'm looking forward to  
6 the extent that these other fees were paid directly from  
7 payments earmarked for attorney's fees as oppose to fees paid  
8 after the division of assets and then each party is  
9 essentially using their one-half portion of those attorneys --  
10 their -- those one-half portion of those assets to pay their  
11 attorney's fees. And I don't know if that makes sense --

12 MR. KAINEN: That's accurate.

13 THE COURT: -- if I'm being clear.

14 MR. KAINEN: What -- just -- and what happened was  
15 there was a -- we came in here for the first hearing. At the  
16 time, you issued the 350 or at or around that time. Kirk had  
17 paid more from community funds.

18 THE COURT: Right. And so there was equalizing  
19 payment.

20 MR. KAINEN: And so in addition to the 350, there  
21 was an equalization payment of --

22 THE COURT: I think it was 80 --

23 MR. KAINEN: -- was it one and a quarter or 80 or  
24 something like that or --

1 MR. STANDISH: It was some -- I don't remember.

2 MR. KAINEN: It was somewhere in the -- I don't  
3 remember if it was 85, 84 or one and a quarter. It was  
4 somewhere in that range, but -- and that was paid from  
5 community funds. And what that did is it brought them equal  
6 and community -- community resources that were used for  
7 attorney's fees and then provided them each an additional 350.

8 THE COURT: 350.

9 MR. KAINEN: I think we're in agreement on that.

10 MR. SMITH: Yes.

11 THE COURT: And after the --

12 MR. SMITH: And the bottom line is through state --  
13 stated simpler, each party has received an equal amount of  
14 money from the community for payment of fees to date.

15 THE COURT: Earmarked for attorney's fees.

16 MR. KAINEN: Correct.

17 MR. SMITH: That's right.

18 THE COURT: Do you happen to know exactly what that  
19 amount is?

20 MR. KAINEN: It -- it would be the 350 plus the --  
21 either the 85 or one and a quarter. Whatever that first  
22 quarter was. And Colin (ph) can probably put your -- grab the  
23 first order.

24 MR. SMITH: That's right. It was -- it was --

1 MR. KAINEN: The equalization order.

2 MR. SMITH: What had happened in simplest terms is  
3 there was an unequal amount. It was equalized --

4 THE COURT: It was -- and I -- and it was around --

5 MR. SMITH: And the party's 3 -- 350.

6 THE COURT: -- 80 some odd thousand dollars.

7 MR. KAINEN: I think --

8 THE COURT: And then I -- and I -- and I had that  
9 amount previously and I was -- I was searching through  
10 paperwork this morning trying to recap -- I -- I know I had  
11 written that down, but I don't have that --

12 MR. SMITH: If there's any additional amount above  
13 that figure, it's been paid from their own portions --

14 THE COURT: Their portion.

15 MR. SMITH: -- of --

16 THE COURT: Okay.

17 MR. SMITH: -- community property. So there's no  
18 disparity --

19 THE COURT: That's what I wanted to make sure I was  
20 clear on.

21 MR. SMITH: There's no disparity in the amount that  
22 each has received for payment of fees from the community.

23 THE COURT: Correct.

24 MR. KAINEN: That's correct.

1 THE COURT: Okay. I -- and -- and that's what I  
2 believe to be the case, but I wanted to be sure as -- as I'm  
3 looking at the issues that are before me.

4 MR. KAINEN: Yeah, and I can probably put my hands  
5 on that number in a little bit, but --

6 THE COURT: Okay. That's fine. All right. With  
7 that being said, I -- I -- just a few questions on some of the  
8 assets that have been set forth in the decrees, the competing  
9 decrees of divorce that had been offered to the Court. And  
10 some of it may just be semantics. Again, I believe I  
11 understand what the intent was with the language that's --  
12 that's been included, but just -- just to be crystal clear for  
13 me, in -- in there are some reference to -- some language  
14 suggests that each party is receiving one-half of particular  
15 bank accounts, for example, Boulder Dam Credit Union, account  
16 9005, both the savings account and the DDA -- A account, Bank  
17 of America DDA account. It says one-half.

18 I'm somewhat presuming that those amounts were  
19 already divided or have been divided.

20 MR. KAINEN: Yes.

21 THE COURT: Is that a --

22 MR. KAINEN: Yes.

23 THE COURT: -- fair --

24 MR. SMITH: Yes.

1 THE COURT: -- statement?

2 MR. SMITH: Yes.

3 THE COURT: And then -- and then there's some  
4 suggestion in some of the language I have reviewed that  
5 indicating that essentially that account would -- would -- for  
6 example, those three accounts were previously in Vivian's name  
7 and they would remain in her name as an account, but the  
8 amounts had already been divided.

9 So the account itself would be confirmed to the  
10 Defendant. The Plaintiff has already received his community  
11 property portion.

12 MR. SMITH: The Plaintiff did an accounting. As you  
13 recall, we withheld a certain amount.

14 THE COURT: Correct.

15 MR. SMITH: The Plaintiff did an accounting I think  
16 in our submission as I recall. Again, there's been a lot of  
17 paperworks and --

18 THE COURT: Right.

19 MR. SMITH: In our submission, I think we went  
20 through how we thought he got to that accounting, but once I  
21 went through it, I seem to get where that accounting was.

22 The only issue that I understand in regard to the  
23 accounts that still remains is an account that was held money  
24 that was originally paid towards medical school for the

1 party's adult daughter. And that money was released or  
2 returned to the parties when she decided not to attend medical  
3 school. And then question is over the disposition of those  
4 funds in sum. And Mr. Kainen can respite -- in sum, they  
5 argue that it was a gift. We argue we didn't agree to it to  
6 be a gift. And that's -- that is to my knowledge the only  
7 issue that remains in regard to the accounts is my  
8 understanding. There's some issues in regard to the  
9 distribution of funds and so forth, but that was the only  
10 issues regarding the accounts.

11 THE COURT: Okay.

12 MR. SMITH: Unless Ed can tell me that there are  
13 other --

14 MR. KAINEN: There -- and that wasn't an issue in  
15 dispute. That money was already transferred to the children  
16 prior to the divorce. It was not an issue in the divorce and  
17 my understanding is there was no return of the money,  
18 although, the child did not use the money from the account for  
19 -- at the time. But the transfer happened and there was never  
20 any return per se.

21 THE COURT: Okay.

22 MR. SMITH: Well, we weren't aware of any tran --  
23 well, that's the point is that we weren't aware of any  
24 transfer of the monies to the daughters. The fact I'm hearing

1 that now, our understanding was there is an account and was an  
2 account that the money was placed into from the monies  
3 received back from medical school. It wouldn't have been paid  
4 to Tawny (ph). It would have been paid to Kirk and Vivian.  
5 And so that money at some point in time was in an account and  
6 now Kirk is indicating that it was transferred, but that's --  
7 we're not aware of that fact.

8 THE COURT: Okay. Well, and -- and I believe that's  
9 something that I -- ultimately I address in the decree of  
10 divorce. So the accounts that are identified and I think this  
11 was part of the language in the Plaintiff's proposed decree of  
12 divorce reflected certain accounts that he identified as  
13 separate property accounts, the Nevada Bank & Trust account  
14 ending 2713 for example and 1275 and Wells Fargo, 8032.

15 And again, I'm somewhat presuming that those  
16 accounts were created from prior distributions and that  
17 essentially is the Plaintiff's portion. And that's why it's  
18 being labeled as separate property and I just wanted to be  
19 clear in that regard that that's --

20 MR. KAINEN: Those particular accounts are actually  
21 accounts from his parents from --

22 THE COURT: Okay.

23 MR. KAINEN: -- long prior to the marriage. But  
24 yes, the -- I don't think there's any dispute on the account



1 designation either from premarital, the few -- very few  
2 premarital assets or the -- dis -- the accounts they created  
3 with their distributions.

4 THE COURT: Okay. So and is that consistent with  
5 your understanding that -- that those accounts are separate  
6 property accounts that even if it's --

7 MR. SMITH: I wish I would have committed that to  
8 memory in terms of the numbers --

9 THE COURT: I -- and I'm know I --

10 MR. SMITH: -- of the account.

11 THE COURT: And I know I'm throwing some numbers out  
12 at you, but --

13 MR. SMITH: I -- I know that that was one of the  
14 issues that we raised and addressed in our submission as to  
15 our position in regard to those accounts and to the extent  
16 that it's raised, that would be our position --

17 THE COURT: Okay.

18 MR. SMITH: -- on that issue --

19 THE COURT: I'll take a look at that.

20 MR. SMITH: -- so --

21 THE COURT: Okay. All right. Well, like I said, my  
22 intent is to issue a decree of divorce to finalize that and --  
23 and I'll take a look at those submissions again just -- just  
24 to -- just to confirm my bearings in that regard.

1 All right. So like I said, the -- the only issue  
2 I'm going to resolve orally today relates to the motion to  
3 modify the provisions of the stipulated parenting plan. I  
4 don't know that I need any further discussion on the  
5 underlying motion for attorney's fees. All I would be looking  
6 for is something that you have not told me in the paperwork.  
7 And I would be shocked if there was something that was missing  
8 from that paperwork. So with -- with that being said, is  
9 there anything out there that you believe I need to know that  
10 you haven't previously shared with the Court?

11 MR. KAINEN: I think the briefing is covered the  
12 issue.

13 MR. SMITH: I -- I think the briefing has covered  
14 everything that I can possibly think of.

15 THE COURT: Okay.

16 MR. SMITH: If 400 pages isn't enough --

17 THE COURT: Yeah.

18 MR. STANDISH: I have a few prepared remarks Your  
19 Honor that I would like to -- oh, it's not --

20 THE COURT: I -- I -- yeah, I believe Mr. Kainen has  
21 to get to another hearing as I -- as I recall, so we'll --  
22 we'll dispense with that at -- at this point.

23 Here's where I'm at in terms of the motion to modify  
24 the terms of the parenting -- the parenting plan. And this

1 somewhat coincides with my issuance of the order appointing  
2 Dr. Linning as the children's counselor. And that's in the  
3 order that's again downstairs.

4           The -- I've read the papers and I know there are  
5 issues that have arisen as -- as it relates to the teenage  
6 discretion issue. And I've looked at the language that you  
7 included in your parenting plan that you had agreed to. And I  
8 don't necessarily interpret that language as to giving a  
9 14-year-old child carte blanche voice in determining custody.

10           To me, I view that term as fluctuations here and  
11 there in the schedule recognizing she has some level of  
12 teenage discretion, but I'm not inclined to interpret as -- as  
13 part of this Court's order as allowing her to dictate where  
14 she lives and what the custody arrangement's going to look --  
15 look like.

16           The terms also specifically refer to -- the terms of  
17 your parenting plan refer to the involvement of a counselor.  
18 And the involvement of a parenting coordinator as part of this  
19 process, both parties recognize the need to have a counselor  
20 involved and to have a parenting coordinator involved. There  
21 has been a lot of debate and discussion about who the  
22 parenting coordinator should be and what the language should  
23 look like in terms of the order appointing the parenting  
24 coordinator and both sides submitted competing orders in that

1 regard. And I've had the chance to review those competing  
2 orders.

3 Part of that has entailed also inspecting and -- and  
4 really analyzing the form order that was generated for this  
5 Court, comparing that form order to statutes of other states  
6 that actually specifically reference parenting coordinators  
7 which Nevada does not have a specific statute on point,  
8 comparing parenting coordinator orders from other states and  
9 looking at how they approach the issue and coming up with a  
10 form that -- that recognizes your parenting agreement in which  
11 you specifically agreed that a parenting coordinator would  
12 resolve disputes between the two of you. And I have reviewed  
13 -- and I view that process as twofold, resolve disputes by way  
14 of mediation and where mediation is not successful to make  
15 recommendations.

16 So the order that I issued regarding the appointment  
17 of a parenting coordinator is much different than the form  
18 order and it's not necessarily consistent with the -- the  
19 proposals that either party submitted in terms of that  
20 authority. I view it more as a strict recommendation process  
21 with this Court maintaining the -- the ultimate decision  
22 regarding those issues with recommendations being issued by  
23 the -- the parenting coordinator.

24 Not even having reports issued by the parenting

1 coordinator, I'm not really interested in that. This is a  
2 process of mediation and then perhaps recommendations may be  
3 issued if mediation is not successful.

4           There was not a lot of debate and discussion  
5 regarding the appointment of a counselor. And that is  
6 something that -- that was again expressly contemplated in  
7 your stipulated parenting agreement. It's something that has  
8 -- that we've lost 18 months or so since you agreed that it  
9 was in the best interest of your children to have a -- have a  
10 counselor. 18 months have slipped by and we're running into  
11 problems. And perhaps that shouldn't be surprising given the  
12 totality of circumstances that exists that we are confronting  
13 issues now with teenage discretion. But we haven't even got  
14 -- got off the ground in terms of having a counselor  
15 designated.

16           And so although I understand the debate and  
17 discussion about the language of a parenting coordinator order  
18 and who the parenting coordinator should be and what  
19 qualifications and background and discipline that parenting  
20 coordinator should have, the bottom line is a counselor is --  
21 is critical in this situation. And I'm not inclined to make  
22 any changes to your parenting plan at this point in time given  
23 the fact that it hasn't been fully performed with the  
24 involvement of a -- a counselor for the children to get

1 involved and provide some assistance, most specifically for  
2 your children. And that was -- that was the intent.

3 THE COURT: So both parties have asked for relief by  
4 way of the motion filed by the Plaintiff and the countermotion  
5 by the Defendant to address custody issues and perhaps set  
6 even further proceedings and even have the children  
7 interviewed. And I'm not inclined to go down that path on  
8 either side. I want the process that the two of you agreed to  
9 as in the best interest of your children to unfold the way you  
10 intend it. And it's -- we've been at a stalemate for 18  
11 months. And I'm not going to entertain any changes to the  
12 underlying custody arrangement or schedule or the terms you  
13 agreed to as far as teenage discretion without allowing that  
14 process some time to work.

15 And so I've appointed the counselor. I've appointed  
16 the parenting coordinator. It's Margaret Pickard. If you --  
17 again, if you haven't received that order who has some legal  
18 background, that was not a name that was included on either  
19 party's list. So --

20 MR. SMITH: So Pickard is the parenting coordinator  
21 and Linning is the --

22 THE COURT: The -- the counselor. So I want to see  
23 the process work and I'm not -- so the motion to -- to modify  
24 the parenting plan by dealing with the teenage discretion

1 issue and the countermotion to review custody and to have the  
2 children interview both the motion and the countermotion are  
3 denied. So with that being said, really the only other issue  
4 is relate to the attorney's fees that have been -- the  
5 attorney's fees issue that's been extensively briefed for the  
6 Court and I'll issue a written order in that regard.

7 MR. SMITH: Thank you. The only thing we would ask  
8 is if there are anything that we can offer to clear anything  
9 up that you saw in the -- the briefing of the attorney's fees  
10 issue?

11 THE COURT: No, I -- I -- like I said, the -- the  
12 one issue is I -- I wanted to make sure I had a clear  
13 understanding of what was paid --

14 MR. SMITH: All right.

15 THE COURT: -- that was expressly earmarked for  
16 attorney's fees. It was my understanding that it was an equal  
17 amount and that anything above that amount was paid from each  
18 party's respective portions of the division of community  
19 property. So and I -- at -- at some -- at one point and  
20 there's a piece of paper in here somewhere where I've written  
21 that down, the \$80,000 amount.

22 MR. SMITH: Okay.

23 THE COURT: And if I have to review a hearing again,  
24 I can do that.

1 MR. KAINEN: And it's actually in excess of that  
2 just so you understand, because there was pre --

3 THE COURT: Right. There was a prior amount.

4 MR. KAINEN: They were -- they were made -- and  
5 monies were paid to Mr. Dickerson. Monies were paid to Mr.  
6 Smith. Monies were paid to my firm and I think Mr. Standish.  
7 And what happened was is that at the time we came in in  
8 addition to that, there was a difference and that's what the  
9 80,000 --

10 THE COURT: The 80 --

11 MR. KAINEN: -- represented --

12 THE COURT: Right.

13 MR. KAINEN: -- was an equalization to that point.

14 THE COURT: Right.

15 MR. SMITH: And Judge, the -- have you included the  
16 cost in I think those numbers? I think you have in ours. I'm  
17 not sure that they -- they did include the costs in theirs,  
18 but I don't know what their costs were.

19 THE COURT: In terms of what's been paid?

20 MR. SMITH: Yes.

21 THE COURT: Well, no. I have separate breakdowns  
22 for costs, but here -- what I've done --

23 MR. SMITH: Expert fees and the like.

24 THE COURT: I -- I've prepared spreadsheets that



1 detail on both sides costs and fees that have been incurred --  
2 billing statement by statement for -- for every attorney  
3 involved in the case. And that -- that includes Mr.  
4 Dickerson's fees, Mr. Smith's fees, Mr. Silverman's fees. And  
5 I have a separate column for costs as well.

6 MR. SMITH: The only reason I -- I ask that is  
7 because on our -- in a couple of instances for -- for experts,  
8 we actually from the firm would pay the costs and then the  
9 client would reimburse those costs. So I just want to make  
10 sure that that was caught as costs as opposed to fees, that's  
11 all. It's not a tremendous amount, but it's -- there is that  
12 issue.

13 MR. KAINEN: I think that happened on both sides. I  
14 mean, there was --

15 MR. SMITH: Yeah, but I just want to make sure that  
16 that distinction was made. In other words, there may be for  
17 example, if you just took the bottom line as to what the  
18 expenses were paid to the attorneys, that would be -- that  
19 would include the --

20 THE COURT: No, I understand.

21 MR. SMITH: -- the costs.

22 THE COURT: Right.

23 MR. SMITH: We break that down.

24 THE COURT: No, the -- the amounts that I had

1 previously read, the -- the 686,000 for the Defendant, that --  
2 that included -- that encompassed both fees and costs.

3 MR. SMITH: Okay. That's what I thought.

4 THE COURT: I and I understand that.

5 MR. SILVERMAN: Okay. Good.

6 THE COURT: The -- the -- when I -- when I dissected  
7 the amount of fees and costs incurred as opposed to the  
8 amounts paid --

9 MR. SMITH: Yes.

10 THE COURT: -- I had more of a breakdown of what  
11 those fees and costs were. And -- and again, I'm -- it --  
12 it's apparent from what you're indicating the total amount  
13 that was paid with -- with amounts distributed for fees  
14 specifically --

15 MR. SMITH: Right.

16 THE COURT: -- was an equal amount.

17 MR. SMITH: That's right.

18 THE COURT: Any -- any other amounts paid whether it  
19 was for fees or costs that weren't any separate distributions  
20 that the two of you agreed to pay experts that's different  
21 from the amount that you paid, the -- the equal amount that  
22 you represented that was -- was distributed to both sides? Is  
23 that accurate? Were there any independent -- independent  
24 distributions that you agreed to for the payment of any cost

1 to experts?

2 MR. KAINEN: No. No. But there were independent  
3 distributions to each of the parties that they bought real  
4 estate with or, you know --

5 THE COURT: No, I --

6 MR. KAINEN: -- made purchases.

7 THE COURT: -- I understand.

8 MR. SMITH: There were -- there were -- I believe  
9 that there also additional costs that Ms. Harrison paid  
10 directly. For example, I believe that you paid directly  
11 certain costs to Ms. Antanasio.

12 MS. HARRISON: Yes.

13 MR. SMITH: Antanasio. And also cost to -- I think  
14 it was one other --

15 THE COURT: Well, but again, that would have come  
16 out of her portion.

17 MR. SMITH: That would have been referenced --

18 THE COURT: No, and -- and that's fine. I -- I just  
19 feel -- I -- I just want to make sure I understand the  
20 dynamics of what the source of payment --

21 MR. SMITH: You do.

22 THE COURT: -- was.

23 MR. SMITH: You do.

24 MR. KAINEN: I -- I think you did.

1 MR. SMITH: It was just everybody got the same -- in  
2 other words, everybody ended up with an equal division of --  
3 of all the monies because any -- it was all accounted for in  
4 terms of any distributions.

5 MR. KAINEN: Yes.

6 THE COURT: What I would like to know then is if --  
7 and -- and I'm not sure if this is going to be evident in the  
8 hearing. I know the 80 somewhat thousand dollar was an  
9 equalizing payment. I don't recall if there was a specific  
10 representation at that time as to the amounts that had been  
11 paid up to that point. I -- and maybe it was included in the  
12 hearing.

13 MR. KAINEN: It was. It was in the -- it was in the  
14 hearing. We discussed it at the time and it was in the  
15 briefing is my recollection. If you want, we can certainly  
16 get you those numbers probably within a day or so, say what  
17 was paid to that point and how -- and how the equalization  
18 claim and fraud would equal and then the additional payment.

19 THE COURT: Well, that's -- that's the one piece of  
20 information that I guess I want to be clear on and --

21 MR. SMITH: Okay.

22 THE COURT: -- and if you can provide me with that  
23 number, then total amount including the \$350,000 that was  
24 distributed at that February 24th hearing, I -- I thought it

1 would have been at that February 24th hearing that we had that  
2 discussion.

3 MR. KAINEN: It would have been. Well, whatever --  
4 whenever we -- the -- the day -- it was the first hearing we  
5 really agreed on the distribution of money. It was the day we  
6 had the discussion of Rad's bill and there's a debate about  
7 that. And we got it all into that and it was at that point we  
8 agreed that this much had been paid, this was the difference  
9 and this was the amount to be paid and then an additional 350.  
10 So that hearing will have the numbers --

11 MR. SMITH: The only -- the only --

12 MR. KAINEN: -- and we can find it.

13 MR. SMITH: The only thing I can't remember is  
14 whether or not at one point in time Vivian had prepared an  
15 outline of the fees that she had spent on Bob Dickerson and  
16 how she had spent that from the money that had been divided.  
17 I think that was encompassed in the overall distribution.  
18 They'll have to check. I think it was.

19 MR. KAINEN: I don't think we have numbers from Bob.  
20 So I -- I mean, my recollection at the time was that the only  
21 numbers that were on the table in play at that point were --  
22 because they're going to pay Bob from community money. They  
23 only had community money at that point.

24 MR. SMITH: Right.

1 MR. KAINEN: So that money was not factored in as my  
2 recollection. It was simply a matter of Kainen and Standish  
3 had gotten this amount. Smith and Silverman and -- had gotten  
4 this amount and this is what the difference. But the briefing  
5 will say and we can reference the briefing. And I don't think  
6 this -- I don't think this is a matter that's really to be  
7 subject to dispute as to what happened.

8 MR. SMITH: Again, I -- I don't have a specific --

9 MR. KAINEN: It's just a little bit of ancient  
10 history.

11 MR. SMITH: -- recollection of that.

12 MR. KAINEN: That's all.

13 THE COURT: Well, when you say the briefing, are you  
14 talking about these motions that are present --

15 MR. SMITH: No. No. No. Briefing.

16 MR. KAINEN: No. No. No.

17 THE COURT: Because I don't --

18 MR. KAINEN: The -- the original --

19 THE COURT: I don't recall -- I --

20 MR. KAINEN: The original briefing --

21 THE COURT: Okay.

22 MR. KAINEN: -- back at the beginning.

23 THE COURT: Because I was going to say, I don't  
24 recall. Seeing a specific discussion of these amounts and

1 what -- I just -- and the papers filed for this hearing.

2 MR. SMITH: Right. The -- the -- what I'm  
3 referencing is that when we distributed money early on, Mr.  
4 Harrison wanted to buy some portion of the ranch and that  
5 money was distributed and there was a -- it was -- there was  
6 money distributed on three separate occasions. We believe  
7 that with the money that -- that Mrs. Harrison received during  
8 that period of time she paid some attorney's fees. So those  
9 were an individual payment, not from the community. But I --  
10 again, I would have to go back to the --

11 MR. KAINEN: But that would be irrelevant, because  
12 once money was distributed, it filled the -- the hole that was  
13 created by that. So --

14 THE COURT: Well --

15 MR. SMITH: No, it wouldn't be irrelevant, because  
16 it would be the monies that she used -- she had separate  
17 property and paid instead of community.

18 THE COURT: Here -- here's what I'm looking for is I  
19 -- I just want the total amount that was paid, earmarked  
20 specifically for the payment of fees including the equalizing  
21 amount. I've got the \$350,000 amount. The equalizing amount  
22 I remember was in the \$80,000, between 80 and \$90,000. But I  
23 don't -- I don't recall seeing or hearing a specific number as  
24 to what -- what had been paid, specifically earmarked for

1 attorney's fees up to that point in time.

2 MR. KAINEN: That's fine.

3 THE COURT: Okay?

4 MR. KAINEN: That's fine.

5 THE COURT: With that, are there any other questions  
6 or issues?

7 MR. KAINEN: A quick one. Just do you have a time  
8 frame -- I guess one is the time frame on the decree and the  
9 order for attorney's fees. That's one and two.

10 THE COURT: The decree, hopefully in the next day or  
11 two.

12 MR. KAINEN: Okay.

13 THE COURT: The order -- the order on attorney's  
14 fees, again, it's just a matter of I want to make sure that I  
15 have a chance to review all the exhibits and the -- the papers  
16 and -- that had been filed.

17 I -- I will say this. And both sides have filed  
18 points and authorities that well exceed the 30 page limit.  
19 And -- and I've allowed it. And -- and part of that's my  
20 fault and I recognize that. And at the outset of this case,  
21 because of the nature of the issues, I -- I felt it was  
22 important to allow the parties to provide me with as much  
23 information as possible. And I have to put up with reading  
24 that information.



1 But it has been excessive at -- at this point in  
2 time and for future reference, any papers filed from this  
3 point forward, unless you have specific leave of the Court to  
4 file something, appoint some authorities in excess of 30  
5 pages, I will strike the document. I'm not -- I'm allowing it  
6 up to this point in time because it would be inequitable for  
7 me to start piecemeal striking certain documents. I -- both  
8 sides have -- have filed documents in -- in excess of that.

9 So I am reading it. I'm reading all of the pages  
10 that have been filed. I have -- like I said, I've -- I -- I  
11 have not reviewed all the exhibits, but not that I'm  
12 encouraging you to ever come back to Court again, but I have  
13 this sneaking feeling there may be papers filed down the road,  
14 who knows, maybe not. I -- I hope not and I --

15 MR. KAINEN: And the only reason I'm asking on this  
16 is that -- on the time frame, I just have this gut feeling  
17 that at some point there may be some appellate kind of things  
18 that are going to happen in this case. And so I'm trying to  
19 see if we're going to be within the -- the appellate time  
20 frame on the decree for the attorney's fees award so we're not  
21 separating that now is really the -- the question.

22 THE COURT: Oh, okay. I -- I wish I could commit to  
23 a time.

24 MR. KAINEN: Okay.

1 THE COURT: I just --

2 MR. KAINEN: All right.

3 THE COURT: There's a lot of me to review and I wait  
4 -- I want to make sure I cover it all.

5 MR. KAINEN: The -- the other question I had was  
6 just given the Court's order sort of denying all the custody  
7 related motions. Is there a method -- in other words, if you  
8 give me everything in place, a method for dealing with the  
9 sort of -- how to get the enforcement of Paragraph 6 of this  
10 teenage discretion order? It talks about talking to the kids  
11 and keeping them out of it and doing that kind of stuff like  
12 that. And so how does the Court want to deal with?

13 THE COURT: Well, at -- at the outset, I think the  
14 protocol has already been defined somewhat by the parties and  
15 inviting the participation of a parenting coordinator and a  
16 counselor. And that's why I -- I indicated I -- I'm not here  
17 to lay out a protocol as to what needs to happen. The orders  
18 are what they are, but I -- I want to see what you agree to  
19 put in place. And bef -- you know, we haven't -- we didn't  
20 even have a counselor appointed which I didn't see a lot of  
21 discussion and debate between the parties --

22 MR. SMITH: Your Honor, look, we --

23 THE COURT: -- and --

24 MR. SMITH: -- we had complied with the terms of the

1 decree by submitting the names of these people long ago. It  
2 just was stonewalled. And --

3 THE COURT: Well --

4 MR. SMITH: And in regard to the -- I'm glad we have  
5 them now in place, but the underlying problem will probably  
6 still exist and that is at this point without the counselor  
7 and -- and as you saw from my letter too it describing this  
8 process and why we were putting this in the agreement. We  
9 indicated that we wanted Kirk to have an opportunity through  
10 counselor and through PC to address the problems that existed  
11 with the child at that time.

12 Now we're a year later and those problems have not  
13 dated. And so we're -- we're anxious to start this process,  
14 but I think it's an -- you know, we're -- we're concerned that  
15 the child won't be interviewed and the child wants a voice in  
16 this process. She thought she was going to have one.

17 MR. KAINEN: Well, how would she even think that?  
18 How would she know that she would --

19 MR. SMITH: Because she's stayed --

20 MR. KAINEN: -- even have a right to do that?

21 MR. SMITH: Because she's testified or she's made a  
22 statement to Dr. Paglini. She thought that statement would be  
23 heard. We had requested for this family's sake that Dr.  
24 Paglini's findings be given to them without any use in the

1 court proceeding. We've always proceeded in a manner that was  
2 designed to help these parties resolve these disputes. And in  
3 this particular problem has existed since the time of the  
4 filing of the original motion and the children have stated  
5 that they wanted to be with Mrs. Harrison.

6           So that problem I don't know is going to be  
7 ameliorated by the process that now as -- as you pointed out  
8 18 months late. And so I state that just as a matter of -- of  
9 our concern is that without an interview and without  
10 understanding really the nature of this, and we haven't asked  
11 and I think our -- our motion was very carefully about this.  
12 We haven't asked for a change of custody. We've only asked  
13 that the Court have an interview, allow the children's voices  
14 to be heard and address whether or not there is any necessity  
15 to change the current hearing plan from those interviews.

16           Certainly, the -- the process that we described in  
17 the parenting plan, the teenage discretion process, was in  
18 addition to whatever discretion the Court had in regard to  
19 these matters. But this now has come to a head --

20           THE COURT: No. I -- I --

21           MR. SMITH: -- and so --

22           THE COURT: I don't need a child interview. I --  
23 the less I can embroil a child in this process, ultimately the  
24 better I feel a child is insulated from this process. The

1 parties agreed that it was in the best interest of the  
2 children to exercise joint physical custody. I don't want  
3 this to become a situation where it's just a matter of time  
4 and as soon as you turn 14 you get to decide where you want to  
5 live. That's -- that's not how it works and under NRS  
6 125.490, there is a presumption now because you agreed to  
7 joint physical custody, there is a presumption that joint  
8 physical custody is in the best interest of the children.

9 And to overcome that, I -- I don't find -- let's say  
10 an interview came forward and that's -- that's what I hear,  
11 that there's a desire to -- to live primarily with Mom. If --  
12 if that is -- I -- I find -- I would be hard pressed to find  
13 that the expressions standing along of a 14-year-old child  
14 would be sufficient to overcome that presumption.

15 MR. SMITH: And -- and that we --

16 THE COURT: That's why I don't need it.

17 MR. SMITH: Actually, there's no dispute on that. I  
18 think the parties -- neither party disputes that she is now at  
19 that point that she desires to be with Vivian. Mr. -- I mean,  
20 that's -- that was the nature of the reason of he wants to  
21 deny her the teenage discretion. The point is --

22 MR. KAINEN: And that's just a misrepresentation.

23 MR. SMITH: -- we need to hear what the child has to  
24 say, because we're really concerned. We attached the email

1 that she sent to Vivian about what was going on with her.  
2 She's now being bombarded by the adult children. She's now  
3 being told that she's wrong for wanting to spend time with  
4 Vivian, because that's an abandonment of Rylee. That wasn't  
5 even tried to be masked even in the pleadings that were before  
6 the court.

7 And then there's the -- the you wouldn't care if I  
8 die tomorrow and the effect that that had upon Rylee arising  
9 from that circumstance. So our concern isn't so much that the  
10 child needs to determine where she wants to -- to be with the  
11 parties.

12 Our concern is this behavior needs to be faired out.  
13 Mr. Harrison has repeatedly indicated that the child's  
14 perception of what's going on is inaccurate and that she  
15 doesn't know she's being influenced improperly. To me, that  
16 undermines the very process that we're talking about is giving  
17 the child some understanding and some voice in this process so  
18 that she can avoid the kind of pressure that's being placed on  
19 her.

20 I just see this as -- as an overall bad situation  
21 that I think a little knowledge would go a long way. Now the  
22 Court I think may get that knowledge through the therapist and  
23 through -- and whatever discussions occur at the PC level.  
24 But again, Your Honor, that was the purpose for us asking for

1 an interview and -- and we do think this is a concern. I'm  
2 not going to be remiss by not presenting that to the Court on  
3 behalf of my client.

4 THE COURT: Okay. Well, and -- and it's so noted as  
5 I indicated before. I'm not -- I'm not inclined to have any  
6 child interview conducted at this point. So Mr. Standish, did  
7 you want to offer something?

8 MR. STANDISH: Let me just say that I'm confused by  
9 Mr. Smith's remarks. First of all, they're totally inaccurate  
10 and they don't state the facts of this case at all. And if we  
11 were to argue this right now, we would make a very strong case  
12 for the kind of unbelievable pressure that this lady puts on  
13 her children and the very fact that her 14-year-old would  
14 trump it out the day after her birthday that she wants to live  
15 with Mom is an indication what Mr. Kainen was just saying  
16 which is this lady is violating the local rule about talking  
17 to her children about this. She's constantly talking to them  
18 about it and programming them.

19 But the point is they don't need a child interview  
20 at all. This therapist is going to interview these children  
21 every single time she sees them. She is going to get to know  
22 them. The therapist will be in control. And the only  
23 questions that I have are we may need to supplement whatever  
24 order you enter to make sure that it's plain to both parties

1 that the therapist will be able to call -- I assume Your Honor  
2 would want the therapist to be able to call the frequency of  
3 sessions and who would attend sessions and maybe even who  
4 should bring the children to sessions. I mean, I -- I --

5 MR. SMITH: It's continuing the agreement, isn't it?

6 MR. STANDISH: I hope so. I mean --

7 THE COURT: Yeah, I -- I --

8 MR. SMITH: I believe it is.

9 MR. STANDISH: I mean --

10 THE COURT: -- mean, to -- to be clear and -- and  
11 that's not my -- my function or role to -- to create an  
12 arbitrary time frame or -- or set appointments. It would be  
13 completely up to the therapist to determine the frequency and  
14 participation in those sessions.

15 And also to be clear, the ther -- the -- the  
16 children's counsel, Dr. Linning, is intended for therapeutic  
17 purposes. She's not an evaluative arm of the Court. I'm not  
18 looking to her -- as much as she will be conducting child  
19 interviews, her purpose is for therapy and -- and not for  
20 evaluative purposes. So I'm not requesting any type of  
21 reports from the therapist, just as I indicated, I'm -- that  
22 the parenting coordinator order that you're -- that you'll --  
23 you'll see is not intended to invite reporting and -- and to  
24 have periodic reports provided to the Court. That's not how I



1 review the process -- view the process. It's to attempt to  
2 mediate and to make recommendations, to make decisions. So  
3 it's not just for mediation purposes. There is a  
4 recommendation component and that's outlined in the terms of  
5 the parenting coordinator order.

6 MR. SMITH: And that -- and that's -- what you just  
7 described is exactly how it was envisioned. This is how Mr.  
8 Standish and I negotiated this to be in that the therapist  
9 communication would be with the PC so as to avoid having the  
10 therapeutic role disintegrate.

11 THE COURT: Right.

12 MR. SMITH: And in fact, we were very clear and I  
13 think the agreement says this, I don't have it right in front  
14 of me, but I think it -- it has very -- and it has those  
15 limitations in it about direct contact by the -- the parents  
16 and about how the process would occur. In fact, again, I  
17 thought it was sort of a model provision that was crafted for  
18 that purpose. And the Court has approved that and -- and  
19 we're happy about that.

20 THE COURT: Okay.

21 MR. KAINEN: This -- I started us down this road.  
22 My question was simply to the extent you're not striking this  
23 parenting coord -- I'm sorry, this -- the teenage discretion  
24 order --

1 THE COURT: Right.

2 MR. KAINEN: -- can we expect to have Paragraph 6

3 which is the restriction on the parents enforced?

4 THE COURT: Absolutely. They're still orders of the

5 Court.

6 MR. SMITH: Thank you, Your Honor.

7 THE COURT: Okay. With that being --

8 MR. KAINEN: I prepare an order from today's

9 hearing.

10 THE COURT: Okay.

11 MR. KAINEN: Send it to Mr. Smith and we'll fight

12 about that for a few months and then we'll come up on your

13 desk.

14 THE COURT: Okay. And then both sides will be

15 supplementing that -- the -- the --

16 MR. KAINEN: On the attorney's fees. And I think we

17 --

18 MR. SMITH: Okay. And here's --

19 MR. KAINEN: -- maybe we can do it jointly.

20 MR. SMITH: And here's what I don't want and this is

21 what we run into all the time is this notion that there's

22 going to be a special finding that Paragraph 6 will be

23 enforced in this issue.

24 MR. KAINEN: No, I was going to just prepare an

1 order that said that both motions were denied.

2 MR. SMITH: That would be --

3 THE COURT: That's fine.

4 MR. SMITH: -- perfect.

5 THE COURT: Okay.

6 MR. SMITH: Thank you.

7 THE COURT: All right.

8 MR. SMITH: Your Honor, can I approach on a  
9 different matter --

10 THE COURT: Yes.

11 MR. SMITH: -- for one second?

12 (PROCEEDINGS CONCLUDED AT 11:06:16)

13 \* \* \* \* \*

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

17

18

*Adrian Medrano*

19

Adrian N. Medrano

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1 **TRANS**

**FILED**

**JUN 12 2014**

*Ann L. Johnson*  
CLERK OF COURT

**COPY**

**EIGHTH JUDICIAL DISTRICT COURT**

**FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

9 KIRK HARRISON, )

10 Plaintiff, )

11 vs. )

12 VIVIAN HARRISON, )

13 Defendant. )

CASE NO. D-11-443611-D

DEPT. Q

**(SEALED)**

14  
15 BEFORE THE HONORABLE BRYCE C. DUCKWORTH  
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 WEDNESDAY, MAY 21, 2014

18 APPEARANCES:

19 The Plaintiff:  
20 For the Plaintiff:

KIRK HARRISON  
EDWARD KAINEN, ESQ.  
10091 Park Run Dr., #110  
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22 The Defendant:  
23 For the Defendant:

NOT PRESENT  
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1 LAS VEGAS, NEVADA

WEDNESDAY, MAY 21, 2014

2

P R O C E E D I N G S

3

(THE PROCEEDINGS BEGAN AT 10:45:50)

4

5

6

THE COURT: We are on the record in the Harrison matter, case D-11-443611-D. Please confirm your appearances.

7

8

MR. KAINEN: Your Honor, Ed Kainen, 5029, on behalf of Kirk Harrison who is present to my right.

9

10

11

12

13

THE COURT: Good morning.

MR. SMITH: Radford Smith, 2791, on behalf of Mrs.

Harrison. Mrs. Harrison is attending Rylee's presidential

award. If you get straight As, straight Es and complete there

-- there's another --

14

15

16

17

THE COURT: Right.

MR. SMITH: -- award sheets. You get a presidential

award. And so she's receiving that this morning. So she may

come in late.

18

19

20

THE COURT: Okay. No Mr. Standish or Mr. Silverman.

MR. KAINEN: No, we're in the money saving phase of

the case.

21

22

23

24

THE COURT: Okay. All right. Now this is the time

set for a hearing on Plaintiff's motion. I've had the chance

to review the writ to read the motion, the opposition and

countermotion, the Plaintiff's reply and opposition and the

1 Defendant's reply. Have any issues been resolved at this  
2 point in time?

3 MR. KAINEN: No, Your Honor.

4 THE COURT: Well, the issues are for the most part  
5 have been thoroughly briefed in the papers that have been  
6 filed with the Court. I just have a few questions.

7 MR. KAINEN: May I move to just -- the reply brief  
8 that was filed last night was night a reply on the attorney's  
9 fees which is the only thing that would been a reply. It was  
10 a rebrief of the substantive motion which is not really the  
11 purpose of that briefing. So it became a chance to use that  
12 brief in a way that it's not intended by the rules and I would  
13 move to strike that briefing.

14 THE COURT: Okay.

15 MR. SMITH: We disagree. The brief, and I was  
16 specific in my focus in that brief on things that I thought  
17 were misstated or bad faith. Those are considerations and the  
18 consideration of attorney's fees sanctions and the like.

19 THE COURT: Okay. All right. I -- and I'll address  
20 that. I did have some questions I wanted to start off with,  
21 because one of the issues as it relates to -- and I emphasize  
22 at the outset that I'm dealing with an order that was  
23 stipulated to by the parties and -- and I'm going to read  
24 portions of that as part of the record today. It was -- the

1 terms of that order, a parenting agreement order were not  
2 created by this Court. It is my order. I signed off on it.  
3 So it is my language, it is my order and I have -- I approved  
4 it and I generally do not stand in the way of two parents  
5 coming up with common terms that they believe are in their  
6 children's best interest. So is it a stipulated order and the  
7 two provisions that we're talking about today include the  
8 teenage discretion provision and references to the parenting  
9 coordinator.

10           My reading of the motion, and we have had other  
11 motions dealing with the teenage discretion issue, references  
12 a specific incident that occurred with Brooke in February of  
13 this year when that provision essentially was invoked by  
14 Brooke. Although the reply does reference in a footnote the  
15 two other occasions in which that provision was exercised that  
16 predate the most recent hearing when we had this issue, that's  
17 the only incident that I've read. Have there been other  
18 incidents that have not been specifically identified?

19           MR. KAINEN: Yeah, it's a very grey area and let me  
20 try and explain this as articulate as I can. Is there -- the  
21 -- we've described through the incidents as when there has  
22 been the effect of this is where I'm going, I'm going there,  
23 this is the way it's going to be and -- and the -- and some  
24 sort of changes effectuated by that provision are the -- the



1 presence of that provision.

2           The real problem is that it invades a lot of the --  
3 it's the -- it invades -- the existence of that provision  
4 invades the day-to-day dynamic in my client's household,  
5 because it shifted the balance. In other words, Brooke has a  
6 sense that things will be done her way now or she gets to play  
7 her trump card. So it effects my client's planning, my  
8 client's traveling. It effects the plans that he makes with  
9 the younger -- with Rylee. It effects all of that because  
10 there's -- there is this undercurrent and this implied threat  
11 -- and the express threat at times that well, this is going to  
12 go my way or I'm going to do this.

13           THE COURT: But the inference in that paperwork is  
14 that this is a provision that is -- the term is -- that's used  
15 is regularly, that it's regularly invoked, that there is a  
16 pattern where Brooke is regularly --

17           MR. KAINEN: We've --

18           THE COURT: -- exercising her teenage discretion.

19           MR. KAINEN: We described for you the incidences  
20 when there has been -- where it has risen to the level of an  
21 actual exchange in the conflicts attended to that. When the  
22 actual -- the regularly -- the reference, in other words,  
23 we've given you the incidents over time that have occurred.  
24 It comes up on a daily or near daily basis in terms of how the

1 dynamic in the house happens. I will do X or I will do Y.

2           That's the concern is that it affects the way this  
3 -- in other words, the -- what we have here at least in my  
4 client's home and we've never hear anything different in Mrs.  
5 Harrison's home is that this is a child who believes because  
6 of what she's been told that she's in power to control how  
7 this happens. So that sort of like when my client can say to  
8 her look, we're -- she says I would like to stop by Mom's  
9 house and pick up some stuff after school which is almost a  
10 daily basis -- you know, daily kind of thing. It goes in  
11 there.

12           If he says to her, you know, look, you know, when  
13 you come to my house to get things or whatever is you're in  
14 and out in three or four minutes. When you go in there,  
15 you're in there 40 minutes while you leave in the car. That's  
16 inconsiderate -- it's sort of like well, then I'll just stay  
17 longer. I won't go at all, you know, or I won't come back or  
18 I'm just going to stay there. I mean, it's that kind of  
19 stuff.

20           So he has been -- has his wings clipped in terms of  
21 his ability to parent a 14-year-old child because of the fact  
22 that the mother has told this child that this child is  
23 empowered to control where she goes and when she goes because  
24 she has discretion.

1 THE COURT: Well, let you ask you a question,  
2 because the interpretation that the Plaintiff is advocating is  
3 that the 14-year-old child, I think the language -- quote, the  
4 14-year-old can make a request of a parent, that that's how  
5 he's defining teenage discretion, can make a request of the  
6 parent. So let me just ask.

7 MR. KAINEN: Sure.

8 THE COURT: If we go back to this incident that  
9 appears to be kind of a strike point that occurred because the  
10 children are taken to Mom's house. Interestingly, the decree  
11 -- or the parenting agreement never calls for exchanges except  
12 when school's not in session to take place at either parent's  
13 home and for a good reason. It takes place at school which I  
14 think is a wise choice because you create -- problems are  
15 created when you go to the other parent's house. And I get  
16 that and I get that the fact -- that I get the fact that  
17 sometimes kids want to go pick something up at the other  
18 parent's house.

19 But say that didn't even occur, because that  
20 obviously created an issue. And even an underlying motion  
21 suggests that because the girls were in the house for 30  
22 minutes, it created some frustration by Dad. And he -- it  
23 appears from what I read that frustration came out in  
24 conversation with Brooke and Rylee presumably I believe was in

1 the car as well.

2           So then the issue and concern because well, Brooke  
3 is acting now retaliatory because she said she wanted to spend  
4 the following night with Mom. And she's -- we have this  
5 disagreement and now she's using this perversion as a tool of  
6 power.

7           Remove that incident. Say Brooke had come to Dad  
8 without any type of prompt and said look, you know, I've got  
9 this dental appointment Friday morning and Mom always takes me  
10 to the dentist and I just felt -- I felt comfortable going to  
11 the dentist with Mom. I'd like to spend the night with Mom  
12 Friday -- Thursday night so Friday morning I can go to the  
13 dentist. How would that be viewed by Dad in that limited  
14 context without this whole episode of waiting 30 minutes and  
15 being upset and there being some frustration and anger?

16           MR. KAINEN: I don't know. It requires creating  
17 facts that didn't exist and something that didn't happen.

18           THE COURT: Right. But they're similar facts. I'm  
19 just saying --

20           MR. KAINEN: No. No. I understand. I think if you  
21 had this -- if you had these facts in the abstract, in other  
22 words, you didn't have this dynamic shift by this child being  
23 empowered by her mother to do what she wants and she controls  
24 it and you had just a situation of either two parents who had

1 custody and this is it and the child says, you know, hey, you  
2 know, I like to spend an extra night with Mom, I think Dad  
3 picks up the phone and says hey, Vivian, you know, Brooke  
4 would like to spend the night with you. Do you have a  
5 problem with that or she would like to go with you. And  
6 hopefully they work it out themselves or whatever. Or maybe  
7 it goes in down the road -- you know what, how about I give  
8 you this night and I take this other night because I would  
9 like to do something or whatever it is. Or they work out  
10 whatever is.

11 THE COURT: Well --

12 MR. KAINEN: But that doesn't exist here.

13 THE COURT: Well, listen. And that is the ultimate  
14 in co-parenting right there. That's being co-parents. But  
15 then my followup question is okay, that same scenario in that  
16 same paradigm where the interpretation is a 14-year-old can  
17 make a request, how is it any different if a 12-year-old child  
18 did the exact same thing?

19 MR. KAINEN: It means --

20 THE COURT: I've got a dentist appointment, Dad, I'm  
21 12.

22 MR. KAINEN: Yeah.

23 THE COURT: I would like to spend the night. How is  
24 --

1 MR. KAINEN: In the --

2 THE COURT: How is it any different?

3 MR. KAINEN: The difference in this case is the  
4 dynamic that's been created by this child being empowered. In  
5 other words, you're absolutely right. If this -- envision  
6 this if you would if this whole provision wasn't there or if  
7 this provision had been interpreted as was initially, in  
8 others, as every other line in that provision talks about  
9 which is just simply a request. Okay. Then it would be what  
10 happens in most places which is sort of what ironically back  
11 to sort of the affidavits what Tom had said to Kirk way back  
12 in the end well, this is what happens anyway when people work  
13 things out and all that. So it really doesn't say anything.  
14 You consider what your kids say and all of those kind of  
15 things.

16 I mean, the problem here is no longer the language.  
17 I mean, I -- believe me, there should be one interpretation  
18 and not this other interpretation. But the problem is is that  
19 we can't unring this bell that a 14-year-old has been told and  
20 treats her father as if she is the one who makes these  
21 decisions and if Dad doesn't agree, then there's a consequence  
22 or if there's -- you know, if there's homework or whatever --  
23 and whatever -- and I'm just -- I'm making up the homework  
24 part. I mean, I'm just trying to saying -- I'm sort of

1 drawing on my own house.

2           You know, if there's -- if Dad imposes parental  
3 authority, the consequence is I am the one who holds the  
4 strings in this case, because I am 14 years old and I get to  
5 decide.

6           THE COURT: Well, but again any teenage discretion  
7 provision, and I will say most if not every teenage discretion  
8 provision that I have ever seen woven into any agreement is  
9 one sentence long.

10          THE COURT: And child will have teenage discretion  
11 to exercise --

12          MR. KAINEN: I absolutely agree.

13          THE COURT: -- visitation. I have never seen a  
14 teenage discretion provision that is so detailed as the one  
15 that was crafted by the parties that's part of this agreement.  
16 So that being said, and teenage discretion requires a degree  
17 of flexibility.

18          MR. KAINEN: And that's the point is that --

19          THE COURT: It requires some co-parenting.

20          MR. KAINEN: -- every -- and every time that I've  
21 ever had it has been sort of that simple one line and  
22 inevitably it's been in cases where parents have a very good  
23 working relationship, respect each other and work with each  
24 other. And it's sort of like because it doesn't need to be

1 defined and it's never -- you know, when my client says to me  
2 well, how do these things get litigated, you know what, we  
3 don't litigate these things, because they're inherently  
4 present in cases where people have a working relationship and  
5 they have an understanding, they're on the same page in terms  
6 of being able to carry that out. This is an unusual case in  
7 terms of how it came to pass when everything was on the table  
8 and everything was resolved except for this particular issue.

9 THE COURT: But if I view the teenage discretion  
10 provision as just giving Brooke the ability to make a request  
11 --

12 MR. KAINEN: Right.

13 THE COURT: -- it renders the entire provision  
14 meaningless, because a 12-year-old child can make a request.  
15 What difference does it make that it's 12, 13, 14, 8? A  
16 request is a request. I mean, regardless of age, it still  
17 boils back to the same co-parenting.

18 MR. KAINEN: For starters, every other line with the  
19 exception of the or -- with the exception of the use of the  
20 or, every other line in that thing talks about the request and  
21 the parents being able to make decision -- and those kind of  
22 things. I mean, this is the only line that they've relied on  
23 that sort of implies that. That was not our understanding.  
24 And the fact is if we get down to the brass tax on the law on



1 this, it's crystal clear in this case. There's clear -- you  
2 can't argue there's not an ambiguity. Lord knows we finally  
3 found something we can agree on. There's ambiguity.

4 THE COURT: Well, I don't know that there's an  
5 agreement in that regard. Again, I --

6 MR. KAINEN: I don't think --

7 THE COURT: What's ironic about that is like I said  
8 before, this is the most teenage discretion provision I have  
9 seen. So you talk about ambiguities, the ambiguity is in  
10 every teenage discretion provision I've ever seen except this  
11 one where they state child shall have teenage discretion to  
12 exercise visitation with the other parent. That's ambiguous.  
13 It's -- and I agree. Any time you reference teenage  
14 discretion, it becomes an issue of power for the child. And  
15 again, it's an area where I don't typically order teenage  
16 discretion. But where parents come to me, they come in with a  
17 parenting agreement and they expressly state everything in  
18 here is in the best interest of the children, I sign off on  
19 it. You agreed to it.

20 And I still don't get the feeling that this whole  
21 process has played out, because there's still -- been no  
22 parent coordination at all.

23 MR. KAINEN: Here's -- well, here's the reality.  
24 Honestly, Judge, these parties were entitled to a decision on

1 -- I mean, there's conflict because of the fact that Ed Kainen  
2 and Tom Standish are telling Kirk Harrison this is what this  
3 provision means, this is what was involved in this drafting,  
4 this is what the language says and this is what it means and  
5 this how it should be interpreted. And Radford Smith and Gary  
6 Silverman are telling Vivian Harrison that this is what this  
7 provision says and this is what it means and this is how it  
8 was interpreted and this is how we got here. And they're  
9 entirely diametrically opposed views.

10           So these two parties are in conflict, because their  
11 lawyers can't agree. And we've come to the Court to say all  
12 right, look, we can't agree. Tell us the way the Court is  
13 going to interpret this provision. We're sort of at the point  
14 where we're just saying look at this point given the history.  
15 That -- and so they make a big deal of the idea that we've  
16 gone from interpretation to nullification.

17           I mean, frankly, it's sort of like, you know, the  
18 unconstitutionalize applied. Based on what's happened, this  
19 whole provision has -- you can't get the genie back in the  
20 bottle no matter what happens at this point, but we were  
21 entitled to the -- a decision from the Court to say okay, you  
22 know what, I've read this language. You know what, Rad, you  
23 are right, or you know what, Ed, you are right. This is the  
24 way I'm going to -- or you know what, I don't agree with

1 either one of you and this is the way I'm going to interpret  
2 it because it's ambiguous or because it's not clear and I  
3 can't tell.

4           But you spent an hour and we both walked away. You  
5 know, I -- it's exactly where we would be. The last hearing  
6 or the -- whatever -- what hearing was where you sort of went  
7 on about that, we the inevitable happened. We walked out of  
8 it, we both heard things. And Rad was able to point to a  
9 couple of lines and some of the things you said that he  
10 thought favored him and I was able to point to a couple of  
11 lines in what you said that favored me and we both walked away  
12 with the exact same interpretation that we walked -- we walked  
13 out of the courtroom with the same interpretation that we  
14 walked into it and nothing resolved.

15           We need -- they need some sort of guidance that's  
16 judicial, that's not delegated to some third party -- and  
17 there's a whole another issue with that, but it's something  
18 that they're entitled to the guy from the black road to give  
19 them.

20           THE COURT: All right. Mr. Smith.

21           MR. SMITH: Well, let me start by saying I think you  
22 have. You've given us guidance twice. There was a motion  
23 initially to eliminate the provision. There wasn't a motion  
24 to interpret. It was a motion to eliminate it there

1 initially. You denied that motion. I think the words denied  
2 are pretty clear. That's an order from the Court that was  
3 entered.

4           The second request was that it being interpreted in  
5 the same way they're now again requesting that it be  
6 interpreted. You gave a rather clear statement on the record  
7 that you then incorporated into your minutes which when Mr.  
8 Kainen talks about the difference between our opinion, the  
9 only difference is I think those statements that you carefully  
10 placed on the record is to your interpretation. The agreement  
11 should be included in the court order.

12           So I believe you have ordered on two separate  
13 occasions that the agreement is to be read as it's -- as it's  
14 written. There is no real ambiguity in the language. I mean,  
15 the fact that there is an and/or provision as we pointed out,  
16 it's used in many, many contracts. It's used in drafting of --  
17 of agreements wherever the and/or provision will eliminate  
18 verbiage. In other words, you could say the thing twice, but  
19 instead you use and/or. It's a shorter sentence and it's  
20 clear.

21           The supreme court has used it -- I didn't choose two  
22 random decisions. These were the two most recent. If you  
23 look at the dates of these, the supreme court uses that  
24 verbiage all the time. And again, the way that we use it is

1 to eliminate provisions.

2 I also disagree with the characterization that every  
3 other line in this provision address the right of the child to  
4 make choices about discretion. The other lines as I've  
5 pointed out had very clear genesis in the negotiation between  
6 me and Mr. Standish in the reply that we filed that Mr. Kainen  
7 sought to eliminate. The genesis of the negotiations show the  
8 bad faith in taking the position that somehow we didn't know  
9 the effect of this agreement.

10 We from the very beginning included something more  
11 than one line. Our initial pleading contained a very clear  
12 right of the child to make a determination at 14 without any  
13 of the other protective provisions that were contained in the  
14 ultimate draft that was -- it was June 15th.

15 The -- you're looking for something. Shall I allow  
16 you to look for that, Judge?

17 THE COURT: No. No, that's fine.

18 MR. SMITH: Okay. And then the -- so Mr. Standish  
19 when I first proposed the 14-year-old discretionary choice to  
20 change custody which essentially what it said, the response  
21 back initially in the May 31st letter was that Kirk doesn't  
22 like this provision for the very reasons he stated today. He  
23 doesn't like it because he believes it will place too much  
24 power in the child that could effect Rylee, et cetera.

1           So we continued to negotiate at that point, Mr.  
2 Standish, to where I wrote on June 1st, 2012 the letter that's  
3 quoted and that this isn't anything new. It's not only in the  
4 reply. These arguments were made in the previous time that we  
5 filed the exact same motion.

6           But in that letter, I was very clear that this  
7 specific case required this type of provision. And I think  
8 Judge, you're right. This is an unusual provision. It's  
9 crafted very carefully. It was designed for this case. This  
10 case like no other has had first for our firm, for Mr.  
11 Silverman. And I would suspect for Mr. Kainen and Mr.  
12 Standish's firm as well in terms of the level of animosity  
13 that's expressed in the volumes of pleadings that proceeded  
14 the ultimate entry of this agreement.

15           And so we were very conscious and have been since  
16 this notion of this construct had been first described by Mr.  
17 Standish and I in a conversation in a mediation in November.  
18 As you recall from the pleadings associated with attorney's  
19 fees, Your Honor, that was followed by a letter from my office  
20 to Mr. Standish. Mr. Standish discussed the concept at that  
21 time. That all led up to months of negotiations that are  
22 reflected in these pleadings.

23           The notion from Vivian was that she waned Dr.  
24 Paglini's report to be concluded because there would never be

1 any resolution of the issues that Brooke was relating to  
2 Vivian even at that time in regard to problems with the  
3 control, the criticism of her father.

4           We crafted an order that was designed to say that  
5 based upon all of this previous vitriol that had been directed  
6 at my client, we weren't going to have decisions, the type of  
7 decisions that Ed describes and you describe that are made by  
8 normal parents that co-parent together, like yeah, you can go  
9 stay there that night.

10           We didn't want those decisions fueled by what we  
11 believed were absolute hatred between Mr. Harrison toward Mrs.  
12 Harrison. So Mrs. Harrison wanted a provision that said look,  
13 in circumstances, we want as they get older for the child to  
14 be able to exercise discretion without getting criticism,  
15 without getting heat, without getting her mother criticized  
16 and so forth.

17           So that was the intent of the provision and that's  
18 not a secret, because that's precisely what I told Mr.  
19 Standish in my June 1st letter that's quoted not only in this  
20 proceeding pleadings but in the pleadings before. In that  
21 letter, I explained to him that because of the animosity we  
22 felt it was necessary to have this guarantee in this provision  
23 so that the child could exercise this choice.

24           There was no confusion. Mr. Standish's response was

1 not that we object wholeheartedly. It was only that we should  
2 change this provision to the age of 16 and that I've -- he  
3 provided me highlighted provisions of changes including the  
4 Court retaining the power to enter custodial awards including  
5 the right --

6 MR. KAINEN: I'm sorry, I got to object here. And  
7 the problem is is that the discussion that Rad's referring to  
8 was several months before the actual language that we're  
9 talking about --

10 MR. SMITH: That's not an objection.

11 MR. KAINEN: -- that we're talking of interpreting.

12 MR. SMITH: It's an argument.

13 MR. KAINEN: No. No. No. It's inappropriate --

14 THE COURT: Listen.

15 MR. KAINEN: -- to suggest that this is --

16 MR. SMITH: You have the right to make an argument  
17 --

18 THE COURT: Listen. Yeah, this is -- look, this is  
19 all argument. And understand, I've read all the papers, so I  
20 don't want to -- I don't need any of that rehash --

21 MR. SMITH: Okay.

22 THE COURT: -- or regurgitated.

23 MR. SMITH: Well, let me just get to the point then.  
24 And first of all, in regard to that statement, these exchanges



1 of information that are contained in the letters were 15 days  
2 before the final draft of this language was prepared, not  
3 months it was just represented to you.

4           The response by Mr. Standish was on the 7th. That  
5 response had nothing to do with other than the specific  
6 language. I actually changed the provisions very carefully  
7 that granted, for example, the right of the child to -- or the  
8 right of the parent to extend -- communicate to the child that  
9 the child was eroding the visitation, that there was an  
10 attempt to change custody, et cetera, et cetera. None of that  
11 happened.

12           So let's go to what you asked first. You said why  
13 is -- this is the only issue and this is the only issue. We  
14 don't have any way to rebut Mr. Harrison's representation that  
15 Brooke is doing something in his home. We don't know. We've  
16 asked the Court on two separate occasions to interview Brooke  
17 to find out whether her opinion as to whether or not that's  
18 occurring.

19           But here's what we know objectively. She has only  
20 used this provision, only used this provisions at times where  
21 there was absolutely predictable and only for short periods of  
22 time. The longest period of time being a two day period. But  
23 this period specifically, the one that's before the Court  
24 today, was an overnight before she had dental surgery.

1           So Mr. Harrison has given it this spin of it was in  
2 retaliation. How do we rebut that other than to ask you to  
3 interview the child? I don't think it's enough. I think  
4 there's -- the more logical explanation is that she wanted to  
5 be with her mother who constantly takes her to the dentist.  
6 But that isn't sufficient for Mr. Harrison. This is just a  
7 rouse and this goes into the argument as to why I think this  
8 Court should enter sanctions in both the amount -- in a  
9 significant amount and the notion that if we have to keep  
10 filing responses to this motion it's preposterous.

11           We should now -- the Court should let us know  
12 whether we have to respond to these kind of motions. And the  
13 reason is is because this is a rouse. This is the only  
14 incident -- and first of all, it happened in February before  
15 the filing. And this is the only incident that he can come up  
16 with to explain that this thing is being undermined.

17           And he only does it after he rejects the notion of  
18 the parenting coordinator interviewing the child. That's no  
19 coincidence, Judge. It doesn't take much brain power to  
20 figure out that he will do anything to avoid having his story  
21 challenged by any interview of the children. The ironic part  
22 about this is we have never asked for an interview. I just  
23 pointed out that the very provisions that underlie the  
24 agreement allow the parenting coordinator to interview whoever

1 she sees fit. And this is a parenting coordinator that was  
2 chosen by Your Honor. We have faith in Ms. Pickard. We  
3 agreed to her.

4           And so we've signed the agreement. We're ready to  
5 proceed to address any problems that Mr. Harrison is having in  
6 regard to his care or visitation including for example that  
7 the children are spending too much time at her home picking up  
8 her things. It seems to me that that's an extremely easy  
9 issue to address. I mean, one is you just have whatever stuff  
10 they have at your house or you say to them we're not going  
11 back to Mom's house, so you suffer the consequences of not  
12 having your stuff. That would be the easiest thing to do.

13           But instead, we have this sort of perpetuation to  
14 again file these type of motions that are the third motion in  
15 regard to the teenage discretion and the second regarding  
16 parenting coordination. I don't know whether you want us to  
17 address parenting coordination. There was no discussion of  
18 it.

19           THE COURT: I -- again, unless there's something you  
20 have to add that has not been included in the papers --  
21 because I've read the papers and I don't want to get back into  
22 that.

23           MR. KAINEN: I read a couple -- I respond to a  
24 couple of questions. I just have a couple of points I can

1 probably make in less than three minutes.

2 THE COURT: Okay.

3 MR. KAINEN: Number one, and perhaps this was in the  
4 pleadings, they drafted. There's no question. Brad's made it  
5 very clear. He was the drafter of these pleadings. The rules  
6 of instruction indicate that these interpretations are drafted  
7 against the -- I'm sorry, are interpreted against the drafter.  
8 So legally they've got that.

9 Factually, they have no ability to dispute frankly  
10 what I told you as an officer of the court in my affidavit,  
11 what Tom has told you as an officer of the court as to what  
12 our client understood and was told and what he understood when  
13 he entered this agreement. Okay.

14 So there are all sorts of problems with the  
15 ambiguities in this case in terms of what it says. The  
16 fundamental rules of construction require that it be  
17 interpreted in a reasonable consistent matter. And it can't  
18 be reasonable and consistent to say that in a family court  
19 where we deal with making decisions on the best interest of  
20 the children that we interpret an order in a way that gives  
21 the child the power to make decisions without regard to other  
22 plans, other children to direct their parents to do whatever  
23 it is.

24 That's not a reasonable interpretation and it's

1 contrary to what Tom and I have both told you in our  
2 affidavits is what was discussed or told to our client as to  
3 what this meant.

4           With respect to Dr. Roitman's opinions, she fails to  
5 even address the problems to the risk of the children as  
6 related to their interpretation. It's clearly contrary to the  
7 children's best interest in terms of shifting the family  
8 dynamic. We've talked about -- she's failed to assert  
9 anything that's inconsistent with that or even contrary to it.  
10 His opinions are unopposed. And frankly, their consistent  
11 with common sense.

12           I would tell you that, you know, we've went through  
13 the nullification interpretation. One of the things that's  
14 pretty clear that this is the -- this problem is the  
15 empowerment is the problem is look to the -- you know, the  
16 period of time in this case before we actually proved it up,  
17 we had a -- remember we had a custody agreement for -- in  
18 place for a year before we actually settled this case? I  
19 mean, when this wasn't an issue, there were no problems.

20           It was on the eve of the 14th birthday when Mom said  
21 these are your new superpowers. Use them, go forth. And all  
22 of a sudden that's what happened. Well, Rad's says well,  
23 she's only used it for today days at a time. You remember two  
24 days to deprive my client of I think it was 15 days of contact

1 without seeing the child. That was what you were upset about  
2 list time we were here, that it wasn't just two days, it was  
3 the two days that fell between the period of time that he  
4 wouldn't otherwise have seen her and those kind of things. So  
5 that goes on.

6           The letters -- you know, we talk about the -- first  
7 of all the letters from counsel don't say everything or --  
8 Rad's sort of laid it out. The letters include -- by the way,  
9 the provision does not place to a responsibility of choosing  
10 on Brooke according to Mr. Smith which is entirely contrary to  
11 the position he takes in November when we say by God, Kirk  
12 can't even respond if -- if Brooke says this is what I would  
13 like to do, Kirk's in contempt if he even tries to discuss it  
14 with her. He's violating the order if he says to you you know  
15 what, Brooke, I don't think that's a great idea. Or you know  
16 what, I'd rather you didn't. That's contemptuous conduct  
17 according to Rad. In these letters, he says that this is not  
18 putting the responsibility on Brooke.

19           The bottom line is there is all sorts of problems  
20 with this. The parenting coordinator, we can deal with that  
21 separately if the Court wants. There's -- there is some  
22 significant issues there that we've dealt with. But on the  
23 law on this one, this is black and white. I mean, we've cited  
24 the case law. They haven't cited anything. They cited one

1 case in their reply brief and they abandoned it -- I'm sorry,  
2 in their opposition and they abandoned it in their reply  
3 frankly, when it was read, it favored exactly what we have  
4 been saying. It's --

5 MR. SMITH: No wait. You can't argue that I can't  
6 deal with substantive issues and then claim we abandoned it.  
7 I specifically didn't address it because it didn't go to the  
8 issue of the good faith of the filing of the motions.

9 THE COURT: All right. That's argument.

10 MR. KAINEN: That's what I've presented, Your Honor.

11 THE COURT: All right. Here's where I'm at. And  
12 before I make my findings and orders, I did intend to ask at  
13 the beginning of the hearing actually, I believe there are a  
14 number of outstanding orders that have not been submitted from  
15 various prior hearings. Were two -- are there two that I'm  
16 missing? Where do we stand?

17 MR. KAINEN: Well, on the motion from the 6 -- or  
18 the 60B -- or I'm sorry, the -- 60B motion. Thank you. I sat  
19 on that a little long. I thought it gone to Rad about the  
20 time that I was writing a letter saying hey, Rad, you know,  
21 you've had like three weeks with this thing or, you know, two  
22 months or whatever it was. I realize that I hadn't ever sent  
23 it. So I -- but that was months ago and I haven't heard back  
24 from Rad since that time. Is that a fair --

1 MR. SMITH: No, I sent you a letter saying that I  
2 think that there should be modifications of the order  
3 consistent with the --

4 MR. KAINEN: And you were going to get back to me  
5 after --

6 MR. SMITH: Well, but no. I sent you a subsequent  
7 letter but you said well, you would need a certain amount of  
8 time to get back to me. That's what I understood is the  
9 status of what's going on. Let me suggest this that you  
10 direct us to meet, which is what I always do in these things,  
11 direct us to meet and see if we can confer and come to an  
12 agreement in regard to these orders.

13 I can assure you that the disagree on the order  
14 arising from the hearing relating to the second time this  
15 motion was filed is just I wanted the minutes to be reflected.

16 MR. KAINEN: And --

17 MR. SMITH: So I would be happy with the Court on  
18 that instance just ordering its minutes.

19 MR. KAINEN: Well, here's the issue. And with the  
20 breakdown there is whether or not -- when you went on and  
21 talked for probably 45 minutes and said well, you make some  
22 good points and you make some good points and this is that,  
23 you know, this whole thing, and Rad's interpretation is those  
24 were all findings and my interpretation is at the end of day



1 you denied a motion and so I reflected that the motion was  
2 denied. That's the big difference, in other words, whether  
3 this order is going to be 25 pages that we're going to fight  
4 over every line --

5 MR. SMITH: No. No. No.

6 MR. KAINEN: -- or whether --

7 MR. SMITH: Just want it fair.

8 THE COURT: Well, here --

9 MR. SMITH: There's only a few paragraphs. If you  
10 put three paragraphs in your minutes about the denial of the  
11 motion, I have been told numerous times by the supreme court  
12 that they appreciate when there are orders that are going to  
13 be subject to appeal, and I certainly think this one will be,  
14 that you give some basis for the findings particularly when  
15 there's been the type of argument that Mr. Kainen described,  
16 because it's impossible for the Court to fair it out those  
17 things from a long argument with parties are making different  
18 positions in the context.

19 THE COURT: Well, here's what I'm going to do. And  
20 I think there's an order from the evidentiary hearing as well  
21 --

22 MR. SMITH: Yes. Those are the two orders.

23 THE COURT: -- that's outstanding. I'm going to  
24 direct that if you cannot agree and stipulate to language by

1 June 9th, then you each submit your proposed orders and I'll  
2 make a determination at that point.

3 All right. This matter comes before the Court on  
4 the underlying papers that I've indicated previously that have  
5 been filed. It emanates from the controlling order which is  
6 the stipulation and order resolving parent/child issues filed  
7 on July 11, 2012.

8 As part of that, there are certain parts that are  
9 relevant to our proceedings today including Paragraph 1 that  
10 specifically offers and represents to the Court that the  
11 parties hereby represent and agree that the provisions set  
12 forth below outline a plan that is in the best interest of the  
13 minor children. The provision 2.11 also provides the need of  
14 parent shall disparage the other in the presence of either  
15 child nor shall either parent make any comment of any kind  
16 that would demean the other parent in the eyes of either  
17 child.

18 Section 3 on Page 5 provides for any instance where  
19 the therapist believes that the behavior of either parents  
20 should be addressed and the child provides consent to the  
21 therapist to address the issue of the psychologist shall  
22 direct any discussions, suggestions or questions to the  
23 party's parenting coordinator a point of pursuant to Paragraph  
24 4 below.

1           The parenting coordinator provision is set forth in  
2 Paragraph 4. It states the parties shall hire a parenting  
3 coordinator to resolve disputes between the parties regarding  
4 the minor children. The parenting coordinator shall be chosen  
5 jointly by the parties. The parenting coordinator shall serve  
6 pursuant to the terms of an order mutually agreed upon by the  
7 parties.

8           If the parties are unable to agree upon a parenting  
9 coordinator or the terms of an order appointing the parenting  
10 coordinator, within 30 days of the date of file -- of the  
11 filing of this stipulate and order, then the Court shall  
12 appoint that individual and resolve any disputes regarding the  
13 terms of the appointment.

14           Paragraph 5 discusses the equal division of time.  
15 And as I indicated earlier, the exchanges at least when the  
16 children are in school are to take place in school  
17 contemplating that there's not to be any exchanges at either  
18 parent's home.

19           I do agree that I think to the extent that parties  
20 that children returning to the home to pick up items on either  
21 side, that's precisely the type of issue that can easily be  
22 dealt with with the assistance of a parenting coordinator.  
23 It's a minor issue, but it's obviously caused a great degree  
24 of angst, frustration and anger as it relates to the exchange

1 of items that can easily be dealt with.

2           Section 6 is the teenage discretion provision. I'm  
3 not going to read the entire provision. It consists of a  
4 Paragraph 6, 6.1, 6.2, 6.3 and 6.4. So there are five  
5 paragraphs that specifically deal with the teenage discretion  
6 provision.

7           I've noted earlier, I have not seen a teenage  
8 discretion provision that -- as specific in this provision.  
9 The typical teenage discretion provision is one sentence. The  
10 child shall have teenage discretion at -- in exercising  
11 visitation.

12           I've also noted earlier, it's typically not my  
13 approach when I'm issuing orders absent an agreement of the  
14 parties to include a teenage discretion provision.  
15 Particularly at any age below the age of 17, quite frankly.  
16 But I don't know that I've ever done that. But where parents  
17 agree that that's in a child's best interest or children's  
18 best interest, I sign off on it. That's what the parents  
19 agreed to.

20           I'm -- my approach is similar with a parenting  
21 coordinator. I do not appoint parenting coordinators without  
22 both parties stipulating to the appointments of a parenting  
23 coordinator, because I do strongly believe that both parents  
24 must buy into that process. I think it's a helpful and a

1 useful process, but I do not order the appointment of a  
2 parenting coordinator unless the parties bring that to me  
3 themselves and stipulate to it and ask me by stipulation to  
4 appoint a parenting coordinator.

5           The remainder of the parenting agreement talks about  
6 holidays. There's Section 8.1 deals with -- it's a provision  
7 that relates to the exchanges and picking up and who's  
8 responsible for transportation. And again, the transportation  
9 issue is -- seems to become a striking point.

10           Those provisions are directly relevant to my  
11 discussion today because it -- they -- all of those provisions  
12 deal with issues that revolve around the parenting coordinator  
13 and the teenage discretion issue where both of you did  
14 specifically agree that it was in the best interest of the  
15 minor children to appoint a parenting coordinator and to allow  
16 the children to have teenage discretion limited by the express  
17 language of the parenting agreement that's defined in Section  
18 6.

19           There has been some discussion about the powers of  
20 the parenting coordinator. And what was intended and what was  
21 understood and what was meant, the record is clear that  
22 throughout this process both parties have had the involvement  
23 not only of highly skilled and trained counsel, the -- some of  
24 the highly -- most highly reputed family law attorneys in the

1 state, but also involvement of other professionals that have  
2 been perhaps issuing advice along the way. That's clear from  
3 the papers that have been filed throughout this case that Dr.  
4 Roitman has been involved intimately in providing guidance and  
5 counsel to the Plaintiff.

6 I think it -- what I find noteworthy about that and  
7 one thing that's raised directly in the motion that I quote  
8 from is a statement quote Kirk did not and never would have  
9 agreed to allow a third party whom he had never met to make  
10 parental determinations involving his children. I read that  
11 and that struck me as I read that sentence. Did not, never  
12 would have agreed to allow a third party whom he had never met  
13 to make parental determinations involving his children.

14 Now obviously that was done in the context of a  
15 parenting coordinator and obviously a parenting coordinator is  
16 not going to make any recommendations presumably unless both  
17 parties meet with the parenting coordinator, but it drips with  
18 irony because throughout this case I have been provided with  
19 reams of information from Dr. Roitman who up to this point in  
20 time has never interviewed the children, has never had any  
21 contact with the Defendant, yet repeatedly makes custody  
22 determinations that the Plaintiff seeks to have this Court  
23 rely upon.

24 The -- dealing with the teenage discretion issue, I

1 ask questions at the outset, because it is a very detailed  
2 provision and I do go back to the prior hearings because we  
3 have had previous discussions in regards to this specific  
4 issue, specifically from the hearing on December 18, 2013. I  
5 noted the Court does not view this language as giving the  
6 minor child authority to make decisions or to change custody.  
7 I denied the request to remove the teenage discretion  
8 provision and stated to be clear the minor child does not  
9 control and the Court expects the counselor to be involved in  
10 the process.

11           The purpose of teenage discretion is not to remove  
12 blocks of time from a party and if a party is being removed  
13 for a period of time, then the Court will be concerned.  
14 Teenage discretion should be implemented from time to time and  
15 there should not be any issues should Brooke wish to make a  
16 modification of a few hours and the Court would expect  
17 communication in this regard.

18           As I interpret that provision, I don't view it  
19 simply as the ability of a child at 14 years of age to make a  
20 request. To do so would render the entire provision  
21 meaningless. And it makes no sense to me that a child at any  
22 age can make a request that could be denied by a parent at any  
23 time, but the parties specifically agreed that at Age 14 --  
24 and there was correspondence that suggested there may -- there

1 was some dialogue perhaps about using the age of 16 as a more  
2 appropriate age that there was some discussion about allowing  
3 the child to have that type of input, have some degree of  
4 teenage discretion which implicitly allows the child to have  
5 some degree of control.

6           I made it clear in prior hearings that it's not a  
7 tool or an issue to be used to undermine the underlying  
8 custody arrangement. I've made that abundantly clear at I  
9 believe at prior hearings. And I've also indicated at prior  
10 hearings I don't view this as a tool. I've stated and it was  
11 not done with the intent to nullify the parenting  
12 coordinator's ability to interview the children. Defendant  
13 has offered that she's never asked for such an interview and  
14 to my knowledge the parenting coordinator process hasn't even  
15 started yet.

16           But that being said, I've said before that I do not  
17 view the expression of a preference of a child standing alone  
18 as a sufficient basis to modify custody. So even if Brooke  
19 had reached the point where that was -- she simply stated that  
20 I want to live with Mom, well, I want to live with Dad for  
21 that matter. Either way, if she came forward and made that  
22 statement, that standing alone is not going to be a sufficient  
23 basis to overcome the presumption of joint physical custody  
24 that you agreed to.



1 I didn't say that as a nullification per se of the  
2 provision of the stipulated parenting agreement that you  
3 agreed to that specifically contemplates the fact that the  
4 parenting coordinator could interview the children. My  
5 comments about me not interviewing the children remain the  
6 same. I have no reason to interview Brooke or Rylee at this  
7 point. And I'm not aware of any reason right now at this  
8 moment that the parenting coordinator has any basis to  
9 interview the children. But it doesn't nullify that ability  
10 or that provision.

11 The -- in reviewing the issues as it relates to  
12 teenage discretion, I also emphasize that I wanted to see the  
13 process work. I wanted to see in action what the two of you  
14 had agreed to almost two years ago now. If not, longer. The  
15 parenting agreement order was entered 2012. So two years ago.  
16 I ultimately entered the order for appointment of parenting  
17 coordinator on October 29, 2013. And no -- and at no point in  
18 time has there been a motion to reconsider that order or to  
19 set aside the provisions pursuant to 60B, the set aside  
20 provisions related to -- or a request related to a different  
21 order.

22 The instances in which teenage discretion appears to  
23 have been exercised which include incident since we were last  
24 here in court, I don't construe to be abusive of the teenage

1 discretion order. The two day provision did cause me some  
2 concern because it seemed to create a block of time that Dad  
3 didn't have any time.

4           However, beyond that, the most recent incident that  
5 really gave rise to this motion I don't find change, the  
6 dynamics of the underlying custody arrangement. I don't find  
7 that it was necessarily abusive. Obviously, that becomes a  
8 concern if the child is exercising in an abusive manner. But  
9 I'm basically looking at one request. I understand from the  
10 argument that's been made that it wasn't really presented by  
11 way of the motion that it changes the dynamics in the home,  
12 but the instances in which it has been exercised are not  
13 frequent enough to cause me concern that it is an issue of  
14 abuse that's been exercised by Brooke.

15           I cannot construe that provision to simply be a --  
16 the ability of a 14-year-old child as opposed to a 13-year-old  
17 child to make a request to perhaps have a few additional hours  
18 or some time with the other parent. With respect to the -- so  
19 I don't find that it violates public policy. I -- it doesn't  
20 appear that it's happening frequently. It doesn't appear that  
21 there's any regular modification to the schedule.

22           And certainly the appointment of a parenting  
23 coordinator and the use of a parenting coordinator might  
24 assist in bringing that to light if that's occurring. If

1 there are problems with retrieving items at the home which I  
2 go back to what I said earlier, those are the type of issues  
3 that can be addressed through a parenting coordinator.

4           And I don't view that as an abdication of authority.  
5 There's been a lot of discussion and debate that in the papers  
6 and there's a lot of national discussion. And turning to the  
7 parenting coordinator order, the parties specifically agreed  
8 to the appointment of a parenting coordinator and specifically  
9 agreed that if they couldn't agree to who it would be or what  
10 the language would be, that it would be left in my hands.

11           What's interesting about that is there is a form  
12 parenting coordinator order that was generated in  
13 collaboration with both the bench and the bar. And there's  
14 some involvement of counsel involved in this case in the  
15 drafting of that very order, the standard form order that many  
16 courts here rely upon without even taking a second look at the  
17 language.

18           So the suggestion that the parenting coordination  
19 process was not understood I just cannot find as believable,  
20 because a parenting coordinator if the specific language in  
21 the stipulation was that the parenting coordinator would  
22 resolve disputes, if the intent was to simply appoint a  
23 mediator, then the order would have stipulation would have  
24 said the parties will mediate any issue. IT would have said

1 mediate issues. The connotation of a parenting coordinator  
2 arises above a mere mediator in any context that I have ever  
3 seen.

4           Notwithstanding that, I took the forum order given  
5 the fact that both parties object -- both parties had  
6 different orders that they were proposing, I took a look at  
7 some orders that had been generated in other jurisdictions.  
8 Again, recognizing it was not me who went out of my way to say  
9 the two of you need a parenting coordinator. It was not my  
10 initiation of that process. The two of you agreed we should  
11 have a parenting coordinator and that is in Brooke and Rylee's  
12 best interest.

13           I took the language that both parties had proposed  
14 and I created an order that is not the same as the forum order  
15 that is floating out here in family court. It's a lot more  
16 narrow than that order. It's more expansive than the  
17 mediation proposition submitted by the Plaintiff. But even  
18 the language of the stipulated stipulation order resolving  
19 parent/child issues includes references to a parenting  
20 coordinator that goes beyond service as a mediator.

21           Had again mediation been the sole role of the  
22 parenting coordinator, the language would have read that the  
23 parenting coordinator would have mediated disputed disputes,  
24 not resolve disputes. I get that fact that mediators do

1 resolve disputes. But the connotation of what a parenting  
2 coordinator has been since that term was -- came on the scene  
3 here in family court, is beyond just a mediator.

4           The limitation of the parenting coordinator also  
5 does not defer substantive decisions to the parenting  
6 coordinator from the Court. It's not an abdication of  
7 judicial power as it relates to substantive issues. Again, it  
8 was very narrow. There's no basis for a parenting coordinator  
9 to ever make any changes that would modify the underlying  
10 custody arrangement. They're prohibited from doing so.

11           Again, we're talking about minor issues. And those  
12 minor issues are identified and specified in the order  
13 appointing parenting coordinator. And it includes some of the  
14 very issues I have discussed here in Court today.

15           The -- overall in looking at the issues that are  
16 before the Court and understanding that any of this language  
17 could have been discussed with not only counsel but also  
18 presumably had been discussed with outside individuals  
19 including experts, the parties nevertheless agrees to the  
20 initiation of a process that including a parent -- included a  
21 parenting coordinator.

22           I'm not inclined to nullify those provisions  
23 particularly given the fact that there's never been any  
24 parenting coordination, despite the fact that the parties

1 agreed that it was in their children's best interest. I would  
2 not expect any agreements to be signed that are -- with the  
3 parenting coordinator that go beyond the function and role  
4 that I specifically identified in my order appointing  
5 parenting coordinator.

6           Ms. Pickard's role and function must be narrowly  
7 limited to those issues, but I still believe under the  
8 circumstances that it can be a valuable tool for both parties  
9 to deal with these issues, to deal with the headaches that are  
10 caused by waiting for 30 minutes. That can be a source of  
11 frustration, but I -- again, I -- as I said at a prior  
12 hearing, I want to see the process that the two parents  
13 envisioned. I want to see it take place.

14           And thus far it still hasn't even been implemented.  
15 Perhaps the parent -- the counseling has taken place. And to  
16 that extent, I hope it has and there's been some value derived  
17 from by Brooke and Rylee perhaps as far as the counseling is  
18 concerned.

19           But I deny the motion for order resolving  
20 parent/child issues that -- and other equitable relief that  
21 asks for ultimately a nullification of the teenage discretion  
22 provision. I don't find that there has been any abuse of that  
23 provision and also the nullification of the parenting  
24 coordination order.

1           Also there's a request made by Plaintiff to strike  
2 the reply as -- the suggestion that it went beyond what was --  
3 what's contemplated in a reply because it truly was a reply to  
4 the countermotion for an award of attorney's fees.

5           Here's what I'm inclined to do. I don't know that I  
6 needed the information that's set forth in the reply.  
7 Although it does touch on the issue of sanctions and request  
8 for fees, I'm going to strike certain portions of both the  
9 motion and the reply. I'm striking the reply that was filed  
10 by the Defendant.

11           I'm also striking that -- I'm striking Dr. Roitman's  
12 report that's attached to the motion and the references that  
13 were -- have been made in the motion to his report. And that  
14 includes Pages 8, Lines 10 through 16, Page 9, Lines 3 through  
15 24, Page 10 and Page 11, Lines 1 through 2.

16           It is very problematic for me, and I go back to what  
17 I said earlier, that I've said in prior cases. Parental  
18 conflict is not healthy for your children. I don't need an  
19 expert to tell me that parental conflict isn't healthy. But  
20 to continually rely on expert evidence if you will from an  
21 expert who has never met the children, has never interviewed  
22 the Defendant as part of this process, I'm just not inclined  
23 to make that part of the record.

24           The -- and I read parts of -- as far as what was

1 contained in the motion and what was quoted by Dr. Roitman.  
2 And I get -- there's a lot to be said for that. And I'm not  
3 necessarily here to minimize that, but it's problematic when  
4 we're relying on something that is unilateral and it's  
5 basically requesting that this individual make a custody  
6 determination when the other part hasn't even met that  
7 individual. And I'm just simply not going to rely on that.

8 MR. KAINEN: Your Honor, there's a difference  
9 between not relying on it and striking it from the record. In  
10 other words, he's not made a recommendation for these specific  
11 kids. He said this is bad policy. In other words, when you  
12 have a bad dynamic or something like that or when this kind of  
13 power goes to children. I think taking that out of --

14 MR. SMITH: He's done more than that. He's  
15 incorporated --

16 THE COURT: Well, no. Listen. I don't need  
17 anymore. Listen. I --

18 MR. KAINEN: But you've made findings that are  
19 specifically related to Dr. Roitman throughout this case and  
20 to then take out the underlying -- in other words, you made  
21 findings that you accept and don't accept in all of these  
22 areas either and then you take away from the record the actual  
23 things on which you made --

24 THE COURT: Well, listen. I go back to what I said



1 earlier. It's clear to me that Dr. Roitman has been consulted  
2 by the Plaintiff throughout these proceedings. In fact, even  
3 though motions the papers related to attorney's fees talked  
4 about the -- his advice to resolve this issue in the debate,  
5 don't leave it up --

6 MR. KAINEN: But --

7 THE COURT: The family court is the worst place to  
8 go to have these issues resolved.

9 MR. KAINEN: You didn't strike Dr. Appelbaum's (ph)  
10 opinions. You didn't strike -- all about Dr. Roitman by the  
11 way, Dr. Ronningstam's (ph) opinions. Those are all part of  
12 the record. They have never met Kirk. They never talked to  
13 the children. They never even reviewed the --

14 THE COURT: No, I'm talking --

15 MR. KAINEN: -- abject record.

16 THE COURT: No, I'm talking about the specific  
17 attachments to this motion. I'm not saying Dr. Roitman's  
18 prior reports that were attached. I'm -- and I'm not talking  
19 about prior experts. But here's my point. In negotiating  
20 this parenting plan, you're saying this expert came forward  
21 and said you know what, teenage discretion provisions are  
22 problematic. They're issues. And in many respects, I get  
23 that. I'm not here to disagree with that aspect in general  
24 that there are issues and concerns. But when you negotiate --

1 and to be clear, the record also reflects that there wasn't  
2 heavy involvement on both sides in crafting these provisions.  
3 I -- and I understand the argument about the craft -- the  
4 drafter of the provision, but the correspondence certainly  
5 suggests that there was heavy involvement.

6           The notion that you have this expert involved in  
7 this process coaching and saying look, you need to get this  
8 resolved. Don't fight this out in family court. That's the  
9 worst place to be. And then at the same time you agree that  
10 is in Brooke and Rylee's best interest to include a provision  
11 that allows for teenage discretion with a series of  
12 limitations that are still in place. I'm not striking any of  
13 that. I'm not nullifying any of that.

14           And now to rely on that same expert who has been  
15 providing that advice throughout these proceedings based on  
16 the record and to basically say that provision from inception  
17 was insane. How is that provision even in there? Why did the  
18 Court even include a teenage discretion provision? Well,  
19 because the parties agreed that that was in their children's  
20 best interest.

21           MR. KAINEN: And that's fine. But my point is that  
22 Your Honor, every expert in this case was -- besides from the  
23 beginning, the Court has not struck anybody's opinion except  
24 Dr. Roitman, the report twice. And the fact is that Dr.

1 Ronningstam filed letters and filed a report that involved an  
2 attached to pleadings. Never did anything but meet with  
3 Vivian. Dr. Appelbaum never did anything -- never looked at  
4 the pleadings. Said it was out there and those kind of  
5 things.

6 MR. SMITH: That's not true.

7 MR. KAINEN: Never did anything but -- and but yet,  
8 Dr. Roitman --

9 MR. SMITH: That's not true.

10 MR. KAINEN: -- suddenly -- excuse me. Dr. Roitman  
11 suddenly -- and he's provided a report on which my client on  
12 relied to make his argument -- as a good part of it, the Court  
13 has referenced it at various points in terms of what it  
14 accepts and what it rejects, what it needs and what it doesn't  
15 need. He's entitled to that as part of this record. And the  
16 basis that well, he didn't interview these parties, neither  
17 did Dr. Ronningstam, neither did Dr. Appelbaum. They didn't  
18 even look at the paperwork in this case which Dr. Roitman has  
19 done.

20 THE COURT: Well, listen.

21 MR. SMITH: They did. That's -- I just don't want  
22 these things kind of thrown out there on the record.

23 THE COURT: Let --

24 MR. KAINEN: Their own reports --

1 MR. SMITH: Dr. Appelbaum specifically in his report  
2 said he read it. You criticize that in your subsequent  
3 filings if you recall.

4 THE COURT: Okay. Listen. All of these reports  
5 that you're talking about, all of them ultimately -- because  
6 there was never an evidentiary hearing, none of them were  
7 relied upon.

8 MR. KAINEN: But those are part of the appellate  
9 record now and this report now no longer is.

10 THE COURT: This current report --

11 MR. KAINEN: Yes.

12 THE COURT: -- I'm striking.

13 MR. KAINEN: You striked it twice now. You struck  
14 it in the underlying thing when attached it to a prior motion,  
15 the one that you never --

16 THE COURT: Well, okay.

17 MR. KAINEN: -- had a hearing on and then we filed  
18 our motion -- because it wasn't done properly before the  
19 Court.

20 THE COURT: You see, I thought you were suggesting I  
21 had --

22 MR. KAINEN: No, you struck the same report twice  
23 before I filed it --

24 THE COURT: Okay.

1 MR. KAINEN: -- as a supplemental pleadings --  
2 THE COURT: But the initial reports that were filed  
3 at the outset of this litigation.  
4 MR. KAINEN: No, what I'm talking about is the  
5 present report --  
6 THE COURT: this report.  
7 MR. KAINEN: -- I filed --  
8 THE COURT: Yeah.  
9 MR. KAINEN: -- as a supplement before. You struck  
10 it --  
11 THE COURT: Yeah.  
12 MR. KAINEN: -- sua sponte and never had a hearing  
13 and then we had -- now it's part of the record. It's attached  
14 as the basis for my client's belief or his request. It offers  
15 expert opinion in an area which Dr. Roitman is qualified to  
16 opine. And the basis is that he hasn't met somebody.  
17 THE COURT: Okay. But --  
18 MR. SMITH: Judge, if I may.  
19 THE COURT: But let me --  
20 MR. SMITH: I don't care if you don't strike either.  
21 As long as you don't strike his report, don't strike the  
22 reply, because I think there was several arguments that were  
23 made in the reply that were first made. For example, I was  
24 precluded from being part of the negotiation which we now know

1 was absolutely and utterly a false statement by Mr. Harrison  
2 into this record. That should be -- I should be permitted to  
3 respond to that.

4           So Your Honor, if we want to have a complete record  
5 --

6           THE COURT: Well, do you want to both -- do you both  
7 want it as part of the record, the reply and the report?

8           MR. SMITH: Yeah.

9           MR. KAINEN: Sure.

10          THE COURT: Okay.

11          MR. SMITH: Okay. Very good.

12          THE COURT: So based on the stipulation  
13 notwithstanding this Court's findings that it should be  
14 stricken, the parties have stipulated to allowing the reply to  
15 remain as part of the record and Dr. Roitman's report to  
16 remain part of the record.

17           I do find pursuant to NRS 18.010 and EDCR 7.60 that  
18 the Defendant is entitled to award of fees based on the fact  
19 that some of these issues have been discussed at prior  
20 hearings. I recognize there are new issues. I'll simply  
21 direct Defendant to submit. I'm not -- and I don't want a  
22 full blown memorandum submitted. I just want billings sheets.  
23 Basically a -- I mean, it's in the nature of a Brunzell  
24 memorandum, but certainly I can make findings in court as to

1 those factors, the qualities of the advocate, the character  
2 and difficulty of the work performed. I have evaluated that  
3 in reviewing the paperwork, the work actually performed and  
4 the result obtained.

5 I'm just looking for the time -- and I'll evaluate  
6 it and make a determination that blank should be left in the  
7 order for the fees. I'll direct that the memorandum of fees  
8 be filed by --

9 MR. SMITH: June 9th.

10 THE COURT: June 9th. That'll be the same date as  
11 the orders. And the reason I do that and I allow the other  
12 party to comment strictly on -- not that the merits of the  
13 fees, but the amount of time that was specifically billed that  
14 Plaintiff is entitled to file something, submit a responsible  
15 paper by June 23rd.

16 MR. SMITH: And if I may, Your Honor, let's -- if we  
17 could use the June 23rd date to have the same type of order  
18 which I would ask to be allowed to prepare arising from this  
19 hearing that if we can't agree on the text of that order, that  
20 we simply submit proposed orders to you by the 23rd.

21 THE COURT: Well --

22 MR. SMITH: I just don't want this process to  
23 continuously be delayed by the non-filing of orders.

24 THE COURT: Well, we need to get some closure on

1 this. I'm going to -- I'll direct that the order is to be  
2 submitted by June 30th. If it can't be stipulated to, then  
3 each party submits their own.

4 MR. KAINEN: Well, then how about --

5 MR. SMITH: Very good.

6 MR. KAINEN: If it's going to be submitted to the  
7 Court by June 30th, how about like can I have it in a week or  
8 10 days? I mean --

9 MR. SMITH: I'm going to order a transcript and my  
10 intent is to simply restate the things that the Court has made  
11 in its findings today. So however soon I get that transcript  
12 will be how soon I can prepare the order.

13 THE COURT: Well, let me put it this way. It needs  
14 to be supplied to Plaintiff's counsel. I'm looking at a 30  
15 day -- basically a 30 day window. So it needs to be provided  
16 by May 30th to Plaintiff's counsel and then assuming it is  
17 provided by that date, then I expect the order to be submitted  
18 by June 30th, if not a stipulated order, then each party  
19 submits their orders.

20 If it's provided after that date, then it just bumps  
21 out the 30 days.

22 MR. KAINEN: Okay.

23 THE COURT: Okay.

24 MR. KAINEN: I assume these are related to this



1 particular motion?

2 THE COURT: Just this particular motion, yes.

3 MR. SMITH: Judge, just some --

4 THE COURT: No, May 30th to June 30th.

5 MR. SMITH: -- clarification so that --

6 THE COURT: It would just be 30 days out.

7 MR. SMITH: -- no confusion in the record, nothing

8 in what you've ordered today has changed or modified in any

9 manner either the text of the parenting plan or the Court's

10 order of October 29th, 2013 appointing a parenting

11 coordinator.

12 THE COURT: Correct. Correct.

13 MR. SMITH: Okay.

14 THE COURT: And I've -- I have restated things that

15 came up at prior hearings.

16 MR. SMITH: Yes.

17 MR. KAINEN: So for purposes of --

18 MR. SMITH: I just didn't want there to be any

19 argument that somehow you modified the previous orders.

20 THE COURT: No.

21 MR. KAINEN: For purposes of the contract with the

22 parenting coordinator, it's simply that the parties will abide

23 by the terms of the order that you entered.

24 THE COURT: Correct. I -- it should be --

1 MR. SMITH: Other than fees.

2 THE COURT: -- confined. I --

3 MR. SMITH: Other than fees.

4 MR. KAINEN: Well, the problem -- I'll give you an  
5 example. There's a problem out of an issue with fees. For  
6 example, one of the things in Ms. Pickard's parenting  
7 coordinator order is that if anybody challenges the order and  
8 she finds the need to hire a lawyer, that party has to front a  
9 hundred percent of her fees until it's resolved. Those kind  
10 of things are, you know, if you have a party being compelled  
11 to use somebody.

12 THE COURT: And you're in that regard. I --

13 MR. SMITH: I don't -- yeah, I don't have a dispute  
14 with the notion. I think we're in accord that we shouldn't go  
15 beyond the bounds of the order itself.

16 THE COURT: It should be confined --

17 MR. SMITH: Right.

18 THE COURT: -- to the terms of my order. And I  
19 agree to the extent it goes beyond that. I'm not going to  
20 compel someone to sign a contract that goes beyond that. Now  
21 if ultimately the parenting coordinator doesn't feel  
22 comfortable, then we've got to pick another parenting  
23 coordinator.

24 MR. KAINEN: That's the idea that there's going to

1 be an hourly rate for what's going on.

2 THE COURT: Right.

3 MR. KAINEN: It's just some --

4 THE COURT: No, and I expect that.

5 MR. KAINEN: There is some owner -- look the  
6 criticism of the uniform order --

7 THE COURT: Order.

8 MR. KAINEN: -- has been that it's the parenting  
9 coordinator protection document. I mean, it's --

10 THE COURT: Yeah.

11 MR. KAINEN: -- about half a page on substance and  
12 about --

13 THE COURT: Yeah.

14 MR. KAINEN: -- four pages on --

15 MR. SMITH: Well, again, this is an argument for  
16 another time and another context, but --

17 THE COURT: Well, I -- we could have a very long  
18 discussion about parenting coordinators. And again, that's --  
19 I don't typically appoint them unless parents agree to it.  
20 And if they agree to -- I can -- listen. That being said I'm  
21 not here to criticize the program. I think it can be a very  
22 helpful process in this case.

23 MR. SMITH: Well, it's very helpful that you have  
24 advised us of these things because I'm sure Mr. Kainen and I

1 will go back to our Judge Duckworth file and note that don't  
2 appoint parenting coordinators --

3 THE COURT: I -- you can type that in your file.  
4 Unless you both agree to it --

5 MR. SMITH: I understood.

6 THE COURT: -- and rights of first refusal.

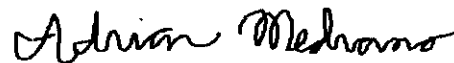
7 MR. SMITH: Rights of first refusal. That was  
8 earlier with you.

9 THE COURT: Thank you.

10 (PROCEEDINGS CONCLUDED AT 11:52:23)

11 \* \* \* \* \*

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

15  
16 

17 Adrian N. Medrano

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23  
24

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_/

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 6**

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## CHRONO INDEX

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

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21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

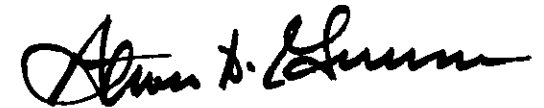
29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675





CLERK OF THE COURT

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

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 vs.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: October 30, 2013  
Time of Hearing: 10:00 a.m.

19  
20 **PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION TO MODIFY ORDER**  
**RESOLVING PARENT/CHILD ISSUES AND FOR OTHER EQUITABLE RELIEF**  
21 **AND**  
**PLAINTIFF'S OPPOSITION TO DEFENDANT'S COUNTERMOTIONS TO RESOLVE**  
22 **PARENT/CHILD ISSUES, TO CONTINUE HEARING ON CUSTODY ISSUES, FOR AN**  
**INTERVIEW OF THE MINOR CHILDREN, AND FOR ATTORNEY'S FEES AND**  
23 **SANCTIONS**

24 COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys, THOMAS  
25 J. STANDISH, ESQ., of the law firm JOLLEY, URGAS, WIRTH, WOODBURY & STANDISH, and  
26 EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and hereby submits his Reply

27 ...

28 ...

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1 to Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues and  
2 Other Equitable Relief and his Opposition to Defendant's Countermotions to Resolve Parent/Child  
3 Issues, To Continue Hearing on Custody Issues, For an Interview of the Minor Children, and for  
4 Attorney's fees and Sanctions.

5 DATED this 23<sup>rd</sup> day of October, 2013.

6 KAINEN LAW GROUP, PLLC

7  
8 By: 

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The opposing arguments and positions regarding the subject “teenage discretion” provision can best be summarized as follows:

<b>Kirk’s Position</b>	<b>Vivian’s Position</b>
Wants status quo of stability and continuity to be maintained	Wants to disrupt status quo and thus create instability and discontinuity
Wants Brooke and Rylee to stay together for the next 4 years	Wants to separate Brooke and Rylee for the next 4 years and/or wants to cause so much emotional pain to Rylee in the hope of an outcome that will order Rylee living full time with Vivian regardless of the damage to Rylee in doing so
Does not want Brooke pressured into making a choice between her parents	Has been manipulating Brooke for many months in order to get Brooke to make a choice
Does not want Rylee to feel left behind, insecure, and distraught	Has displayed no hesitation whatsoever in creating a scenario where Rylee will feel left behind, insecure, and distraught
Kirk is a good, loving, and caring father	Kirk heaps pressure and ridicule upon Brooke and their home has “open conflict”
There is a well documented detailed history of Vivian manipulating these children	Tahnee, Whitney and Kirk are all lying; Vivian has always been an attentive involved mother; Vivian misspoke to Dr. Duffy when he noted “there is considerable ambivalence about her relationship with . . .her older children”
There is no evidence of Kirk ever coldly manipulating these children	There are some quotes from one of Kirk’s affidavits indicating he has manipulated somebody
The subject provision, as applied, is contrary to the best interests of Brooke and Rylee	GOTCHA! Kirk agreed to the subject provision so it doesn’t matter that, as applied, it is contrary to the best interests of Brooke and Rylee, or that Vivian doesn’t abide by key provisions
The subject provision violates state policy set forth in NRS 125.460 “To encourage such parents to share the rights and responsibilities of child rearing”	Subject provision cannot be contrary to state policy because it merely “recognizes” that Court should consider input from certain minors under NRS 125.480(4)(a)

Vivian's knowing violation of the explicit safeguards of this provision has undermined any chance of it being reasonably implemented, and; the continued existence of this provision will, undoubtedly, result in Vivian unduly subjecting Brooke and Rylee to needless emotional manipulation and distress	Brooke must have coincidentally conjured "her rights" and "teenage discretion" on her own at the same time as her 14 <sup>th</sup> birthday.
Brooke was with Vivian for 21 straight days and the very next day announced to Kirk and Whitney that she now had the right to decide where she lives	Brooke must have coincidentally conjured "her rights" and "teenage discretion" on her own at the same time as her 14 <sup>th</sup> birthday.
Brooke was then with Vivian for 14 straight days and within one day of her return to Kirk, crying and distraught, announced she wanted to live full time with Vivian	Brooke coming up with all of this by herself is just a coincidence
In spite of everything Vivian has done, Kirk, naively, did not anticipate that Vivian would try to separate Brooke and Rylee	Vivian believes "girls are supposed to be with their mommies"

Vivian denies that she manipulated or prompted Brooke to leave Kirk and Rylee or caused Brooke to announce her desire to live with Vivian full time, thus leaving her little sister for one-half the time. In response to an email from Kirk where he accused Vivian of manipulating Brooke to live with her full time, Vivian wrote,

"Brooke is telling you she wants to live with me . . .???? Hmmm, Interesting. . . . Will speak to her and discuss options with Radford. Thanks for letting me know!" (Vivian's email, dated 8.14.13)

The facts are otherwise. Brooke's two announcements were immediately following her 14<sup>th</sup> birthday and right upon her return from two extended time periods with Vivian. Those are not coincidences.

To find additional circumstantial evidence that this did occur, one needs to look no further than the affidavit of Vivian's own attorney. Exhibit S to Vivian's opposition to Kirk's counter motions regarding attorneys' fees is the affidavit of Gary R. Silverman, Esq. This "affidavit" provides insight as to what Vivian was being advised relative to the "teenage discretion" provision. Mr. Silverman wrote,

"Mr. Harrison must know that the "teen" exception in the custody agreement **will be exploited by the girls and it is Vivian who will have de facto primary custody.**" (Exh. S to Vivian's opposition to Kirk's counter motions re attorneys' fees, p. 9, l. 16-17) (emphasis added).

1 Kirk respectfully submits that the best interests of Brooke and Rylee should trump selfish  
2 gamesmanship, the only goal of which is to “win.”

3 After years of Vivian emotionally and physically abandoning Brooke and Rylee, Vivian now  
4 wants this Court to reward her based upon baseless allegations that Kirk is pressuring and ridiculing  
5 Brooke and has an environment in his home that is full of conflict. Kirk has never pressured or ridiculed  
6 Brooke. The only issues Kirk has had with Brooke are refusing to go to Lagoon after driving to Layton,  
7 Utah and making Kirk wait outside Vivian’s house in the car for 20 to 34 minutes (when it should have  
8 taken less than 5 minutes) when she picks up her things. Interestingly, both events directly involved  
9 Vivian either physically being with Brooke, or in direct electronic communication with Brooke. Vivian  
10 has orchestrated both problems. The home that Kirk, Brooke and Rylee share is loving, caring,  
11 peaceful, calm, happy, and civil. The documented events which have historically occurred with Vivian,  
12 such as drug abuse, volatility, instability, deceitfulness, lying, screaming, swearing, threatening, hitting,  
13 throwing, criticizing, and blaming, do not occur in Kirk’s home.

14 It should be noted that the bulk of Vivian’s opposition entirely misses the mark of Kirk’s motion.  
15 Kirk’s chief concern is that Vivian has failed to abide by the express terms of the “Teenage Discretion”  
16 provision to such an extent that, as applied, Vivian has rendered it completely unworkable. Her defying  
17 specific terms has resulted in the exact opposite effect of the one intended by the parties in negotiations.  
18 It is also most interesting, that while Vivian tells tales criticizing Brooke’s relationship with Kirk, she  
19 does not ever deny violating the terms of the existing provision. Rather, for 25 pages, she simply argues  
20 all the reasons such a “decision” is justified. Vivian also seems to have the same misinterpretation of  
21 the provision that Brooke does - the provision does not entitle any child to make a choice as to  
22 residence, but suggests the parents should consider the wishes of the child when not influenced by the  
23 other parent as to short periods of time. The confusion by both Brooke and Vivian, must also be a  
24 coincidence, according to Vivian.

25 ...

26 ...

27 ...

28 ...

1 **II. ARGUMENT**

2  
3 **A. The Goal of the Court's Orders Must Be To Further the Best Interests of The**  
4 **Minor Children By Providing Stability and Continuity in Their Lives**

5 The uncertainty about the future for minor children is one of the primary issues associated with  
6 divorce litigation, particularly protracted litigation. Practitioners know that such ongoing litigation takes  
7 a toll on children, as does the instability of not knowing where they are going to be living or with whom  
8 from day to day. There is a reason that children are never asked to choose between their parents. At  
9 most, the Court considers the wishes of a mature child who is making reasonable preferences under  
10 appropriate circumstance, as one a multitude of factors. That is our statutory scheme; not the wholesale  
11 delegation of choice to children as advocated by Vivian. It is not in Brooke's best interest to foist the  
12 responsibility upon her to "choose" which parent she wants to live with more than the other parent at  
13 a particular point in time. Such a decision would force Brooke to choose between living with Rylee all  
14 of the time or leaving Rylee to spend more time with one parent than the other. Such a scenario cannot  
15 be good for either child. Most importantly though, Vivian sharing her gross misunderstanding of  
16 "teenage discretion" with Brooke, and then sending Brooke out to follow marching orders, immediately  
17 following her 14<sup>th</sup> birthday, was not fair or reasonable to Brooke. As well, arguing for 25 pages that the  
18 ends justify the means, is not legally defensible to the issue before the Court.

19 It is contrary to Brooke's and Rylee's best interest to have a provision which motivates either  
20 parent to lobby the children to live with one more than the other. This is especially true where there is  
21 a well documented history of Vivian engaging in conduct toward alienating Kirk from Brooke and  
22 Rylee. That is why there was an express provision prohibiting the same. Any arrangement that  
23 encourages a parent to do what is most popular with the children, as opposed to what is best for the  
24 children, is not in their best interests. An arrangement which encourages both parents to consistently  
25 do what is in the best interests of the children, regardless of whether it is the most popular decision, is  
26 much preferred to an arrangement which motivates the parents to curry favor with them.

27 From the outset, the functionality of this provision was speculative at best, especially given the  
28 dysfunctional relationship between the parents. Accordingly, specific provisions and safeguards were  
put in place, by which both parties agreed to be bound. Without those safeguards in place there would

1 have been no agreement for “teenage discretion”, and without the parties abiding by those safeguards  
2 there can be no “teenage discretion.” The fact is, that Vivian has entirely ignored the written order, but  
3 likes that it is called “teenage discretion”, so she attaches her own meaning and interpretation to that  
4 term (a misinterpretation Brooke coincidentally shares); to her the written words mean nothing. To her  
5 the mere existence of “teenage discretion” means that “Brooke has the discretion to choose, and Brooke  
6 chooses me.”

7 The status quo is joint custody between Kirk and Vivian. Since the entry of this Court’s Order  
8 on July 11, 2012, custody has been shared essentially on an equal basis.<sup>1</sup> Vivian now wants to disrupt  
9 the stability and continuity in Brooke’s and Rylee’s lives. Without the “teenage discretion” provision,  
10 Vivian would be relegated to litigation and be, rightfully, confronted with the Court’s “desire to provide  
11 children with stability and continuity in their lives, and to discourage endless litigation and re-litigation  
12 of custody issues. . .” Nevada Family Law Practice Manual, 2013 Edition. Ch. 2B.E(a). With the  
13 “teenage discretion” provision, Vivian is attempting to obtain the same result. However, Vivian should  
14 still be confronted with the same desire of the Court “to provide children with stability and continuity  
15 in their lives” and therefore the Court should be unwilling to modify the joint custody status quo unless  
16 it is clearly in the children’s best interests. NRS 125.510(2).

17 Kirk wants to maintain the stability and continuity in Brooke’s and Rylee’s lives and therefore  
18 maintain the status quo of equal shared custody under the existing plan. Prior to Vivian’s vacations  
19 with Brooke and Rylee this summer there really had been no problems. It is in the best interests of  
20 Brooke and Rylee to modify the order to eliminate the “teenage discretion” provision. *Truax v. Truax*,  
21 110 Nev. 437, 874 P.2d 10 (1994).

22 ...

23 ...

24 ...

25 ...

26

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27 <sup>1</sup> In actuality, Kirk was given more time by the Court’s Temporary Order, but agreed to equalize the  
28 time as part of the final negotiations.

**B. The Well Established Pattern of Conduct of Making False Factual Assertions and Then Making Arguments Based Upon Those Misrepresentations, Continues**

**1. Vivian Has Been “Working” Brooke Since The Filing Of The Motion and Countermotion For Temporary Custody in This Case**

Vivian represents to the Court, “In March 2012, when the Court directed the parties share joint physical custody, the children spent the majority of their time in Vivian’s care. (Vivian’s opposition, p. 2, l. 11-13) The temporary custody order of this Court was followed. Therefore, the fact is that the children spent the majority of their time in Kirk’s care, as specified in the Temporary Orders. The reference indicated in Vivian’s papers referred to the time period *prior* to this Court’s order; it refers to the time period when Vivian was **taking** Brooke and Rylee away from Kirk and parking them at the Atkinsons, many times when Vivian was not even there. This issue and Vivian’s overt acts of trying to alienate Kirk from Brooke and Rylee were addressed in detail in a letter, dated February 3, 2012, from Ed Kainen, Esq. to Radford Smith, Esq., attached hereto as **Exhibit “2”**, which provides in relevant part:

For several weeks, Vivian has had Brooke and Rylee spending more time at the Atkinson home than they do in their own home. Sometimes Vivian is also there and many times she is not. Kirk strongly believes Vivian is intentionally trying to minimize the time Kirk has with Brooke and Rylee. Kirk got an email from Vivian last night that she and the girls are going to be spending Valentine’s Day dinner with someone else. This type of pre-emptive behavior by Vivian has become all too common.

Kirk has also informed me that it is apparent Vivian has been working Brooke and Rylee a lot. Kirk has noticed significant changes in Brooke’s attitude towards him during the last several months. On Thursday afternoon, January 27, Kirk was sitting on the couch in the living room and asked Rylee to sit with him and snuggle. Rylee responded, “I’m not supposed to snuggle you anymore dad.”

(Exh. 2, p. 3 & 4)

Consistently, in Kirk’s reply re custody, filed 1.4.12, it was noted, “Currently, Vivian takes Brooke and Rylee to the Atkinsons to play and to sleep over night at every opportunity.” (p. 40, l. 12) This was the period immediately prior to the Court’s Temporary Orders, and Vivian was trying to gain a custodial advantage by unilaterally separating Kirk from the children and securing them in a place to which Kirk had no access. The Court rightfully rejected those efforts. Kirk respectfully urges the Court to read pages 2 through 4 of this letter, as this letter provides tremendous insight as to Vivian’s intentional manipulations of Brooke and Rylee in connection with their relationship with Kirk.

1                   **2.       The Absence of This Teenage Discretion Provision Is The Best Way To**  
2                   **Avoid Litigation and Obviate the Need To Seek A Resolution**

3                   Vivian's assertions are patently and intellectually offensive;

4                   "The parties' counsel drafted the provision to place *less* pressure on the children to make any  
5                   choice between parents by allowing the children a voice, after age 14, to spend more time with  
6                   one parent without undermining the joint custodial plan. The fundamental goal of the provision  
7                   was to avoid litigation, and seek resolution through therapy and a Parenting Coordinator."

8                   First, and most importantly, if Vivian understands that the children will spend one-half their time with  
9                   Vivian and one-half their time with Kirk, **and** that is not going to change, then Vivian will not be as  
10                  motivated to continue her manipulation of the children (at least to the extent she has been), Vivian will  
11                  have less reason to try to alienate these children from Kirk, and Vivian might realize it is not in the  
12                  childrens' best interests, it is not a popularity contest and the priority is to do what is best for the  
13                  children, rather than buying their loyalty. Second, without the "teenage discretion" provision there will  
14                  be substantially reduced need for a parenting coordinator. If Brooke and Rylee are not put through the  
15                  ringer by Vivian, and they have consistent equal parenting time with each parent, they will have what  
16                  each party claims was intended. Third, the assertion that the "teenage discretion" provision was to avoid  
17                  litigation" is nonsensical. It is insulting to assert that the fundamental goal of a provision like this was  
18                  to avoid litigation. Clearly, the absence of the "teenage discretion" provision and the strong message  
19                  from the Court that the time share is not going to change, absent a legitimate basis to do so, is the best  
20                  way to avoid litigation and obviate the need to "seek resolution." Fourth, to assert this provision does  
21                  not undermine the joint custodial plan is absurd.

22                   **3.       The Absence of the Teenage Discretion Provision Will Significantly**  
23                   **Minimize the Need for a Parenting Coordinator**

24                  Kirk did not make a "tactical delay" in identifying a therapist or parenting coordinator. The  
25                  delay was caused by Radford Smith when he proposed a Parenting Coordinator Order which, among  
26                  other things, unconstitutionally delegated complete judicial authority to a Parenting Coordinator,  
27                  contrary to the understanding of the parties. Counsel for Kirk enumerated the objections in a letter to  
28                  Mr. Smith on May 9, 2003.

                  Kirk agrees with the assertion that "the pressure to spend more time with Vivian is building."  
(Vivian's opposition, p. 3, l. 9-10) That pressure is being applied by Vivian upon Brooke!

1 There is no debate that the most effective and influential, and therefore most powerful, person  
2 in the resolution of disputes is a mediator. A mediator has the power to recommend – nothing more.  
3 Discovery Commissioners in the Eighth Judicial District have the power to recommend. Federal  
4 Magistrates have the power to recommend. However, Kirk’s assertion that the Parenting Coordinator  
5 should, similarly, have the power to recommend and not the judicial authority to decide, is described  
6 by Vivian as “his attempt to reduce the power of the Parenting Coordinator to nothing.” (Vivian’s  
7 opposition, p. 3, l. 15)

8 Vivian accuses Kirk of entering into the Parenting Plan in “bad faith.” Kirk respectfully submits  
9 in light of the statement from Mr. Silverman, if anyone entered into the Parenting Plan in “bad faith”  
10 it was Vivian and Vivian’s counsel, who have apparently knowingly devised a plan to separate Brooke  
11 and Rylee from one another for one-half the time for the next 4 years. What is their retort to that fact  
12 acknowledged by Mr. Silverman? Perhaps, the second part of the plan is that Rylee will be so sad that  
13 she is separated from Brooke, that they hope the therapist will recommend, and the parenting  
14 coordinator will **order**, that Vivian has Rylee full time before she is 14 years old. In any case, whatever  
15 the goal, it appears that the manipulation of the children will continue and nothing being done removes  
16 them from the ongoing conflict or makes their best interests a priority.

17 From the inception of this case, Kirk has accepted that Vivian’s attorneys have frivolously  
18 attempted to impugn his character in their ever vigilant attempt to make him the “bad guy.” As  
19 horrendous as all of that has been, it seems to pale next to what they have planned with regard to  
20 Brooke and Rylee.

21  
22 **4. Despite the Contrary Allegations, This “Teenage Discretion” Provision is a  
Far Cry From NRS 125.480(4)(a)**

23 NRS 125.480(4)(a) provides that the Court shall consider “the wishes of the child if the child  
24 is of sufficient age and capacity to form an intelligent preference as to his or her custody.” This statute  
25 merely provides that the Court should **consider** the wishes of certain minor children.

26 This statute does not provide the Court must do what the child wants. This statute does not  
27 provide the Court must ignore the known history of abuse and neglect of one parent in making its  
28 determination. This statute does not provide the Court is required to separate minor children from one



1 another. The mere existence of this statute does not provide attorneys the license to devise and construct  
2 agreements apparently meant for one parent to create or perpetuate an environment of manipulation of  
3 minor children which is clearly not in their best interests. The statute is not intended to be used to  
4 replace stability and continuity, with instability and discontinuity.

5 In one of her most bold misrepresentations of Kirk's argument, Vivian asserts, "He argues that  
6 a provision recognizing teenage discretion violates public policy even though Nevada law *requires* the  
7 court to weigh such discretion when determining the best interest of a child." (Vivian's opposition, p.  
8 3, l. 13-14) First, and most obvious, Kirk does not argue that a provision which merely *recognizes* the  
9 preferences of certain children violates public policy. It is safe to say that the "teenage discretion"  
10 advocated by Vivian does a whole lot more than merely recognize preferences of certain children. That  
11 "teenage discretion" provision clearly is contrary to the Nevada policy of encouraging parents "to share  
12 the rights and responsibilities of child rearing." NRS 125.460 Further, the "teenage discretion" in this  
13 case, *as applied*, is what is problematic.

14 This Court had occasion in this proceeding to articulate its sentiments concerning provisions  
15 granting a right of first refusal. The Court may recall that Kirk requested a right of first refusal during  
16 the hearing before this Court on February 24, 2012. The Court denied Kirk's request stating, "I don't  
17 typically like rights of first refusal." (2.24.12 Hearing Transcript, p. 71, l. 19-24) The Court later stated  
18 the reason it does not like rights of first refusal:

19 I don't generally believe in – well, not that it's a belief, but I think  
20 it creates more problems than it's worth, so I don't typically award rights  
of first refusal except if it's an overnight due to unavailability of a parent.

21 (2.24.12 Hearing Transcript, p. 71, l. 19-24)

22 This Court made it clear that it believes that right of first refusal provisions create more problems  
23 than they are worth. Presumably, it is because when you have parents who do not get along and do not  
24 communicate civilly or effectively, the right of first refusal provision creates more problems and  
25 conflict. Additionally, the door is opened to claims of abuse, that are often fraught with conflict and "he  
26 said / she said". All of the same is true with respect to a "teenage discretion" provision when the parents  
27 do not get along, do not communicate civilly or effectively, and most importantly do not abide by  
28 specific safeguards to prevent the enmeshing of the children in the conflict of the parents. Such a

1 provision is not in the best interests of the children and creates more conflict between the parents and  
2 thus more of a hostile unsettled environment for the children.

3  
4 **5. Kirk's Relationship With Brooke Is Not Strained and Conflicted and Kirk Does Not Heap Pressure and Ridicule Upon Brooke**

5 For many years, Kirk was the only parent that cared for Brooke and Rylee on a regular basis.  
6 For all the years that Vivian did not care for them and chose not to spend time with them, Kirk was there  
7 every day on a consistent basis. The history of absenteeism and abandonment is documented, and even  
8 Vivian acknowledged the same issues to her own doctors about her issues with the older children.  
9 Despite Vivian's revisionist claims, this issue isn't even fairly in dispute. Other than the rather costly  
10 perjurious statements from Heather Atkinson and Michell Walker, no one has ever said that Kirk was  
11 anything other than a dedicated, attentive and caring father. Tahnee and Whitney know better than  
12 anyone else how good a father Kirk has been to Brooke and Rylee. Kirk urges the Court to reread their  
13 affidavits – affidavits they each spent over two hours revising to make them their own. (Exh. 2 & 3 to  
14 Kirk's motion re custody, filed 9.14.11) The Court will recall that the neighbors, other parents, and the  
15 crossing guard all testified that Kirk, not Vivian, drove Brooke and Rylee to and from school, dance  
16 classes, sports practices and activities. It was only Kirk, not Vivian, that consistently attended their  
17 sporting events for several years. (Kirk's reply re custody, filed 1.4.12, Exh. 22, 23 & 24)<sup>2</sup> It still  
18 remains interesting that prior to Vivian's self-created competition with Kirk to "win" Brooke and Rylee  
19 and prior to Vivian's now-continuing efforts to alienate Kirk from Brooke and Rylee, Vivian had a  
20 different view of Kirk as a parent:

21  
22 Would never DREAM of doing that to the father of my children. My  
23 children luv him and he is a descent human being and loves his children.  
24 **He is a good father.** Although we may not see things eye to eye I would  
25 never never never do anything to hurt one of the most important persons  
26 in my childrens lives for anything!!!

26 <sup>2</sup> Kirk respectfully requests the Court take another look at the photographs attached as Exh. 4 to Kirk's  
27 motion re custody, filed 9.14.11 and Exh. 18 to Kirk's reply re custody, filed 1.4.12, as a reminder of  
28 what Vivian was doing much of the time that Kirk was a dedicated and attentive parent to Brooke and  
Rylee. For a significant period of time during 2010, Vivian spent more waking hours with the stuffed  
animal "Hugo" than she did with Brooke and Rylee.

1 (Email from Vivian to Robert W. Lueck and copied to Bob Dickerson, Marvin Gawryn, Melissa  
2 Attanasio, Tom Standish and Kirk, dated 7.15.11, attached hereto as **Exhibit "3"**)

3 Kirk's dedication, love and care of Brooke and Rylee has never changed. It certainly hasn't  
4 changed while under the microscope of this litigation. He is still a good father. What has changed is  
5 that Vivian went from being a parent who largely abandoned Brooke and Rylee, to a parent determined  
6 to win her self-created competition with Kirk, and who has been attempting to alienate Kirk from  
7 Brooke and Rylee for the last two years since the filing of Kirk's motion re custody on September 14,  
8 2011.

9 In spite of Vivian's persistent efforts to alienate Brooke and Rylee from Kirk, and despite the  
10 fact that Vivian's efforts have made some days more difficult than they otherwise would have been, the  
11 relationship between Kirk and Brooke and Rylee remains one of love and care. Brooke, Rylee and Kirk  
12 all enjoy each other's company. As they always have done, they enjoy eating their meals together.  
13 They still do fun things together.

14 As stated, there is no question, that as a consequence of Vivian's efforts to alienate Kirk from  
15 Brooke and Rylee, there are days, especially the first day Kirk gets Brooke and Rylee after being with  
16 Vivian, that Brooke and Rylee are more distant from Kirk than they were in the past. That is heart  
17 wrenching for Kirk. However, the scenario described by Vivian (on page 4, l. 1-10 of Vivian's  
18 opposition) does not exist. Kirk does not and never has heaped "pressure and ridicule" upon Brooke.  
19 It is impossible to respond to such obscure allegations such as "Kirk's actions and words show he lacks  
20 insight into the emotional and physical needs of the children."

21 Vivian asserts that Kirk "acknowledges there is open conflict with her in his home." (Vivian's  
22 opposition, p. 4, l. 13-14) That is false. There is no open conflict in Kirk's, Brooke's and Rylee's  
23 home. As compared to the volatile, unstable, screaming, swearing, hitting, throwing, accusatory,  
24 arguing, finger pointing environment that Vivian created with the children when Kirk was still with her,  
25 his home with Brooke and Rylee is like a peaceful, but happy monastery. Although Vivian has perhaps  
26 forgotten, the Court undoubtedly has not forgotten, it was Vivian who punched each of the older  
27 children in the head, it was Vivian who got Tahnee on the ground and kicked her repeatedly in the  
28 abdomen, and it was Vivian who hit Kirk in the face, which fact was memorialized by the Boulder City

1 Police Department. It was Vivian who one-by-one threw each of the older children out of their home  
2 when they were each 14 and 15 years old..

3 Vivian requests an evidentiary hearing on custody. While Kirk assumes that the Court is not  
4 inclined to conduct such a hearing, if an evidentiary hearing is the Court's inclination, Kirk's believes  
5 the most enlightening witnesses as to what actually went on in the Harrison home, behind doors closed  
6 to the public, will be Tahnee and Whitney.

7 Vivian also requests child interviews of the minor children. While Kirk continues to believe that  
8 involving the children in their parents' dispute is not in their best interest, and that the words spoken by  
9 any child may not always reflect the entirety of what is going on in any case, he will defer to the Court.  
10 However, to the extent that the Court chooses to interview the minor children, Kirk requests that the  
11 Court also interview Tahnee and Whitney, who grew up in the same home with the same parents, lived  
12 in the home with the minor children and the parents throughout the disputed critical times, and have the  
13 benefit of adulthood and added maturity. Their insight into the full picture of each of the parents and  
14 the best interests of their sisters would be invaluable.

15 **C. Kirk Respectfully Submits that Vivian Should Not Be Rewarded For Her**  
16 **Misconduct, Especially When It Is Not In Brooke's And Rylee's Best Interest To**  
17 **Change the Status Quo**

18 **1. Vivian Has Manipulated Brooke and Rylee To Such An Extent That They**  
19 **Believe That The Shared Experiences They Had With Kirk In Purchasing**  
20 **Dance Clothes and Dance Shoes Never Occurred**

21 From the beginning of this case Vivian has attempted to rewrite history, and when that history  
22 is incapable of rewriting, she has employed "hired guns" to explain it away. Regardless of the fact that  
23 half of her rewritten claims are at odds with the other half, her claims and theories are only limited by  
24 imagination. While the Court has the benefit of the written record and the evidence, the children do  
25 not. In addition, when they are only being lobbied by one parent, they are fat more susceptible to buying  
26 into Vivian's revisionist reality.

27 In this regard, as a result of the continuous campaign involving Brooke and Rylee, in a most  
28 insidious way, Vivian has begun to change the childrens' reality and has now convinced Brooke and  
Rylee that Kirk has never bought them dance clothes and dance shoes. This is despite the fact Brooke  
and Rylee were with Kirk every time he made those purchases. The fact that Vivian has been able to

1 successfully convince them that these shared experiences with Kirk *never occurred* gives insight, by just  
2 this one example, as to the extent of Vivian's extreme manipulation of these girls.

3 Kirk has taken Brooke and Rylee to buy them dance shoes, leotards, tights, and dance clothes  
4 for dance classes. *See* Exh. 1 to motion. In spite of these facts, Vivian asserts:

5 Vivian did not, as Kirk suggests at page 6 of his Motion, "convince" Brooke that she  
6 should go with Vivian to buy dance shoes – **this had been their practice for the entire**  
7 **time Brooke and Rylee have been in dance.** Brooke told Vivian that she wanted  
8 Vivian to take her shopping. This did not come as a surprise; Vivian cannot remember  
9 **a single instance where Kirk bought dance clothes and shoes for he children while**  
10 **Vivian and Kirk were together.**

11 Kirk admits that he argued with the girls when they told him that they could not  
12 remember him buying dance shoes or clothes for them in the past. Motion, page 7.  
13 Because Kirk's involvement in dance has been limited to driving the children, he does  
14 not understand that the children do not equate the purchasing of leotards at Target with  
15 **the purchase of dance clothes and shoes, which they purchase from a specialty**  
16 **store.** Kirk has attempted to create a new reality whereby he was involved in the  
17 purchase of dance clothes for the children – he was not, and he was not justified in  
18 chiding Brooke for spending time shopping with Vivian.

19 (Vivian's opposition, p. 14, l. 26-27; p. 15, l. 1-12)

20 Based on the forgoing assertions by each party, only one of the two assertions can be true. The  
21 Court will not lose site of the fact that, despite her repeated claims *to the children* that Kirk had no  
22 involvement in dance purchases (to the point that the children now repeat that statement to him *as fact*),  
23 in her most recent pleading Vivian seems to impliedly acknowledge regular dance purchases by Kirk,  
24 but has narrowed her claims to this Court to purchases "at specialty stores". Either Kirk is right, and  
25 he has purchased dance clothes and shoes "at specialty stores", or Vivian is right that Kirk has not  
26 purchased dance clothes and shoes "at specialty stores".

27 Vivian cites the absence of "a single instance where Kirk bought dance clothes and shoes for the  
28 children while Vivian and Kirk were together." According to Vivian, Kirk has only bought leotards at  
Target and Kirk just doesn't understand that you purchase dance clothes and shoes "from a specialty  
store." Vivian also asserts,

"Kirk has attempted to create a new reality whereby he was involved  
in the purchase of dance clothes for the children – **he was not**, and he  
was not justified in chiding Brooke for spending time shopping with  
Vivian." (Vivian's opp., p. 15, l. 9-12) (emphasis added)

1 None of these outrageous assertions of fact has any truth to them whatsoever.<sup>3</sup>

2 Kirk did not buy leotards from Target. Kirk has bought athletic clothes, tops and bottoms, and  
3 sports bras for Brooke and Rylee at Target, Nordstrom Rack and Scheels for use in dance classes. Kirk  
4 has bought leotards, tights, ballet shoes, tap shoes and other dance shoes at dance specialty stores. Kirk  
5 bought Brooke a pair of dance shoes at the store in Boulder City before it closed. The dance store next  
6 to Trader Joe's in Henderson is called, "Judy's Dance Shoppe." The ownership of this store changed  
7 within the last year or so. The prior name of the store was, "LV Dance Shoppe." Kirk has taken Brooke  
8 and Rylee to buy both Brooke and Rylee dance shoes and clothes at that "specialty" store. Rylee had  
9 a growth spurt and sometime later Kirk went back to the same store with Rylee and bought Rylee two  
10 new leotards and Brooke another pair of dance shoes.

11 Each year, Kirk takes his children, including Brooke and Rylee, to see one or two plays at  
12 Tuachan, near St. George, Utah. On one such trip Kirk learned there was a dance store ("specialty  
13 store") in St. George, that sold the same dance clothes and dance shoes as LV Dance Shoppe, but at  
14 considerably lower prices. The big name in dance clothes, particularly leotards, dance shoes and ballet  
15 shoes is called "Bloch." The reason Kirk knows he has never bought leotards at Target is because  
16 Target does not sell "Bloch" leotards. This store carried a full line of "Bloch" products. The name of  
17 the "specialty store" in St. George is "Dance Magic". Kirk was able to locate evidence that on July 31,  
18 2009, Kirk, **with Brooke and Rylee**, bought Brooke and Rylee, \$323.96 worth of dance clothes and  
19 dance shoes from the specialty store, Dance Magic in St. George, Utah. Attached hereto as **Exhibit "4"**

20 ...

21 ...

22 ...

23 ...

24 ...

---

26 <sup>3</sup> It should also be emphasized that Kirk never "chided" Brooke or scolded her in any way. Kirk simply  
27 asked why he couldn't take her to get the dance shoes. When Brooke responded that Vivian had always  
28 taken her, Kirk said that was simply not true. Kirk also said that if your mom wanted to take you to get  
dance shoes, he could not understand why she couldn't have taken Brooke during her custodial time.

1 is a true and correct copy of Kirk's – not Vivian's – CitiCard, for the period of July 9 through August  
2 7, 2009, evidencing this purchase at Dance Magic.<sup>4</sup> Vivian has not gone on the family trips to Tuachan  
3 for several years, so it is doubtful she was there.

4 Once again, as it has done throughout this case, *the evidence demonstrates the truth, despite*  
5 *Vivian's contrary allegations.* The truth is clear, even despite Vivian convincing the children that these  
6 events never occurred, and despite Vivian asserting to this Court that they did not. More to the point  
7 though, the foregoing illustrates the insidiousness of the type of manipulation being employed by Vivian  
8 upon Brooke and Rylee. Vivian has convinced them that experiences they have shared with Kirk, such  
9 as Kirk taking them to buy the dance clothes and dance shoes they needed, *never even occurred.* With  
10 this type of manipulation Vivian not only falsely minimizes Kirk's involvement with the girls, but  
11 falsely overstates Vivian's involvement with the girls. It is yet another instance, where Vivian has  
12 intentionally and knowingly misrepresented material facts to this Court in an effort to falsely accuse  
13 Kirk of "attempting to create a new reality" and, thus once again, make Kirk the "bad guy." Kirk simply  
14 uses this as another occasion to remind the Court that the claims he has made have been consistent and  
15 supported by evidence, while the claims Vivian has made have wildly varied and are not supportable  
16 by actual evidence.

17 Finally, Kirk would note that he did not argue with Brooke and Rylee when they said he had  
18 never taken them to get dance clothes and shoes. Kirk expressed surprise and indicated that there was  
19 no question that he had taken them on multiple occasions.

20  
21 **2. Despite Vivian Not Helping Brooke and Rylee With Their Homework For  
Years, Vivian Has Convinced Brooke and Rylee That She Always Has**

22 Vivian's ability to consistently manipulate Brooke and Rylee to the point that she re-writes  
23 history has been applied in several contexts. Vivian also has them believing that she has always helped  
24 them with their homework.

25  
26 <sup>4</sup> Most of the bankers boxes containing cancelled checks and credit card statements are in storage at the  
27 ranch. Therefore, in the limited time available, Kirk has been unable to find the cancelled check or credit  
28 card statement to Danceworks and the credit card statements evidencing his purchases of dance clothes  
and dance shoes, primarily Bloch brand, at LV Dance Shoppe. If Kirk is able to go to the ranch and find  
those documents between now and the hearing, he will supplement this Reply.

Vivian accuses Kirk of “bad faith” in his assertions that Vivian stopped helping Brooke and Rylee with their homework. In order to make this claim Vivian deliberately misrepresents the record. The Court is urged to read Vivian’s opposition, page 10, lines 20-28 and page 11, lines 1-4. Vivian points to a single sentence in Kirk’s letter of January 4, 2010, to Dr. Roitman which she claims is inconsistent with Kirk’s claim. She cites the sentence, “And **as written previously**, she **has** always done a good job spending time with the children with their homework and reading before bedtime.” (Kirk’s reply, 1.4.12, Exh. 9, p. 15) (emphasis added by Kirk) The reference to “as written previously” refers to page 7 of the same letter, wherein Kirk wrote, “Vivian worked with two of our three **oldest children** each night **helping them with homework** and reading with them.” (emphasis added)

In context, this is very clear. However, despite this undeniable fact, Vivian goes on to represent to the Court, “Kirk did not qualify this to limit it only to the older children, nor did he allege anywhere that Vivian was not helping the younger children.” This is inaccurate and nothing more than utter nonsense! There seem to be no bounds to the liberties Vivian and Vivian’s attorneys will take to mislead this Court.

These are the true facts:

With regard to the statements of **Tahnee**:

“My mother...**consistently exhibits a lack of any thought whatsoever about whether Brooke and Rylee have had dinner or have done their homework**, rarely does anything with Brooke and Rylee, rarely does anything for Brooke and Rylee, and has repeatedly left Brooke and Rylee for extended periods of time without any regard whatsoever for their best interests. I have witnessed the ill-effects my mother’s conduct has had upon Brooke in particular.”

(Kirk’s motion re custody, Exh. 2, ¶39) (emphasis added)

My dad takes good care of Brooke and Rylee on a daily basis. He makes them a complete hot breakfast every school day morning and makes sure they always have a good dinner meal. **He helps them with their homework whenever they need help.** He takes them to and from school, to and from dance classes, and to and from any sports activities. My dad, Brooke and Rylee do their laundry together, when my mother is away on her many trips. He makes sure Brooke and Rylee take regular showers during the week and brush their teeth every night. He takes them shopping and to children’s movies on a regular basis. He takes Brooke and Rylee to the ranch with their friends for fun weekends. When my dad has to be out of town, he calls every day he is gone and talks to Brooke and Rylee so they know he cares about them and to make sure Brooke and Rylee have done their homework, have eaten dinner, and are going to bed on time. He is attentive, and Brooke and Rylee know he cares deeply about them and that they are loved by him.

(Kirk’s motion re custody, Exh. 2, ¶41) (emphasis added)



1 With regard to statements of **Whitney**:

2 “I told my Dad that my Mother will only do things where she thinks she will be given  
3 credit. For example, she will spend more time after class helping students other (sic)  
[rather] than Brooke and Rylee with their homework.”

4 (Kirk’s motion re custody, filed 9.14.11, Exh. 3, ¶17)

5 My Mother spends most of her waking hours by herself in the home office with the door  
6 closed. When you go in there she is usually on the internet shopping, reading, or  
7 watching a dvd with Jonathan Rhys Meyers. My Mother rarely cooks a meal for Brooke  
8 and Rylee. My Mother rarely cleans the kitchen. My Mother seldom does anything with  
9 Brooke and Rylee other than sleep in the same bed. My Mother seldom takes Brooke  
10 and Rylee anywhere or wants to do anything with them. **My Mother normally doesn’t**  
11 **help Brooke and Rylee with their homework.** In conversations with my Mother the  
12 topics are usually about her – something she is buying, some cosmetic procedure,  
13 something about fashion, or something about Jonathan Rhys Meyers or the Hope  
Foundation. Almost every conversation with my Mother is about her. My Mother  
14 seldom talks about Brooke or Rylee or asks about my life or what I’m doing. When my  
Mother is home she doesn’t do the laundry more than about once a month. On those  
15 days when my Dad goes to the ranch to work, there have been a number of times when  
16 my Mother doesn’t get or make Brooke and Rylee dinner. My Mother is oblivious to  
17 Brooke and Rylee’s needs most of the time. I don’t think she is a good influence morally  
18 or shows them good character. She is obsessed with appearance and it is her practice of  
19 telling her children that they have physical defects.

20 (Kirk’s motion re custody, filed 9.14.11, Exh. 3, ¶26)

21 As noted previously, Vivian’s calculated manipulation started early in the litigation. At the  
22 outset of this litigation when Rylee was only nine years old and Kirk asked her to sit next to him on the  
23 couch, Rylee responded, “I’m not supposed to snuggle you anymore dad.” Vivian has also convinced  
24 Brooke, and perhaps Rylee as well, that “girls are supposed to live with their mommies” - a theme that  
25 permeates her most recent pleading Suffice it to say, this type of calculated manipulation is clearly not  
26 in their best interests. As well, any provision that encourages, and perhaps rewards, that manipulation,  
is not in the childrens’ best interests.

27 Since Kirk is not a party to the conversations which occur in Vivian’s home when the girls stop  
28 by to pickup an item, he is unable to enlighten the Court or himself as to exactly what Vivian is doing  
to keep the girls from returning to Kirk’s car in a reasonable period of time, but Rylee’s comments have  
clearly indicated that they have been ready to come back to the car while Vivian keeps them talking.<sup>5</sup>

---

<sup>5</sup> Similarly, Brooke is a really good kid and normally very thoughtful and considerate, especially of  
Rylee. However, Kirk has no idea what Vivian says to Brooke to convince Brooke to keep Kirk waiting  
in the car for 20 to 34 minutes when picking up stuff from Vivian’s house, but consistently takes less  
than 5 minutes when picking up the same stuff from Kirk’s house.

1 However, the Court can certainly get a real sense for what has been happening by reading **Exhibit "2"**  
2 attached hereto.

3 Vivian actually argues that the two neutral witnesses in the home are Brooke and Rylee. Kirk  
4 respectfully submits that because they are the recipients of the manipulation and they are the minor  
5 children who are the subject matter of this litigation, they are not *neutral* witnesses. Vivian has  
6 successfully taught them to believe things that are not true. However, there were indeed two *actual*  
7 *neutral* witnesses living in the home, during the critical portions of this family's history, who are both  
8 adults, and without question have the best interests of Brooke and Rylee at heart. Those witnesses are  
9 Tahnee and Whitney.

10 **3. Kirk Understands That Brooke and Rylee Believe Things Which Are Simply**  
11 **Not True Because Vivian Has Manipulated Them, So Kirk Has Never**  
12 **Accused Brooke or Rylee of Lying When This Occurs**

13 Kirk is well aware that Vivian is manipulating Brooke and Rylee into believing things that are  
14 simply not true. Therefore, when he has discussions with Brooke about such things, such as simply as  
15 Kirk taking Brooke and Rylee to buy dance clothes and dance shoes, Kirk has not and never will accuse  
16 Brooke or Rylee of lying. What Kirk has done, albeit with limited success thus far, is attempt to refresh  
17 Brooke's and Rylee's memories by reminding each of specific occasions, for example, that he took them  
18 to buy dance cloths and dance shoes.

19 It is quite ironic that Vivian is the singular force of causing problems by wrongly manipulating  
20 Brooke and Rylee into believing things that are verifiably false, and then accusing Kirk, as follows:

21 "The emotional conflict caused by Kirk demanding they re-write their history together is  
22 debilitating. It is this kind of behavior by Kirk that Vivian sought to address through a therapist  
23 and PC, but Kirk has undermined that process. Brooke is now suffering under Kirk's constant  
24 barrage of criticism and disapproval."

25 (Vivian opp. p. 20, l. 24-25)

26 To actually be litigating with these facts, is truly outrageous. Vivian and Vivian's attorneys, not  
27 constrained by the truth or the facts, but limited only by their own imaginations, continue to make  
28 assertions premised upon patently false "facts". Then, using those false "facts", carry out an all out  
assault upon Kirk's character. This scheme has repeatedly been employed in this case by Vivian and  
Vivian's attorneys.

Kirk does not criticize Brooke. There is no “constant barrage of criticism and disapproval.” For example, Brooke and Kirk have had several discussions pertaining to Brooke’s desire to be a make-up artist. In those discussions, Brooke indicated that she wants to work at Disney as a make-up artist. Kirk has emphasized to Brooke that most people will tell you that one of the best times of their life was their college experience and Kirk does not want her to miss out on that experience. Brooke agreed and shared her plan to graduate from college before becoming a make up artist. When they discussed the possibility of Brooke getting bored doing make-up day after day, Brooke indicated that she hoped she would not and that she would like to make-up for movies at Disney. Kirk actually encouraged her by suggesting it would be fun for her if she were working there and Tahnee became a successful actress at the same time there. Brooke agreed. That was the extent of the discussion. Unbelievably, despite the fact that Vivian was not a party to the conversations, discussions like this are falsely characterized by Vivian as a “constant barrage of criticism and disapproval” and asserting “Brooke is now suffering under Kirk’s constant barrage of criticism and disapproval.” Kirk knows he has never told Brooke to consider a career in medicine and he is fairly sure he has never suggested a career in law.

**D. The Sympathetic Statements of Other People in The Community Are Substantially Consistent with the Sworn Affidavits of Tahnee, Whitney and Kirk**

In order to obtain sympathetic supporting affidavits, Vivian went to people in the community and basically said that Kirk “was trying to take my children from me, will you help me?” Upon that premise, Vivian obtained a number of statements. It is important to note that despite Vivian’s false cry for help,, the statements obtained are *substantially consistent with the facts set forth in Tahnee’s, Whitney’s, and Kirk’s affidavits.*<sup>6</sup> As will be briefly explained in the following short chronology of three critical time periods, with limited exceptions (affidavits that are demonstrably false or which were paid for), there is really very little factual dispute.

...

...

---

<sup>6</sup> Obviously, the three notable exceptions are the perjurious statements from Heather Atkinson and Michele Walker, and the statement of Lisbeth Castelan, who likely didn’t understand the affidavit in English that she was signing. The Court is urged to re-read the analysis of all three statements contained in Kirk’s reply re custody, filed 1.4.12, p. 65-75.

**1. Vivian Was Not Involved with Brooke and Rylee on a Day to Day Basis from February of 2006 until September 6, 2011, Except For Sleeping With Them At Night When She Was In Town**

It is clear from the affidavits of Tahnee and Whitney, both of whom were living in the home, (and Kirk's affidavit also), that from February of 2006 until September 6, 2011, Vivian was really not involved with Brooke and Rylee on a day to day basis. It is also clear from the affidavits of Tahnee, Whitney, Kirk, Laurie Larson, Dave Krumm, and Karen Balke<sup>7</sup> that Vivian was not involved, on a day to day basis, with driving Brooke and Rylee to and from school, to and from dance classes, and to and from sports activities.<sup>8</sup>

What has always been acknowledged is that Vivian would make sporadic public appearances with Brooke and Rylee. For example, parent/teacher conferences, book fairs at school, sewing trips, and similarly, highly infrequent activities. The Court will likely recall Kirk's affidavit which addressed Vivian being on a sewing trip with Kim Bailey and Kim Bailey, upon her return, saying Vivian was reading her Kindle the entire trip. The Court may also recall Kirk's affidavit referencing a parent/teacher conference where Vivian gave the false impression she was actively involved in home work. However, Vivian's condition was deteriorating and from 2006 until September 6, 2011, Vivian's sporadic public involvement with Brooke and Rylee became less and less, until there was a marked drop off in her sporadic public appearances with Brooke and Rylee in the fall of 2008.<sup>9</sup>

<sup>7</sup> The affidavits of Laurie Larson, Dave Krumm, and Karen Balke are exhibits 22, 23 & 24 to Kirk's reply re custody, filed 1.4.12.

<sup>8</sup> There is evidentiary support that Vivian withdrew from the family, including Brooke and Rylee; sometime later, Vivian started spending her days isolated in Brooke's room behind a closed door and then, after a period of time, started spending her days in the home office isolated behind a closed door; she would go months and not have a meal with Brooke and Rylee; she would leave the house with no one knowing where she was or when she would return; she rarely cooked a meal for Brooke and Rylee; during the last several years—from the beginning of 2009 through the Spring of 2011, she almost never helped them with their homework; she had severe insomnia for which she sought treatment; she would spend her days sleeping, reading vampire novels, watching the Tudors, watching Jonathan Rhys-Myers movies, buying stuff on the internet; following Jonathan Rhys-Meyers on the internet, etc. None of this testimony has ever been refuted. The submission of the Lizbeth Castellan statement is an indication that Vivian's attorneys were aware of this fact as such submission was clearly a desperate act, as Kirk had already made Brooke and Rylee breakfast and taken them to school by the time Lisbeth arrived at the house on Wednesday mornings.

<sup>9</sup> This is consistent with Kirk's letter to Dr. Roitman on January 4, 2010, which contains a section entitled, "VIVIAN'S CONDITION HAS DETERIORATED MARKEDLY DURING THE LAST

**2. The Statements from People in the Community Are Substantially Consistent With The Affidavits Submitted By Kirk**

**a. Prior to the Fall of 2008**

Vivian attended, as did Kirk, gymnastic classes in 2006-7 and 2007-8 and swimming classes prior to the fall of 2008. *See* statements of Melissa Mojica, Brandi Carstensen, Lois Klouse, and Kelley Gray. The same is true with the following statements: Laurie Larson (mostly during this period); Gretchen Poindexter (mostly during this time period); Sue Broadbent (mostly during this time period), and; Tina Coleman (with some minor exceptions, these statements are relative to Vivian's conduct prior to the fall of 2008)

**b. Between the Fall of 2008 and September 6, 2011**

As noted above, Vivian continued to not be involved with Brooke and Rylee on a day to day basis. Vivian rarely did anything outside the home with Brooke and Rylee during this time period. The family did have the Harrison Family vacation to Ireland during this time period, where Vivian successfully schemed for Brooke, Rylee and Vivian to spend time with David Walsh at his home before Kirk arrived and for the three of them to spend time with David Walsh in Dublin after Kirk had left. The later filed statements which are contrary to these facts are simply wrong. One was submitted by Kellie Wendt, who is a relative of Heather Atkinson, and the other is Tina Coleman.

**c. From September 6, 2011 Forward**

Things changed on September 6, 2011. That is the date that Vivian sent Kirk and email providing she was going to start sharing in driving the girls to school and dance. Since that time, Vivian radically changed her behavior and since the middle of September 2011, until the parties separated, began sharing in making meals, helping the kids with their homework and working in Rylee's classroom. Therefore the following statements are substantially accurate: Azure Fecteau, Noel Kanaley, and Kelly Gray.

Tahnee and Whitney, through their affidavits, testified in detail as to what has been going on in the Harrison home for years. For years, Vivian was not doing what she has now convinced Brooke she was "always" doing.

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EIGHTEEN MONTHS." (Kirk's reply re custody, filed 1.4.12, Exh. 9, p. 17)

Vivian alleges that Kirk knew in the summer of 2012 that the “children’s statements would mirror the multiple witness statements Vivian had provided to the Court, and would confirm her close bond with the children, so he later resisted having the results of their interview published by Dr. Paglini.” (Vivian’s opposition, p. 6, l. 18-20) First, Kirk does not deny that Vivian has a close bond with Brooke and Rylee. Vivian has not earned that close bond in the way that most parents earn that bond, but rather has acquired it through sleeping with them at night, instilling fear and insecurities in them, inhibiting their personal growth, and manipulating them for her own purposes or needs. As of the summer of 2012, Kirk was not as sensitized to the extent that Vivian has successfully recreated history with Brooke and Rylee. Kirk was not present when Dr. Paglini interviewed Brooke and Rylee, Dr. Paglini never gave Kirk any indication whatsoever of what Brooke or Rylee said, and therefore he had and has no knowledge as to what was said. However, the assertion that Vivian’s close bond with Brooke and Rylee is “through the care Vivian has provided to them their entire lives” is absurd. (Vivian’s opposition, p. 7, l. 2)

**3. Vivian Attempts To Rehash The Same False Assertions Vivian Made To The Court Prior to This Court’s Order Regarding Temporary Custody on February 24, 2012**

Vivian rehashes the same affidavits which were previously submitted and considered by the Court. These affidavits have the same limited value as when they were initially proffered, as noted herein above. The affidavits of Nyla Roberts, Kim Bailey and Annette Mayer have also been previously addressed in detail. *See* (Kirk’s reply re custody, filed 1.4.12, p. 75-78)

What Vivian is unethically attempting to do is to primarily take her involvement with Brooke and Rylee *after* September 6, 2011 and, to a significantly lesser extent, her sporadic public involvement with Brooke and Rylee prior to the fall of 2008, and present that involvement to the Court in such a way as to, have the Court erroneously conclude that it is an accurate portrayal of her involvement with the children from February of 2006 until September 6, 2011. In other words, Vivian is knowingly trying to mislead the Court, again. The Court was not fooled by this tactic the first time around. Except for perhaps relying on the passage of time or the volume of all the other cases the Court handles, it is inexplicable why Vivian would try to mislead the Court in the same manner a second time.

...

1 There are three statements which have not been addressed. Lisa Morris is currently teaching  
2 Brooke and Rylee voice. The summary of her statement makes the point. She addresses Vivian being  
3 involved with fund raising tasks at the school in 2008. She then talks about Vivian's involvement with  
4 Brooke and Rylee in 2011 and 2012. Sandy Wachtel is a very nice lady. She has a daughter Brooke's  
5 age. Though the summary of her statement is substantially accurate, it is misleading. Mrs. Wachtel did  
6 not see Vivian picking up and dropping off the girls for dance until after September 6, 2011, unless she  
7 saw Vivian do that on one of the very few of times that Vivian did drive the girls to or from dance from  
8 February of 2006 until September 6, 2011. Vivian's position was that if Kirk could not take Brooke and  
9 Rylee to and from dance, it was his responsibility to find some one else. That someone else would be  
10 Tahnee, Whitney, or Joseph. If none of them were home, then Kirk had to check with the other people  
11 in the dance car pool. Only if no one else could drive, would Vivian drive the girls. Under those  
12 parameters, that rarely occurred.

13 The purported statement from Rosaleen Thomas is a sham. As Kirk noted in his affidavit,  
14 Vivian would go many days and sometime weeks without calling Brooke and Rylee. There were times  
15 Brooke and Rylee would call every number they knew to call in Ireland to no avail. A cursory review  
16 of the photographs submitted by Kirk presents a clear picture of what was going on.

17 Noticeably absent from this restatement of the same points made prior to this Court's February  
18 24, 2012, temporary custody ruling is anything that addresses the following:

- 19 \* Vivian's seven years of drug abuse beginning in June of 2004 and continuing until September  
20 of 2011 (Exh. 11 to Kirk's Reply re custody, filed 1.4.12)
- 21 \* The six years she took an SRRI.
- 22 \* The photographs with Vivian and David Walsh.
- 23 \* The photographs of Vivian and "Hugo."
- 24 \* The photograph of Vivian and Sergio Becerra.
- 25 \* Vivian's love letter to Mr. Becerra wherein Vivian declares he keeps her awake at night  
26 because she is so obsessed with him.
- 27 \* All of plastic surgeries in Arizona and California.
- 28 \* The myriad of cosmetic procedures and treatments over several years.
- \* All of the cosmetically related doctors' appointments for several years, including at one point  
a medical appointment for Vivian an average of every other day for the entire month of February  
of 2011!
- \* The five months she chose to be away from Brooke and Rylee, and that was just during 2010!

Next to all of these undeniable facts, all of which were supported by documentary evidence, Vivian's  
repeated claims of "daily involvement in the children's lives" and "Vivian's total involvement with the

1 children's daily lives" looks pretty foolish and is revealed for what it is – a lie. (Vivian's opposition, p.  
2 7, l. 9-10; 15)

3  
4 **4. Vivian's Argument To Support Her Theme To Brooke That "Girls Are  
Supposed To Be With Their Mommies" Is Ridiculous**

5 Vivian asserts that girls "do not want to discuss with their father (periods, bras, dating, make-up,  
6 etc.) Kirk has taken Brooke to the store to buy feminine products on numerous occasions. Kirk has  
7 taken Brooke to buy bras at Nordstrom Rack and other stores. Kirk has taken Brooke to buy make-up  
8 at Nordstrom Rack, Target, Walmart, and CVS Pharmacy many many times. Brooke's number one  
9 interest is make-up. Brooke watches videos concerning make-up more than anything else. Brooke and  
10 Kirk have had many conversations about the different types of make-up and why a particular application  
11 is better than another. Brooke has explained to Kirk why she prefers the solid cosmetics to the powders,  
12 etc. Kirk has learned more about cosmetics and related issues, than he ever imagined he would.

13 Vivian's claims are convenient, and designed to be left unchallenged. The Court surely noticed  
14 that most of Brooke's alleged complaints, as cited by Vivian, are related to "cramps" which Vivian  
15 claims only she is equipped to discuss. Perhaps Vivian hopes that this Court will also find that those  
16 feminine discomforts are only within the purview of mommies to handle? Kirk still has an open and  
17 positive relationship with Brooke. That relationship is not one that is handicapped by the inability or  
18 unwillingness to understand or handle any particular topic.

19 Vivian uses the same disingenuous tactics with respect to the plans related to makeup for the  
20 homecoming dance and pictures related thereto. She suggests, that Kirk should know that "Brooke is  
21 a feminine girl" and that Kirk should "understand Brooke's desire to be with someone who is skilled  
22 and experienced in applying make-up, and who taught her how to apply make-up." Vivian misses the  
23 point deliberately. Kirk would likely have had absolutely no objection if Vivian were to have actually  
24 called or written him and *asked* about trading time or even just having the extra time to do this with  
25 Brooke. Instead, Vivian willfully planned an event for Brooke and her friends during Kirk's custodial  
26 time, without ever even discussing it with him, and leaving Brooke to be in the middle of the inevitably  
27 resulting conflict. Vivian starts the ball rolling, feigns surprise at the result, and then criticizes Kirk for  
28 the issue she created.



1           **E.     The Incident With Brooke During the Lagoon Trip Is Far And Away The Most**  
2           **Troubling Exchange Kirk Has Ever Had With Brooke And Brooke, Rylee and Kirk**  
3           **Had A Great Time The Rest Of The Trip**

4           Without question, one day of the Lagoon trip was very difficult for Brooke, and was also very  
5           difficult for Kirk. However, that was *one day* and that day is not emblematic of their entire relationship.  
6           More importantly, there is an important backdrop to what occurred that day in the hotel room in Layton,  
7           Utah on August 5, 2013.

8           There was a tradition of Kirk taking Brooke and Rylee to children's movies, probably once or  
9           twice a month depending upon what was playing, since they were old enough to go. They always had  
10          a good time. There came a point sometime after the Court's ruling on February 24, 2012, that Brooke  
11          refused to go to the movies with Kirk and Rylee. Not knowing what else to do, and without meaning  
12          to do so, Kirk effectively gave Brooke the power to "veto" the three of them going to the movies. When  
13          Kirk would ask Brooke why she didn't want to go, she would simply reply she just did not want to go.  
14          Kirk was aware that Vivian started to take Brooke and Rylee to the movies. Sometime later, Tahnee  
15          or Whitney shared the following with Kirk, which had been discovered from a conversation with  
16          Brooke: *Brooke apparently learned or saw that Kirk had "written down" that they had all gone to the*  
17          *movies. Brooke then told Heather Atkinson what she had learned, and Heather Atkinson reportedly told*  
18          *Brooke that the only reason your dad takes you to the movies is so he can write it down.* It was at that  
19          point Brooke started to refuse to go to the movies. Rylee complained to Kirk on several occasions that  
20          she was frustrated because she wanted to go to the movies and Brooke should not get to decide that  
21          Rylee does not get to go to the movies.

22          Kirk picked Brooke and Rylee up from Vivian's house on Friday, August 2, 2013, after being  
23          with Vivian for 14 days (preceded by 2 days with Kirk and another 21 day period with Vivian). That  
24          evening, crying and distraught, Brooke told Kirk that because she is 14 years old and she can decide to  
25          live full time with Vivian.<sup>10</sup> Parroting Vivian's words, Brooke said, "Girls are supposed to be with  
26          their mommies." Kirk indicated his surprise that she would be willing to leave Rylee. Brooke said that  
27          she had not told Rylee yet and asked Kirk not to say anything to Rylee.  
28

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<sup>10</sup> Kirk had previously thought this conversation was the next day on August 3, but it was on August 2.

1 Brooke, Rylee and Kirk started their trip to Utah the next day. They stayed at the Little America  
2 Hotel in Salt Lake City that night like they do each year and had dinner in the hotel coffee shop that  
3 night. They went swimming. When Rylee was in the shower after they returned from swimming, Kirk  
4 told Brooke it was not within her power to “decide” where she lived, only that Brooke could express  
5 her wishes, but it was for the Judge to decide. Kirk further explained that under the circumstances, he  
6 did not think it would be best for Brooke and Rylee, if Brooke lived with her mother full time. Brooke  
7 acknowledged it would hurt Rylee’s feelings. Brooke seemed very relieved that it was not her decision  
8 to leave Rylee.

9 After having the Sunday brunch at the hotel, Brooke, Rylee and Kirk drove to the Hilton Garden  
10 Inn in Layton, Utah. That night Brooke, Rylee, and Kirk had dinner with Kirk’s cousin. Their plan was  
11 to spend the next two days at Lagoon and then travel to Park City just like they do every year. Both  
12 Brooke and Rylee seemed excited about going to Lagoon the next day. Brooke had ridden the Catapult  
13 Ride at Lagoon the year before by herself, when Rylee changed her mind at the last minute. Kirk asked  
14 them if they were going to ride it together this year. They both said they had not make up their minds.

15 However, when they got up the next day, Monday, August 5, 2013, Brooke refused to go to  
16 Lagoon and indicated she did not want to go to Lagoon the next day either. When Kirk asked why,  
17 Brooke simply said she just didn’t feel like it. Rylee, understandably, was upset saying that what  
18 Brooke was doing was not fair to her, as she really wanted to go to Lagoon.

19 Kirk waited a couple of hours, hoping Brooke would change her mind. Brooke was content to  
20 continue texting and watching videos. Kirk believes she was texting with Vivian, which can easily be  
21 confirmed or rebutted. He told Brooke he could not understand why she didn’t want to go, when they  
22 have had so much fun there each year. Brooke responded that she did not like going to Lagoon anymore  
23 because it was “boring”. Rylee again chimed in that she wanted to go. Kirk said how can you say it is  
24 boring when you rode the Catapult Ride last year? Brooke didn’t answer.

25 A couple of more hours passed and Kirk told Brooke that he didn’t understand why Brooke was  
26 not caring about Rylee who really wanted to go to Lagoon. It was not until about that point that Brooke  
27 said she wasn’t feeling well and had cramps. Kirk then said, so we can all go tomorrow? Brooke  
28 responded that she still did not want to go to Lagoon at all. At that point, Kirk decided that so long as

1 Brooke was getting everything she wanted, texting and watching videos on her telephone, there was  
2 going to continue to be a stalemate, and Brooke had the power to “veto” the entire vacation, so he took  
3 her telephone from her. In light of the texting Brooke was doing on her telephone, wrong or right, Kirk  
4 assumed Vivian was influencing Brooke’s refusal to go to Lagoon, as he knew that Brooke’s  
5 announcement three days before was parroting Vivian’s words. He also knew that Brooke had been  
6 excited about going to Lagoon when they talked about it the night before. Kirk told her that if she was  
7 really having cramps and did not feel good, he thought she would have said that hours before, when she  
8 first refused to go.

9 Kirk did express to Brooke that he was hurt by her behavior (in all candor, Kirk was obviously  
10 reeling from Brooke telling him that she wanted to live full time with Vivian) and could not understand  
11 why she was doing this to Rylee and him. This is the only time that Kirk has said things to Brooke that  
12 he regrets, as noted in her email to Vivian. He did not say those things in an accusatory tone, but rather  
13 from his perspective of being very hurt and unappreciated. Kirk fully realizes that he is the parent and  
14 this type of exchange had never happened before, nor since.

15 Kirk knew he had a problem, he knew there had to have been a better way to handle it than he  
16 had thus far, and didn’t know what to do to resolve this situation. Kirk stepped out into the hallway  
17 from the hotel room and telephoned Ed Kainen to get advice. He then telephoned Dr. Roitman to get  
18 advice. He then telephoned Whitney to get advice. Whitney advised that Brooke is 14 years old now  
19 and that Kirk should tell her that if she did not want to go to Lagoon the next day she could stay in the  
20 hotel room, but Rylee and Kirk were going.

21 They had not eaten since the hotel breakfast that morning. Kirk told Brooke that he was taking  
22 Rylee to dinner and Brooke could go with them or, if she preferred, she could stay in the hotel room.  
23 Brooke said she didn’t want to go. Kirk and Rylee went to Buffalo Wild Wings and brought back food  
24 to the room for Brooke. Before they went to bed that night, Kirk told Brooke that he was taking Rylee  
25 to Lagoon the next day, and he hoped she would go with them, but if she preferred, she could stay in  
26 the room all day. He apologized for anything he had said that contributed to the difficult day, and  
27 opened the door for Brooke to step away from the position in which she had immersed herself. He told  
28 ...

1 her he loved her and gave her a kiss goodnight. As challenging as the day had been, it ended in a  
2 positive way, and with a optimistic outlook for the next day.

3 Brooke, Rylee and Kirk all went to Lagoon the next day and they all had a great time. They all  
4 went to Buffalo Wild Wings that night. They all had a really good time the rest of the vacation: they  
5 rode the chairlift at Sundance; spent day at the Olympic Park in Park City riding the extreme zip line  
6 multiple times, riding the alpine slide, doing the adult rope course together (Brooke and Rylee then did  
7 the upper level) until it started to rain; spent that afternoon and evening buying school clothes at the  
8 outlet mall in Park City, that night they went swimming together in the hotel pool; the next day they  
9 drove to St. George and saw the play "Mulan" and later that evening saw "Mary Poppins" with friends;  
10 spent the next day at the hotel swimming and going to a movie that evening, and drove home the next  
11 day.

12 While August 5<sup>th</sup>, was a challenging day for both Kirk and Brooke, it was one day and nothing  
13 more. It is in no way representative of the relationship with Kirk and Brooke, despite the efforts to  
14 characterize it as such.

15  
16 **F. Vivian Falsely Accuses Kirk Of Being Manipulative When "Kirk Acted As If He**  
17 **Had Just Won The Lottery" When Told Rylee Would Not Need The Multiple**  
18 **Surgeries With The Device Implanted In Her Arm Secreting A Man-Made**  
19 **Hormone Into Her Body For The Next Three Years**

20 On Monday, September 16, 2013, Rylee had an appointment with Dr. Dewan. At that time Dr.  
21 Dewan advised that it was now time to determine if Rylee should have the device surgically implanted  
22 in her arm that will secrete the man-made hormone into her body. Dr. Dewan advised to have an x-ray  
23 of Rylee's hand and then to schedule another appointment. Based upon prior antics of Vivian in failing  
24 to advise Kirk of medical appointments, Kirk asked the front desk to send an email to him or telephone  
25 him as soon as the next appointment was made. At 7:06 a.m. on Sunday morning, October 6, 2013, Kirk  
26 received a text from Vivian, "Rylee-dr dewan-mon 1030." Kirk sent a text back, "Tomorrow." Vivian  
27 responded, "Yes."

28 On Monday, October 7, 2013, after examining the most recent hand x-ray of Rylee hand, Dr.  
Dewan advised Kirk and Vivian that Rylee is likely going to reach her normal expected height of 5' 10"  
and the annual surgical implantation of the device in her arm to secrete the man-made hormone will not

1 be necessary. Kirk was indeed elated. This was the best news he had heard in years. Kirk wept in the  
2 car after he left the office. Vivian now uses this very welcome and wonderful news, to initiate yet  
3 another baseless assault upon Kirk. Vivian asserts that Kirk's reaction "to this news was manipulative  
4 as "Kirk acted as if he had just won the lottery." (Vivian's opposition, p. 20, l. 7 & 9)

5 Dr. Dewan initially advised Kirk and Vivian that Rylee would likely be required to have a device  
6 surgically implanted into her arm. Rylee's testosterone level was 32. Normal for a girl her age is below  
7 10 – around 7 or 8. Dr. Dewan, at the time, indicated the implantation of the device would be necessary  
8 if Rylee's testosterone level did not drop significantly. Dr. Dewan handed a brochure to Vivian and  
9 Kirk, which detailed what would be done. Dr. Dewan advised that a surgeon, not Dr. Dewan, would  
10 surgically implant the device. The device would slowly secrete a man-made hormone into Rylee's body  
11 for a year. After one year, a surgeon would remove that device and insert another. This surgery would  
12 likely be done a third time, so Rylee would have a device in her arm secreting a man-made hormone into  
13 her body for about three years. Dr. Dewan advised the cost of the device would be \$14,000.00 per year.  
14 Dr. Dewan advised Kirk and Vivian that without the device, Rylee would prematurely start puberty,  
15 likely start having a period when she was just 10 years old, and her maximum height would be 5' 5" tall.  
16 Dr. Dewan further advised the implantation of the device would "put a pause on puberty" and Rylee  
17 would likely reach a maximum height of 5' 6" to 5' 7" tall. (Kirk's motion re custody, filed 9.14.11, p.  
18 16, l. 15-28, p. 17, 1-24); (Kirk's Aff. ¶221 & 224, attached to Kirk's motion re custody as Exh. 1)  
19 (Kirk's Reply re Custody, filed 1.4.12, p. 16, l. 17-28; p. 17, l. 1-10)

20 The prospect of devices being implanted into Rylee's arm and secreting a man-made hormone  
21 into Rylee's body concerned Kirk. Kirk consulted with Dr. Iain Buxton. Dr. Buxton is the Regents  
22 Professor, Foundation Professor, and the Chairman of the Pharmacology Department at the University  
23 of Nevada School of Medicine. Dr. Buxton advised Kirk that the risks inherent with the implantation  
24 of the device and the secretion of the man-made hormone into Rylee's body over several years was not  
25 worth the risk to Rylee's health. Thankfully, Rylee's body overcame the testosterone exposure caused  
26 by Vivian's negligent conduct. Kirk was indeed genuinely elated for Rylee and relieved he did not have  
27 to make that decision.

28 . . .

Vivian falsely asserts, “Kirk continued to raise alarms with Rylee and all the other children (and anyone who would hear his complaint) that because of Vivian her growth would be stunted, she would suffer ill effects of an implant, etc.’ (p. 19, l. 23-26) This is again outrageous. Kirk has never told Rylee any of this information. Never. It is inconceivable, that a parent would say these types of things to their child. Again, Vivian and Vivian’s attorneys get so caught up in their effort to assault Kirk’s character, they forget common sense. No parent would tell their child that their growth is going to be stunted or that they were going to suffer from a device being implanted in their body.

As for Kirk’s “elation”, he was indeed happy, as this was something about which he has had significant and continuous worry since the issue became a concern. To find out that the elevated testosterone levels reduced without the need for Rylee to have surgery, was an event properly warranting elation.<sup>11</sup>

**G. Vivian Makes Misrepresentations Throughout the Opposition**

Vivian makes additional misrepresentations throughout the opposition. Time does not permit addressing each and every one, but Kirk will attempt to address just a few.

On one occasion Kirk told Brooke that he was surprised she would leave Rylee. Brooke later told Kirk she thought it was “mean” that he said that, he apologized to her and he has not said it since. However, according to Vivian, “Kirk repeatedly tells” tells Brooke that she is being selfish by wanting to do activities away from Rylee. (Vivian’s opposition, p. 21, l. 12)

Vivian makes allegations A through F on page 26 of Vivian’s opposing brief. Absolutely none of those accusations are true. None. The allegation that Kirk would even broach the subject of the possibility of Brooke leaving with Rylee is ludicrous. Kirk loves Brooke and Rylee with all his heart. He would never do something so callous. These baseless allegations confirm yet again that Vivian and her attorneys are not constrained by the truth or actual facts, nor do they feel compelled to offer any evidence whatsoever to support their baseless allegations.

...

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<sup>11</sup> Dr. Dewan’s physician notes, dated August 2, 2011 clearly provide, “the elevated testosterone was from moms craem. . .” (Kirk’s motion re custody, filed 9.14. 11, Exh. 13)

1 If the Court believes for one second the representation that Vivian has a close bond with  
2 Brooke and Rylee “formed through the care Vivian has provided to them their entire lives” then the  
3 affidavits of Tahnee, Whitney and Kirk utterly failed to depict for the Court what was truly happening  
4 in the Harrison home since 2006. (Vivian’s opposition, p. 7, l. 21)

5 Vivian represents to the Court that Brooke and Rylee really never spend any time with one  
6 another, so it would be no big deal if Brooke left. (Vivian’s opposition, p. 21, l. 13-22) When Brooke  
7 and Rylee are with Kirk, they spend almost all of their time together. They talk to each other every  
8 morning. Brooke helps wake Rylee up in the morning and talks to her before she leaves for school.  
9 They watch videos together. They often will do their homework together in the same room. Brooke  
10 sometimes helps Rylee with her homework. Except for breakfast on school days, they eat all of their  
11 meals together with Kirk. They ride to and from dance together. Most of the weekends, they do  
12 everything together. There is a lot of laughing, smiling and talking that goes on between Brooke and  
13 Rylee everyday they are with Kirk. Brooke and Rylee still sleep in the same bed together. Neither one  
14 is comfortable going to bed without the other. The suggestion that separating the two children would  
15 not impact the other is baseless under the facts of this case.

16 Vivian asserts, “Kirk also outlines in his motion how he uses name-calling to prevent Brooke  
17 from spending time with Vivian.” (Vivian’s opposition, p. 21, l. 31) This is so bizarre. Vivian – not  
18 Brooke and not Rylee – is causing Kirk to sit in a car outside her house for 20 to 34 minutes waiting for  
19 Brooke to pick up the same items she picks up at his house when Vivian is waiting outside in the car  
20 in less than 5 minutes. The reason for the difference in time is nothing more than Vivian choosing to  
21 be inconsiderate of Kirk’s time and Kirk refusing to respond in kind. Kirk has indeed told Brooke that  
22 it is disrespectful and inconsiderate to keep him waiting in the car for such long periods. For this,  
23 Vivian accuses Kirk of “name-calling.” According to Vivian, “This situation is caused by the constant  
24 back and forth from the parties’ homes caused by the current schedule, but more important, Kirk should  
25 not be attempting to manipulate Brooke in this manner.” (Vivian’s opposition, p. 21, l. 28; p. 22, l. 1-2)  
26 What is occurring has nothing to do with the present custody schedule. Brooke and Rylee consistently  
27 get the same items from Kirk’s house in less than 5 minutes, when Vivian is waiting. What is occurring  
28 has everything to do with Vivian exercising control over Brooke, in a manipulative way such as to cause

1 Kirk to wait for long periods of time. There is no question that Brooke is otherwise usually a very  
2 considerate and thoughtful young lady. The common denominator in these issues seems to be Vivian.

3  
4 **H. This Court Is Not Prohibited from Modifying or Eliminating the Teenage Discretion Provision as Alleged by Vivian's Attorneys**

5 Vivian suggests that this Court must give deference to the Agreements of the parties even going  
6 so far as to cite *Troxel* and suggest a violation of fundamental rights. Insofar as the actual agreement,  
7 it is clear by Vivian's admissions and the glaring absence of any denial of violating the express  
8 provisions of the agreement, that the parties are not really talking about enforcing the existing  
9 agreement. Instead, Vivian wants to have what-she-imagines "teenage discretion" should be, as opposed  
10 to the presently existing provision, and Kirk simply wanted the safeguards from immersing the children  
11 in the litigation respected. Neither party stands any chance of walking away with what they really want.

12 Paramount in every decision the Court makes, including this one, must be the best interest of the  
13 minor children. In fact, NRS 125.480(1) provides in part that the "sole consideration of the court is the  
14 best interest of the child". When the conduct of one of the parties, renders *any* custodial provision  
15 ineffective and the result is preventable conduct that is not in the best interest of the children, this Court  
16 not only retains the power to change it, it has the power to do so *sua sponte*. NRS 125.510 (1) through  
17 (3).

18  
19 **I. Vivian's Claims Regarding the Miscellaneous Items, Including Childhood Memorabilia, Are Factually Inaccurate**

20 A multitude of additional items were cited by Kirk to demonstrate Vivian's utter failure to  
21 operate in good faith. Paragraph 6.2 of the parenting agreement, simply requires good faith conduct on  
22 the part of each parent not to encourage or manipulate the child to seek to be with one parent more than  
23 the other. Kirk not only established that Vivian's behavior gives every indication that such a  
24 presumption, with respect to Vivian, is erroneous as regards the parenting agreement, but he was also  
25 able to demonstrate a myriad of other failures to operate with any good faith in the period leading up  
26 to the filing of his requests for relief.

27 Vivian generally denies even those items which are supported by incontrovertible evidence and  
28 for which there can be no reasonable dispute. She likely relies on the fact that these are "side issues"



1 and that to brief each of them would take far too long. Given the fact that those items were illustrative,  
2 and Kirk has not requested specific relief on those items, Vivian's assumption is correct. Kirk will not  
3 offer any further on those matters at this time.

### 4 **III. CONCLUSION**

5 Kirk, to this day, despite Vivian's efforts to alienate Kirk from Brooke, enjoys a loving and  
6 caring relationship with Brooke. However, Kirk is very concerned about Brooke. Kirk saw what  
7 Vivian's manipulation of Tahnee did to Tahnee. At 28 years old, Tahnee is finally working through  
8 issues which never would have occurred, but for Vivian's manipulation of her. Tahnee was Vivian's  
9 "very best friend" before Brooke became Vivian's "very best friend." It is not healthy for children to  
10 be exclusively in an environment, where their whole world is to please a parent. If Brooke is with  
11 Vivian full time before she can establish her own identity, develop a sense of self, and gain some  
12 independence, then Brooke will likely suffer, as Tahnee has unnecessarily suffered. Kirk implores the  
13 Court that if the Court is inclined to give any consideration to continuing down the path of teenage  
14 discretion as a vehicle to allow Vivian to further manipulate Brooke and Rylee, that the Court first  
15 interview or take testimony from Tahnee and Whitney.

16 The fact remains that the concept of teenage discretion is only workable in circumstances where  
17 the parents have a reasonable and functional relationship, which still does not exist in this case. That  
18 facts cannot reasonably be in dispute. The protections that are theoretically built into the provision to  
19 prevent abuse, are being wholly ignored and are objectively unenforceable. Within days of her 14<sup>th</sup>  
20 birthday, after spending 21 uninterrupted days with Vivian, Brooke, who would have no way of  
21 knowing about any provisions in the parenting plan, was suddenly insisting on the *free exercise of her*  
22 *"teenage discretion rights."* After spending only 2 days with Kirk and then another 14 uninterrupted  
23 days with Vivian (based on the vacation schedule), Brooke announced she wanted to live with Vivian  
24 full time.

25 The Court should note that Vivian makes a myriad of detailed allegations concerning matters  
26 about which Vivian could have no personal knowledge. By merely making the allegations, Vivian is  
27 indicating to this Court that she is improperly communicating with Brooke. If she is doing it on all of  
28 those issues, how can it ever be suggested she abides by the provisions in paragraph 6.2 – the specific

1 provision which is the subject of Kirk's Motion, and which Vivian never denies violating. This  
2 provision has done nothing more than guarantee the children's continued enmeshment in the parties  
3 ongoing dispute.

4 As indicated in his moving papers, Kirk has tried to be reasonable and accommodating, but it  
5 has resulted in continued immersion of the children into their parents' custody dispute and further  
6 encroachment into his custodial periods. Vivian does not care about the impact on Brooke, being  
7 placed in emotional turmoil or being forced to choose between her parents in order to placate one of  
8 them. As a result of Vivian immersing Brooke in this conflict (both by providing her with information  
9 she never should have had, and by butchering the explanation of the provision), the Kirk and Vivian are  
10 in near daily conflicts, that was otherwise much more limited. Kirk implores the Court, in the best  
11 interests of Brooke and Rylee, to set aside this provision in its entirety.

12 DATED this 23<sup>rd</sup> day of October, 2013.

13 KAINEN LAW GROUP, PLLC

14  
15 By: 

16 EDWARD L. KAINEN, ESQ.

17 Nevada Bar No. 5029

18 10091 Park Run Drive, Suite 110

19 Las Vegas, NV 89145

20 *Attorneys for Plaintiff*

**AFFIDAVIT OF KIRK R. HARRISON**

**filed in Support of Plaintiff's Reply In Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and For Other Equitable Relief, and Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, To Continue Hearing on Custody Issues, For an Interview of the Minor Children, and For Attorney's Fees and Sanctions**

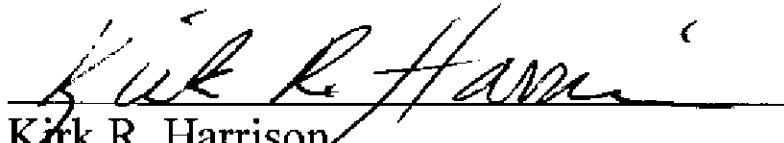
STATE OF NEVADA            )  
  )       ss.  
COUNTY OF CLARK        )

KIRK R. HARRISON, declares and says:

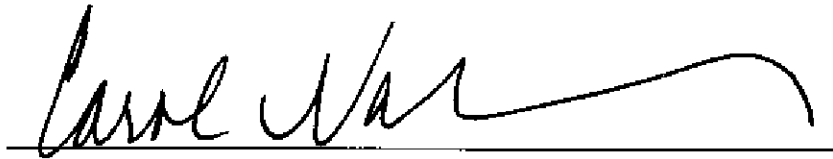
1.       The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

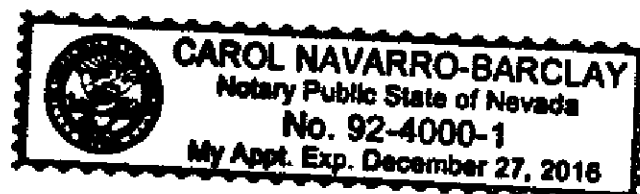
2.       Each of the factual averments contained in Plaintiff's Reply In Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and For Other Equitable Relief, and Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, To Continue Hearing on Custody Issues, For an Interview of the Minor Children, and For Attorney's Fees and Sanctions are true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

  
Kirk R. Harrison

Subscribed and sworn before me  
this 23<sup>rd</sup> day of October, 2013.

  
\_\_\_\_\_  
Notary Public



## **EXHIBIT 2**

**KAINEN**  
**LAW GROUP**  
A Professional Limited Liability Company

■ ■

February 3, 2012

**Via Facsimile - (702) 990-6456**

Radford Smith, Esq.  
Radford J. Smith, Chartered  
64 North Pecos Road, Suite 700  
Henderson, Nevada 89074

**Via Facsimile - (775) 322-3649**

Gary Silverman, Esq.  
Silverman, Decaria & Kattelman, Chtd.  
6140 Plumas Street, Suite 200  
Reno, Nevada 89519

Re: **Kirk Harrison v. Vivian Harrison**

Dear Rad and Gary:

The Harrison family has one Verizon account, which includes the cell phone for every member of their family. Kirk has always reviewed this bill and paid it every month. There were only two authorized individuals on the account – Kirk and Vivian. Vivian is fully aware of instances in the past where Kirk has contacted Verizon when there have been issues with the account. For example, Whitney obtained a new cell phone in November of 2011, when Kirk's cell phone was due for a replacement. Moreover, within the last 30 to 60 days, Kirk had previously ordered call detail from Verizon. Just like yesterday, Vivian opened the package and asked Kirk what it was and Kirk told her. In fact, yesterday, when Vivian was screaming at Kirk, **she** referenced the fact that he had done it before. Kirk acted properly on both occasions. Merely because Vivian is listed as "primary" does not give her exclusive access and control over this account.

Your false accusation that Kirk obtaining call detail on his own family's account was "hacking into her account" when he is one of two authorized individuals on the account is what is truly outrageous.

When Vivian was leaving, Vivian told Kirk she was going to cancel his phone. Kirk responded that he was authorized on the account and did not believe she could. Vivian said, "I am primary and I can." As soon as Vivian left, Kirk called Verizon and they confirmed Vivian could in fact cancel his cell phone, despite the fact that he was also authorized on the account. Kirk asked if there was anything he could do. He was told since he was authorized on the account he could transfer all of the phones in his name to a new account. There were three cell phones in Kirk's name: his, **Vivian's** and Joseph's. Despite knowing Vivian was in the process of cancelling his phone for doing something he was authorized to do and something she knew he had done before, Kirk took the high road and did not transfer Vivian's phone number to his new plan.

\* ♦ EDWARD KAINEN ANDREW L. KYNASTON

T. 702.823.4900 F. 702.823.4488 ■ 10091 Park Run Drive, Suite 110 Las Vegas, NV 89145-8868 ■ [www.KainenLawGroup.com](http://www.KainenLawGroup.com)  
♦ Nevada Board Certified Family Law Specialist ♦ Fellow of the American Academy of Matrimonial Lawyers

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Gary Silverman, Esq.  
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Kirk ordered the documents for him. Since Vivian is "primary" she can also get whatever documents she wants from Verizon on this account. With respect to the billings, you only furnished Kirk the total amount of your bill, which he paid. There was never a discussion about furnishing redacted billings. When you only furnished a total figure to Kirk and expected payment, which you received, how can you now expect redacted billings from us? By the way, we have not yet received even the equivalent information from you.

**Vivian's behavior in front of Brooke and Rylee has been deplorable and she is clearly trying to alienate Kirk from Brooke and Rylee.**

The much bigger issue is Vivian's pattern of misbehavior in front of Brooke and Rylee where she has continually displayed no sensitivity whatsoever for these little girls. After Kirk told Vivian what he requested from Verizon, Vivian began screaming that Kirk had told Rad he did not have access to the account. Kirk responded that he had never spoken with Rad Smith about the account. Vivian then repeatedly screamed that Kirk was a "liar" in front of Rylee and Joseph. Vivian was screaming so loudly that Rylee was placing her hands over her ears. This insensitive misbehavior in front of Brooke and Rylee has been going on for quite some time.

As we have already discussed, on March 13, 2011, Vivian was talking to Brooke and Rylee in the living room. She hollered to Kirk to come in the room as he needed to hear what she was telling Brooke and Rylee. As soon as Kirk came into the room Vivian told Brooke and Rylee that she was filing for divorce the day after Whitney's wedding, and that Brooke and Rylee are going to be asked with whom they want to live. Vivian then told them she was going to get the house. Vivian told Brooke and Rylee that she would get the house and Kirk would get the ranch, and that her lawyer told her that she would probably get part of the ranch as well. Vivian then told Brooke and Rylee that if she did not get the house, the Court will order it to be sold.

The incident Vivian incited on October 14, 2011, has been adequately briefed. However, you should know that Vivian had someone several years prior to the incident install a new central unit and new cameras. Only Vivian operated the video system. Only Vivian knew whether it was working or not.

On Sunday evening, November 20, 2011, in front of Brooke, Rylee and Joseph, Vivian started verbally attacking Kirk because he took Rylee to Subway at about 6:00 p.m. to get a sandwich for dinner. Vivian said Kirk knew that Brooke was cooking dinner at Theresa Giroux's. Kirk responded that he did not know she was cooking dinner. Again, Vivian started calling Kirk a "liar" in front of Brooke and Rylee. Vivian then said that all the people in the neighborhood filed

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affidavits saying Kirk was a "liar." Again, *all in front of Brooke and Rylee*. Joseph tried to get Vivian to stop, but to no avail.

On Saturday morning, November 26, 2011, Kirk got the Christmas tree out of the storage shed and started to set it up just like he does every year. Vivian had just returned from meeting with Marvin Gawryn and had picked up Brooke and Rylee from the Atkinsons. When Vivian, Brooke and Rylee walked in, Kirk had set up the tree and was setting up other Christmas displays. In front of Rylee, Vivian said, "I don't want you to do this because you will just write it down and lie." Vivian then said, again in front of Rylee, "these are my decorations and you are not going to be here next year."

On January 9, 2012 at 3:06 p.m., Vivian sent the following text to Kirk: "Rylees bday party fri feb3 at 440-645 laser tag." This morning, Vivian and Rylee were sitting in a large chair in the living room. Kirk asked Vivian, "What time are we leaving for Rylee's birthday party today?" Vivian responded, "Are you going?" Kirk said, "Of course." To which Vivian said in front of Rylee, "Oh yuck!" Kirk then again asked what time they were leaving. Vivian said 4:00 o'clock. Rylee then said, "I thought it was at 3:30." Vivian continued in front of Rylee, "You are Satan and you are not invited." Vivian continued again, "The other parents don't want you driving so I have to drive." Kirk then asked if the party was at the same location as Stephanie Yoxen's birthday party. Vivian responded that Kirk should send her a text. Kirk sent the following text: "what is the location of rylee birthday party to which you now say I am not invited?" Vivian texted back: "Doesn't make since. . if u were once invited you should know. ." Vivian then sends another text: "Pls go through ur attorney it appears as though ur beginning to play games AGAIN." This is going on TODAY!

This kind of behavior needs to stop.

Compare the foregoing behavior with what you describe as attempts by Kirk to alienate Vivian and set forth on pages 45 through 47 of your Opposition re Custody, keeping in mind, as you well know, most of those quotes are taken out of context.

For several weeks, Vivian has had Brooke and Rylee spending more time at the Atkinson home than they do in their own home. Sometimes Vivian is also there and many times she is not. Kirk strongly believes Vivian is intentionally trying to minimize the time Kirk has with Brooke and Rylee. Kirk got an email from Vivian last night that she and the girls are going to be spending Valentine's Day dinner with someone else. This type of pre-emptive behavior by Vivian has become all too common.

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Kirk has also informed me that it is apparent Vivian has been working Brooke and Rylee a lot. Kirk has noticed significant changes in Brooke's attitude towards him during the last several months. On Thursday afternoon, January 27, Kirk was sitting on the couch in the living room and asked Rylee to sit with him and snuggle. Rylee responded, "I'm not supposed to snuggle you anymore dad."

**Kirk has not attempted to alienate Vivian.**

You and Gary have an obvious strategy of telling the Court at every hearing that Kirk has tried to alienate both the adult and minor children. Although I am confident it will not change this course of action, you should probably know the truth.

Since you have read the affidavits of Kirk, Tahnee and Whitney, you are well aware that Tahnee and Whitney approached Kirk about Vivian's behavior, the damage it was doing to Brooke and Rylee, and the need for Kirk to do something about it. Also, when the older children were younger, it was they who complained to Kirk about their mother trying to take credit for their efforts -- not the other way around.

In connection with Brooke and Rylee, Kirk indicates he has not spoken to Brooke or Rylee about Vivian in a negative way nor has he broached the subject of the divorce. On one occasion, Brooke was upset about something Vivian had told her about the divorce and Kirk told her if she needed to talk to him she could. She didn't. You may recall Whitney's affidavit where she said Vivian was having conversations with Nyla Roberts and Michelle Walker about divorcing Kirk in front of Rylee.

The next time you and Gary go into this false diatribe about Kirk alienating these children, I am handing this letter to the judge.

**Marvin Gawryn**

Another issue much more important than Kirk accessing his own family's cell phone account, is Marvin Gawryn. This is a real problem.

On September 21, 2011, Mr. Gawryn agreed to his suspension as a licensed and family therapist in the State of Washington. As part of that process, Mr. Gawryn stipulated to the following facts:



- 2.2 Respondent [Mr. Gawryn] provided therapy services to partners Client A and Client B. approximately once per week from November 17, 2006 through March 8, 2007. Clients A and B were involved in a committed and intimate relationship. Clients A and B sought treatment from Respondent for relationship issues. Sessions with Respondent included treatment of the clients individually and together.
- 2.3 From March 14, 2007 through January 18, 2011, Respondent provided weekly therapy treatment to Client A.
- 2.4 In or about September 2010 through January 2011, Respondent **engaged in sexual intercourse** with Client A approximately **two (2) times weekly**.

(State of Washington, Department of Health – Agreed Order)

There is overwhelming circumstantial evidence that Mr. Gawryn has infected the process wherein you had Vivian tested and interviewed regarding NPD by coaching Vivian on the eve of her taking the MMPI and on the eve of each of her interviews with Drs. Thienhaus, Applebaum and Ronningstam. Tell me if you don't see a pattern with the following:

1. On August 6, 2011, Mr. Gawryn has a coaching consultation with Vivian for one and one-half hours.

On August 11, 2011, Vivian meets with Dr. Ole J. Thienhaus for the first time and he writes his report.

2. On August 13, 2011, Mr. Gawryn has a coaching consultation with Vivian for one and one-half hours.

On August 15, 2011, Vivian takes the MMPI wherein it was noted that Vivian "attempted to place herself in an overly positive light" and "approached the test items with a view toward presenting herself as being very serene in her approach to life."

3. On September 16, 2011, Mr. Gawryn has a coaching consultation with Vivian for two hours. Then on September 19, 2011, Mr. Gawryn has another coaching consultation with Vivian for another one hour.

On September 22, 2011, Vivian meets with Dr. Ole J. Thienhaus a second time and he writes a report.

4. On December 26, 2011, Mr. Gawryn has a coaching consultation with Vivian for one hour.

Vivian then flies to New York on December 27, 2012 and meets with Dr. Applebaum on December 28, 2012.

5. On January 4, 2012, Mr. Gawryn has a coaching consultation with Vivian for two hours.

Vivian then flies to Boston on January 5, 2012 and meets with Dr. Ronningstam on January 6, 2012.

After Mr. Gawryn started consulting with Vivian, Mr. Gawryn requested that Kirk meet with him, which Kirk did. Mr. Gawryn has repeatedly held himself out to Kirk as the counselor for the family, but has seemingly been an advocate for Vivian at every opportunity. When Kirk learned of Mr. Gawryn's suspension in the State of Washington and the reason for his suspension, Kirk telephoned Mr. Gawryn and made it very clear to him that he was to never meet with Brooke and Rylee again.

**You still need to make it right with the Court regarding your baseless allegations that Kirk "manufactured allegations" etc.**

It was very disappointing to see you continue your baseless assault upon Kirk to the Court when you both know the truth. Since the filing of the opposition, you have been provided a copy of Kirk's January 4, 2010 letter to Dr. Roitman. Therefore, there is no question that the NPD opinion originated with Dr. Roitman. A statement that Kirk had a conversation about narcissism or read a book about narcissism, at any time, is not a sufficient basis to make the allegations you made. You must have some evidentiary support for the allegation you made. You have none. You didn't allege Kirk read a book on narcissism or that Kirk had a conversation with Tahnee and Joseph wherein

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Gary Silverman, Esq.  
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Tahnee explained the behavior of a narcissist. You alleged he “manufactured allegation” “chose a diagnosis” “developed a theory” etc.

What is so frustrating is that you now know Kirk did not do any of those things and yet you continue to try to justify these horrendous allegations to the Court. During the hearing you pointed to paragraph 33 of Tahnee’s affidavit. Look at paragraph 106 of Kirk’s affidavit where he references the discussion with Tahnee and Joseph on March 8, 2010. This is the same discussion with Joseph and Kirk that Tahnee references in paragraph 33 of her affidavit. You will note the paragraphs in Tahnee’s affidavit are in chronological sequence. Paragraph 32 is regarding events on March 1, 2010 and Paragraph 34 is regarding events on April 5, 2010.

During the hearing, in your effort to continue this unsupportable position, you represented to the Court that Tom Standish must have told Kirk in 2005 to keep a record so as to build a case against Vivian, and that is why Kirk prepared the January 4, 2010, letter to Dr. Roitman. First, that never happened. Tom will attest to the same. Kirk talked to Tom only after Vivian abruptly left taking Brooke and Rylee without any discussion or explanation. Vivian and the girls were gone week after week, with Kirk not knowing where they were or when they would return. Brooke was just 6 years old and Rylee was just 2 years old. Kirk was, understandably, upset and frustrated and talked to Tom because he didn’t know what to do and was looking for help to find the girls. Tom told him there wasn’t a lot he could do. This was not a divorce planning consultation.

Second, during this time period, Kirk believed Vivian’s behavior was temporary. Although he did not know about Paula Squiteri at the time, he believed, just like Paula Squiteri believed, that Vivian’s behavior was a consequence of post partum depression. Kirk describes in detail why he thought Vivian’s behavior was temporary in paragraph 261 of this affidavit.

Third, unfortunately, for Vivian, the children, and Kirk, Vivian’s behavior did not improve and, in fact, worsened over time. After years of hoping and believing Vivian’s condition was temporary, only to see it get worse and worse, Kirk determined he had to get some professional help and started to put together a summary of everything he knew about Vivian. It is important to note the first contemporaneous entry in the January 4, 2010 letter documenting Vivian’s behavior was on **July 21, 2008**. If Tom gave the advice to Kirk in the summer of 2005 to build a case, which you now speculate, Kirk was very slow to respond.

We renew our demand that you unequivocally withdraw the baseless allegations you have made against Kirk. As officers of the Court, it is something you need to do.

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**Lets jointly go forward and do what is in the best interest of this family.**

Finally, there really is no denying Vivian's misconduct wherein she has demonstrated a callous disregard for Rylee's health again and again. Similarly, there really is no denying Vivian's aberrant behavior in front of Tahnee and Whitney. The single issue is what is the cause of this unquestionably unacceptable behavior? Dr. Roitman has opined the cause of the problem is NPD. Based upon what Vivian has told them, with undisclosed assistance from Marvin Gawryn which was undoubtedly not shared with them, your experts have opined the problem is not NPD.

However, it is in everyone's best interest to determine the cause of the problem. As I said in Court, no one would be happier than Kirk if the cause of the problem is not NPD. Rather than continue to run this family into the emotional and financial ground, lets jointly do what is clearly in the best interest of this family, particularly Brooke and Rylee, and have an independent psychological evaluation performed. We can have this done by someone we both trust, give them all the information they need to make a fully informed decision, including interviewing Vivian, Kirk, Tahnee and Whitney as well as Dr. Roitman and one of your three experts, whom you can designate in your sole discretion. Whatever the diagnosis, lets commit to work together to do what is in the best interest of these children. Please.

Very truly yours,

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ.

ELK/cn

cc: Kirk Harrison  
Tom Standish, Esq.

## **EXHIBIT 3**

## Kirk Harrison

---

**From:** Vivian Harrison [vivianlharrison@aol.com]  
**Sent:** Friday, July 15, 2011 7:13 PM  
**To:** Robert W. Lueck  
**Cc:** Bob Dickerson; Marvin Gawryn; Melissa Attanasio, CFP; Tom Standish; Harrison, Kirk  
**Subject:** Re: Harrison divorce

Sounds like YOU need to talk to me! Not mad at all relieved! I have my family back and doing what's best for my children and I get to share in there lives 24/7!

I'm blessed Mr and after witnessing first hand how family law mediators and lawyers operate opened my eyes to how truly jaded and unjust this system is! Ive been ask to keep logs on how bad my husband is and all his failings, mistakes and misgivings in an effort to make him look like an uncaring insensitive father and to discredit him and appear as a horrible person!

Would never DREAM of doing that to the father of my children. My children luv him and he is a descent human being and loves his children. He is a good father. Although we may not see things eye to eye I would never never never do anything to hurt one of the most important persons in my childrens lives for anything!!!!

Sent from my iPhone

On Jul 15, 2011, at 4:06 PM, "Bob Dickerson" <[bob@dickersonlawgroup.com](mailto:bob@dickersonlawgroup.com)> wrote:

Bob,

In your e-mail below, you refer to Vivian Harrison as "Your [i.e., my] client"? Her last e-mail is pretty clear. I have been fired. Thus, I obviously do not have a client to whom I can talk. Not much I can do. I will be following her instructions set out in her last e-mail to everyone who has had any involvement in her case, including Kirk Harrison and Tom Standish.

Bob

Robert P. Dickerson, Esq.

*THE DICKERSON LAW GROUP*

1745 Village Center Circle

Las Vegas, Nevada 89134

Telephone: (702) 385-8600

Facsimile: (702) 388-0210

E-Mail: [bob@dickersonlawgroup.com](mailto:bob@dickersonlawgroup.com)

## **EXHIBIT 4**

NNNN-NNNN-NNNN-NNNN  
2090121900006060001



# Citi® Diamond Preferred® Rewards Card

Account Activity  
Jul 09-Aug 07, 2009

Payment Due Date:

09/01/2009

Payment must be received by 5:00 PM local time on the payment due date.

Minimum Amount Due:

\$20.00

Total New Balance:

\$405.75

Quick Reference

Total Credit Line	\$22,000
Available Credit Line	\$21,594
Cash Advance Limit	\$7,100
Available Cash Limit	\$7,100

Important Account Information

1 of 4

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celebration

After 5 years, ThankYou® Network now offers millions of rewards to millions of members. To celebrate our birthday and express our ongoing commitment, we invite you to enjoy even more rewarding opportunities.

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Account Member  
KIRK R HARRISON

Account Number  
5410 6543 0866 5915

How to Reach Us  
1-800-633-7367  
Customer Service  
BOX 6000  
THE LAKES, NV  
89163-6000

**Citi**

**Thank You**

Total ThankYou Member Available  
Point Balance As Of 08/01/09:

130,938

Log on to [www.thankyou.com/statement](http://www.thankyou.com/statement) today to check your latest point balance, redeem for great rewards, and earn more points.

At a Glance

Previous Balance	Amount Over Credit Line	Past Due	Finance Charges	Total New Balance
\$1,574.60	\$0.00	\$0.00	\$0.00	\$405.75

Payments, Credits and Adjustments

Sale	Post	Description	Amount
07/21	07/21	PAYMENT THANK YOU	-1,574.60

Standard Purchases

Sale	Post	Description	Amount
07/11	07/11	CAPRIOTTIS SANDWICHOPS BOULDER CITY NV	26.31
07/20	07/20	CITY OF BOULDER CITY P BOULDER CITY NV	34.00
07/31	07/31	DANCE MAGIC LLC SAINT GEORGE UT	323.96
08/04	08/04	DAYTON VALLEY COUNTR DAYTON NV	19.48

Categorized Purchase Activity

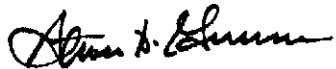
Category	Amount
Air Travel	0.00
Auto Rental	0.00
Entertainment	0.00
Health Care	0.00
Lodging	0.00
Miscellaneous	0.00
Organizations	0.00
Other Travel	0.00
Restaurants	47.79
Services	34.00
Vehicle Services	0.00
Merchandise	323.96





1 ORDR  
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10/29/2013 11:54:30 AM

  
CLERK OF THE COURT

4 DISTRICT COURT

5 CLARK COUNTY, NEVADA

6 KIRK ROSS HARRISON, )  
7 )

8 Plaintiff, )  
9 )

v. )

CASE NO. D-11-443611-D

DEPT NO. Q

10 VIVIAN MARIE HARRISON, )  
11 )

12 Defendant. )  
13

14 ORDER FOR APPOINTMENT OF  
15 PARENTING COORDINATOR

16 On July 11, 2012, this Court entered the parties' Stipulation and Order Resolving  
17 Parent/Child Issues (hereinafter referred to as "Parenting Plan"). Said Parenting Plan  
18 expressly mandated that the parties "hire a Parenting Coordinator to resolve disputes  
19 between the parties regarding the minor children." Parenting Plan 5:17-18 (Jul. 11,  
20 2012). Thus, pursuant to the express terms of their Parenting Plan, the parties  
21 consented to the appointment of a Parenting Coordinator to resolve disputes, and not  
22 merely to provide mediation services. As this Court's Order, the resolution of disputes  
23 contemplates decision-making authority pursuant to the terms and limitations set forth  
24 herein. The Court having considered all of the pleadings on file herein, and good cause  
25 appearing, does hereby Order the appointment of a Parenting Coordinator under the  
26 following terms and conditions:  
27  
28

YCE C. DUCKWORTH  
DISTRICT JUDGE

FAMILY DIVISION, DEPT. Q  
3 VEGAS, NEVADA 89101

A.App.1182

1       1.0    APPOINTMENT AND DESIGNATION OF TERMS

2  
3       Margaret Pickard is hereby appointed as Parenting Coordinator in this matter  
4 (said appointee hereinafter referred to as the "Parenting Coordinator"). The Parenting  
5 Coordinator's full name, title, mailing addresses and phone numbers are as follows:

6       Name: Margaret Pickard

7       Street Address: 10120 S. Eastern Ave #200

8       City: Henderson   State: Nevada       Zip Code: 89052

9       Telephone #: (701) 595-6771   Fax # (702) 605-7321

10       E-mail: margaretpickard@aol.com

11       2.0    PARENTING COORDINATOR FEES/EXPENSE SHARING

12  
13       Hourly fees for the services of the Parenting Coordinator shall be set by the  
14 Parenting Coordinator pursuant to a written agreement with the parties. All fees shall  
15 be advanced equally by the parties. The Parenting Coordinator may recommend a re-  
16 allocation of fees and costs on any single issue if it appears that the conduct of one party  
17 warrants same.

18  
19       3.0    GENERAL AUTHORITY

20  
21       The Parenting Coordinator shall have the general authority to recommend a  
22 resolution to parent/child and custody/visitation issues, as set forth below and within the  
23 following guidelines:

24       3.1    Facilitate the resolution of disputes regarding the implementation of the  
25 parenting plan, the schedule, or parenting issues, provided such resolution does not  
26 involve a substantive change to the shared parenting plan. A substantive change is  
27  
28

1 defined as a modification to the parenting plan that (a) significantly changes the  
2 timeshare of the children with either parent; or (b) modifies the timeshare such that it  
3 amounts to a change in the physical custody designation.  
4

5 3.2 Recommend the implementation of non-substantive changes to, and/or  
6 clarify, the parenting plan, including but not limited to issues such as:  
7

8 (a) transitions/exchanges of the children including date, time, place,  
9 means of transportation and transporter;

10 (b) holiday sharing;

11 (c) summer or track break vacation sharing and scheduling;

12 (d) communication between the parents;

13 (e) health care management issues, including choice of medical providers  
14 and payment of unreimbursed medical expenses (including dental, orthodontic,  
15 psychological, psychiatric or vision care), pursuant to the Court's order for payment of  
16 said expenses;  
17

18 (f) education or day care including but not limited to, school choice,  
19 tutoring, summer school, and participation in special education testing and programs;  
20 as well as allocation of the cost for the foregoing items;  
21

22 (g) children's participation in religious observances and religious  
23 education;  
24

25 (h) children's participation in extracurricular activities, including camps  
26 and jobs;  
27

28 (i) children's travel and passport issues;

1 (j) purchase and sharing of children's clothing, equipment and personal  
2  
3 possessions, including possession and transporting of same between households;

4 (k) children's appearance and/or alteration of children's appearance,  
5 including haircuts, tattoos, ear, face or body piercing;

6  
7 (l) communication between the parents including telephone, fax, e-mail,  
8 etc. as well as communication by a parent with the children including telephone, cell  
9 phone, pager, fax, and e-mail when the children are not in that parent's care; and

10 (m) contact with significant other(s) and/or extended families.

11  
12 **4.0 PROCEDURES AND RELATED REQUIREMENTS**

13 4.1 Each party may provide the Parenting Coordinator with copies of pertinent  
14 pleadings and orders which relate to the issues to be brought to the Parenting  
15 Coordinator. The Parenting Coordinator shall also have direct access to all pertinent  
16 orders and pleadings on file in the case, including files under a Sealing Order of the  
17 Court.  
18

19 4.2 All written communications by a party to the Parenting Coordinator shall  
20 be copied or provided to the other party, concurrently.  
21

22 4.3 Each parent is responsible for contacting the Parenting Coordinator within  
23 ten (10) days of entry of this order to schedule an initial meeting. The parties shall  
24 make themselves and the minor children available for meetings and/or appointments as  
25 deemed necessary by the Parenting Coordinator. The Parenting Coordinator shall  
26 determine in each instance whether an issue warrants a meeting with the parties.  
27  
28 ...

1           4.4. The parties shall participate in good faith in an initial mediation/conflict  
2 resolution process with the Parenting Coordinator in an effort to resolve a dispute.  
3

4           (a) Should mediation result in an agreement, the Parenting Coordinator  
5 shall prepare a simple "Agreement" on the subject for signature by each party and the  
6 Parenting Coordinator. The Parenting Coordinator shall send a copy of the Agreement  
7 to each party; the parties shall each sign the Agreement, and return their copy to the  
8 Parenting Coordinator within fourteen (14) days from the date of receipt.  
9

10           (b) Should the mediation not result in an Agreement, the Parenting  
11 Coordinator shall prepare and send to the parties a written decision in the form of a  
12 "Recommendation," as well as a courtesy copy to the Court, resolving the dispute. Said  
13 Recommendation shall set forth the reasons for the Parenting Coordinator's decision.  
14

15           (i) Within ten (10) days after the issuance of a Recommendation,  
16 any party may file with the Court and serve upon the other party and Parenting  
17 Coordinator a notice of Objection to the recommendation. The Parenting Coordinator  
18 shall be given a copy of the Objection and notice of the hearing at least ten (10) days  
19 prior to the hearing, unless otherwise ordered by the Court. The notice must include:  
20

21                               (1) A copy of the Recommendation;  
22                               (2) A concise statement setting forth the reasons that the  
23 party disagrees with the Recommendation; and  
24

25                               (3) A statement of the relief requested.  
26

27 ...

28 ...

1 (ii) If, within ten (10) days after issuance of the  
2  
3 Recommendation, a Notice of Objection is not filed, the Recommendation shall be  
4 deemed approved by the Court and shall become an Order of the Court.

5 4.5 The parties understand that the Parenting Coordinator's Recommendation  
6 is not a final decision and is not immediately effective, but rather can be reviewed by the  
7 Court through the objection procedure. However, the parties are on notice and  
8 understand that the purpose and intent of the Court in appointing a Parenting  
9 Coordinator pursuant to the terms of their Parenting Plan is to resolve disputes between  
10 the parties without the expense of litigation. Therefore, the Court will overturn a  
11 Recommendation of the Parenting Coordinator only upon the showing of evidence to  
12 the satisfaction of the Court to warrant such a result.

13 4.6 The parties shall provide in a timely manner any documents requested by  
14 the Parenting Coordinator and/or execute any releases required for the Parenting  
15 Coordinator to directly obtain documents or records which the Parenting Coordinator  
16 deems relevant to the submitted issues. Failure to do so may result in imposition of  
17 sanctions by the Court.

18 4.7 The Parenting Coordinator shall have the authority to interview and  
19 require the participation of other persons whom the Parenting Coordinator deems to  
20 have relevant information or to be useful participants in the parenting coordination  
21 process, including, but not limited to, custody evaluator, teachers, health and medical  
22 providers, stepparents, and significant others.

23  
24  
25  
26  
27  
28  
...

1 **5.0 PARENTING COORDINATOR APPEARANCES IN COURT**

2  
3 5.1 In the event that the testimony of the Parenting Coordinator is required  
4 for any hearing, including depositions, or other Court action by one or both parties, the  
5 Parenting Coordinator's fees for such services shall be paid by both parties, in advance,  
6 according to the estimate by the Parenting Coordinator. The Court shall determine the  
7  
8 ultimate allocation of such fees between the parties.

9 5.2 A Parenting Coordinator directed by the Court to testify in a Court  
10 proceeding shall not be disqualified from participating in further parenting coordination  
11 efforts with the family, but the Court in its discretion may order the substitution of a  
12  
13 new Parenting Coordinator or may relieve the Parenting Coordinator of his/her duties  
14 or the Parenting Coordinator may voluntarily determine that such substitution would  
15 be appropriate.

16  
17 **6.0 GRIEVANCES**

18 6.1 The Parenting Coordinator may be disqualified on any of the grounds  
19 applicable to the removal of a Judge, Referee, Arbitrator, or Mediator, except that no  
20 peremptory challenge shall be permitted.

21  
22 6.2 Complaints or grievances from any party regarding the performance, actions  
23 or billing of the Parenting Coordinator shall only be determined according to the  
24 following procedure:

25 (a) A person having a complaint or grievance regarding the Parenting  
26 Coordinator must discuss the matter with the Parenting Coordinator in person before  
27 pursuing it in any other manner;  
28



1 (b) If after discussion the party decides to pursue a complaint, that party  
2  
3 must first submit a written letter detailing the complaint or grievance to the Parenting  
4 Coordinator with a copy to the parties;

5 (c) The Parenting Coordinator shall then provide a written response to  
6  
7 the grievance to the party or parties within thirty (30) days of the written complaint or  
8 grievance; and

9 (d) If the grievance or complaint is not resolved after this exchange, the  
10 complaining party may proceed by noticed motion to the Court addressing the issues  
11 raised in the complaint or grievance.  
12

13 6.3 Neither party may initiate a Court proceeding for a complaint or grievance  
14 regarding the Parenting Coordinator without following the preceding procedure. Failure  
15 to comply with said procedure may result in sanctions by the Court.  
16

17 6.4 Neither party shall file any complaint or make any written submission  
18 regarding the Parenting Coordinator to the Parenting Coordinator's licensing board  
19 without first complying with these grievance procedures.  
20


21 **7.0 TERMS OF APPOINTMENT**

22 7.1 The Parenting Coordinator is appointed until discharged by the Court.  
23 The Parenting Coordinator may apply directly to the Court for a discharge, and shall  
24 provide the parties with notice of the application for discharge. The Court may  
25 discharge the Parenting Coordinator without a hearing unless either party requests a  
26 hearing in writing within ten (10) days from the application for discharge.  
27  
28

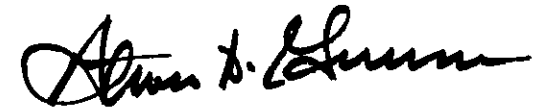
1           7.2    Either party may seek to suspend or terminate the Parenting Coordinator  
2  
3 process by filing a motion with the Court. The Parenting Coordinator's services may not  
4 be terminated without order of the Court.

5           7.3    In the event that the Parenting Coordinator is discharged, the Court will  
6 furnish a copy of the Order of termination of the Parenting Coordinator.  
7

8           DATED this 29<sup>th</sup> day of October, 2013.

9  
10  
11   
12 \_\_\_\_\_  
13 BRYCE C. DUCKWORTH  
14 DISTRICT COURT JUDGE  
15 DEPARTMENT Q  
16  
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28





CLERK OF THE COURT

**MOTN**  
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Co-counsel for Plaintiff

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

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 12 / 18 / 2013  
Time of Hearing: 11 : 00 AM

**ORAL ARGUMENT REQUESTED:**  
YES XX NO    

**NOTICE: PURSUANT TO EDCR 5.25(b) YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.**

**PLAINTIFF'S MOTION FOR A JUDICIAL DETERMINATION OF THE TEENAGE DISCRETION PROVISION**

COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys, THOMAS J. STANDISH, ESQ., of the law firm JOLLEY, URGAL, WIRTH, WOODBURY & STANDISH, and EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and hereby ...

**KAINEN LAW GROUP, PLLC**  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
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www.KainenLawGroup.com

1 moves this Court, pursuant to NRS 125.510, NRS 125.230(1), NRS 125.480(1), NRS 125.460, and NRS  
2 125C.101(1) to make a judicial determination regarding Section 6 of the Order Resolving Parent/Child  
3 Issues, entered July 11, 2012.

4 This Motion is made and based upon the papers and pleadings on file herein, the Points  
5 and Authorities submitted herewith, and oral argument of counsel to be adduced at the time of hearing.

6 DATED this 18 day of November, 2013.

7 KAINEN LAW GROUP, PLC

8  
9 By: 

10 EDWARD L. KAINEN, ESQ.  
11 Nevada Bar No. 5029  
12 10091 Park Run Drive, Suite 110  
13 Las Vegas, NV 89145  
14 *Attorneys for Plaintiff*

15 **NOTICE OF MOTION**

16 TO: VIVIAN MARIE HARRISON, Defendant; and

17 TO: RADFORD SMITH, ESQ. and GARY SILVERMAN, ESQ., counsel for Defendant:

18 PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for  
19 hearing before the above-entitled Court on the \_\_\_\_ day of 12 / 18 / 13 2013, at the hour of  
20 11 : 00 AM .m., or as soon thereafter as counsel may be heard.

21 DATED this 18 day of November, 2013.

22 KAINEN LAW GROUP, PLLC

23 By: 

24 EDWARD L. KAINEN, ESQ.  
25 Nevada Bar No. 5029  
26 10091 Park Run Drive, Suite 110  
27 Las Vegas, Nevada 89145  
28 *Attorney for Plaintiff*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Kirk previously filed, "Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and  
4 for Other Equitable Relief" on October 1, 2013. Vivian filed an opposition and countermotions thereto  
5 on October 16, 2013. Kirk filed his reply and opposition to Vivian's countermotions on October 23,  
6 2013. Vivian filed her reply regarding her countermotions on October 28, 2013. Said motion and  
7 countermotions were set for hearing before this Court on October 30, 2013.

8 During that hearing the Court indicated its preference to wait until there was a Parenting  
9 Coordinator in place. The Court also was unequivocal that it did not want to conduct an evidentiary  
10 hearing or interview the minor children.

11 While Kirk is not going to re-state all of his concerns as to why the teenage discretion provision  
12 should be stricken, suffice it to say, that exactly what Kirk was concerned would happen, has happened.  
13 An incident occurred subsequent to that hearing. After that incident, the parties set forth their opposing  
14 interpretations of Section 6 in an exchange of letters. It is evident from these letters there was, and  
15 remains, no meeting of the minds regarding Section 6 and this provision should therefore be stricken.  
16 In the event this Court is unwilling to strike said provision, then the parties need this Court's immediate  
17 judicial determination of the meaning of this provision going forward. The Parenting Coordinator is  
18 not authorized to, and should not, make such a legal determination. If the provision is not stricken, the  
19 parties need, and are entitled to, such a determination from the Court.

20 Under Subsection 6.2, an aggrieved party under this provision can seek relief with either the  
21 Parenting Coordinator and/or **the Court**.

22 **II. STATEMENT OF FACTS**

23 For purposes of understanding the most recent incident when this matter came to a head, the  
24 relevant time period is the two weeks between November 1<sup>st</sup> at 7:35 a.m., and November 13<sup>th</sup> at 2:06  
25 p.m. Under the terms of the joint physical custody order, during that two week time period, the only  
26 time Kirk was to have with Brooke<sup>1</sup> was less than two days (actually it was only 41 hours) between  
27

---

28 <sup>1</sup> Rylee was on a school field trip to California during this time period.

1 November 6<sup>th</sup> (Wednesday) at 2:06 p.m. and November 8<sup>th</sup> (Friday) at 7:15 a.m. This time was all the  
2 more precious, as during the brief period Brooke was to be with Kirk, Brooke had a dance class on  
3 Wednesday evening for 1 ½ hours, was to attend school on Thursday between 7:35 a.m. and 2:06 p.m.,  
4 and had another dance class Thursday afternoon and evening from 3:45 p.m. until 9:00 p.m.

5 At 7:36 a.m. on November 6<sup>th</sup> – the very day Kirk was to pick up Brooke from school – Brooke  
6 sent a text to Kirk providing, “*Decided I’m going to stay at moms today and tomorrow.*” If Kirk would  
7 have agreed with this request, he would not have been able to see Brooke at all for this entire almost two  
8 week period. Kirk responded, ten minutes later, “*This is not something you can decide. I will pick you*  
9 *up from school at 2:06 p.m. and we can talk then. Love you.*” There was no further response from  
10 Brooke – at least not to Kirk. Indeed it would become crystal clear that there was certainly  
11 communication with Vivian.

12 Despite there being no communication between Kirk and Vivian, just three and one-half hours  
13 after the text exchange between Brooke and Kirk, Vivian’s attorneys faxed a two and one-half page  
14 letter to Kirk’s counsel at 11:17 a.m., providing that Vivian intended to “honor” Brooke’s wishes. A true  
15 and correct copy of this letter is attached hereto as **Exhibit "1."** Kirk’s counsel faxed a response later  
16 that day and subsequently spoke to Vivian’s attorney on the telephone. A true and correct copy of Kirk’s  
17 counsel’s response letter is attached hereto as **Exhibit "2."** During the telephone conversation between  
18 counsel, Vivian’s attorneys then fired off yet another letter the same day concerning this incident. A  
19 true and correct copy of Vivian’s attorney’s letter concerning the same incident is attached hereto as  
20 **Exhibit "3."**

21 During the telephone call between counsel on November 6<sup>th</sup>, Vivian’s attorney admitted that  
22 Vivian had indeed spoken to Brooke about “her rights” under the teenage discretion provision, but that  
23 doing so was “not in violation” because the communication “happened prior to entry of the parties’  
24 Parenting Agreement.” The “Parenting Agreement” is the Stipulation and Order Resolving Parent/Child  
25 Issues, which was entered by this Court on July 11, 2012. The facts and common sense clearly indicate  
26 Vivian has also been speaking to Brooke about teenage discretion during her summer vacations with  
27 Vivian this past summer and continuing to the present time. More importantly, it is clear that Brooke’s  
28 understanding of “her rights” under the provision is based wholly on Vivian’s *beliefs* about teenage

1 discretion, as opposed to what the provision actually provides. Ironically, in the same telephone  
2 conversation when Vivian's attorney admitted that Vivian spoke with Brooke about teenage discretion,  
3 Vivian's attorney indicated that it was legally inappropriate under the agreement *for Kirk* to even  
4 respond or have a discussion with Brooke about Brooke's demand to change the custody arrangement  
5 for the next two days.

6 Wanting to exercise his already-limited time with Brooke, and at least discuss the text with  
7 Brooke, Kirk arrived at Brooke's school on Wednesday afternoon, as scheduled, to pick her up. Vivian,  
8 however, still insistent that she was going to "respect" Brooke's wishes, was also at the school to pick  
9 up Brooke. Shortly after 2:06 p.m., Brooke walked past Kirk's car, got in Vivian's car, and they drove  
10 away. Having already made it clear to Vivian's attorney that Kirk did not consent to this, Kirk chose  
11 not to make a scene at school to enforce the custody agreement. As a consequence, Kirk **did not see**  
12 Brooke for almost two weeks.<sup>2</sup>

13 Vivian has clearly not acted in good faith, based on her decision to discuss teenage discretion  
14 with Brooke and insisting on arriving at Brooke's school to pick her up even after Kirk voiced his  
15 objection to same.

16 Although the Court has appointed Margaret Pickard as the Parenting Coordinator, a judicial  
17 determination is needed and, as noted, the parties have the right under Subsection 6.2 to request the  
18 Court to address such issues.

### 19 **III. ARGUMENT**

#### 20 **A. Vivian's Interpretation of Section 6 Is That A 14 Year Old Child Has The** 21 **Unfettered Absolute Right To Order Changes To The Agreed Custody Schedule**

22 As can be readily seen from the two letters from Vivian's attorneys, **Exhibits 1 and 3**, it is  
23 Vivian's position that the 14 year old child of the parties has the absolute *right*, at any time and for any  
24 reason, to overrule the custody arrangement between the parties. According to Vivian, the parent then  
25

---

26 <sup>2</sup> This is not the first time that Vivian's intentional misconduct has resulted in Kirk inequitably losing  
27 two precious days with his children. Attached hereto is **Exhibit "5,"** which is incorporated herein by  
28 reference. As a consequence of Vivian's conniving conduct, Kirk was deprived of another two days  
with Brooke and Rylee this summer.



1 having custody must immediately *obey* the command without question. This must be done irrespective  
2 of the context in which the order of the 14 year old child is made, irrespective of other plans that have  
3 been made, irrespective of the adverse impact it may have upon the 10 year old younger sister, or any  
4 other member of the family, etc.

5 **B. Kirk's Interpretation of Section 6 Is That A 14 Year Old Child Has The Right To**  
6 **Make, Presumptively, Infrequent Requests For Minor Departures To the Agreed**  
7 **To Custody Schedule**

8 As can be readily seen from the letter from Kirk's counsel, **Exhibit 2**, it is Kirk's position that  
9 it is unreasonable to interpret Section 6 in such a way to give a 14 year old child, "carte blanche to make  
10 changes to the custodial schedule whenever they see fit." It is Kirk's interpretation of Section 6,  
11 assuming, *arguendo*, for the moment that Vivian's prior material breaches of Section 6 have not  
12 rendered the provision totally unworkable, that the 14 year old child has the right to request,  
13 presumably, on a very infrequent basis, a limited departure from the regular custody schedule. In the  
14 event of such a *request*, it is implicit that both parents must not unreasonably withhold their consent to  
15 such a request, taking into account the particular circumstances existing at the time of the request – as  
16 every responsible parent should do regardless.<sup>3</sup> Tom Standish, Esq., who negotiated the provision, is  
17 unequivocal that it was never intended that a 14 year old child was given the right to determine  
18 departures to the agreed custody schedule between the parties, "[I]t was never intended that a child could  
19 assert control over their own timeshare merely because they have reached the age of 14 years."  
20 Affidavit of Thomas J. Standish, Esq., dated October 29, 2013, ¶6, which is attached hereto as **Exhibit**  
21 **"4."**

22 Section 6 does not provide a 14 year old child with authority to "decide" where she is going to  
23 be. As a matter of fact, Section 6.1 specifically provides that "the parties *do not intend by this section*  
24 *to give the children the absolute ability to determine their custodial schedule with the other parent.*" If

---

25 <sup>3</sup> It should be noted that Kirk has acted in good faith, and has in fact acquiesced to Brooke's four (4)  
26 prior requests, despite the fact they were, in all likelihood, "prompted" or "suggested" by Vivian – to  
27 spend additional time with Vivian during his custodial period to buy dance shoes, to do make up for the  
28 Homecoming dance, to work on a project (because Vivian or, rather, Heather Atkinson, had the  
materials), and to do make up for Halloween. In fact, Kirk even voluntarily offered for Brooke and  
Rylee to spend additional time with Vivian Halloween night as an olive branch and because Halloween  
is a much more significant event for Vivian than for Kirk.

1 the actual intent was to give a 14 year old child carte blanche to stay where she wants, with whatever  
2 parent she wants, whenever she wants, it would have said so and in that case a custody schedule would  
3 not mean anything, yet there is a custody schedule set forth in the same custody order.

4  
5 **C. The Language of Section 6 and The Application of Common Sense Inescapably**  
6 **Result In the Conclusion the 14 Year Old Child Has The Right To Make A Request**  
7 **For A Departure From The Agreed To Custody Schedule**

8 Subsections 6.1, 6.2 and 6.3 provide:

9 6.1. *The parties do not intend by this section to give the*  
10 *children the absolute ability to determine their custodial schedule with*  
11 *the other parent.* Rather, the parties intend to allow the children to feel  
12 comfortable in *requesting and/or making adjustments to their weekly*  
13 *schedule*, from time to time, to spend additional time with either parent  
14 or at either parent's home.

15 6.2. Such adjustments *shall not be prompted or suggested*  
16 *by either parent*, but shall originate with the child(ren). The parties shall  
17 not allow the children to use this flexibility as a means to avoid spending  
18 time with the other parent, and they *shall each encourage the children*  
19 *to follow the regular schedule* to the extent possible. If either party feels  
20 that his or her time is being unduly eroded by this provision as an attempt  
21 by the other parent to minimize that parent's custodial time, he or she  
22 may address this issue with the Parenting Coordinator and/or the Court.

23 6.3. The Parenting Coordinator will not have the ability  
24 to revoke this provision, but may address those concerns within the  
25 context of the rights, duties and obligations of the Parenting Coordinator  
26 as detailed in the order appointing the Parenting Coordinator. *Nothing*  
27 *in this section is intended to limit the discretion of the District Court in*  
28 *making child custody determinations.*

(Emphasis added)

20 Kirk respectfully submits that when this provision is read as a whole, the undeniable conclusion,  
21 based not only upon the literal language, but upon common sense as well, is that the 14 year old child  
22 may make a **request** for a departure to the schedule, but does not have the authority to determine that  
23 the departure will be made. All of the controlling highlighted language above supports such a  
24 conclusion, except for the grammatically questionable use of the conjunctive and disjunctive "and/or"  
25 in Subsection 6.2. Despite the single incident of poor language choice, in the context of the rest of the  
26 language contained in Section 6, it is absolutely inconsistent to interpret this language as granting the

27 ...

28 ...

1 14 year old child the absolute right to "make" the custody determination. In fact, it is nonsensical to  
2 provide that the 14 year old child has the right to request "and/or" the right to make the determination.  
3 If the 14 year old child has the right to make the determination, then there would be no reason to simply  
4 make a request.

5  
6 **D. There Are Several Independent Additional Reasons Why Section 6 Should Be Stricken And Vivian's Interpretation Of Section 6 Must Fail**

7 There are several independent reasons why Section 6 should be stricken and Vivian's  
8 interpretation of the provision must fail.

9  
10 **1. Section 6 Should be Stricken As Teenage Discretion Provisions Should Generally Be Suspect As They Unnecessarily Create Uncertainty and Instability for The Children and There Was No Meeting Of The Minds In the Negotiation And Drafting Of This Teenage Discretion Provision**

11  
12 "Teenage discretion" provisions such as this should be seriously questioned by the courts under  
13 any circumstances, but especially when the parents do not get along. These provisions create  
14 unnecessary uncertainty and instability for the children. Under a joint custody arrangement, the children  
15 know from week to week the time they will be spending with each parent. These provisions undermine  
16 and disrupt that certainty and stability, unnecessarily creating uncertainty and instability on a weekly  
17 basis. As the Court has already seen, this is especially true in this matter.

18 There was clearly no meeting of the minds by the attorneys who negotiated the terms of this  
19 provision. Tom Standish, who negotiated this provision, is adamant this provision was never intended  
20 to give a 14 year old child control over the determination. The child is only given the right to make a  
21 **request** without any "suggestion" or "prompting" by either parent and where both parents are obligated  
22 to "encourage the children to follow the regular schedule." On the other hand, as evidenced by his  
23 letters, Mr. Smith argues this provision gives a 14 year old child the absolute right to determine their  
24 own timeshare. According to Mr. Smith, the child issues the *order* and the custodial parent must *obey*  
25 the order without any question or discussion.

26 ...

27 ...

28 ...

1 Where such a provision is highly suspect and generally questionable under any circumstances,  
2 where there was clearly no meeting of the minds by the individuals who negotiated the provision,  
3 resulting in interpretations which are essentially polar opposites, the provision should be stricken by the  
4 Court.

5  
6 **2. Section 6 Should Be Stricken As Vivian's Suggestions, Prompting, And**  
7 **Encouragement To Brooke To Depart From The Regular Schedule**  
8 **Whenever Possible, In Direct Violation and Contravention Of The Explicit**  
9 **Terms of Section 6, And Vivian Telling Brooke She Has The Absolute Right**  
10 **To Dictate Her Timeshare On A Daily Basis, Have Created A Totally**  
11 **Untenable Situation For the Children and Kirk**

12 After Vivian had uninterrupted custody of Brooke and Rylee for 21 days, the first day back with  
13 Kirk, on July 17, 2013, Brooke announced that since she was now 14 years old, she can decide where  
14 she lives. After Vivian had uninterrupted custody of Brooke and Rylee for 14 days, on August 2, 2013,  
15 Brooke announced she was going to live with Vivian full time.<sup>4</sup> It is evident that Vivian has convinced  
16 Brooke that Brooke has the absolute right to dictate her timeshare on a daily basis. On August 25, 2013,  
17 Brooke informed Kirk that he had to take her to Vivian's house *anytime she wanted* and Brooke had the  
18 *right to stay for as long as she wanted*. It is not a coincidence that Brooke's position mirrors the  
19 extreme position taken by Vivian.

20 The disputes which the parties and their children are now embroiled are a foreseeable direct  
21 consequence of Vivian's material breaches of the safeguards Kirk's counsel put in place to avoid the  
22 very scenario which now exists. *See*, Affidavit of Thomas Standish, **Exhibit "4"** hereto. Vivian's prior  
23 and continuing misconduct is a blatant violation of the safeguards in Section 6 and constitute material  
24 breaches of material and essential provisions, which has, in effect, prospectively nullified the  
25 effectiveness of those provisions to protect the best interests of Brooke and Rylee, as well as Kirk's  
26 rights under the joint custody order.

27 On Thursday, November 14, 2013, Brooke informed Kirk she intended to go to Vivian's house  
28 during the upcoming weekend to work on props and costumes for dance, etc. Brooke had just been with

---

<sup>4</sup> Vivian's attorneys actually assert that Vivian has not discussed the "teenage discretion" provision with Brooke since sometime before this Court's custody order was entered July 11, 2012, and, therefore, the timing of all of this is just an incredible coincidence.

1 Vivian for 13 uninterrupted days and was to return to Vivian on Monday, November 18, 2013. The  
2 costumes are not to be turned in until Wednesday evening, November 20, 2013. Kirk told Brooke he  
3 would like to think about it and perhaps Brooke could spend a shorter period at Vivian's house this  
4 weekend and the rest could be done while she was with Vivian on Monday and Tuesday. Brooke spoke  
5 with Vivian that night on the telephone and was visibly upset with Kirk the next day for no otherwise  
6 apparent reason.

7 At 1:33 p.m. on Saturday, November 16, 2013, Brooke came to Kirk and informed him that *he*  
8 *had to take she and Rylee to Vivian's house at 2:00 p.m.* to make the props and costumes that had to be  
9 turned in to Dance, Etc. on Wednesday evening, November 20, 2013. Kirk asked Brooke why they  
10 couldn't do it at his house and Brooke responded that Vivian already had gotten the materials. When  
11 Kirk asked why they couldn't simply go to the store and purchase the needed materials, Brooke said  
12 she didn't want to do that. Kirk asked how long it would take and Brooke said two to three hours.  
13 When Kirk asked what would happen if it took longer than three hours, Brooke responded that *Vivian*  
14 *and she had been texting and Vivian had to leave at 5:00 p.m.* Kirk relented and took both Brooke and  
15 Rylee to Vivian's house at 2:00 p.m. All of the foregoing, was coordinated by Vivian and Brooke,  
16 around Vivian's schedule. It was irrelevant that the plans Vivian made included Rylee. It was irrelevant  
17 that Vivian did not discuss the matter with Kirk, but used Brooke as the conduit. It was irrelevant that  
18 Kirk had previously made plans with Brooke, Rylee and Joseph to decorate the Christmas tree that  
19 afternoon and to have dinner together.<sup>5</sup> Those plans, during Kirk's custody time with the children, had  
20 to take a back seat and be delayed.

21 Vivian has wrongfully, in direct contravention of the explicit terms of Section 6, firmly  
22 embedded in Brooke's mind that Brooke has the absolute right to determine her custody on a daily basis,  
23 and if Kirk does anything other than immediately and fully comply, Brooke perceives Kirk as doing  
24 something horribly improper and contrary to what she is entitled. Under such circumstances, Section  
25 6 must be stricken.

26 \_\_\_\_\_  
27 <sup>5</sup> Under the agreed custody schedule, the next weekend Kirk has Brooke and Rylee is the weekend of  
28 December 13, 2013, and Kirk is taking Brooke and Rylee to Whitney's graduation ceremony from  
Physician's Assistant School at Methodist University in Fayetteville, North Carolina..

1  
2 **3. Any Teenage Discretion Provision, As Applied, Which Causes A 14 Year**  
3 **Old Child To Feel Like She Must Chose Between Her Parents And,**  
4 **Importantly, Motivates One Of The Parents To Encourage that Child To**  
5 **Make That Choice On A Weekly Basis, Is Fundamentally Wrong**

6 Custody arrangements should be determined by parents. The best interests of the children should  
7 be paramount in making that determination. The choice of how much time a 14 year old child spends  
8 with each parent should not be foisted upon that child through an ill-conceived and misinterpreted  
9 “teenage discretion” provision. A 14 year old child should not be compelled on a weekly basis to  
10 determine how much time she wants to spend with each parent for that particular week, especially when  
11 there is an indisputable history of one of the parents manipulating that child.

12 The interpretation advocated by Vivian, that a 14 year old child has the absolute right to  
13 determine departures from the agreed custody arrangement, not only undermines the joint custody  
14 agreement between the parties, but it unduly places too much stress upon a 14 year old child to make  
15 a choice between her parents on a weekly basis, and which choice, in most instances, inherently involves  
16 leaving her 10 year old sister.

17 Encouraging a 14 year old child to chose which parent to spend time with on a weekly basis is  
18 not in the best interests of the child, unnecessarily creates uncertainty and instability for her 10 year old  
19 younger sibling, undermines the certainty and stability inherent in an agreed parenting arrangement,  
20 creates an atmosphere which will motivate one of the parents to do what is most popular with the 14  
21 year old child, as opposed to doing what is best for the 14 year old child, and encourages a parent, so  
22 inclined, to continue a parental competition, which is not in the best interests of the children. The  
23 continued existence of Section 6 provides a vehicle for the continued unnecessary manipulation of the  
24 children.

25 The Court is respectfully urged to do what is clearly in the best interests of these children and  
26 strike Section 6.

27 ...

28 ...

...

...

1  
2 **4. Section 6, As Interpreted by Vivian, Violates NRS 125.510(5) and NRS**  
3 **125C.010 as the Right To Visitation On A Weekly Basis Is Not Defined**  
4 **“with sufficient particularity to ensure that the rights of the parties can be**  
5 **properly enforced and that the best interest of the child is achieved.”**

6 NRS 125.510 states in pertinent part as follows:

7 1. In determining the custody of a minor child in an action brought  
8 under this chapter, the court may, except as otherwise provided in this  
9 section and chapter 130 of NRS:

10 (a) During the pendency of the action, at the final hearing or  
11 at any time thereafter during the minority of any of the children of the  
12 marriage, make such an order for the custody, care, education,  
13 maintenance and support of the minor children as appears in their best  
14 interest; and

15 (b) At any time modify or vacate its order, even if the divorce  
16 was obtained by default without an appearance in the action by one of the  
17 parties. The party seeking such an order shall submit to the jurisdiction  
18 of the court for the purposes of this subsection. The court may make  
19 such an order upon the application of one of the parties or the legal  
20 guardian of the minor.

21 2. Any order for joint custody may be modified or terminated by the  
22 court upon the petition of one or both parents or on the court's own  
23 motion if it is shown that the best interest of the child requires the  
24 modification or termination. The court shall state in its decision the  
25 reasons for the order of modification or termination if either parent  
26 opposes it.

27 \* \* \* \*

28 5. Any order awarding a party a limited right of custody to a  
child must define that right with sufficient particularity to ensure  
that the rights of the parties can be properly enforced and that the  
best interest of the child is achieved. The order must include all  
specific times and other terms of the limited right of custody. As  
used in this subsection, "sufficient particularity" means a statement  
of the rights in absolute terms and not by the use of the term  
"reasonable" or other similar term which is susceptible to different  
interpretations by the parties.

(Emphasis added.)

...

...

...

...

...

1 NRS 125C.010 contains language similar to NRS 125.510(5). These statutes implement specific  
2 custody and timeshare rules in the best interests of a minor child. Specifically, these statutes, as well  
3 as, NRS 125.460, provide for the children to have specific, ongoing and frequent contact with both  
4 parties. Allowing the children to have the unhampered right to determine their own schedule with each  
5 parent flies in the face of these statutes, as well as the parties' intent at the time they entered into the  
6 Stipulation and Order Resolving Parent/Child Issues.

7 Section 6, as interpreted by Vivian, violates both NRS 125.510(5) and NRS 125C.010 as the  
8 right to visitation on a weekly basis is not defined "with sufficient particularity to ensure that the rights  
9 of the parties can be properly enforced and that the best interest of the child is achieved." According  
10 to Vivian, the 14 year old child has the absolute right to order a departure from the agreed custody  
11 schedule at any time, regardless of the circumstances. Based upon Vivian's interpretation, the right to  
12 visitation on a weekly basis is **not** defined with sufficient particularity. The right to visitation is  
13 whatever the 14 year old child arbitrarily determines it will be at any time, with Vivian's suggestion,  
14 prompting, and encouragement. For the same reason, the "specific times and other terms of the right  
15 of visitation" as set forth in this Court's order are also without "sufficient particularity" as they are  
16 subject to change on a weekly, if not daily basis, by the unfettered determination of a 14 year old child.  
17 None of this should be acceptable to the Court.

18 During the hearing on October 30, 2013, the Court confirmed that teenage discretion should not  
19 give a child full and complete control to make decisions regarding the custody timeshare. Specifically,  
20 at 10:59:10, the Court stated as follows:

21 "I don't need a child interview. The less I can embroil a child in this  
22 process, ultimately the better I feel a child is insulated from this process.  
23 The parties agreed that it was in the best interest of the children to  
24 exercise joint physical custody. I don't want this to become a situation  
25 where it is just a matter of time, where as soon as you turn fourteen you  
26 get to decide where you want to live, that's not how it works. Under NRS  
27 125.490, there is a presumption now because you agreed to joint physical  
28 custody. There is a presumption that joint physical custody is in the best  
interest of the children and to overcome that I don't find... say an  
interview came forward and that's what I hear, that there is a desire to  
live primarily with Mom. If that is, I find, I would be hard pressed to find  
that the expressions standing alone, of a fourteen year old child, would  
be sufficient to overcome that presumption. That's why I don't need it."

...



The bottom line is that by allowing the present untenable situation to continue (a situation wholly created by Vivian's blatant violations of the written safeguards and her *continuing* misconduct), it continues to empower a 14 year old child to do Vivian's bidding and continues to allow Vivian to wrongfully empower that 14 year old child. That *is not* what Kirk bargained for when reaching a parenting agreement with Vivian. Kirk will continue to pursue resolution of this matter with Margaret Pickard while this Motion is pending. However, given the interpretation advocated by Vivian, and supported by her attorneys, it cannot be resolved absent a judicial determination by this Court. According to Vivian's attorneys, Brooke has full right and control to *decide* where she wants to be and when, and Kirk would be "violating the rules" if he even attempts to talk to Brooke about the same – Vivian however, appears to be free to continue her discussions with Brooke with impunity.

**5. Section 6, As Interpreted by Vivian, Violates NRS 125.460 As It Encourages A Parent, Vivian, To Not Share The Rights And Responsibilities of Child Rearing**

NRS 125.460 states as follows:

The Legislature declares that it is the policy of this State:

1. **To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have become separated or have dissolved their marriage;** and
2. To encourage such parents to share the rights and responsibilities of child rearing.

(Emphasis added.)

Section 6, as interpreted by Vivian, violates NRS 125.460, which provides "that **it is the policy of this State . . . [t]o encourage such parents to share** the rights and responsibilities of child rearing." Clearly, Vivian is using her interpretation to undermine Kirk's right to share in the rights and responsibilities of child rearing. According to Vivian's attorneys, Vivian, based upon Vivian's interpretation, can utilize Section 6 to obtain "defacto primary custody." (Exh. S to Vivian's opposition to Kirk's countermotions re attorneys' fees, p. 9, l. 16-17)

It is respectfully submitted that to allow a 14 year old child the absolute right to "make" these type of custody decisions, which are ongoing departures from the agreed schedule, is against the stated policy of this State, as it will undermine Kirk's right to share in the rights and responsibilities of child rearing.

1 **IV. CONCLUSION**

2 The parties urgently need guidance from this Court by making a timely determination of Section  
3 6. Section 6 should be stricken by this Court. This provision creates uncertainty and instability for the  
4 children and conflict between the parties, within which the children will remain embroiled until there  
5 is a resolution. At a minimum, it is obvious that there was no meeting of the minds between the parties  
6 regarding essential terms. Vivian's material breaches of material and essential terms of Section 6,  
7 including embedding in Brooke's mind that she has the absolute unfettered right to determine her own  
8 custody, has undermined any chance for the provision to be reasonably applied.

9 However, if the Court is not willing to strike the provision at this time, the parties need this  
10 Court's determination as to whether, under the existing provision, a 14 year old child has the right to  
11 **order** a departure from the agreed to custody schedule, as argued by Vivian, or whether, under the  
12 provision, a 14 year old child has the right to **request** a departure from the agreed to custody schedule.

13 Kirk has been reasonable and accommodating, if only to keep the peace and to prevent a needless  
14 confrontation, but it has resulted in continued demands, further immersion of the children into their  
15 parents' custody dispute and ongoing encroachment into his custodial periods. Vivian does not care  
16 about the impact on Brooke, who is placed in emotional turmoil and now forced to choose between her  
17 parents on a weekly basis in order to placate one of them - even on the most basic of issues as when to  
18 return to the car. Vivian, consumed by competition at every interaction, has tried to create problems  
19 by not being able to exercise even a modicum of common courtesy in day-to-day situations (e.g. keeping  
20 the girls talking in the house for 20 to 35 minutes while Kirk waits in the car outside her house). As a  
21 result of Vivian immersing Brooke in this conflict (both by sharing information Brooke never should  
22 have had, and by completely butchering the explanation of the provisions), the parties are in all too  
23 frequent conflicts, that was otherwise much more limited.

24 Kirk implores the Court, in the best interests of Brooke and Rylee, to revoke this provision in  
25 its entirety. In the alternative, Kirk requests the Court to determine that a 14 year old child has the right  
26 to **request**, rather than the right to **order**, a departure from the agreed to custody schedule. However,  
27 under the latter alternative, Vivian will continue to manipulate and embroil the children in conflict.

28 ...

Accordingly, Kirk requests the following:

1. That the Court modifies the Stipulation and Order Resolving Parent/Child Issues by revoking and striking Section 6 so that this type of abuse by Vivian can be avoided in the future.
2. That Kirk be given two custodial days for the two custodial days – November 6 & 7 – which were wrongfully taken from him as a consequence of Vivian's misconduct and her manipulation of Brooke.
3. That Kirk be given the two custodial days for the two custodial days – July 31 and August 1 – Vivian fraudulently took from Kirk as a result of her "change" of the dates for the sewing camp, as set forth in **Exhibit "5"**, hereto.
4. That the Court impose an additional penalty upon Vivian as a deterrent to future attempts by Vivian to wrongfully take custodial days from Kirk (if Kirk only gets back the four days which were wrongfully taken by Vivian, then Vivian has incurred no penalty for what she has done, and there is no deterrent from doing it again).
5. That the Court award Kirk attorney's fees for having to bring this matter to the Court's attention.
6. For such other and further relief as the Court deems just and proper in the premises.

DATED this 18 day of November, 2013.

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ.  
Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, NV 89145  
*Attorneys for Plaintiff*

## **EXHIBIT 1**

RADFORD J. SMITH, ESQ.  
 RHONDA F. FOREBERG, ESQ.  
 GANIMA VARSHNEY, ESQ.  
 JOLENE HOEFT, PARALEGAL  
 KENNETH F. SMITH, PARALEGAL  
 KELLYE BLANKENSHIP, PARALEGAL

# **RADFORD J. SMITH, CHARTERED**

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 RSMITH@RADFORDSMITH.COM

**VIA FACSIMILE**  
 Edward Kainen, Esq.

November 6, 2013

**FAXED**

NOV 06 2013

*Re: Harrison v. Harrison*

Dear Ed:

This morning Vivian dropped Rylee off for a two-day school trip to Catalina. Brooke approached Vivian, without prompting from Vivian of any kind, and indicated that she would like to stay with Vivian for the next couple of days. Under the provisions of paragraph 6 of the parties' parenting plan (the July 11, 2012 order), Brooke has the discretion to choose to spend this time with Vivian. That provision reads in pertinent part:

6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the time the child desires to spend with each parent once that child reaches 14 years of age.

6.1. The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to feel comfortable in requesting *and/or making adjustments to their weekly schedule*, from time to time, to spend additional time with either parent or at either parent's home.

When Brooke advised Kirk of her choice to make the adjustment to the weekly schedule on this occasion, Kirk incorrectly informed Brooke that she does not have that discretion. Kirk's statement is contrary to the plain language of the agreement. Brooke does have that discretion, and Vivian intends to honor it.

If Kirk feels that either Brooke's choice or Vivian's actions are in violation of the Parenting Plan, the remedy is spelled out in paragraph 6.

6.2. Such adjustments shall not be prompted or suggested by either parent, but shall originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and they shall each encourage the children to follow the regular schedule to the extent possible. If either party feels that his or her time is being unduly eroded by this provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address this issue with the Parenting Coordinator and/or the Court.

Edward Kainen, Esq.

November 6, 2013

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6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator. Nothing in this section is intended to limit the discretion of the District Court in making child custody determinations.

Thus, under the plain terms of the Parenting Plan, if Kirk believes that the child's discretion has been exercised in violation of the Plan, he may bring this matter to mediation with Ms. Pickard under the Order entered by Judge Duckworth appointing her, or he may file a motion with the Court. He does not have the unilateral ability to deny the exercise of Brooke's discretion. Consequently, consistent with Brooke's exercise of that discretion, Vivian will pick her up after school.

Kirk's suggestion to Brooke that she does not have discretion, and the pressure that he has placed on Brooke as outlined in Vivian's Opposition to Kirk's motion to remove paragraph 6 from the parenting plan (which motion Judge Duckworth denied), is precisely what Vivian wanted to avoid. The intent of the paragraph was to allow either child, after reaching 14 years of age, to exercise occasional discretion to spend time with a parent outside the custodial schedule. The paragraph is neutral, and grants the children the right to vary the schedule and avoid any demand by the other party for strict compliance with the weekly visitation schedule. Kirk seeks to undermine the application of the provision by the very means it was designed to avoid.

Vivian strongly hopes that Kirk will not continue to violate the provision by either informing Brooke that she cannot exercise the discretion granted to her, or by causing havoc (by demanding that she come with him for example) in order to intimidate and pressure Brooke. Paragraph 6 sets up a reasonable and specific method for addressing concerns of either parent regarding a child's exercise of discretion, and Vivian will participate in any sessions with Ms. Pickard to address Kirk's concerns. She has already contacted Ms. Pickard, and I am providing a copy of the Parenting Plan and Order appointing Ms. Pickard to her. Also, Judge Duckworth has appointed Lisa Linning as the child's therapist per Vivian's request, but Ms. Linnings office has declined the appointment. Consequently, Vivian accepts the appointment of Dr. Jamal Ali, who Kirk had proposed as the children's therapist. Vivian will contact Dr. Ali, and we will provide him a copy of the parenting plan and order appointing him as therapist.

Please let me know Kirk's intended actions so we can avoid any difficulties that may arise by any actions he intends to take in response to Brooke's exercise of the discretion granted her under paragraph 6 of the Parenting Plan.

Edward Kainen, Esq.  
November 6, 2013  
Page 3

I you would like to discuss this matter, I will be available most of the day either at the office or on my cell. I look forward to hearing from you.

Sincerely,

  
RADFORD J. SMITH, CHARTERED

Radford J. Smith, Esq.  
Board Certified Nevada Family Law Specialist

RJS:

Enc:

cc: Vivian Harrison  
Gary Silverman, Esq.  
Thomas Standish, Esq.

## **EXHIBIT 2**



**KAINEN**  
**LAW GROUP**  
A Professional Limited Liability Company

■ ■

November 6, 2013

**Via Facsimile: (702) 990-6456**

Radford Smith, Esq.  
Radford J. Smith, Chartered  
64 north Pecos Road, Suite 700  
Henderson, Nevada 89074

Re: **Kirk Harrison v. Vivian Harrison**

Dear Rad:

I am in receipt of your letter dated November 6, 2013, regarding this matter.

The parties' parenting agreement gives the children the ability to *request* changes to the custodial schedule. It *does not* give the children carte blanche to make changes to the custodial schedule whenever they see fit. The children cannot simply "advise" their parents when they are going to adjust the custodial schedule. This is confirmed in paragraph 6.1 of the agreement, which plainly provides:

6.1 The parties *do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent.* Rather, the parties intend to allow the children to feel comfortable in requesting and/or making adjustments to their weekly schedule, from time to time, to spend additional time with either parent or at either parent's home."

In other words, the children are to discuss any proposed adjustments with the parent who has custody at the time they wish to make a request to the schedule -- in this case, Kirk, not Vivian.

Kirk took Brooke to school last Friday morning, November 1, at which time Vivian's custodial time began. Kirk will pick Brooke up today at 2:06 p.m., and will only have her until this coming Friday morning. After dropping Brooke off at school Friday at 7:30 a.m., he will not see Brooke again until next Wednesday, November 13, 2013. Further, tomorrow, November 7, Brooke has dance from 3:45 p.m. until 9:00 p.m. As you can see, Brooke's time with Kirk over this two-week period is already very limited.

\* ♦ EDWARD KAINEN

ANDREW L. KYNASTON

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\* Nevada Board Certified Family Law Specialist

♦ Fellow of the American Academy of Matrimonial Lawyers

Radford Smith, Esq.  
November 6, 2013  
Page 2

Accordingly, Kirk will pick up Brooke up from school, as this is his custodial time, and he will discuss the matter with Brooke. Should Vivian pick up Brooke after school today or keep Brooke during his custodial period over his objection, she will be in violation of the parties' parenting agreement and will be cause for Kirk to file a Motion with the Court to resolve this matter.

Your attention to this matter is appreciated.

Very truly yours,

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ.

ELK/cn  
cc: Kirk Harrison

## **EXHIBIT 3**

RADFORD J. SMITH, ESQ.  
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GARIMA VARSHNEY, ESQ.  
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**VIA FACSIMILE**  
Edward Kainen, Esq.

November 6, 2013

**FAXED**  
NOV 06 2013

*Re: Harrison v. Harrison*

Dear Ed:

Reference is made to your letter of earlier today. Brooke's exercise of discretion to spend a brief period of time with Vivian is not a request to change the custodial schedule contained in the agreement, that custodial schedule will continue. The provision reads:

**"[T]he parties intend to allow the children to feel comfortable in requesting and/or making adjustments to their weekly schedule, from time to time, to spend additional time with either parent or at either parent's home."**

There is no other way to read that provision other than a grant to allow Brooke to "make adjustments" to her weekly schedule. This was the discretion that was granted to her as part of the order. It appears that because he was unable to have the Court eliminate the stipulated provision, Kirk intends to ignore it, cause additional problems, then undermine it. Vivian will proceed according to the order, and retrieve Brooke today from school per her wishes.

Moreover, his plan to discuss Brooke's stated exercise of discretion with her, and obviously attempt to influence her not to spend time with Vivian, is exactly what is prohibited by the provision. Kirk should follow the procedure outlined in the plan and have him address this issue through Ms. Pickard.

I cannot comprehend why Kirk would continue to put Brooke through this kind of pressure. I believe that if he just took the pressure off her, allowed her to meet with a counselor, addressed his relationship or issues with the relationship through the Parenting Coordinator, that this issue would resolve itself. Instead, his response is to threaten to file a motion. I would ask that he reconsider that course.

While I appreciate that he will miss time alone with Brooke, she has unequivocally advised him of her desire to spend the next couple of days with Vivian. There may come a time when either Brooke or Rylee want to spend time with him on a day Vivian is scheduled to have them – she will, of course, comply with the provisions of the agreement.

November 6, 2013

Page 2

Your letter did not respond to Vivian's acceptance of Kirk's proposal of Dr. Ali. I presume, since Kirk originally proposed him, he would be acceptable. Please let me know.

Sincerely,

  
RADFORD J. SMITH, CHARTERED

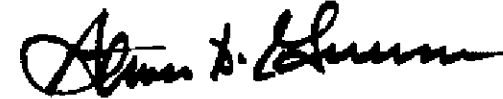
Radford J. Smith, Esq.

Board Certified Nevada Family Law Specialist

RJS:

cc: Gary Silverman (via email)  
Vivian Harrison (via email)  
Thomas Standish, Esq. (via email)

## **EXHIBIT 4**



CLERK OF THE COURT

1 AFFD

2 THOMAS J. STANDISH, ESQ.

3 Nevada Bar No. 1424

4 [tjs@juwww.com](mailto:tjs@juwww.com)

5 JENNIFER POYNTER-WILLIS, ESQ.

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17 10091 Park Run Drive, Suite 110

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19 (702) 823-4900

20 (702) 823-4488 (Fax)

21 Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

22 KIRK ROSS HARRISON,

23 Plaintiff,

24 vs.

25 VIVIAN MARIE LEE HARRISON,

26 Defendant

CASE NO.: D-11-443611

DEPT NO.: Q

Hearing Date: October 29, 2013

Hearing Time: 10:00 a.m.

AFFIDAVIT OF THOMAS J. STANDISH, ESQ.

filed in Support of Plaintiff's Reply In Support of Plaintiff's Motion to Modify Order  
Resolving Parent/Child Issues and For Other Equitable Relief, and Plaintiff's Opposition  
to Defendant's Countermotions to Resolve Parent/Child Issues, To Continue Hearing on  
Custody Issues, For an Interview of the Minor Children, and For Attorney's Fees and  
Sanctions

STATE OF NEVADA )

COUNTY OF CLARK )

ss.

Thomas J. Standish, Esq., being first duly sworn, deposes and says:

1           1. The matters stated in this Affidavit are based upon my personal knowledge or  
2 upon information and belief, if so stated. If called upon to testify, I could and would  
3 competently testify to the facts set forth herein.

4           2. I am the attorney for Kirk Harrison (hereinafter "Kirk"), the Plaintiff in case  
5 number D-11-443611-D. I am employed by the law firm of Jolley Urga Wirth Woodbury &  
6 Standish, and am duly licensed to practice law in the State of Nevada. I was retained as co-  
7 counsel to Edward Kainen, Esq. for Kirk, in June 2011.

8           3. On behalf of Kirk Harrison, I negotiated the terms of the Stipulation and Order  
9 Resolving Parent/Child Issues, entered July 11, 2012, with Radford J. Smith, Esq.

10          4. In particular, I negotiated with Mr. Smith Paragraph 6 of said stipulation and  
11 order, which for purposes of clarity is set forth hereafter:

12                   6. Notwithstanding the foregoing time-share arrangement, the  
13 parents agreed that, once each child reaches the age of fourteen (14) years, such  
14 child shall have "teenage discretion" with respect to the time the child desires to  
15 spend with each parent. Thus, while the parents acknowledge the foregoing  
16 time-share arrangement, the parents further acknowledge and agree that it is in  
the best interest of each of their minor children to allow each child the right to  
exercise such "teenage discretion" in determining the time the child desires to  
spend with each parent once that child reaches 14 years of age.

17                   6.1. The parties do not intend by this section to give the children  
the absolute ability to determine their custodial schedule with the other parent.  
18 Rather, the parties intend to allow the children to feel comfortable in requesting  
and/or making adjustments to their weekly schedule, from time to time, to spend  
19 additional time with either parent or at either parent's home.

20                   6.2. Such adjustments **shall not be prompted or suggested by**  
21 **either parent**, but shall originate with the child(ren). The parties shall not allow  
the children to use this flexibility as a means to avoid spending time with the  
other parent, and they **shall each encourage the children to follow the regular**  
22 **schedule** to the extent possible. If either party feels that his or her time is being  
unduly eroded by this provision as an attempt by the other parent to minimize  
23 that parent's custodial time, he or she may address this issue with the Parenting  
Coordinator and/or the Court.

24                   6.3. The Parenting Coordinator will not have the ability to revoke  
25 this provision, but may address those concerns within the context of the rights,  
duties and obligations of the Parenting Coordinator as detailed in the order  
26 appointing the Parenting Coordinator. **Nothing in this section is intended to**  
27 **limit the discretion of the District Court in making child custody**  
28 **determinations.**



1 6.4. In the event either child wishes to permanently modify the  
2 regular custodial schedule beyond the scope of this provision once that child  
3 reaches 14 years of age, she may address this matter with the therapist or  
4 Parenting Coordinator, or either party may address this issue with the Parenting  
Coordinator. If the parties cannot agree, the Court shall consider the children's  
wishes pursuant to NRS 125.480(4)(a).

5 5. The emboldened language was specific material language that I bargained for on  
6 my client's behalf. I advised my client that these emboldened provisions were critical to the  
7 teenage discretion provision and to safeguard the situation from either parent wrongfully  
8 pressuring, influencing, or encouraging a child to change the timeshare in that parent's favor.

9 6. Upon reviewing Plaintiff's Motion to Modify Order Resolving Parent/Child  
10 Issues, it is clear that the actions described in that motion constitute multiple violations of the  
11 above revisions prohibiting either parent from prompting a child or suggesting to a child that  
12 such child should advocate a shift in the timeshare in favor of the prompting parent. The  
13 actions as alleged against Vivian in that Motion, would constitute a clear effort by a parent to  
14 undermine the entire Paragraph 6, as it was never intended that a child could assert control over  
15 their own timeshare merely because they have reached the age of 14 years.


16 FURTHER AFFIANT SAYETH NAUGHT.

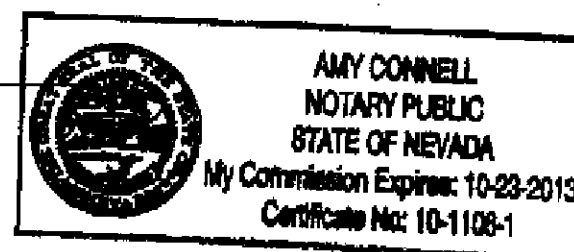
17 Dated this 29<sup>th</sup> day of October, 2013.

18   
19 THOMAS J. STANDISH, ESQ.

20 State of Nevada  
21 County of Clark

22 Subscribed and sworn before me  
23 this 29 day of October, 2013.

24   
25 Notary Public



## **EXHIBIT 5**

**EXHIBIT 5**  
***(to Plaintiff's Motion For a Judicial Determination  
of the Teenage Discretion Provision)***

Vivian has demonstrated again and again throughout this litigation that she cannot be trusted to abide by the orders of this Court or do the right thing. Subparagraph 6.2 specifically and affirmatively requires each parent to **“encourage the children to follow the regular schedule”** and to not **“prompt”** or **“suggest”** any changes in the regular schedule. These provisions require and presume good faith conduct on the part of each parent **not** to encourage or manipulate the child to seek to be with one parent more than the other. Vivian’s behavior throughout this litigation gives every indication that presumption, with respect to Vivian, is erroneous.

Section 7.1, entitled, “Summer Vacation or Intersession Break” of the Stipulation and Order Resolving Parent/Child Issues, entered July 11, 2012, sets forth the procedure to be followed in establishing the parties vacations with the children each summer. Pursuant to that provision, sometime prior to March 1 of each year, Vivian must notify Kirk of the dates of her ten day sewing camp each summer. By the explicit terms of Section 7.1, Kirk “shall not designate vacation time during the period of the children’s sewing camp.” Therefore, Vivian must *first* designate the dates of the sewing camp.

In accordance with Section 7.1, Vivian identified the dates of the sewing camp as **July 20-30.**<sup>1</sup> Kirk thereafter, in accordance with Section 7.1, then designated his vacation times with the children as follows: “The dates for the Utah/Lagoon trip are August 14 through August 20. The dates for my summer vacation with the girls are as follows: June 19 through June 25 and August 2 through August 8.” In addition, under the regular custody schedule during the summer, Kirk has

---

<sup>1</sup> Although this is for 11 days, rather than 10 days, Vivian was then obligated to take the sewing trip of 10 days within that 11 day period.

Brooke and Rylee from Wednesday at 9:00 a.m. until Friday at 9:00 a.m. each week. Therefore, based upon Vivian's designation of sewing camp and Kirk's designation of summer vacations, *Kirk was have Brooke and Rylee, among other days, Wednesday, July 31 and Thursday, August 1.*

Despite the foregoing, three weeks later, in direct contravention of the procedure set forth in Section 7.1, Vivian notified Kirk that she unilaterally "changed" the dates of the "sewing camp" to **July 24 through August 1, 2013** (Vivian already had July 20 through July 23, as part of her normal visitation). However, by making the change, Vivian "took" two days from Kirk with the girls – July 31 and August 1. Vivian then, incredulously, took the position that even though she was in actuality taking *more days*, since she only "took" 9 days *for the sewing camp*, she was entitled to take another day from Kirk. As a consequence of these manipulations, Kirk was forced to take the Utah/Lagoon trip at about the time he had planned to take the California trip and take the Utah/Lagoon trip at about the time he had planned to take Brooke and Rylee to California. Through this ploy of Vivian in "changing" the dates of the "sewing camp," *Vivian fraudulently took two days of Kirk's time with Brooke and Rylee.*

The truth is, that Vivian's late and improper "change" was nothing more than calculated manipulation of the custody schedule, and it is undisputed that *the actual dates of the sewing camp never changed*. The sewing camp – the Martha Pullen School of Art Fashion was in Huntsville, Alabama from **July 21 until July 28, 2013**. These dates are well within the confines of Vivian's pre-March 1 notice that the sewing camp was between **July 20-30**. Vivian checked out of the hotel in Huntsville, Alabama on August 30, 2013 and Vivian and the girls flew home that day as already planned. The *sole purpose* of Vivian's late and improper notification of a "change" of the sewing camp dates to Kirk was to take two of Kirk's days with Brooke and Rylee and to try to steal a third.

When Kirk picked up Brooke and Rylee on the morning of August 2, 2013, the first thing Brooke said to Kirk was that she and Rylee were “suffering from jet lag”, implying they had flown home the day before. However, a couple of days later during their trip, Kirk and the girls were in a Walmart in Lehi, Utah, and Kirk suggested they buy school supplies like they had done previously during the annual Utah/Lagoon trip. Rylee responded they had already gone with Vivian to buy school supplies. When Kirk asked if they did so during their sewing camp trip, Rylee responded that they had gone shopping in Las Vegas a couple of days *after* they got back from the sewing camp.<sup>2</sup>

If the Court only grants Kirk the two days Vivian fraudulently took from Kirk, there is no deterrent to future antics like this from Vivian. Vivian will have the time with the girls she otherwise should have had – she would lose nothing. Kirk respectfully requests, that some sort of sanction be imposed on Vivian to discourage such future conduct.

---

<sup>2</sup> The fact that Vivian would involve Brooke in the perpetuation of this fraud and the attempted cover up of her fraudulent behavior, speaks volumes as to what Vivian is capable and routinely does. More specifically, it is highly relevant circumstantial evidence of Vivian’s continuing manipulation of Brooke regarding the teenage discretion provision.

0001

DISTRICT COURT  
CLARK COUNTY, NEVADA

KIRK ROSS HARRISON,

Plaintiff(s),

-VS-

VIVIAN MARIE LEE HARRISON,

Defendant(s).

CASE NO. D443611

DEPT. NO. Q

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

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

MOTION FOR OPPOSITION TO JUDICIAL DETERMINATION RE: TEENAGE  
DISCRETION

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

**NOTICE:**

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

**Mark correct answer with an "X."**

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

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

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

Dated this 18th of November, 20013

Carol Navarro

Printed Name of Preparer

Carol Navarro  
Signature of Preparer



**FILE COPY**

DEC 09 2013

1 **OPP**

2 RADFORD J. SMITH, ESQ.  
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18 Attorneys for Defendant

19  
20 **DISTRICT COURT**  
21 **CLARK COUNTY, NEVADA**

22 KIRK ROSS HARRISON,

23 Plaintiff,

24 v.

25 VIVIAN MARIE LEE HARRISON,

26 Defendant.

CASE NO.: D-11-443611-D

DEPT.: Q

**FAMILY DIVISION**

27 **DEFENDANT'S OPPOSITION TO MOTION FOR JUDICIAL DETERMINATION OF THE**  
28 **TEENAGE DISCRETION PROVISION; COUNTERMOTION FOR ATTORNEY'S FEES**

DATE OF HEARING: December 18, 2013

TIME OF HEARING: 11:00 a.m.

VIVIAN MARIE LEE HARRISON ("Vivian"), through her attorneys Radford J. Smith, Esq. of the firm of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm of Silverman, Decaria & Kattleman, requests that Plaintiff, KIRK ROSS HARRISON's ("Kirk") Motion for Judicial Determination

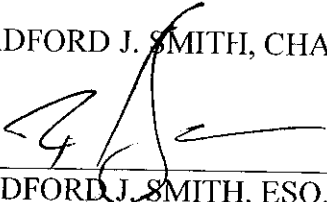


1 of the Teenage Discretion Provision be denied in its entirety. Vivian countermoves for attorney's fees  
2 under EDCR 7.60 for Kirk's unnecessary multiplication of these proceedings.

3  
4 This Opposition and Countermotion are based upon the papers and pleadings on file, the Points  
5 and Authorities and oral arguments of counsel to be adduced at the time of the hearing.

6 Dated this 6 day of December, 2013

7 RADFORD J. SMITH, CHARTERED

8  
9   
10 RADFORD J. SMITH, ESQ.  
11 Nevada Bar No. 002791  
12 64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorney for Defendant

13  
14 I.

15 **STATEMENT OF FACTS**

16 On October 1, 2013, Kirk moved to eliminate the "teenage discretion" provision from the parties'  
17 stipulated parenting plan. Vivian opposed that motion, and the Court denied Kirk's request. Unsuccessful  
18 at eliminating the provision, Kirk now moves to emasculate it.

19  
20 The "teenage discretion" provision, section 6 of the July 11, 2012 stipulated order ( "Parenting  
21 Plan"), permits either of the parties' minor children (after age 14) to alter the "weekly schedule" under the  
22 parenting plan "from time to time" to spend time with one parent. (Parenting Plan ¶6.1). The provision  
23 contains safeguards to prevent exercising discretion from "unduly eroding" the timeshare of one parent.  
24 (Parenting Plan ¶6.3)

25  
26 Kirk now requests that the Court ignore or alter the language granting discretion, and find that a  
27 child older than fourteen may only *request* a modification, leaving the parent with absolute control. This  
28 was not agreed by the parties. There would be no point to include in a parenting plan a separate provision

1 that allows a teenager to “request” modifications of the parenting plan; any child can ask to spend more  
2 time with one parent regardless of the language in any parenting plan. The provision does what its title  
3 implies – it grants “discretion.”  
4

5 Kirk has filed a second motion because he is unsatisfied with the Court’s order that denied his first.  
6 The present Motion, like all he has filed, attacks Vivian. He claims that in violation of the teenage  
7 discretion provision, Vivian has improperly influenced Brooke to spend time with her during his  
8 scheduled custodial time. She has not. The few times that Brooke has exercised discretion to be with  
9 Vivian have been reasonable and predictable. Kirk multiplied these proceedings by the filing of a second  
10 motion which presents no theory or legal argument he could not have presented in the first motion, which  
11 the Court denied.  
12

13 Vivian addresses-Kirk’s claims that Brooke’s exercise of teenage discretion has undermined Kirk’s  
14 timeshare in the facts set out below and affirmed by her Affidavit. Vivian submits the facts show Brooke  
15 exercised teenage discretion on four occasions for rational reasons consonant with a teen's life and growth,  
16 but only once for an overnight period (a two day timeframe where Rylee was on a separate trip to Catalina  
17 and Brooke could spend alone time with Vivian). Brooke-used the teenage discretion provision in the way  
18 that it was intended, and consistent with its express terms.  
19  
20

## 21 II.

### 22 THE PLAIN LANGUAGE OF THE PARENTING PLAN GRANTS TEENAGE DISCRETION

#### 23 1. The Teenage Discretion Clause

24 Vivian fully discussed the genesis of the provision in her October 17, 2013 Opposition to  
25 Plaintiff’s Motion to Modify Order Resolving Parent/Child Issues: Brooke’s adamant objection to  
26 spending equal time in Kirk’s care. **Specifically, she re-avers** that in June 2012, Vivian had two options  
27 – seek primary custody, or develop a way that Brooke could choose to spend more time with Vivian or  
28

1 Kirk "from time to time" without altering a plan of joint custody--that is not alter the legal boundary of  
2 "custody" as the cases define it. Vivian proposed a plan of "teenage discretion" that is contained in the  
3 parenting plan. Vivian also wanted to give time to Kirk to improve his relationship with Brooke in the  
4 year before her 14<sup>th</sup> birthday, and with a therapist that was envisioned under the parenting plan. (See  
5 Letter from Radford J. Smith, Esq. to Thomas J. Standish, Esq. dated June 1, 2012, attached hereto as  
6 Exhibit "A").

8 Kirk's relationship with Brooke deteriorated over the past year, but Kirk, contrary to the specific  
9 provisions of the parenting plan, did not propose a therapist over that year, and then sought to eliminate  
10 the teenage discretion provision. As Kirk's relationship with Brooke deteriorated over time his incentive  
11 to torpedo the teen discretion clause increased. (See, Vivian's October 17<sup>th</sup> Opposition to Plaintiff's  
12 Motion to Modify Order Resolving Parent/Child Issues, pages 17 through 22).

14 Kirk's claim, in part, is the Parenting Plan is ambiguous. The relevant language of the Parenting  
15 Plan (Para 6.1): "[T]he parties intend to allow the children to feel comfortable in requesting **and/or**  
16 **making** adjustments to their weekly schedule, from time to time, to spend additional time with either part  
17 or at either parent's home." [Emphasis supplied]. Under that provision a child may ask for an adjustment  
18 or, simply, take an adjustment--ask or act. The child may *request* an adjustment "**AND**" *make an*  
19 *adjustment*, "**OR**" simply *make an adjustment*. The language cannot logically be read any other way,  
20 and is thus not subject to interpretation. A settlement of pending litigation is a contract, and is subject to  
21 general principles of contract law. *Grisham v. Grisham*, 289 P.3d 230 (2012). If there is no ambiguity,  
22 there is not need for interpretation. Kirk's request that the Court look to what he claims was the "intent"  
23 of the parties to alter the plain meaning of the unambiguous provision is contrary to well established  
24 principles of contract law. Extrinsic or parol evidence is not admissible to contradict or vary the terms of  
25 an unambiguous written instrument, "since all prior negotiations and agreements are deemed to have been  
26  
27  
28

merged therein.” *Kaldi v. Farmers Ins. Exch.*, 117 Nev. 273, 281, 21 P.3d 16, 21 (2001) (quoting *Daly v. Del E. Webb Corp.*, 96 Nev. 359, 361, 609 P.2d 319, 320 (1980)).

Kirk’s next claim is that the Parenting Plan allows the children “unfettered” right to modify the Court’s order. The use of the teenage discretion is limited to “weekly visitation,” and is to be only exercised “from time to time.” Parenting plan, ¶6.1. The provisions specifically prohibit the child from using discretion to permanently alter the *timeshare* (“The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent”). *Id.* Further, the provisions grant the remedy of intervention by the Parenting Coordinator or the Court if either party believes Brooke, or Rylee (after she turns 14), uses the teenage discretion provision to “unduly erode” the timeshare of either party. Parenting Plan ¶6.2. Indeed, the provisions distinguish between modifications “from time to time” and the intent or desire of the child to change custody. Paragraph 6.4 of the Parenting Plan reads:

In the event either child wishes to permanently modify the regular custodial schedule beyond the scope of this provision once that child reaches 14 years of age, she may address this matter with the therapist or Parenting Coordinator, or either party may address this issue with the Parenting Coordinator. If the parties cannot agree, the Court shall consider the children’s wishes pursuant to NRS 125.480(4)(a).

This distinction between the child’s ability to “from time to time” exercise discretion to visit with the other parent is made apparent by the distinction in ¶6.4: the parties intended to allow discretion to a point, but not allow the child to dictate her schedule with the other parent. If the child desired to change custody, the parties developed a plan to ensure that the child received counseling through the therapist or parenting coordinator, and allowed the parties a non-judicial means for addressing any dispute regarding a child’s desire to change custody. Again, the unambiguous “teenage discretion” provisions were designed to discourage litigation by allowing some flexibility and independence for teens, and develop a system of

1 non-judicial intervention to resolve disputes. Kirk's has undermined that goal by first refusing to submit  
2 his choice of therapist, and then by filing two motions designed to eliminate the provision or its effect.

3  
4 On October 30, 2013, the Court found the teenage discretion provisions (§6 of the Parenting Plan) to  
5 be valid and enforceable. They are an integral part of the plan that contemplated the children's strong  
6 preference to spend additional time with Vivian, but the provision is neutral, and Vivian understands that  
7 the children can use that same discretion to spend time with their father. Indeed, this is how she and her  
8 counsel designed the provisions. See Letter from Radford J. Smith, Esq. to Edward Kainen, Esq. dated  
9 November 6, 2013, attached hereto as Exhibit "B."  
10

11 Vivian never advised Brooke, as Kirk has suggested, that Brooke could permanently alter her  
12 custody or timeshare. Specifically, Vivian did not advise Brooke that Brooke would have an "unfettered  
13 absolute right to order changes in the agreed to custody schedule,"<sup>1</sup> and Vivian has not taken that position  
14 in discussions with Kirk's counsel. Unfettered means "without restraint," but here the plain language of  
15 the provisions set forth criteria for the exercise of such discretion, and provides two separate methods for a  
16 party to object to a child's use of teenage discretion that "unduly erodes" that parties timeshare. Vivian  
17 today is forced to repeat the position she took in her October 17<sup>th</sup> Opposition to Kirk's Motion to Resolve  
18 Parent Child Issues that there are more than adequate reasons (including the extremely close bond the  
19 children have with Vivian, and Kirk's use of anger, guilt, and criticism to attempt to control them) that  
20 could account for either child's desire to spend more time with Vivian. Here, however, Brooke's exercise  
21 of time had little to do with Kirk, and instead was based upon activities or time that she logically wanted  
22 to spend with her mother.  
23  
24  
25  
26  
27

28 <sup>1</sup> See, Kirk's Motion for a Judicial Termination, page 5, line 16, and Vivian seriously doubts that Brooke has ever indicated to  
Kirk, as Kirk has also suggested, that she, Brooke, could alter custody when she turned 14.

1           **2. Brooke's Limited and Predictable Exercise of Teenage Discretion**

2           Since turning 14 on June 26, 2013 (almost 6 months ago), Brooke has exercised teenage discretion  
3 on four occasions. On three of those occasions, the schedule was altered only by a few hours, and for  
4 what Vivian submits are sensible reasons. Brooke exercised overnight stays with Vivian during only one  
5 period (a two day timeframe where Rylee was on a separate trip to Catalina, and Brooke could spend  
6 alone time with Vivian). Brooke has utilized the teenage discretion provision in the way that it was  
7 intended, and consistent with its express terms.  
8

9           The first time Brooke exercised teenage discretion was on August 24, 2013 when Brooke wanted  
10 to be with Vivian when shopping for ballet point shoes on a Saturday she was scheduled to be in Kirk's  
11 care. Brooke exercised discretion for five (5) hours on that day. *See* Kirk's Motion to Modify Order re:  
12 Teenage Discretion filed on October 1, 2013, page 7, line 14. Vivian and the children had bought dance  
13 shoes together throughout the years that Brooke and Rylee have been in dance. Brooke told Vivian that  
14 she wanted Vivian to take her shopping.  
15  
16

17           The second time Brooke exercised teenage discretion was on the day of Brooke's Homecoming  
18 Dance (a Saturday) when Brooke desired to be at Vivian's home to dress and do make-up with her friends  
19 for the dance. This request by Brooke is not surprising. Brooke wanted to be with her mother who is  
20 skilled and experienced in applying make-up, and helped her learn how to apply make-up. On that day,  
21 Brooke and her friends planned to go from one mother's home to another when preparing for the dance.  
22 Brooke and her friend's mother told Vivian about the plan the day before; Vivian did not prompt Brooke  
23 nor organize any aspect of the plan. The plan involved the girls traveling to three different homes for  
24 different events (hair and make-up at Vivian's home, other events at two other homes). Brooke was with  
25 Vivian for approximately two to three hours.  
26  
27  
28

1 The third time Brooke exercised teenage discretion caused Kirk to file his current motion. This  
2 was the only time when Brooke spent overnights with Vivian. On November 6, 2013, Vivian dropped  
3 Rylee off to attend school trip to Catalina Island. After dropping Rylee off for the trip, the normal  
4 parenting schedule called for Brooke to be in Kirk's care from November 6 through November 8.  
5 Without prompting, Brooke expressed her desire to be with Vivian while Rylee was away.  
6

7 The fourth time Brooke exercised teenage discretion (if it can be called that since both children  
8 wanted to go to Vivian's house for necessities for dance) was on November 16. On Wednesday,  
9 November 13, Brooke and Rylee attended their musical theater class. Their instructors advised them at  
10 that class that they needed to have their props and two costumes for two scenes in the upcoming Winter  
11 recital. They were in Kirk's care the following Thursday and Friday. Both Brooke and Rylee requested  
12 that they be allowed to go to Vivian's home on Saturday, November 16 to retrieve the props, to make  
13 shopping bags, wrap presents, and prepare costumes, all for their Winter Recital. Vivian has a craft and  
14 sewing room in her home that is equipped with arts, crafts and sewing supplies. Vivian has been the  
15 parent that has taken the historical responsibility of preparing the props and costumes for the children's  
16 school projects and dance. It is understandable that the children wanted to be with Vivian to help them  
17 prepare for the recital. They were with Vivian for approximately three hours.  
18  
19  
20

21 Vivian submits that all of these four (including the children's need to gather material for the winter  
22 recital) instances of exercise of teenage discretion are reasonable and predictable (spend "one-on-one"  
23 time with her, shopping for dance clothes, putting on make-up for a dance, sewing costumes.  
24

25 The standard for review of Kirk's motion is contained in the parties' contract: Has Brooke's  
26 exercise of Kirk's claim that Brooke's exercise of discretion "unduly eroded" Kirk's timeshare. In light of  
27 the few instances in which she has exercised discretion, Kirk's claim is ludicrous. Kirk's claim that  
28 Brooke's exercise of discretion caused her to be outside Kirk's care for two weeks does not fully inform

1 the Court of the parties timeshare surrounding that period. Kirk did not tell the Court that Kirk had  
2 Brooke and Rylee in his care for two prior consecutive weekends, including the extended Nevada Day  
3 weekend. Brooke and Rylee did not have school on Monday after Nevada day due to "staff development  
4 day." As a result, Kirk had the children with him for four consecutive days on that weekend. Below is a  
5 list of dates that Kirk and Vivian had the children from October 16 through November 17.<sup>2</sup>  
6

7 Kirk had the children on the following days -

8 In October -

9 16, 17, 18, 19, 20, 23, 24 (Staff Dev day-no school), 25 (Nevada day- no school 4 day  
10 weekend), 26, 27, 30, 31

11 In November -

12 13, 14, 15, 16, 17

13 **Total number of days for Kirk = 17 days**

14 Vivian had the children on the following days -

15 In October -

16 21, 22, 28, 29

17 In November -

18 1, 2, 3, 4, 5, (6, 7 Brooke decided to spend these days with Vivian instead of with Kirk) 8,  
19 9, 10, 11, 12

20 **Total number of days for Vivian = 16 days (including the two days that Brooke choose to be**  
21 **with Vivian instead of with Kirk)**

22 As shown above, even after Brooke exercised teenage discretion, Kirk had more days with the  
23 children than Vivian during that period. Brooke's exercise of discretion could not possibly be fairly  
24 characterized as eroding his time with the children.  
25

26  
27  
28  

---

<sup>2</sup> I am using the 30 day time period from October 16 through November 17 as a point of reference to show the Court the  
custodial arrangement Kirk for the past 30 days prior to the Thanksgiving Holiday schedule.



1           **3. Why the Children Continue to Express Their Desire to Spend More Time with Vivian.**

2           Inherent in Kirk's Motion is his false narrative that the only reason the children want to be with  
3 Vivian is that she has improperly coached them as part of her competition with Kirk. Kirk's claim is not  
4 supported by any evidence.  
5

6           There are only three ways to evaluate the "improper coaching" claim:

7                 First, the Court could ask Vivian. Vivian denies that she has lobbied or encouraged the  
8 children to be with her during Kirk's time.  
9

10                Second, the Court could review the reasons other than Vivian's encouragement that would  
11 explain why the children want to spend additional time with Vivian. Here, there is substantial and  
12 adequate reasons why the children have formed a close bond with Vivian, and desire to be with her. In  
13 sum:

14               a.       Vivian read extensively with and to Brooke and Rylee. As a result, both Brooke and Rylee  
15 were able to read and write before entering Kindergarten. Vivian reads and prays with them every night  
16 before they go to sleep. Both children have reading awards for number of pages or minutes read during a  
17 specific school year. Before the time that the children could read independently, Vivian read all of those  
18 pages with the children.  
19

20               b.       Vivian is very active with the children's school. She volunteers regularly and has received  
21 awards for her involvement in their classroom and school activities. Vivian supplied numerous additional  
22 declarations of witnesses attesting to various activities in which Vivian had participated with Brooke and  
23 Rylee. See Vivian's October 17th Opposition to Plaintiff's Motion to Modify Order Resolving  
24 Parent/Child Issues, pages 8 through 9.  
25

26               c.       Vivian has volunteered weekly in the past for Rylee's Church related activities. Vivian  
27 encourages Brooke and Rylee to volunteer and help with various charitable events such as Special  
28

1 Olympics, the Humane Society, school fundraisers and rummage sales, Brooke's class's Carson City trip,  
2 at lemonade stands, etc.

3 d. The children and Vivian have common interests. They enjoy sewing, cooking, dancing,  
4 make-up, hair, and fashion. They have taken sewing classes, quilting classes, cooking classes, crochet  
5 classes, knitting classes, special art project classes at Michaels and Joann's, and have made projects  
6 together. Vivian taught at a fashion design school, and Brooke is very enthusiastic about fashion. Vivian  
7 alters and makes costumes for dance performances and school plays for both Brooke and Rylee. She also  
8 does their hair and make-up for the performances  
9

10 e. Vivian works with the children on their homework and school projects. The children have  
11 received mountains of awards based on academics. With some encouragement and help from Vivian, the  
12 children have achieved the World Traveler Award, Nevada Citizenship Award, and Great American  
13 Award.  
14

15 f. Vivian registers Brooke and Rylee for sports activities (soccer, basketball, volleyball, tee  
16 ball, and swimming). She also has and continues to arrange for their private lessons in dance, piano,  
17 guitar and drum (they not currently taking guitar and drum) gymnastics and voice. In the past, Vivian has  
18 scheduled and attended all of the children's doctor's appointments, hair appointments, and nail  
19 appointments  
20

21 g. Vivian lives in the marital residence Brooke and Rylee were born and raised in that home.  
22 They have several very close friends in the neighborhood who they like to visit when they visit Vivian.  
23

24 Vivian's activities with Brooke and Rylee are no different than her activities with the parties three  
25 adult children during their childhood. Those children (All-state in sports, Miss Teen Nevada, top of their  
26 class in school, great colleges) were incredibly successful in their endeavors, and so are Brooke and Rylee.  
27 The *facts* show why Brooke and Rylee are close to her, and want to spend time with her.  
28

1 The third and final way the Court could determine whether Vivian has inappropriately encouraged  
2 or influenced Brooke to spend time with her is to ask Brooke. As previously stated in her first opposition  
3 to Kirk's motion to eliminate the teenage discretion provision, Vivian welcomes such an interview.  
4

5 When the Court stated it did not want to hear from the girls, the field of fire was opened up for  
6 Kirk--he could conjure any facts he wanted to support his claim Vivian was campaigning to dissassociate  
7 and isolate the girls from him. His reasoning that "because Brooke does not want to spend every second  
8 to which she is entitled with me, Vivian is campaigning and alienating her" is illogical and is given the lie  
9 because he points to no other recognized external, objective alienation factor arising in either girl, e.g.,  
10 becoming withdrawn and dependent in all aspects of life, psychosomatic symptoms, e.g., eating or sleep  
11 disorders, etc.  
12

### 13 III.

#### 14 **THE COURT SHOULD DENY KIRK'S MOTION FOR JUDICIAL DETERMINATION OF THE** 15 **TEENAGE DISCRETION PROVISION, AND CONFIRM THE PARTIES' TEENAGE** 16 **DISCRETION PROVISION TO BE CONSISTENT WITH NEVADA LAW**

17 Kirk's present Motion again argues that the teenage discretion provision is contrary to Nevada law.  
18 Vivian addressed Kirk's argument at length in her previous brief. *See*, Opposition filed October 13, 2013.  
19 The Court denied Kirk's motion to eliminate the teenage discretion provisions. The Court should again  
20 deny Kirk's repetitive motion to accomplish the same goal, find it vexatious and award fees and other  
21 appropriate relief.  
22

### 23 VI.

#### 24 **THE COURT SHOULD ORDER KIRK TO PAY VIVIAN'S ATTORNEY'S FEES AND COSTS** 25 **EXPENDED TO RESPOND TO THE PRESENT MOTION**

26 At the hearing on October 30, 2013, Court denied Kirk's first request to eliminate the "teenage  
27 discretion" provision from the parties' stipulated parenting plan. Perhaps believing the Court did not  
28

1 understand the issue, but in any case unsatisfied with the Court's order denying his first request, Kirk has  
2 filed a second request seeking to emasculate the teenage discretion provision. Given the arguments  
3 replicate themselves and come on the heels of the very motion they copy, the Court can find the pending  
4 Motion from Mr. Harrison to be frivolous. It is legitimate to ask why it is not.  
5

6 EDCR 7.60 permits a Court to order a party that files a frivolous motion, or a party that  
7 unnecessarily multiplies the proceedings in a case to pay the attorney's fees and costs of the other party.  
8 The Court should exercise that discretion here.  
9

10 V.

11 **CONCLUSION**

12 Vivian requests the Court's Order denying Kirk's Motion for Judicial Determination of the  
13 Teenage Discretion Provision, and awarding awarded attorney's fees for having to respond to Kirk's  
14 frivolous motion.  
15

16 Dated this 6 day of December, 2013.

17 RADFORD J. SMITH, CHARTERED  
18 

19 \_\_\_\_\_  
20 RADFORD J. SMITH, ESQ.  
21 Nevada State Bar No. 2791  
22 64 N. Pecos Road, Suite 700  
23 Henderson, Nevada 89074  
24 *Attorney for Defendant*  
25  
26  
27  
28

[illegible]

1. I am the Defendant in the above-entitled matter. I have personal knowledge of the facts contained or incorporated herein, and I am competent to testify thereto

3. I have reviewed the foregoing Opposition and Countermotion and can testify that the facts contained therein are true and correct to the best of my knowledge. I hereby reaffirm and restate said facts as if set forth fully herein.

*Vivian Marie Lee Harrison*  
VIVIAN MARIE LEE HARRISON  
Date: 12-10-13

**CERTIFICATE OF SERVICE**

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

I served the foregoing document described as "

DEFENDANT'S OPPOSITION TO MOTION FOR JUDICIAL DETERMINATION OF THE  
TEENAGE DISCRETION PROVISION; COUNTERMOTION FOR ATTORNEY'S FEES

on this 6 day of December, 2013, 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;

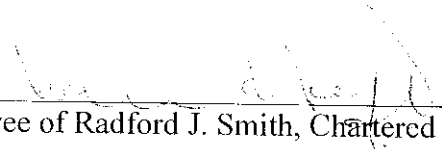
☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☒ 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:

Tom J. Standish, Esq.  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
F: (702) 699-7555  
Attorney for Plaintiff

✓ Edward L. Kainen, Esq.  
10091 Park Run Dr., Suite 110  
Las Vegas, Nevada 89145  
F: (702) 823-4488  
Attorney for Plaintiff

  
An employee of Radford J. Smith, Chartered

# EXHIBIT “A”

RADFORD J. SMITH, ESQ.  
DANIELLE TAYLOR, ESQ.  
GARIMA VARSHNEY, ESQ.  
JOLENE HOEFT, PARALEGAL

## SMITH & TAYLOR

*Attorneys at Law*

64 NORTH PECOS ROAD, SUITE 700  
HENDERSON, NEVADA 89074

TELEPHONE: (702) 990-6448  
FACSIMILE: (702) 990-6456  
RSMITH@RADFORDSMITH.COM

June 1, 2012

### VIA FACSIMILE

Thomas Standish, Esq.

*Re: Harrison v. Harrison*

Dear Tom:

Thank you for your letter of May 31, 2012. I have had an opportunity to review the letter with Vivian. As I understand Kirk's position, he is requesting three modifications to the proposed MSA I forwarded to you on Friday, May 25, 2012:

- 1) He seeks to eliminate the "teenage discretion" language set forth in paragraph 6 of the draft parenting plan;
- 2) He seeks an additional 10 day period of care during the summer vacation months; and,
- 3) He seeks to change his time to have the girls in his care from Monday and Tuesday to Wednesday and Thursday of each week.

Let me address each of those requests individually:

- 1) *Teenage Discretion*: As we have discussed over the last several weeks, part of Vivian's reluctance to enter into a final agreement without the input from Dr. Paglini was based upon what appears to be Brooke's deteriorating relationship with Kirk. Brooke has regularly indicated to Vivian that she desires spend more time with Vivian. Vivian has compromised in large part based upon the desire of the other members of the family to see this matter close. She still has significant concerns about Kirk's relationship with and care of Brooke, but she has listened to the advice that the resolution of the matter would lead to an improvement of that relationship.

What Vivian seeks to avoid by the language of paragraph 6 is the very thing that Kirk fears. At a certain point all Courts begin to place substantial weight on the desire of a teenage child regarding her care – we cannot affect that factor by any agreement. Paragraph 6 contains language designed to avoid litigation regarding this issue if it arises. Based upon what has occurred in litigation to date, this is an extremely important goal.

Moreover, the concerns raised in your letter will be addressed through the system that the agreement puts in place - counseling and a parenting coordinator. Your client will have a year to address the problems in his relationship with Brooke. The provision does not place the responsibility of choosing on Brooke, it simply gives each child discretion after 14 to spend more time with one parent or the other, a request that will likely be granted to them in any event by the Court. Again, the provision is designed to avoid litigation.



- 2) *Summer vacation:* The girls have attended sewing camp with Vivian in the past. Brooke has gone to the camp for four years since she was eight years old, and Rylee attended last year at eight years old. It is an activity both girls enjoy, and sewing is considered a life skill. In order for the children to go to this camp, Vivian must accompany them, and she must enroll in the program. The camp is filled with days of instruction and sewing. Kirk is welcome to attend the camp. If the children do not want to attend the camp in the future, this issue is moot. Vivian does not feel it is in the best interest of the children at this time to expand the summer visitation periods, particularly in light of Brooke's current difficulty in her relationship with Kirk.
- 3) *Days of the Week:* Vivian too desires to have the children on Wednesday and Thursday of each week. She permitted Kirk to choose between an alternating week schedule and a five/two - two/five schedule, and she feels she should be able to choose which weekdays she has the children. Moreover, it is not our experience that mediations occur more often on Monday and Tuesday, and because there are so few there does not appear to be a substantial need to change the proposed plan. Vivian would be willing to work with Kirk to arrange exchanges in those instances that Kirk has a mediation that is going to last into the evening after the children are out of school.

Please call with questions.

Sincerely,

SMITH & TAYLOR



Radford J. Smith, Esq.

RJS:

cc: Gary Silverman, Esq.  
Vivian Harrison

# EXHIBIT “B”

RADFORD J. SMITH, ESQ.  
RHONDA F. FORSBERG, ESQ.  
GARIMA VARSHNEY, ESQ.  
JOLENE HOEFT, PARALEGAL  
KENNETH F. SMITH, PARALEGAL  
KELLYE BLANKENSHIP, PARALEGAL

RADFORD J. SMITH, CHARTERED

A Professional Corporation  
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TELEPHONE: (702) 990-6448  
FACSIMILE: (702) 990-6456  
RSMITH@RADFORDSMITH.COM

VIA FACSIMILE  
Edward Kainen, Esq.

November 6, 2013

*Re: Harrison v. Harrison*

Dear Ed:

This morning Vivian dropped Rylee off for a two-day school trip to Catalina. Brooke approached Vivian, without prompting from Vivian of any kind, and indicated that she would like to stay with Vivian for the next couple of days. Under the provisions of paragraph 6 of the parties' parenting plan (the July 11, 2012 order), Brooke has the discretion to choose to spend this time with Vivian. That provision reads in pertinent part:

6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the time the child desires to spend with each parent once that child reaches 14 years of age.

6.1. The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to feel comfortable in requesting *and/or making adjustments to their weekly schedule*, from time to time, to spend additional time with either parent or at either parent's home.

When Brooke advised Kirk of her choice to make the adjustment to the weekly schedule on this occasion, Kirk incorrectly informed Brooke that she does not have that discretion. Kirk's statement is contrary to the plain language of the agreement. Brooke does have that discretion, and Vivian intends to honor it.

If Kirk feels that either Brooke's choice or Vivian's actions are in violation of the Parenting Plan, the remedy is spelled out in paragraph 6.

6.2. Such adjustments shall not be prompted or suggested by either parent, but shall originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and they shall each encourage the children to follow the regular schedule to the extent possible. If either party feels that his or her time is being unduly eroded by this provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address this issue with the Parenting Coordinator and/or the Court.

6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator. Nothing in this section is intended to limit the discretion of the District Court in making child custody determinations.

Thus, under the plain terms of the Parenting Plan, if Kirk believes that the child's discretion has been exercised in violation of the Plan, he may bring this matter to mediation with Ms. Pickard under the Order entered by Judge Duckworth appointing her, or he may file a motion with the Court. He does not have the unilateral ability to deny the exercise of Brooke's discretion. Consequently, consistent with Brooke's exercise of that discretion, Vivian will pick her up after school.

Kirk's suggestion to Brooke that she does not have discretion, and the pressure that he has placed on Brooke as outlined in Vivian's Opposition to Kirk's motion to remove paragraph 6 from the parenting plan (which motion Judge Duckworth denied), is precisely what Vivian wanted to avoid. The intent of the paragraph was to allow either child, after reaching 14 years of age, to exercise occasional discretion to spend time with a parent outside the custodial schedule. The paragraph is neutral, and grants the children the right to vary the schedule and avoid any demand by the other party for strict compliance with the weekly visitation schedule. Kirk seeks to undermine the application of the provision by the very means it was designed to avoid.

Vivian strongly hopes that Kirk will not continue to violate the provision by either informing Brooke that she cannot exercise the discretion granted to her, or by causing havoc (by demanding that she come with him for example) in order to intimidate and pressure Brooke. Paragraph 6 sets up a reasonable and specific method for addressing concerns of either parent regarding a child's exercise of discretion, and Vivian will participate in any sessions with Ms. Pickard to address Kirk's concerns. She has already contacted Ms. Pickard, and I am providing a copy of the Parenting Plan and Order appointing Ms. Pickard to her. Also, Judge Duckworth has appointed Lisa Linning as the child's therapist per Vivian's request, but Ms. Linnings office has declined the appointment. Consequently, Vivian accepts the appointment of Dr. Jamal Ali, who Kirk had proposed as the children's therapist. Vivian will contact Dr. Ali, and we will provide him a copy of the parenting plan and order appointing him as therapist.

Please let me know Kirk's intended actions so we can avoid any difficulties that may arise by any actions he intends to take in response to Brooke's exercise of the discretion granted her under paragraph 6 of the Parenting Plan.

Edward Kainen, Esq.

November 6, 2013

Page 3

I you would like to discuss this matter, I will be available most of the day either at the office or on my cell. I look forward to hearing from you.

Sincerely,



RADFORD J. SMITH, CHARTERED

Radford J. Smith, Esq.

Board Certified Nevada Family Law Specialist

RJS:

Enc:

cc: Vivian Harrison  
Gary Silverman, Esq.  
Thomas Standish, Esq.

0001

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

CASE NO.: D-11-443611-D

Plaintiff,

DEPT NO.: Q

v.

VIVIAN MARIE LEE HARRISON,

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

Defendant.

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

**DEFENDANT'S OPPOSITION TO MOTION FOR JUDICIAL DETERMINATION OF THE  
TEENAGE DISCRETION PROVISION; COUNTERMOTION FOR ATTORNEY'S FEES**

**Motions and  
Oppositions to Motions  
filed after entry of a final  
order pursuant to NRSS  
125, 125Bor 125C are  
subject to the Re-open  
filing fee of \$25.00,  
unless specifically  
excluded (NRS 19.0312)**

**Mark correct answer with an "X"**

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

**NOTICE:**

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

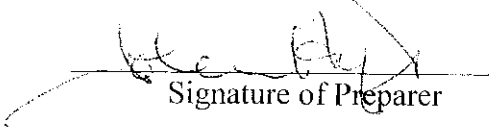
If you answered YES to any of the questions above, you are not subject to the \$25 fee.

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

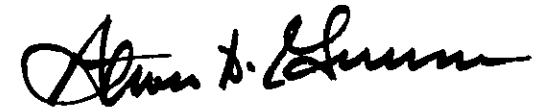
Dated this 6<sup>TH</sup> day of December, 2013

Jolene Hoelt

Printed Name of Preparer

  
Signature of Preparer





CLERK OF THE COURT

1 **RPLY**  
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tjs@standishlaw.com  
10  
11 Co-counsel for Plaintiff

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

12  
13 KIRK ROSS HARRISON,

14 Plaintiff,

15 vs.

16 VIVIAN MARIE LEE HARRISON,

17 Defendant.  
18

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: December 18, 2013  
Time of Hearing: 11:00 a.m.

19  
20 **PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR A JUDICIAL**  
21 **DETERMINATION OF THE TEENAGE DISCRETION PROVISION**  
22 **AND**  
23 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S COUNTERMOTION FOR**  
24 **ATTORNEY'S FEES**

25 COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys,  
26 THOMAS J. STANDISH, ESQ., of the STANDISH LAW GROUP, and EDWARD L. KAINEN, ESQ.,  
27 ...  
28 ...



1 of the KAINEN LAW GROUP, PLLC, and hereby submits his Reply to Defendant's Opposition to  
2 Motion for Judicial Determination of the Teenage Discretion Provision and his Opposition to  
3 Defendant's Countermotion for Attorney's Fees.

4 DATED this 13 day of December, 2013.

5 KAINEN LAW GROUP, PLC

6  
7 By: 

8 EDWARD L. KAINEN, ESQ.  
9 Nevada Bar No. 5029  
10 10091 Park Run Drive, Suite 110  
Las Vegas, NV 89145  
*Attorneys for Plaintiff*

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **I. INTRODUCTION**

13 Contrary to Vivian's false assertions, the within motion was filed because: (1) Vivian's  
14 butchered explanation of Section 6 to Brooke resulted in Kirk losing the only two days he otherwise had  
15 with Brooke during an entire two week time period; (2) Vivian's attorneys' correspondence revealed  
16 their extremely illogical interpretation of Section 6, which is contrary to the explicit language contained  
17 in Section 6, which explicit language is consistent with the best interests of the children; (3) a judicial  
18 interpretation is required, which can only be made by the Court, and; (4) Kirk is entitled to seek that  
19 judicial interpretation by the Court pursuant to Section 6.2, which provides an aggrieved party under  
20 Section 6 can seek relief with "the Court." Contrary to Vivian's false assertion, Kirk has not unduly  
21 multiplied these proceedings. Kirk is, without question, trying to eliminate a provision which, as a  
22 consequence of Vivian's material breaches, is causing unnecessary instability, uncertainty, and undue  
23 stress in the lives of Brooke and Rylee.

24 ...

25 ...

26 ...

27 ...

28 ...

Vivian's "statement of facts" attempt to gloss over the core issue, by falsely asserting that section 6 "permits either of the parties minor children (after age 14) to **alter** the "weekly schedule" under the parenting plan "from time to time" to spend time with one parent." (Opposition, p. 2, l. 21-22) (emphasis added). In contrast to this representation, the actual language provides:

"The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. . . The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and the shall each encourage the children to follow the regular schedule."

(Section 6.1 & 6.2)

As a consequence of Vivian's material violations of this provision, Vivian's informing Brooke she has the absolute unfettered right to **order** changes to the custody schedule and Brooke's resentment of Kirk if he does not immediately obey her **directives**, and Vivian's overt continued manipulating Brooke to **order** changes in the agreed to custody schedule, Section 6 must be stricken. There is no question that it is in the best interests of the children that Section 6 be stricken as this provision creates an environment of instability and uncertainty, and motivates a manipulative and vindictive parent to further embroil the children in continued unnecessary conflict between the parents.

If for some reason this Court is unwilling to strike Section 6 under these circumstances, the issue, as set forth in Kirk's moving papers, is whether the children have the unfettered right to **order** a change in the agreed custody schedule, as advocated by Vivian, or whether they have the right to **request** a change in the custody schedule, as advocated by Kirk. Kirk respectfully submits that in the Court's interpretation of this provision, the Court should make an interpretation which supports and is consistent with the agreed custody schedule between the parties – as opposed to an interpretation that undermines and erodes the agreed custody schedule – and is in furtherance of maintaining stability, continuity and certainty in these children's lives.

Vivian's opposition, pursuant to EDCR 5.25(b) was to be filed and served on or before December 5, 2013. However, true to form, Vivian failed to file and serve her opposition until 4:47 p.m. on December 6, 2013. Throughout this litigation, Vivian's attorneys have shown no respect for the rules of this Court or this Court. Kirk, respectfully, requests the Court to strike said opposition as untimely.

...

Vivian's "statement of facts" attempt to gloss over the core issue, by falsely asserting that section 6 "permits either of the parties minor children (after age 14) to **alter** the "weekly schedule" under the parenting plan "from time to time" to spend time with one parent." (Opposition, p. 2, l. 21-22) (emphasis added). In contrast to this representation, the actual language provides:

"The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. . . The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and the shall each encourage the children to follow the regular schedule."

(Section 6.1 & 6.2)

As a consequence of Vivian's material violations of this provision, Vivian's informing Brooke she has the absolute unfettered right to **order** changes to the custody schedule and Brooke's resentment of Kirk if he does not immediately obey her **directives**, and Vivian's overt continued manipulating Brooke to **order** changes in the agreed to custody schedule, Section 6 must be stricken. There is no question that it is in the best interests of the children that Section 6 be stricken as this provision creates an environment of instability and uncertainty, and motivates a manipulative and vindictive parent to further embroil the children in continued unnecessary conflict between the parents.

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...

1 **II. ARGUMENT**

2 Vivian's argument ignores all of the blatant material breaches of Section 6 by Vivian which have  
3 effectively nullified the critical safeguards contained in Section 6. Those material breaches where  
4 Vivian not only told Brooke of the provision, but butchered the explanation of the provision by telling  
5 Brooke she had the *absolute right to dictate changes* to the agreed custody schedule at any time and  
6 without any reason.

7 Vivian's interpretation is so extreme and turns the parents' right to jointly determine custody,  
8 which they did, on its head. There is an agreed custody schedule between the parties, but according to  
9 Vivian, it is rendered meaningless by the whim of a highly manipulated 14 year old child. The Court,  
10 respectfully, should have zero tolerance for such an extremely absurd position, which is so patently  
11 contrary to the best interests of the children, the agreed custody schedule between the parties, common  
12 sense, and NRS 125.510(5), NRS 125C.010, and NRS 125.460.

13 **A. Continuing the Pattern Exhibited In Prior Briefs, Vivian Makes One False**  
14 **Assertion to the Court After Another**

15 Vivian avers that she considered seeking primary custody. In light of Vivian's neglect and  
16 abandonment of these children over a period of years, that was never going to happen. Vivian avers  
17 that, "Vivian proposed a plan of "teenage discretion" that is contained in the parenting plan."  
18 (Opposition, p. 4, 2-3) Contrary to Vivian's erroneous rendition of "her" teenage discretion provision,  
19 Section 6, as clearly evidenced by the Affidavit of Thomas J. Standish, attached as Exhibit 4 to the  
20 within motion, was a negotiated provision with critical safeguards. The provision described by Vivian  
21 may have been what she wanted, but it does not exist. Unfortunately, it is the provision which *does not*  
22 *exist* that is the one Vivian explained at length to Brooke, and that Vivian asserts gives Brooke the  
23 absolute unfettered right to **order** changes to the agreed custody schedule that Kirk must immediately  
24 **obey** without question or discussion.

25 Vivian disingenuously represents to the Court, "Vivian also wanted to give time to Kirk to  
26 improve his relationship with Brooke before her 14<sup>th</sup> birthday. . ." (Opposition, p. 4, l. 3-4) Contrast this  
27 ridiculous assertion with the fact that after Brooke was with Vivian for 14 uninterrupted days  
28 immediately after her 14<sup>th</sup> birthday, Brooke announced to Kirk that she wanted to live with Vivian full

1 time. And this is in the context of the safeguard in Section 6, which provides, “Such adjustments shall  
2 not be prompted or suggested by either parent. . .” Again, contrary to the explicit provisions of Section  
3 6 and the law, Vivian erroneously concluded and thereafter erroneously advised Brooke that after  
4 Brooke turned 14 years old she could unilaterally, without any Court involvement whatsoever, decide,  
5 dictate and order that she would live with Vivian full time. Vivian’s material breaches of the provision,  
6 Vivian’ erroneous explanations of the provision to Brooke, and Vivian’s manipulation of Brooke have  
7 created an undeniably untenable situation for these children. Vivian’s false assertions to the Court fly  
8 in the face of common sense and undisputed facts, and are an insult to the intelligence of everyone  
9 involved.

10 The singular nonsensical conjunctive/disjunctive “and/or” language in paragraph 6.1, is totally  
11 inconsistent with *all* of the other language and provisions contained in Section 6. It makes no sense  
12 whatsoever that the child would have the right to **request** – which is consistent with all of the other  
13 language – but would *also* have the right to **order**.

14 The bottom line is that Vivian is asserting the following: the parties, the parties’ respective  
15 attorneys, and the Court have ordered and agreed to a detailed custody schedule, which sets forth in  
16 detail each parent’s custody on a daily basis, including the specific time of transfer during school and  
17 when not in school, including vacation and holiday time, duly considering, at least in theory, the best  
18 interests of the children. Under this provision, according to Vivian, all of that can be nullified by the  
19 whim of a 14 year old child, who after Vivian’s prompting and suggesting, informed Kirk, on August  
20 25, 2013, that Kirk has to take her to Vivian’s house *any time she wants* and she, Brooke, has the *right*  
21 *to stay as long as she wants*. Respectfully, this is utter nonsense!

22 Kirk urges the Court to strike Section 6. In the, hopefully, unlikely event the Court chooses to  
23 not strike Section 6, Kirk does not request the Court to “alter” Section 6 as Vivian asserts, but simply  
24 to make a common sense interpretation of the explicit language which is in the best interests of the  
25 children, that the provision, read as a whole, contemplates that the children can make *a request* to  
26 changes in the agreed custody schedule, but cannot **order** such changes.

27 . . .

28 . . .

1 Vivian erroneously asserts, “Kirk’s next claim is that the Parenting Plan allows the children  
2 “unfettered” right to modify the Court’s order.” (Opposition, p. 5, l. 3-4) Kirk’s position is just the  
3 opposite – Kirk’s position is that the child has the right to make *a request*. It is Vivian’s position that  
4 the child has the unfettered right to **order**.

5 During the hearing on October 30, 2013, this Court made it clear on the record its preference to  
6 wait to have a Parenting Coordinator in place before the Court dealt with Section 6. Kirk’s motion was  
7 not denied with prejudice. However, this did not stop Vivian from falsely asserting, “On October 30,  
8 2013, the Court found the teenage discretion provision (§6 of the Parenting Plan) to be valid and  
9 enforceable.” This Court made no such finding.

10 **B. The Unequivocal and Explicit Section 6.1 Language Providing, “The parties do not**  
11 **intend by this section to give the children the absolute ability to determine their**  
12 **custodial schedule with the other parent” Is Controlling and Is Outcome**  
13 **Determinative Of Any Reasonable Interpretation and Construction Of Section 6.1**  
14 **– the 14 Year Old Child Has the Right to Make A Request and Not the Right to**  
15 **Make an Order**

16 Vivian’s argues the language “The parties do not intend by this section to give the children the  
17 absolute ability to determine their custodial schedule with the other parent.” only precludes a child from  
18 permanently making changes to the agreed custody schedule and is not applicable to changes in weekly  
19 visitation. (Opposition, p. 5, l. 5-8) This argument is patently wrong. This critical language is the first  
20 sentence contained in Section 6.1, which contains the conjunctive/disjunctive language – the sole basis  
21 of Vivian’s argument that a 14 year old child has the absolute right to **order** changes to the agreed  
22 custody schedule. Any reasonable common sense construction of Section 6.1 leads to the inescapable  
23 conclusion that any interpretation of the intent of the conjunctive/disjunctive language is in the context  
24 and within the parameters of this language. The logical interpretation, therefore, is that the child does  
25 **not** have the right to *order* changes in the weekly agreed custody schedule. Based upon the explicit  
26 language contained in Section 6.4, which addresses permanent custody, it is evident, that the subject  
27 language which Vivian asserts only applies to permanent changes in custody, ironically, only applies  
28 to changes in the weekly agreed custody schedule and not to a permanent change in custody, as Section  
6.4 is clear that permanent custody will ultimately be decided by the Court.

...

C. **Brooke's Orders To Kirk Regarding Changes To the Agreed Custody Schedule Prior to Wednesday, November 6, 2013**

For whatever reason, Vivian has felt compelled to discuss the prior occasions where Brooke ordered Kirk to make changes in the agreed custody schedule. (Opposition, p. 7) Kirk has previously addressed these incidents in detail in the prior motion and will not belabor the true facts surrounding those incidents again. *See* Motion to Modify Order, filed 10.1.13, p. 6-8) However, it must be noted that because of summer vacations, as a practical matter, the **orders** from Vivian/Brooke could not have started six months ago, but only since the start of school. It is only since the start of school, that Vivian has forced Kirk to wait in the car for 20 to 35 minutes at a time while she visits with Brooke and Rylee; Vivian has now convinced Brooke and Rylee to not return Kirk's texts or speak to him on the telephone while they are with her, and to **order** Kirk to lose time with the girls during his custody time to do such things as shop for dance shoes when Kirk has taken them to buy dance shoes in the past and Vivian could have taken Brooke to get dance shoes shortly before or shortly after that time during her own custody time.

All of this is part of Vivian's self-created vindictive competition with Kirk. It is not out of Vivian's desire to do what is in the best interests of Brooke and Rylee. Given the fact that Vivian regularly absented herself from the minor children by spending months in Europe and Asia delusionally pursuing her "soul mate" and other love interests without any regard whatsoever for Brooke and Rylee, and that she lived behind a closed door in their home for years, intentionally isolating herself from Brooke and Rylee and the rest of the family, a loss of two days may not be much to Vivian, but Vivian knows it is a very big deal to Kirk.

Vivian and Vivian's attorneys now argue that the provision was never intended to erode Kirk's custody time with the girls and Kirk is over reacting. This argument is yet another in a long line situational baseless arguments made by Vivian. The Machiavellian intent of this provision by Vivian has been previously revealed. The Court will recall Mr. Silverman's affidavit wherein he opined that this provision will be utilized so that **"it is Vivian who will have de facto primary custody."** (Exh. S to Vivian's opposition to Kirk's countermotions re attorneys' fees, p. 9, l. 16-17)

...

**D. Vivian Misleads the Court Regarding The Relative Time Each Parent Has With the Children**

Kirk has previously advised the Court that Dr. Roitman advised Kirk it was critical to end the contentious divorce to avoid significant emotional damage to Brooke and Rylee. At that point, Kirk had given up on his attempts to get Vivian into therapy – which was clearly in the best interests of the children and Vivian. Although he did not believe it was in Brooke’s and Rylee’s best interest to have joint custody given Vivian’s condition and past behavior, based on Dr. Roitman’s strong advice he felt he had no other choice but to allow Vivian to have joint physical custody. As a penalty for Kirk to do what was best for Brooke and Rylee, Vivian insisted that she have all four of the major national holidays with Brooke and Rylee – “1) Martin Luther King Day; 2) President’s Day; 3) Memorial Day; and 4) Labor Day, VIVIAN shall have the children in her care both that Monday holiday and the preceding weekend,” (Section 7.6 of the custody agreement.) In contrast, Kirk only gets Brooke and Rylee for one three day weekend during the school year that he can take them out of town – Nevada Day. In addition, Vivian gets the children for 3 more days than Kirk during the summer – 10 days for sewing camp versus 7 days for the Utah/Lagoon trip. (Section 7.1 of custody agreement)

Based upon the foregoing, each year, Vivian will have Brooke and Rylee with her more than Kirk will have Brooke and Rylee with him. Therefore, Vivian’s attempt to have the Court only focus upon just one 33 day period of time, to suggest that Kirk’s loss of two days with Brooke is no big deal is disingenuous. As noted previously, the two days wrongly and inequitably taken from Kirk were the only two days Kirk was going to see Brooke during an entire two week period.

Vivian makes much to do about a 33 day time period where Vivian had Brooke and Rylee for **16 days** and Kirk had Brooke and Rylee for **17 days**, arguing that Kirk is unreasonable and implying there must be something wrong with Kirk for complaining he lost two days with Brooke. (Opposition, p. 8, l. 27-28; p. 9, l. 1-28) Vivian attempts to impugn Kirk’s character with this window of time asserting Kirk “does not fully inform the Court of the parties timeshare surrounding this period.” (Opposition, p. 8, l. 28; p. 9, l. 1) And further, “Brooke’s exercise of discretion could not possibly be fairly characterized as eroding his time with the children.” (Opposition, p. 9, l. 23-24)

...



1 First, as a consequence of Vivian's/Brooke's **order**, Kirk lost the only two days he had with  
2 Brooke during an entire two week period. Kirk respectfully submits that any time lost with his children  
3 is precious time he will never get back, unless this Court orders the return of those days. Second,  
4 consistent with what Vivian has done, Kirk could direct the Court's attention to the time period between  
5 Friday, November 22, 2013 through Tuesday, January 7, 2013. During this time period, Brooke and  
6 Rylee will be with Vivian for a total of **32** days compared to being with Kirk for **14** days, with each  
7 party sharing Christmas Day! Although this relative time sharing will generally be the opposite next  
8 year, it highlights that those two days wrongly taken from Kirk absolutely eroded Kirk's time with  
9 Brooke.

10 Kirk respectfully submits, that to be deprived of spending any time with his children for the  
11 entirety of two weeks is a very big deal. The parties' agreed custody schedule provided he could spend  
12 those two days with Brooke. However, those days were wrongly taken from him in Vivian's effort to  
13 obtain "**de facto primary custody.**"

14 **E. The Circumstantial Evidence is Overwhelming That Vivian Is Coaching Brooke**  
15 **and Rylee To Spend More Time With Vivian**

16 Vivian falsely asserts "[t]here are only three ways to evaluate the "improper coaching" claim.  
17 None of the three ways identified by Vivian is the irrefutable circumstantial evidence already before the  
18 Court. These are the facts: Brooke was with Vivian for 21 straight days and the very next day  
19 announced to Kirk and Whitney that she now had the *right* to decide where she lives. Brooke was then  
20 with Vivian for 14 straight days and within one day of her return to Kirk, crying and distraught,  
21 announced she wanted to live with Vivian full time, thus leaving her little sister for one-half the time.  
22 Vivian and Heather Atkinson have both been telling Brooke and Rylee that "girls are supposed to live  
23 with their mommies."

24 The sum and substance of Vivian's most recent volley is a rehash of the same misrepresentations  
25 that was in her prior opposition. Vivian's involvement with the girls, as described, is only since mid-  
26 September of 2011. Vivian was missing in action during the years prior to that time.

27 ...

28 ...

1       Until mid-September of 2011, Kirk was the only consistent parent Brooke and Rylee had on a  
2 daily basis for many years, beginning in February of 2006. From late 2008 until mid-September of  
3 2011, Vivian was a parent in name only. Kirk did everything for and with Brooke and Rylee during that  
4 time period.

5       Since mid-September of 2011, Kirk has continued to be an attentive parent. As the Court is  
6 aware, between February of 2012 until July of 2012, Kirk had Brooke and Rylee during the entire school  
7 week. It was Kirk – not Vivian – who was exclusively helping Brooke and Rylee with their homework,  
8 just as he had done for many years prior to that time. During the approximately one-half the time Kirk  
9 has Brooke and Rylee since this Court's order in July of 2012, Kirk has continued to care for Brooke  
10 and Rylee in the same manner. Brooke is now a Freshman in high school and predictably rarely requires  
11 any help with homework. However, Kirk continues to help Rylee with homework, when she needs help.

12       Vivian continues to make absurd representations of fact which have no basis in reality. Vivian  
13 represents, "Vivian lives in the marital residence. Brooke and Rylee were born and raised in that home."  
14 (Opposition, p. 11, l. 22) First, Brooke and Rylee were both born at Sunrise Hospital. Second, Brooke  
15 was born on June 26, 1999. The Harrisons did not even acquire the marital residence until October 24,  
16 2001 and did not move into the house until a couple of months thereafter. Third, beginning in February  
17 of 2006, Kirk – not Vivian – primarily raised Brooke and Rylee in that home, and from the fall of 2008  
18 until mid-September of 2011, Kirk exclusively raised Brooke and Rylee in that home. Vivian would  
19 not even sit down and have a meal with these little girls for months at a time when she wasn't in Europe  
20 or Asia.

21       Vivian's history of manipulation of Brooke and Rylee has been well documented. *See* Motion  
22 for Custody, filed 9.14. p. 30-33. Since the service of the Motion for Custody, Vivian has been doing  
23 a lot of things with the girls that she had not done for years.

24       The quoted language attributed to Kirk on page 12, lines 7-8 of the Opposition, was never said  
25 by Kirk. The argument that follows is nonsensical.

26       It is the "girls are supposed to be with their mommies" indoctrination by Vivian, similar  
27 manipulative antics, and Vivian's material breaches of Section 6.1 whereby she has convinced Brooke  
28 she has the absolute right to **order** changes in the agreed custody schedule, which are currently causing

1 the problems. If the Court strikes Section 6, Vivian will be substantially less motivated to so callously  
2 manipulate these minor children.

3 Again, if this Court has any appetite whatsoever to interview anyone in an effort to seek out the  
4 truth, it is not going to be gleaned from interviewing a highly manipulated 14 year old child. The Court  
5 will, however, gain true insight from interviewing Tahnee and Whitney, the parties' adult children, who  
6 are eyewitnesses to what actually occurred.

7 **F. There is Absolutely No Basis Whatsoever To Award Vivian Attorney's Fees**

8 As previously noted, the Court made it abundantly clear on the record that the prior motion was  
9 denied because the Court wanted the parties to have a Parenting Coordinator in place before addressing  
10 the issues in the motion. The prior motion was denied without prejudice.

11 Kirk was unable to wait for the Parenting Coordinator to be in place for the following reasons:  
12 (1) Vivian's butchered explanation of Section 6 to Brooke resulted in Kirk losing the only two days he  
13 otherwise had with Brooke during an entire two week time period; (2) Vivian's attorneys'  
14 correspondence revealed their extreme interpretation of Section 6, which is contrary to the explicit  
15 language contained in Section 6, which is consistent with the best interests of the children; (3) a judicial  
16 interpretation is required, which can only be made by the Court, and; (4) Kirk is entitled to seek a  
17 judicial interpretation by the Court pursuant to Section 6.2, which provides an aggrieved party under  
18 Section 6 can seek relief with "the Court." Kirk is most certainly an aggrieved party as a consequence  
19 of conduct occurring **after** the prior motion was essentially postponed by the Court.

20 **III. CONCLUSION**

21 For all of the reasons stated, the most important of which is the best interests of these children,  
22 Section 6 should be stricken. Vivian's material breaches of the critical safeguards contained in Section  
23 6 has prospectively rendered them meaningless. Those safeguards were intended to avoid the very  
24 scenario the parties now find themselves – a 14 year old child adamantly believes she has the absolute  
25 right to **order** her father to immediately, without notice, and without consideration of prior plans or the  
26 interest of anyone else, including her little sister, change the agreed custody schedule on a weekly basis.  
27 According to the 14 year old child, her mother, and her mother's attorneys, the father must immediately  
28 **obey** this order without question and without discussion. This is nonsensical, contrary to the most

1 elementary common sense, and renders meaningless the detailed custody schedule derived by the parties  
2 and ordered by this Court. It is also, without question, in direct violation of NRS 125.510(5), NRS  
3 125C.010, and NRS 125.460.

4 If the Court does not strike Section 6, regardless of this Court's interpretation, Vivian will  
5 continue to be motivated to improperly manipulate these children. However, if the Court refuses to  
6 strike Section 6, there is no question the proper construction and interpretation of Section 6 results in  
7 this Court ordering that under Section 6 the minor child has the right to **request** a modification of the  
8 agreed custody schedule, but does not have the right to **order** a modification of the agreed custody  
9 schedule. The controlling operative language in this determination is from the very section pertaining  
10 to changes to the agreed *weekly* schedule, "***The parties do not intend by this section to give the children***  
11 ***the absolute ability to determine their custodial schedule with the other parent.***" Vivian's attorneys',  
12 Vivian's, and Brooke's interpretation of this same section, namely that Brooke, at 14 years of age, has  
13 the absolute right to **order** changes to the weekly schedule and Kirk, her father, must immediately **obey**  
14 without any question or discussion, is obviously contrary to this controlling language.

15 Kirk respectfully begs the Court, for the sake of his children, to strike Section 6. The uncertainty  
16 about the future for minor children is one of the horrors of divorce litigation, particularly protracted  
17 litigation. It is not in Brooke's best interest to foist the responsibility upon her to choose which parent  
18 she wants to live with more than the other parent at a particular point in time. Such a decision would  
19 force Brooke to choose between living with Rylee all of the time or leaving Rylee to spend more time  
20 with one parent than the other. Such a scenario cannot be good for either child. Under the  
21 circumstances in this case, the continued existence of Section 6 unnecessarily disrupts the stability,  
22 certainty and continuity in these children's lives. It is in the best interests of Brooke and Rylee for the  
23 Court to make the judicial determination that the "teenage discretion" provision is stricken.

24 ...

25 ...

26 ...

27 ...

28 ...

1 Kirk also respectfully requests the Court to order that Kirk be given the four custodial days that  
2 have been wrongly taken from him – two days for November 6 & 7 and two days for July 31 & August  
3 1. Kirk also requests the Court impose an additional penalty upon Vivian as a deterrent to Vivian to  
4 wrongfully attempt to take custodial days from Kirk in the future.

5 DATED this 13 day of December, 2013.

6 KAINEN LAW GROUP, PLLC

7  
8 By: 

9 EDWARD L. KAINEN, ESQ.

10 Nevada Bar No. 5029

11 10091 Park Run Drive, Suite 110

12 Las Vegas, NV 89145

13 *Attorneys for Plaintiff*  
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**DECLARATION OF KIRK R. HARRISON IN SUPPORT OF  
PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION FOR  
A JUDICIAL DETERMINATION OF THE TEENAGE DISCRETION PROVISION  
AND PLAINTIFF'S OPPOSITION TO DEFENDANT'S  
COUNTERMOTION FOR ATTORNEY'S FEES**

I am the Plaintiff in the above-entitled matter and I make this Declaration in support of my *Reply in Support of Plaintiff's Motion for A Judicial Determination of the Teenage Discretion Provision And Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees*.

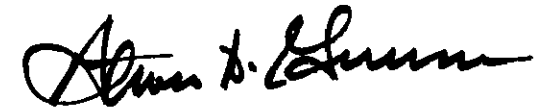
That I make this Declaration based upon facts within my own knowledge, save and except as to those matters alleged upon information and belief, and as to those matters, I believe them to be true. I have read the foregoing Reply and Opposition and hereby declare that the facts contained therein are true and correct to the best of my knowledge. I reaffirm and restate said facts as if set forth fully herein. I am requesting that the Court grant my Motion, deny the Defendant's Countermotion in its entirety and award me attorney's fees for having to respond to same.

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

EXECUTED this 13<sup>th</sup> day of December, 2013.

/s/ Kirk R. Harrison  
KIRK R. HARRISON





CLERK OF THE COURT

**ORDER**

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Co-counsel for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 10/30/13  
Time of Hearing: 10:00 a.m.

**ORDER**

This matter having come on for hearing this 30<sup>th</sup> day of October, 2013, before the Honorable Bryce Duckworth, Plaintiff, KIRK ROSS HARRISON ("Father"), present and represented by and through his attorneys, EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and THOMAS STANDISH, ESQ., of the law firm of JOLLEY URG A WIRTH WOODBURY & STANDISH, and Defendant, VIVIAN MARIE HARRISON ("Mother"), present and represented by and

...

...

...

**RECEIVED**

DEC 17 2013

**FAMILY COURT  
DEPARTMENT 1264**

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1 through her attorneys, RADFORD J. SMITH, ESQ., of the law firm of RADFORD J. SMITH,  
2 CHARTERED, and GARY SILVERMAN, ESQ., of the law firm of SILVERMAN, DECARIA &  
3 KATTELMAN, CHARTERED; the Court having reviewed the papers and pleadings on file herein,  
4 being fully advised in the premises, and good cause appearing, makes the following Orders:

5 IT IS HEREBY ORDERED that Father's "Motion to Modify Order Resolving  
6 Parent/Child Issues and for Other Equitable Relief" and Mother's "Countermotion to Resolve  
7 Parent/Child Issues, To Continue Hearing on Custody Issues, for an Interview of the Minor Children,  
8 and for Attorney's Fees and Sanctions" are denied.

9 IT IS FURTHER ORDERED that the Court will address the issue of a Parenting  
10 Coordinator and therapist for the children in separate, independent Orders.

11 IT IS FURTHER ORDERED that, with respect to any future filings with the Court, both  
12 parties shall adhere to the 30-page limit unless they have received permission from the Court to exceed  
13 said 30-page limit.

14 IT IS FURTHER ORDERED that the Court will issue a separate written Order regarding  
15 each party's request for attorney's fees and costs herein.

16 DATED this **DEC 12 2013** day of December, 2013.

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27  
28  
DISTRICT COURT JUDGE

Approved as to form and content:

RADFORD J. SMITH, CHARTERED

By:

RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorney for Defendant

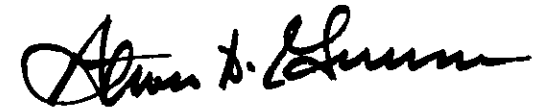
Submitted by:

KAINEN LAW GROUP, PLLC

By:

EDWARD L. KAINEN, ESQ.  
Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff





CLERK OF THE COURT

**MOTN**  
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Co-counsel for Plaintiff

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

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 05 / 21 / 2014  
Time of Hearing: 10 : 00 A.M.

**ORAL ARGUMENT REQUESTED:**  
YES XX NO     

**NOTICE: PURSUANT TO EDCR 5.25(b) YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.**

**PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING PARENT/CHILD ISSUES**  
**AND FOR OTHER EQUITABLE RELIEF**

COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and THOMAS J. STANDISH, ESQ., of the law firm STANDISH LAW GROUP, and hereby moves this Court, pursuant to NRS 125.510, NRS 125.230(1), NRS 125.480(1), NRS 125.460, and NRS 125C.101(1) to modify the Order Resolving Parent/Child Issues, entered July 11, 2012.

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1 This Motion is made and based upon the papers and pleadings on file herein, the Affidavit of  
2 Plaintiff attached hereto, the Affidavit of Edward L. Kainen, Esq., attached hereto as **Exhibit "1,"** the  
3 Affidavit of Thomas Standish, Esq., attached hereto as **Exhibit "2,"** the Points and Authorities  
4 submitted herewith, and oral argument of counsel to be adduced at the time of hearing.

5 DATED this 21<sup>st</sup> day of April, 2014.

6 KAINEN LAW GROUP, PLC

7  
8 By: 

9 EDWARD L. KAINEN, ESQ.  
10 Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, NV 89145  
11 Attorneys for Plaintiff

12 **NOTICE OF MOTION**

13 TO: VIVIAN MARIE HARRISON, Defendant; and

14 TO: RADFORD SMITH, ESQ. and GARY SILVERMAN, ESQ., counsel for Defendant:

15 PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for  
16 hearing before the above-entitled Court on the 21<sup>st</sup> day of May, 2014, at the hour of  
17 10:00 a.m., or as soon thereafter as counsel may be heard.

18 DATED this 21<sup>st</sup> day of April, 2014.

19 KAINEN LAW GROUP, PLLC

20  
21 By: 

22 EDWARD L. KAINEN, ESQ.  
23 Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
24 Attorneys for Plaintiff

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

#### A. **It is Indisputably In the Best Interest of the Children To Stop The Adversarial Positioning of the Parties As Soon As Possible**

The longer the adversarial conflicts continue the greater the likelihood of causing long term emotional harm to Brooke and Rylee. The continued existence of the “teenage discretion” provision, as advocated by Vivian’s attorneys and implemented by Vivian, **creates** adversarial positioning between the parties which places Brooke and Rylee right in the middle of the conflict. Conflicts between the parties regarding custody of any significance were infrequent between the date of this Court’s Order Resolving Parent/Child Issues on July 11, 2012 and Brooke’s 14<sup>th</sup> birthday on June 26, 2013.

Only this Court has the judicial authority to determine the meaning of the provision. Kirk was advised the provision, as drafted, provided nothing other than what the law already provided, which is a fourteen year old can simply make a request. That was Kirk’s understanding at the time he signed the agreement. On the other hand, Vivian’s position is that Brooke can *order* Kirk, her father, at any time to take her to Vivian’s house during his custody time and he must *obey* his 14 year old daughter without question or discussion and it is irrelevant what prior plans have been made or whether, under the circumstances, it would be harmful to Rylee.

The “teenage discretion” provision creates the adversarial positioning between the parties in which Brooke and Rylee are inextricably enmeshed. The appointment of the parenting coordinator creates the forum to continue the adversarial positioning. Vivian is now insistent the parenting coordinator interview Brooke and Rylee.

Merely memorializing an intention to “intend to allow the children to feel comfortable” is not tantamount to knowingly agreeing that your 14 year old child can issue orders to a parent that must be immediately obeyed without question or discussion. Stating an intention does not equal an agreement. Similarly, a person “to resolve conflicts” is not sufficient specificity to bind a person to a parenting coordinator, as that term has been defined by the Court in its subsequent Order For Appointment of Parenting Coordinator, filed October 29, 2013, and certainly insufficient to compel a person to be bound by the overreaching terms contained in the parenting coordinator’s proposed agreements. Both the

1 teenage discretion and parenting coordinator provisions should be nullified and stricken by this Court  
2 for lack of specificity and for the inherent ambiguity in both. Moreover, both provisions should be  
3 nullified and stricken because the continued existence of both is clearly contrary to the best interests of  
4 Brooke and Rylee.

5  
6 **B. Only This Court Can Make the Judicial Determination of the Teenage Discretion  
Provision and the Parenting Coordinator Provision**

7 Kirk previously filed, "Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and  
8 for Other Equitable Relief" on October 1, 2013. Vivian filed an opposition and countermotions thereto  
9 on October 16, 2013. Kirk filed his reply and opposition to Vivian's countermotions on October 23,  
10 2013. Vivian filed her reply regarding her countermotions on October 28, 2013. Said motion and  
11 countermotions were set for hearing before this Court on October 30, 2013. The Court denied the  
12 motion without prejudice.

13 Subsequent to this hearing, another incident occurred, where Kirk was deprived of seeing his  
14 daughter Brooke **for two weeks** as a result of Vivian's improper implementation of the teenage  
15 discretion provision. After that incident, the parties set forth their opposing interpretations of Paragraph  
16 6 in an exchange of letters. It is evident from these letters, there was no meeting of the minds regarding  
17 Paragraph 6 and this provision should therefore be nullified and stricken. On that basis, Kirk filed,  
18 "Plaintiff's Motion for A Judicial Determination of the Teenage Discretion Provision" on November  
19 18, 2013. Vivian filed an opposition and countermotion on or about December 6, 2013. Kirk filed his  
20 reply and opposition to Vivian's countermotion on December 13, 2013. The Court denied the motion  
21 without prejudice and indicated its preference to wait until there was a parenting coordinator in place  
22 and for Kirk to address the teenage discretion provision with the parenting coordinator.

23 The Court will see that part of the relief sought herein is for the Court to nullify and strike  
24 Paragraph 4 of the Order Resolving Parent/Child Issues on the basis there was never a valid legally  
25 enforceable agreement between the parties regarding the appointment of a parenting coordinator. The  
26 Court will readily see that it is absolutely black letter law that no agreement was ever made. Therefore,  
27 respectfully, the Court must make this important legal determination regarding the teenage discretion  
28 provision.

Moreover, in an effort to assist the Court, an opinion has been obtained from Dr. Norton Roitman regarding the “teenage discretion” provision. More specifically, Dr. Roitman was asked to opine as to the effect upon Brooke and Rylee in the event the interpretation of that provision, which has been advocated by Vivian, were to be adopted by the Court. A true and correct copy of this opinion, dated January 14, 2014, is attached hereto as **Exhibit “3.”** Upon the Court’s review of Dr. Roitman’s opinion, Kirk believes the Court will see the risk to the parties’ children is too great and the need for a prompt judicial determination too urgent to wait any longer for the relief sought herein.

Respectfully, Kirk begs this Court to make a prompt judicial determination of the subject teenage discretion provision. Kirk is hopeful that when the Court reads the within motion it will understand Kirk, as a loving and caring parent, had no choice but to cause the motion to be filed, and the Court will further understand it is undoubtedly in the best interests of Brooke and Rylee to nullify and strike the teenage discretion and parenting coordinator provisions.

## **II. STATEMENT OF FACTS**

As the Court is aware, when the custody exchange takes place during the academic year, each parent takes the children to the other parent’s home to pick up their things. When Brooke and Rylee pick up their things from Kirk’s home, Vivian waits in her car almost always less than 5 minutes and, usually just 2 to 3 minutes. When Brooke and Rylee pick up their things from Vivian’s home, for a long time, Kirk was forced to wait 20 to 35 minutes, while Vivian “visited” with Brooke. For several weeks, Vivian was more considerate and Brooke and Rylee have been taking about 15 minutes. On Wednesday, February 27, 2014, Brooke, with Rylee waiting, took about 30 minutes. When they got in the car, Kirk explained there was no reason why it would take less than 5 minutes to get the same items from his home that she was taking 30 minutes to get from Vivian’s home. Brooke was upset with Kirk and disrespectfully argued otherwise during the drive home.

Later that night, right after speaking on the telephone with Vivian, Brooke told Kirk she was staying at Vivian’s the next night, clearly in reprisal to Kirk telling Brooke earlier it was inconsiderate to keep him waiting in the car for 30 minutes, while she visited with her mother. Brooke, with Vivian’s evident guidance, encouragement, and complicity, had the power to punish Kirk for even questioning her behavior. Kirk asked Brooke why she wanted to stay at Vivian’s house the following night. Brooke

1 said she cannot eat after 6:30 a.m. Friday morning.<sup>1</sup> Brooke then said she can get up earlier at Vivian's  
2 house. Kirk responded that he could get her up whenever she needed to on Friday morning. Brooke  
3 did not respond, but rather, reiterated she was staying at Vivian's house the next night. Brooke then said  
4 that Vivian was going to pick her up from her last dance class on Thursday night and take her to  
5 Vivian's house. This revealed that the plan was devised by Vivian and Brooke before Kirk was even  
6 made aware of the plan. Kirk said that it was not her decision to make and she should not be making  
7 such plans with her mother during her time with Kirk. Brooke said it was her decision and she was  
8 staying at Vivian's the following night. Kirk reiterated it was not her decision to make. The  
9 conversation ended with Brooke emphatically saying, "Yes it is."

10 The next night, Kirk drove to the dance studio to pick up Brooke and Rylee after their last dance  
11 class. Brooke got in Vivian's car and they drove away. As would be expected, Rylee was visibly upset.  
12 Kirk saw the pain in her face. Rylee's eyes were welling up with tears and her head bent over during  
13 the drive home. All of this seemed very unfair to the eleven year old child.

14 As the Court is well aware, this is just the latest disturbing incident caused by the  
15 implementation of the "teenage discretion" provision which has unnecessarily disrupted Kirk's time  
16 with his children and, much more importantly, created uncertainty and stress for Brooke and Rylee.

### 17 III. ARGUMENT

#### 18 A. The Teenage Discretion Provision Must Be Either Nullified Or Interpreted To 19 Allow A Fourteen Year Old Child To Make *Requests* To The Weekly Visitation 20 Schedule Which Can Reasonably Be Denied By A Parent If The Parent Believes, In Good Faith, It Is Not In The Best Interest Of His Or Her Child Or In The Best Interests Of the Child's Younger Sibling

##### 21 1. The Continued Existence of The Teenage Discretion Provision, As 22 Advocated by Vivian and Implemented By Vivian and Brooke Is Serious 23 and Ill Advised From A Psychiatric Perspective and, May Well, have Deeply Damaging Impacts Upon Brooke and Rylee

24 The settlement of a contested divorce proceeding normally terminates the adversarial conflict  
25 between the parties, creating the desired stability and certainty for the children. Under a joint custody  
26

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27 <sup>1</sup> Kirk was already aware Brooke had an appointment with an oral surgeon at 12:45 p.m. on Friday,  
28 February 29, 2014.



1 arrangement, each of the minor children know from week to week the time they will be spending with  
2 each parent. Children need stability and certainty in their lives.

3 During the divorce proceeding, Dr. Roitman advised Kirk to stop the adversarial conflict  
4 between the parties as soon as reasonably possible. Dr. Roitman advised the longer the adversarial  
5 conflict continued the greater the risk of long term emotional harm to Brooke and Rylee. Kirk  
6 responded by settling for joint custody as soon as reasonably possible. By settling for joint custody,  
7 Kirk thought he had stopped the uncertainty and conflict for Brooke and Rylee. However, under  
8 Vivian's interpretation of the teenage discretion provision, the joint custody agreement between the  
9 parties is undermined and too much stress is placed upon a 14 year old child to make a choice between  
10 her parents on a weekly basis, which choice, involves leaving her 11 year old sister. The teenage  
11 discretion provision, as interpreted by Vivian, **creates** stress for the children, creates opportunities for  
12 them to be enmeshed in their parents' conflict, and continues instability and uncertainty in their lives.

13 Vivian wants the minor children to be interviewed by the parenting coordinator in the context  
14 of the teenage discretion provision. This is clearly not in the children's best interest. This Court has  
15 previously noted its preference not to embroil minor children in the process, but rather to insulate them  
16 from the process, noting, "I don't need a child interview. The less I can embroil a child in this process,  
17 ultimately the better I feel a child is insulated from this process. The parties agreed that it was in the  
18 best interest of the children to exercise joint physical custody." (Hearing Transcript, 10.30.13 at  
19 10:59:10). Kirk adamantly opposes that the parenting coordinator have authority to interview the minor  
20 children, and it is clear the Court also seemed to oppose the children being interviewed given its  
21 statements at the hearing on October 30, 2013. Further, there is no language in the Order that provides  
22 that the minor children can be interviewed.

23 The teenage discretion provision, as advocated by Vivian and implemented by Vivian and  
24 Brooke, negatively compromises the entire parenting scheme and, may well, have **deeply damaging**  
25 impacts upon Brooke and Rylee. This fact cannot be the subject of legitimate debate. To empower the  
26 adolescent as the controlling party in such a circumstance is serious and ill advised from a psychiatric  
27 perspective.

28 . . .

1 As noted earlier, sometime after the hearing on December 18, 2013, Dr. Roitman was requested  
2 to render an opinion under the assumption that the position advocated by Vivian is adopted by the Court,  
3 namely the fourteen year old becomes the decider and is granted the authority to order her parent to  
4 make changes to the weekly custody schedule, regardless of the lack of wisdom or judgment underlying  
5 her choices.

6 Kirk urges the Court to read this opinion in its entirety. It is, without question, in the best  
7 interests of Brooke and Rylee to nullify and strike the teenage discretion provision. This point cannot  
8 be the subject of legitimate debate. Dr. Roitman, referring to the Court's responsibility to insure the best  
9 interests of the children are met, opines:

10  
11 In this regard, to enable the family to achieve its natural balance in the aftermath of  
12 divorce, there needs to be minimal third party intermediaries to inject their various  
13 values into the family scheme once the asset and custody separation is enacted. Successful families, whether divorced or not, cannot be continuously subjected to the  
14 scrutiny of adverse party claims and counter claims without promoting blame and  
15 deterioration of the nest-like feeling children need for their own psychological well being  
16 (sic) and positive models for their own families once they get older. As soon as possible,  
after the family separation and breach, the system needs to be encouraged to heal to it's  
best potential. The only complaints that involve matters that are critical to the well being  
of the children should reopen the deliberation, and then limited to the least possible  
intervention. Like a wound in the process of healing, it should not be unnecessarily  
disrupted.

17 (Dr. Roitman, 1.14.14 Opinion, p. 3)

18 The continued existence of this provision, as interpreted by Vivian and implemented by Vivian  
19 and Brooke, is not in the best interest of these children. The parenting coordinator would have had a  
20 financially vested interest in the continued existence of this provision, as advocated by Vivian, and the  
21 continued conflict to which the children would have been unnecessarily and needlessly subjected.<sup>2</sup>

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22  
23 <sup>2</sup> The importance of this point cannot be overstated. Under this Court's order appointing the parenting  
24 coordinator, filed October 29, 2013, this Court granted the parenting coordinator the same authority of  
25 a Discovery Commissioner in State Court and a Federal Magistrate in Federal Court. The parenting  
26 coordinator is empowered by this Court's order to render decisions and the standard of review of those  
27 decisions ("Recommendations") by this Court is "the Court will overturn a Recommendation of the  
28 Parenting Coordinator **only** upon the showing of evidence to the satisfaction of the Court to warrant  
such a result." (§4.5 of Order) However, there is a fundamental and constitutional difference between  
the power granted to a Discovery Commissioner or a Federal Magistrate, as opposed to a parenting  
coordinator. Only the parenting coordinator has a **financial incentive** in this continued conflict. In  
contrast, a Discovery Commissioner and Federal Magistrate have no financial incentive to sustain the

1 The serious risk to Brooke and Rylee is simply too high and too significant to allow this  
2 untenable situation to continue:

3 In this matter, the court is being to (sic) asked to rule on the preferences of a fourteen  
4 year old and granting her a power over her parents, **and therefore control over her  
entire family**. The court is in the position to decide to what degree a teenager's wishes  
5 should determine her regulations.

\* \* \* \*

6 By empowering a teenager, the court imposes it's values and in so doing it determines  
7 how this family will work, despite the familial and religious traditions and family  
8 culture.

\* \* \* \*

9 Even in the best of circumstances, the court giving the adolescent decision-making  
10 power over the family system [is] of questionable psychological benefit. In the case of  
11 this family in particular, her choices are being made in the throws of constant parental  
12 dysfunction and allegations of unhealthy influence. **The ruling will effect the parental  
authority not just regarding this matter of time spent, but to all other issues for the  
next four years, since the adolescent has basically veto power.**<sup>3</sup> It set up the  
13 conditions in which the winning parent will be the indulgent parent and in this way, the  
14 youth escapes accountability. **There are no redos when it come to child development  
and mistakes are irreversible.** Only in delinquency, dependency and divorce is the  
15 state, through the court, given parental override.

16 The willingness of the court to reenter into the fray of custody and it's implications is  
17 questionable from a child psychiatric perspective. **Authorizing a non-adult with a  
vested interest in their own pleasure can intoxicate them with power by  
undermining the relationship with family authority.** Children need their parents, not  
18 a court to chose winners and losers except where the child's health issue is critical and  
19 the differences between parents are detrimental and truly irreconcilable. A narrow  
20 participation is preferable to a global dictum, such is the case with the teenager  
21 discretion ruling.

22 Instead of promoting the re-empowerment of the child's parental environment after a  
23 tumultuous divorce, **inserting the adolescent as the controlling party is an error. To  
do so is serious and ill advised from a psychiatric perspective. Placing the  
adolescent in the position of deciding when she is going to be with whom, even with  
an intact, functional family is a bad idea.** The teen should be granted increasing levels  
24 of authority in a step by step fashion so their expanding independence is supervised. At  
25 first they should not be given so much latitude that they can make irreversible mistakes.  
26 **Healthy families don't allow the child to go with one or another parent on impulse,  
just because they might be angry, or for some adolescent reason that don't (sic)  
make sense to the family as a whole.**

27 (Dr. Roitman, 1.14.14 Opinion, p. 4 & 5)(emphasis added)

28 ...

continuation of disputes.

<sup>3</sup> It will actually be for the next seven years as Rylee is just 11 years old.

1 Dr. Roitman also makes it abundantly clear that the continued existence of this provision will  
2 have a devastatingly negative effect upon Rylee:

3 A developing adolescent needs to be given discretion over some decisions to foster  
4 independence, but it is irresponsible to give to them the key to determine how her family  
5 works, the power to reject parents, replace them, set into motion a contest to see who is  
6 more apt to grant her wishes, reduce her responsibilities and punish and reward the one  
7 who does not frustrate her.

\* \* \* \*

8 Already in turmoil due to the long standing disturbances between parents sustained and  
9 serious enough to decide to end the marriage, the exacerbation of the conflict in the  
10 conduct of the separation and divorce, the impact of the changes in households and time  
11 with parents, **the younger child now sees her sister being able to control parents by  
12 coming and going on a whim.** A fourteen year old is not expected to see her role in the  
13 life of the sister, especially since very few teenagers have empathy towards their younger  
14 siblings.

15 It is not uncommon for teens in intact families to want to leave their little brothers and  
16 sisters and wish they had an alternative place to go. The sibship, though, is effected by  
17 these escapes and may take an entirely different course for the rest of their lives. Values  
18 in dependency court have turned toward preserving sibling groups. The teenage  
19 discretion allowance is 180 degrees opposed to this principle. The stress of giving the  
20 responsibility for the bond with her little sister and the impact on their future relationship  
21 should not be given, but imposed. **The family unit should be not taken for granted  
22 and not be continuously up to negotiations with the teenager making the final  
23 decision. Later in life both sisters could regret that the younger one was left behind  
24 feeling like a loser, rejected and powerless.**

25 While the teenager thinks she is just going over to the other parent's house, and it is no  
26 big deal, she has no experience making decisions about what is best for her in the long  
27 run, the effect on her sister, or how a family should work. **The teenage discretion  
28 provision inevitably can negatively affect the younger daughter who does not have  
this 'right,' but may, as seeing it implemented, long to get it. In her mind she can  
feel less than the other child. She sees a parent rejected, perhaps in the middle of  
an argument, demand a ride. She can see disrespect for parental authority and  
their powerlessness. She can be left by her sister at the drop of a hat and can't  
depend on long time periods with both families. Modeling on her sister she is  
encouraged to accept that momentary emotions, temptations and enticements are  
the basis for decision making. It is never a good idea to allow the teen to abandon  
the sister or a parent in the middle of a dispute. They need to work out differences  
and reestablish their bond, and accept the results whether with a sibling or a  
parent.**

(Dr. Roitman, 1.14.14 Opinion, p. 8)(emphasis added)

Kirk never agreed to the interpretation being advocated by Vivian and respectfully urges the  
Court to not allow this to happen to their children.

...

...

...

Dr. Roitman concludes his opinion by writing:

**I can't envision any scenario where it would be in the best interest of a teenager to be able to order a parent to modify their custody schedule. This is especially true when younger siblings are affected by those decisions.**

(Dr. Roitman, 1.14.14 Opinion, p. 13)

There is no question that it is in the best interests of Brooke and Rylee for this Court to nullify and strike the teenage discretion provision. Kirk respectfully submits that any responsible, loving, and caring parent would readily agree with the wisdom of Dr. Roitman's opinion. Kirk did not and would never agree to a provision, as it has been advocated by Vivian and implemented by Vivian and Brooke. Kirk loves Brooke and Rylee too much to ever subject them to what has been transpiring and will continue to transpire, unless this Court makes the judicial determination it must make. Kirk respectfully urges the Court to see and understand that Kirk could do no less for Brooke and Rylee.

## **2. The Language Upon Which Vivian Relies Contains the Phrase "And/Or" And Is Patently Ambiguous**

The language which Vivian advocates empowers Brooke to order Kirk to make changes to the weekly custody schedule is the following sentence, "Rather, the parties intend to allow the children to feel comfortable in requesting **and/or** making adjustments to their weekly schedule, from time to time, to spend additional time with either parent or at either parent's home." (Emphasis added.) Kirk respectfully submits the conjunctive disjunctive form in this context is patently ambiguous. All of the authorities agree. In *In re United Scaffolding, Inc.*, 377 S.W. 3d 685 (Tex. 2012) the trial court was ordered to grant a new trial to resolve the ambiguity created by the use of the phrase "and/or" stating, "Many courts and critics have denounced the use of 'and/or' in legal writing" because it leads to ambiguity and confusion. **"The term inherently leads to ambiguity and confusion."** S.W. 3d at 689. (Emphasis added) See, *Cannell v. State of Texas*, 2013 WL 6729857 (Tex. App. 2013); *State ex rel. Adler v. Douglas*, 339 Mo. 187, 95 S.W.2d 1179, 1180 (1936) (en banc) ("The use of the symbol 'and/or' . . . should be condemned by every court."); WILLIAM STRUNK, JR. & E.B. WHITE, THE ELEMENTS OF STYLE 40 (4<sup>th</sup> ed. 2000); see also BRYAN A. GARNER, THE REDBOOK: A MANUAL ON LEGAL STYLE 1.80 (2<sup>ND</sup> ED. 2006).

...

1 A contract or provision is ambiguous if it is reasonably susceptible to more than one  
2 interpretation. *Margrave v. Dermody Properties, Inc.*, 110 Nev. 824, 878 P.2d 291 (1994) This teenage  
3 discretion provision, as evidenced by the previously filed points and authorities, is susceptible to more  
4 than one interpretation.

5 **3. Words Matter and the Parties Never Agreed the Children Could Order a**  
6 **Parent to Make Changes to the Weekly Custody Schedule And The Parent**  
7 **Must Obey**

8 For something which is so negatively impactful upon the lives of Brooke and Rylee, it would  
9 be error to simply assume the parties have knowingly made an agreement providing the children can  
10 order a parent to make adjustments to the weekly custody schedule when they have clearly not done so.  
11 Words matter. The literal language **does not** provide that the parties agree or hereby agree that the  
12 children **can** request and/or make adjustments to their weekly schedule and the parent must obey  
13 without question or discussion. The language merely provides the parties “**intend to allow the children**  
14 **to feel comfortable. . . in requesting and/or making adjustments to their weekly schedule. . .**” As  
15 stated, Kirk’s only intention was that the child would feel comfortable in making requests and/or making  
16 adjustments to their weekly schedule with their parents consent and if the child had not been influenced,  
17 prompted or suggested by a parent. However, assuming *arguendo*, that Kirk intended to allow the  
18 children to feel comfortable in ordering a parent to make weekly changes to the schedule, as advocated  
19 by Vivian, Kirk has clearly withdrawn that intention “to allow the children to feel comfortable” as all  
20 of the problems have been caused by Vivian’s influencing, prompting, and suggesting to Brooke, all in  
21 direct violation of the provision. There is no agreement and there never was an agreement between the  
22 parties to anything other than a stated intention “to allow the children to feel comfortable. . .” There was  
23 never an agreement between the parties that a child would be able to order a parent to make changes to  
24 their weekly schedule and the parent must obey, as advocated by Vivian.

25 **4. The Teenage Discretion Provision Must Also Be Nullified As There Was No**  
26 **Meeting Of the Minds, The Provision Is Susceptible To More Than One**  
27 **meaning And Is Therefore Ambiguous, And Vivian Has Violated Every**  
28 **Safeguard Placed In the Provision Which Was Designed to Protect The**  
**Children From What Has Already Occurred**

As the Court is keenly aware, the teenage discretion provision is reasonably susceptible to more  
than one interpretation and is therefore ambiguous. A contract is ambiguous if it is reasonably

1 susceptible to more than one interpretation. *Shelton v. Shelton*, Nev. , 78 P.3d 507 (2003); *Anvui L.L.C.*  
2 *v. G.L. Dragon, L.L.C.*, 123 Nev. 212, 215, 163 P.3d 405, 407 (2007) ; *Galardi v. Naples Polaris, LLC.*,  
3 301 P.3d 364, 129 Nev. Adv. Op. 33 (2013) Because it is ambiguous, it must be construed against the  
4 drafter. *Moroni Corporate Investments, Intern. v. Edgemon*, 2012 WL 5378151 (2012); *Anvui L.L.C.*  
5 *v. G.L. Dragon, L.L.C.*, 123 Nev. 212, 216, 163 P.3d 405, 407 (2007); *Mullis v. Nevada National Bank*,  
6 98 Nev. 510, 513, 654 P.2d 533, 535 (1982). Vivian's attorneys drafted the ambiguous language.  
7 Therefore, the provision must be construed as reasonably interpreted by Kirk and Kirk's attorneys,  
8 namely, the provision provides the 14 year old can make a request, which request can be either granted  
9 or denied by the parent in the parent's good judgment. However, the 14 year old cannot order the parent  
10 to make any modifications to the weekly custody schedule, which the parent must obey without question  
11 or discussion and without any regard to prior plans or arrangements or the best interest of the other  
12 minor child.

13 The teenage discretion provision is also ambiguous through indefiniteness of expression.  
14 *Hampton v. Ford Motor Co.*, 561 F.3d 709, 714 (7<sup>th</sup> Cir. 2009) (quoting *Whiting Stoker Co. V. Chicago*  
15 *Stoker Corp.*, 171 F.2d 248, 251 (7<sup>th</sup> Cir. 1948). Merely stating the parties intentions utilizing the  
16 inherently ambiguous conjunctive disjunction "and/or" is a provision which must fail for indefiniteness  
17 of expression.

18 **5. In the Court's Determination Of Whether to Modify A Provision Between**  
19 **the Parties Pertaining to Custody, Nevada Child Custody Law is**  
20 **Controlling, Not The Agreement Between the Parties.**

21 The teenage discretion provision, as interpreted by Vivian, is clearly not in the best interests of  
22 Brooke and Rylee.

23 There is ample authority for this Court to modify its prior order and strike, revoke, nullify, and/or  
24 delete the "teenage discretion" provision – Paragraph 6. Under NRS 125.510(1)(b), this Court may  
25 "modify or vacate" its order regarding custody. And generally under NRS 125.230(1), this Court has  
26 the authority to enter such orders "as it may deem proper for the custody . . . of any minor child or  
27 children of the parties. The Court's sole consideration in such a circumstance, "is the best interest of the  
28 child." NRS 125.480(1).

...

1 This “teenage discretion” provision, as interpreted by Vivian, is in contravention of the clearly  
2 stated policy of the State of Nevada and NRS 125.460, which provides that it is the policy of the State  
3 of Nevada, “To encourage such parents to share the rights and responsibilities of child rearing.” This  
4 “teenage discretion” provision clearly violates this statute as it has created, in Vivian’s mind, a vehicle  
5 to pursue a vindictive competition with Kirk, wherein she has convinced Brooke that she should  
6 regularly leave Rylee. This provision not only does not “encourage” parents “to share the rights and  
7 responsibilities of child rearing”, it does the opposite – it encourages a parent, Vivian, to not share the  
8 rights and responsibilities of child rearing.

9 Importantly, this “teenage discretion” provision, as interpreted by Vivian, also violates NRS  
10 125C.010(1)(a) as the right to visitation on a weekly basis is not defined “with sufficient particularity  
11 to ensure that the rights of the parties can be properly enforced and that the best interest of the child is  
12 achieved.” For the reasons previously noted, under this “teenage discretion” provision, the rights of  
13 the parties cannot be properly enforced and this “teenage discretion” provision totally disregards the best  
14 interests of Brooke and Rylee. This provision creates uncertainty, emotional issues, disrupts the family,  
15 causes inconsistency, needlessly instills fear, and facilitates immersing children in their parents’ conflict.

16 Finally, under *Rivero v. Rivero*, 216 P.3d 213 (Nev. 2009), parties are free to contract and the  
17 Court will enforce those agreements, provided *they are not unconscionable, illegal or in violation of*  
18 *public policy. Id* at 227. Once a party moves to modify an agreement, however, the Court “must apply  
19 Nevada child custody law, including NRS Chapter 125C and case law.” *Id*. Kirk has requested  
20 modification of the custody order to nullify this provision for teenage discretion at this time and  
21 therefore, the Court must look to Nevada law, rather than the parties’ agreement. NRS 125C.010(1)(a)  
22 specifically provides that visitation must be defined with sufficient particularity. By its very nature, a  
23 teenage discretion provision such as this does not provide any particularity and is therefore improper  
24 under the statute. Furthermore, a teenage discretion provision such as the one at issue is in violation of  
25 public policy for several reasons. First, as interpreted by Vivian, it delegates parenting rights and  
26 decisions to the minor child and needlessly involves them in conflict. Second, it does not allow either  
27 party to have a clear understanding of their rights to time (an important enough consideration so as to  
28 merit statutory language under NRS 125C.010(1)(a) requiring sufficient particularity). Additionally it



1 is important to note that even if Kirk were not seeking to nullify this teenage discretion provision, the  
2 Court can only enforce agreements which are not unconscionable, illegal or in violation of public policy.  
3 As this provision for teenage discretion violates NRS 125C.010(1)(a) and NRS 125.460 and public  
4 policy, the Court should not enforce the provision in any event.

5 Kirk respectfully urges the Court to avoid the unnecessary emotional gauntlet for the children,  
6 to which Vivian has otherwise demonstrated an eagerness to subject them. A truly caring parent would  
7 not regularly manipulate a 14 year old child to separate the child from a 11 year old sibling.

8 In *Fernandez v. Fernandez*, 222 .3d 1031 (Nev. 2010), the parties entered into a stipulation and  
9 order that provided the child support obligation was non-modifiable when the father was paying  
10 significantly more than the maximum amount under NRS 125B.070. The parties circumstances changed  
11 to the point that under NRS 125B.070 that neither party would be obligated to pay child support to the  
12 other. However, the trial court refused to modify the child support stating, “the Court is not bound by  
13 the provision of NRS 125B.145 where the parties have previously agreed in a stipulation and order  
14 modifying the Decree of Divorce that neither party will seek modification of child support.” P.3d at  
15 1034. The Nevada Supreme Court disagreed, holding that the parties stipulation was trumped by the  
16 Court’s authority to review and modify a child support order and held a ‘trial court always has the power  
17 to modify an existing child support order, either upward or downward, notwithstanding the parties’  
18 agreement to the contrary.’ P.3d at 1035. The Nevada Supreme Court went on to state that, “Most  
19 courts agree that, absent a contrary statutory directive, public policy prevents a court from enforcing a  
20 purportedly nonmodifiable child support order, even if the parties stipulate to it.” P. 3d at 1036. The  
21 same rationale applies here. If the Court adopts Vivian’s interpretation of the teenage discretion  
22 provision, that provision is clearly contrary to public policy and the best interests of Brooke and Rylee  
23 and must be nullified and stricken on that basis.

24 **B. Kirk Never Agreed To A Parenting Coordinator With The Powers Set Forth In**  
25 **This Court’s Order, filed October 29, 2013, Nor To The Powers Set Forth In the**  
26 **Parenting Coordinator Agreements Submitted by Margaret Pickard**

27 There is no statutory authority for the appointment of a parenting coordinator in the State of  
28 Nevada. Therefore, the only circumstance in which one can be appointed is when the parties agree to  
such an appointment, and importantly, when the parties agree to the **terms** of the appointment. *Schilder*

1 v. *Hazelton*, 84 Mass. App. Ct. 1131, 2014 WL 288896. It is fundamental that such an agreement must  
2 be knowingly made. Vivian's attorneys presented a draft stipulation and order resolving parent/child  
3 issues containing paragraph 4, which provides as follows:

4       4.     *Parenting Coordinator:* The parties shall hire a Parenting Coordinator to  
5       **resolve disputes** between the parties regarding the minor children. The  
6       Parenting Coordinator shall be chosen jointly by the parties. The Parenting  
7       Coordinator shall serve pursuant to the terms of an order mutually agreed upon  
8       by the parties. If the parties are unable to agree upon a Parenting Coordinator,  
9       or the terms of an Order appointing the Parenting Coordinator, within thirty (30)  
10       days of the date of the filing of this Stipulation and Order, then the Court shall  
11       appoint that individual and resolve any disputes regarding the terms of the  
12       appointment. (Emphasis added).

13       Prior to this matter, Kirk had never heard the term parenting coordinator and was unaware of  
14       their role. Kirk had been retained hundreds of times as a mediator to **resolve disputes**. At the time the  
15       stipulation was signed, it was Kirk's understanding a parenting coordinator functioned as a mediator.  
16       Kirk naturally assumed the term parenting coordinator was used to describe a mediator who specialized  
17       in custody issues for Family Court cases. At that time, Kirk was unaware that Family Court would  
18       delegate judicial authority to an individual outside of the court system.

19       Since the signing of the stipulation, Kirk's position has been consistent with his understanding  
20       that the parenting coordinator would function as a mediator. Kirk's proposed Order For Appointment  
21       of Parenting Coordinator, which Kirk submitted to the Court, empowers the parenting coordinator with  
22       all of the powers of a mediator. See **Exhibit "4,"** attached hereto, which was also attached as *Exhibit*  
23       *"2"* to Plaintiff's Opposition To Defendant's Motion for an Order Appointing a Parenting Coordinator,  
24       filed July 19, 2013. Said opposition is also consistent with Kirk's understanding that the parenting  
25       coordinator functioned as a mediator.

26       When Kirk read Defendant's Motion for an Order Appointing a Parenting Coordinator, filed  
27       May 10, 2013, and later, this Court's Order Appointing a Parenting Coordinator, filed October 29, 2013,  
28       Kirk felt as though he had been sucker punched. Kirk did not and never would have agreed to allow a  
29       third party whom he had never met to make parental determinations involving his children.

30       On February 20, 2014, Kirk received an email from the office of the parenting coordinator  
31       requesting that certain agreements be executed. A follow up email enclosing the same proposed  
32       documentation was sent on February 27, 2014. The February 20, 2014, email from the designated

1 parenting coordinator provided the parenting coordinator has “the judicial authority to resolve  
2 parent/child and custody/visitation issues” and enclosed a number of proposed agreements to be  
3 executed, which grant the parenting coordinator extensive judicial authority in excess of the authority  
4 granted by this Court’s Order, filed October 29, 2013. More specifically, the following was provided:  
5 (1) Enclosure letter, dated February 20, 2014; (2) An Overview of Parenting Coordination; (3)  
6 Agreement for Parent Coordination Services; (4) Party Information Sheet; (5) Credit Card Charge  
7 Authorization Form; (6) Authorization for the interviewing of minor children; (7) Release of  
8 Information from the Clark County School District, and; (8) Authorization for the Release of Protected  
9 Health Information. True and accurate copies of these eight documents are collectively attached hereto  
10 as **Exhibit “5.”**

11 The proposed agreements from the parenting coordinator go well beyond the terms of this  
12 Court’s Order and, frankly, the proposed Agreement for Parent Coordination Services is extremely  
13 overreaching, unconscionable, and an unacceptable contract of adhesion. It requires the parties to  
14 basically provide a blank check to the parenting coordinator for the next seven years with no relief. For  
15 example, the Court’s order provides a grievance procedure. However, the proposed parenting  
16 coordinator agreement effectively nullifies that procedure by requiring the complaining party to pay  
17 100% of the attorneys fees of the parenting coordinator in defending any grievance. The parenting  
18 coordinator can have communications with the parties’ attorneys **without** the knowledge of the parties.  
19 The parenting coordinator can order a parent to undertake “counseling, anger management, psychiatric  
20 and/or medical evaluations, etc.” The list of areas in which the parenting coordinator can assert control  
21 is only limited by one’s imagination. Despite the parties’ divorce, the proposed agreement provides the  
22 parties are jointly and severally liable for the parenting coordinator’s fees. In the event of bankruptcy  
23 by the parties the parenting coordinator fees are “in the nature of child support payments, and therefore,  
24 are not dischargeable in bankruptcy.” Under the submitted agreements, the parents become slaves to  
25 the arbitrary whim of the parenting coordinator. The provisions in the proposed documents do not  
26 create a relationship with a mediator, facilitator or problem solver, but rather a relationship with a  
27 person with almost unrestrained authority, who is free to exercise unilateral control in every facet of the  
28 parent-child relationship. Kirk never agreed to such terms, nor would he ever agree to such terms.

1 The extremeness of the terms demanded by the parenting coordinator serve to highlight the fact  
2 that Kirk never agreed to any of these terms because none of them were set forth in Paragraph 4. In fact,  
3 none of the terms set forth in this Court's Order Appointing a Parenting Coordinator were set forth in  
4 Paragraph 4. It cannot possibly be argued, at least in good faith, that Kirk agreed to terms he never saw.  
5 This is especially true when those terms are so far beyond the terms of any reasonable common sense  
6 expectation.

7  
8 **1. No Enforceable Agreement Was Ever Reached Regarding the Appointment  
of a Parenting Coordinator As There Was No Meeting of The Minds**

9 In order for a contract to be formed there must be sufficient specificity for the parties to  
10 understand to what they are agreeing. There was none here. Agreements to agree are not enforceable.  
11 Paragraph 4 is too indefinite in its terms to be enforceable.

12 Parents have a fundamental right in the care and custody of their children. *Troxell v. Granville*,  
13 530 U.S. 57, 65-66 (2000). Therefore, the highest level of scrutiny is given to any contractual provision  
14 whereby it is alleged the parents assigned any part of those fundamental rights to a third party.

15 If the goal of Vivian's attorneys in drafting the parenting coordinator paragraph was to have Kirk  
16 agree to have a third party, who he has never met, make parental determinations concerning his children,  
17 as reflected in this Court's subsequent Order appointing a parenting coordinator, then Kirk was entitled  
18 to be fully informed in making the decision to agree or not agree to such a provision. Kirk was not.<sup>4</sup>

19 The tactic of having the parties agree to the appointment of a parenting coordinator and blindly  
20 agreeing to terms they have never seen is not a binding agreement. The provision provides, "The  
21 Parenting Coordinator shall serve pursuant to the terms of an order mutually agreed upon by the  
22 parties." Provisions such as this are unenforceable. A provision "which leaves an essential term to  
23 future agreement is not enforceable." *City of Reno v. Silver State Flying Service, Inc.*, 84 Nev. 170, 438  
24 P.2d 257, 261 (1968); *Ablett v. Clauson*, 43 Cal.2d 280, 272 P.2d 752 (1954) In the case at bar, all

25  
26 <sup>4</sup> Similarly, if the goal was to have a provision whereby a parent agrees to empower his 14 year old child  
27 to order him on a whim to make changes to the weekly custody schedule without regard to prior plans  
28 and arrangements and the parent must obey that child without question or discussion, then the parent  
is entitled to be fully informed of that fact in making such a decision. Kirk was not.

1 essential terms are left to future agreement. The provision is not saved by the clause, "If the parties are  
2 unable to agree upon a Parenting Coordinator, or the terms of an Order appointing the Parenting  
3 Coordinator, within thirty (30) days of the date of the filing of this Stipulation and Order, then the Court  
4 shall appoint that individual and resolve any disputes regarding the terms of the appointment." Parties  
5 must know to what they are agreeing with specificity at the time they make the agreement, otherwise  
6 the agreement is unenforceable. Without a crystal ball, Kirk would have no way of knowing what terms  
7 the Court would later decide were appropriate at the time the stipulation was signed. For example, it  
8 was very important to Kirk that Brooke and Rylee not be interviewed and thus brought into the middle  
9 of any conflict. The Court's comments quoted previously indicated the Court was of the same view.  
10 However, Vivian argues that in the Order of the Court appointing the parenting coordinator, the Court  
11 contemplated that the parenting coordinator could interview the children. This is a critically important  
12 term to which Kirk never would have agreed had it been fairly presented to him. It was not.

13 The law is well settled in Nevada. In *May v. Anderson*, 121 Nev. 668, 119 P.3d 1254 (2005) the  
14 Nevada Supreme Court made it very clear a settlement agreement is governed by principles of contract  
15 law and a court cannot compel compliance when material terms remain uncertain:

16 Because a **settlement agreement** is a contract, its construction and enforcement are  
17 governed by principles of contract law. Basic contract principles require, for an  
18 enforceable contract, an offer and acceptance, meeting of the minds, and consideration.  
19 . . . **A valid contract cannot exist when material terms are lacking or are  
insufficiently certain and definite. . . In the case of a settlement agreement, a court  
cannot compel compliance when material terms remain uncertain. . .**

20 P. 3d at 1257 (emphasis added)

21 Nevada abides by traditional jurisprudence that agreements to agree are generally too indefinite  
22 to enforce as final agreements. *May v. Anderson*, 121 Nev. 668, 119 P.3d 1254, 1257 (2005); *City of*  
23 *Reno v. Silver State Flying Service, Inc.*, 84 Nev. 170, 438 P.2d 257, 261 (1968). When a provision, such  
24 as the parenting coordinator paragraph, "is too indefinite and uncertain to be regarded as a binding  
25 agreement and it amounts to a nullity and is unenforceable." *City of Reno v. Silver State Flying Service,*  
26 *Inc.*, 84 Nev. 170, 438 P.2d 257, 261 (1968) Under these circumstances, this Court must nullify and  
27 strike the parenting coordinator paragraph.

1 Put another way, the parenting coordinator paragraph is ambiguous through indefiniteness of  
2 expression. *Hampton v. Ford Motor Co.*, 561 F.3d 709, 714 (7<sup>th</sup> Cir. 2009) (quoting *Whiting Stoker Co.*  
3 *V. Chicago Stoker Corp.*, 171 F.2d 248, 251 (7<sup>th</sup> Cir. 1948). Other than being retained “to resolve  
4 conflicts” the provision lacks any other terms whatsoever which define the role of the parenting  
5 coordinator. As such the provision must fail for indefiniteness of expression.

6  
7 **2. Paragraph 4 Was Drafted Entirely By Vivian’s Attorneys And Was**  
8 **Presented As An Offer. As Such, It Could Not Be Accepted By Kirk So As**  
9 **To Form A Contract Unless The Terms Of The Contract Are Reasonably**  
10 **Certain – They Were Not**

11 It is axiomatic that an offer cannot be accepted unless the terms of the offer are reasonably  
12 certain when made. “[E]ven though a manifestation of intention is intended to be understood as an  
13 offer, it cannot be accepted so as to form a contract unless the terms of the contract are reasonably  
14 certain.” *Rucker v. Taylor*, 828 N.W.2d 595, 602 (2013) quoting the Restatement (Second) of Contracts  
15 §33(1) Based upon the language contained in Paragraph 4, it was legally impossible for Kirk to accept  
16 the offer contained therein as the terms of the offer were not reasonably certain when the offer was  
17 made. Even if Kirk had some idea that a parenting coordinator was generally given judicial authority  
18 to make parental custody decisions or recommendations, then it still would have been legally impossible  
19 for Kirk to accept the offer as the terms of the offer were not reasonably certain when the offer was  
20 made.

21 This scenario is no different than if a company is in litigation and negotiates a settlement with  
22 the opposing party. Part of that settlement is the company agrees to hire a consultant to assist the  
23 company, with no discussion whatsoever as to the specific role of the consultant or any other terms of  
24 the retention. The only specified term is, “The [Consultant] shall serve pursuant to the terms of an order  
25 mutually agreed upon by the parties.” There are no terms which provide the expertise of the consultant,  
26 the scope of the work for the consultant, the hours the consultant shall work, the duration of the  
27 retention, the scope of the consultant’s authority, the consultant’s duties and responsibilities, the  
28 compensation for the consultant, upon what grounds the consultant can be terminated, etc. Under such  
circumstances, the terms of the contract are not reasonably certain, and therefore the offer cannot be

1 accepted so as to form a contract. Similarly, Paragraph 4 absolutely and indisputably fails on the same  
2 basis.

3                   **3. Courts Across The Country Are Recognizing The Granting of Judicial**  
4                   **Authority To A Parenting Coordinator Violates the Due Process Rights of**  
5                   **the Parties And Is Therefore Unconstitutional**

6 In Pennsylvania, the concern over the unconstitutional granting of judicial authority to parenting  
7 coordinators led to a modification of the State's Rules of Civil Procedure:

8                   **Rule 1915.11-1. Elimination of Parenting Coordination.**

9                   **Only judges may make decisions in child custody cases.** Masters and hearing  
10                   officers may make recommendations to the court. Courts shall not appoint any other  
11                   individual to make decisions or recommendations or alter a custody order in child  
12                   custody cases. **Any order appointing a parenting coordinator shall be deemed**  
13                   **vacated on the date this rule becomes effective.** Local rules and administrative orders  
14                   authorizing the appointment of parenting coordinators also shall be deemed vacated on  
15                   the date this rule becomes effective.

16 (**Exhibit "6"** attached hereto) (emphasis added)

17 In eliminating parenting coordination, the Pennsylvania Supreme Court decided to stop the  
18 practice of trial courts assigning judicial authority to **non judicial** persons. It was determined it was  
19 improper to allow judges to pass on their authority to somebody outside of the judicial due process walls  
20 of the courthouse.

21 The rationale is straightforward. A parenting coordinator has a financial incentive to make  
22 interpretations which will continue conflict and insure continued parenting coordinator fees. Those  
23 persons inside the courthouse, do not have such a conflicting motivation. Quite the opposite is true.  
24 Because of case load demands, those individuals with quasi-judicial authority within the courthouse are  
25 motivated to expeditiously resolve conflict and interpret matters to stop further conflict.

26 There are numerous states which agree that a court may not delegate its judicial power to  
27 determine the visitation or custody arrangements of the parties. In *Marriage of Stephens*, (Iowa Court  
28 of Appeals) 810 N.W.2d 523 (2012), at footnote 3, the court set forth the following listing, which,  
undoubtedly, is only a partial, and somewhat dated, list: *Pratt v. Pratt*, 56 So. 3d 638, 644 (Ala Civ.  
App. 2010) ("We also reiterate that [t]he trial court is entrusted to balance the rights of the parents with  
the child's best interests to fashion a visitation award that is tailored to the specific facts and  
circumstances of the individual case. That judicial function may not be delegated to a third party."

(internal citations omitted)); *In re Marriage of Matthews*, 101 Cal. App. 3d 811, 161 Cal. Rptr. 879, 882 (1980); (holding as invalid the provision in the court order authorizing a third party to alter the visitation scheduled in any way she deemed reasonable and necessary); *Larocka v. Larocka*, 43 So.3d 911, 912-13 (Fla. Dist. Ct. App. 2010) (holding it is the responsibility of the court to establish the visitation schedule between the mother and child and may not delegate that responsibility to a counselor); *In re Paternity of A.R.R.*, 634 N.E. 2d 786, 789 (Ind. Ct. App. 1994) (finding the court impermissibly endowed an executive agency with the judicial power to control the frequency of the visitation); *Meyr v. Meyr*, 195 Md. App. 524, 7 A. 3d 125, 138 (Md. Ct. Spec. App. 2010) (“[A] court may not delegate to other individuals decisions regarding child visitation and custody.”); *In re Marriage of Young*, 370 N.W.2d 57, 65-66 (Minn. Ct. App. 1985) (holding that the court can rely on an expert’s opinion, but the court must make the ultimate decision on visitation rights); *Walters v. Walters*, 12 Neb. App. 340, 673 N.W.2d 585, 592 (2004) (“[T]he courts have held that the authority to determine the custody and visitation of a minor child cannot be delegated to a third party, because it is a judicial function”); *In re Marriage of Kilpatrick*, 198 P.3d 406, 410 (Okla. Civ. App. 2008) (striking the portion of the court’s order that provided the parenting coordinator’s recommendations should be observed as orders of the court because it constituted an improper delegation of judicial power and is contrary to the parent’s due process rights); *Chiappone v. Chiappone*, 984 A.2d 32, 39 (R.I. 2009) (“The issues of custody and visitation fall squarely within the realm of judicial responsibility and may not be delegated to a therapist, no matter how qualified or well-intentioned the therapist may be.”)

There is an undeniable trend for courts not to grant judicial authority to parenting coordinators.

One can argue what judicial authority should or should not be delegated to a parenting coordinator, if any. The bottom line, however, is that Kirk was never given an opportunity to make an informed decision as to what authority would be later given to the parenting coordinator. Under the law, Kirk cannot be compelled to comply with the terms of an agreement to which he never agreed, let alone ever saw. As noted earlier, in Nevada, a court cannot compel compliance to a settlement agreement when material terms were uncertain.

...

...



1 **IV. CONCLUSION**

2 The teenage discretion provision creates uncertainty and instability for the children and conflict  
3 between the parties, within which the children are embroiled. The continued existence of this provision  
4 can cause permanent severe emotional damage to Brooke and Rylee. There was no meeting of the  
5 minds between the parties regarding its terms. Vivian's material breaches of material and essential  
6 terms of this provision, including embedding in Brooke's mind that she has the absolute unfettered right  
7 to determine her own custody, has undermined any chance for the provision to be reasonably applied.

8 The Court is implored, in the best interests of Brooke and Rylee, to revoke this provision in its  
9 entirety. In the alternative, the Court is requested to determine that a 14 year old child has the right to  
10 request infrequent modifications to the weekly custody schedule, which the parent can, in good faith,  
11 either grant or deny, as opposed to Vivian's position that a 14 year old has the absolute right to *order*  
12 Kirk, her father, at any time, to take her to Vivian's house during his custody time and he must *obey* his  
13 14 year old daughter without question or discussion and it is irrelevant what prior plans have been made  
14 or whether, under the circumstances, it would be harmful to Rylee. In the event, this Court decides not  
15 to nullify and strike the teenage discretion provision, Vivian will continue to manipulate and embroil  
16 the children in conflict.

17 The Court is also requested to nullify and strike the parenting coordinator provision. Neither  
18 Kirk nor his attorneys had any part in drafting this provision. The provision must fail for its failure to  
19 provide any of the specific terms necessary for a party to know to what they are agreeing. Therefore,  
20 the offer by Vivian could not have been accepted and a contract formed. This is true even if Kirk were  
21 to have been told that a parenting coordinator would be granted judicial authority to make parental  
22 decisions involving his children.

23 Kirk desperately wants the adversarial positioning to stop for the benefit of Brooke and Rylee  
24 and their entire family, including Vivian. As noted, conflicts between the parties regarding custody of  
25 any significance were infrequent between the date of this Court's Order Resolving Parent/Child Issues  
26 on July 11, 2012 and Brooke's 14<sup>th</sup> birthday on June 26, 2013. The continued existence of the teenage  
27 discretion provision, as advocated by Vivian, creates and continues the adversarial positioning. The  
28 insertion of a parenting coordinator into the process facilitates the continuation of the adversarial

1 positioning. The proposed parenting coordinator intends to enmesh Brooke and Rylee further into the  
2 conflict by interviewing them. The unnecessary continuation of the adversarial positioning created by  
3 the teenage discretion provision poses tremendous risk that Brooke and Rylee will suffer long term  
4 emotional harm. The Court is, respectfully, requested, in the best interests of Brooke and Rylee, to  
5 nullify Paragraphs 4 and 6 of the Court's Order Resolving Parent/Child Issues. These requests are  
6 supported by the Affidavit of Edward L. Kainen, Esq., attached hereto as *Exhibit "1,"* and the Affidavit  
7 of Thomas Standish, Esq., attached hereto as *Exhibit "2."*

8 DATED this 21<sup>st</sup> day of April, 2014.

9 KAINEN LAW GROUP, PLLC

10  
11 By: 

12 EDWARD L. KAINEN, ESQ.

13 Nevada Bar No. 5029

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**AFFIDAVIT OF KIRK R. HARRISON**  
**filed in Support of Plaintiff's Motion To Modify Order Resolving Paren/Child Issues and For**  
**Other Equitable Relief**

STATE OF NEVADA       )  
                                      )  
COUNTY OF CLARK       )       ss.

KIRK R. HARRISON, declares and says:

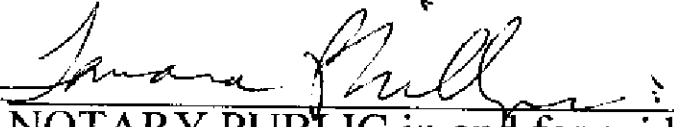
1. The matters stated in this Affidavit are based upon my personal knowledge or upon information and belief. If called upon to testify, I could and would competently testify to the facts set forth herein.

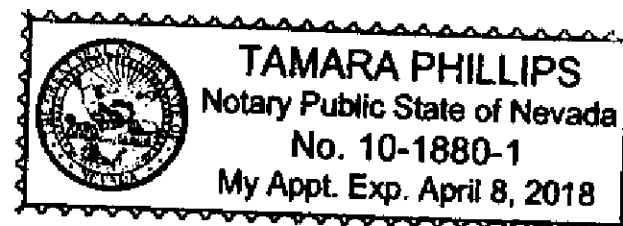
2. Each of the factual averments contained in Plaintiff's Motion To Modify Order Resolving Paren/Child Issues and For Other Equitable Relief are true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

  
KIRK R. HARRISON

SUBSCRIBED and SWORN to before me  
this 11 day of April, 2014.

  
NOTARY PUBLIC in and for said  
County and State



## **EXHIBIT 1**

**AFFIDAVIT OF EDWARD KAINEN, ESQ.**  
**IN SUPPORT OF PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING**  
**PARENT/CHILD ISSUES AND FOR OTHER EQUITABLE RELIEF**

STATE OF NEVADA            )  
  ) ss:  
COUNTY OF CLARK         )

EDWARD KAINEN, ESQ., being first duly sworn, deposes and states:

1. The matters stated in this Affidavit are based upon my personal knowledge or upon information and belief, if so stated. If called upon to testify, I could and would competently testify to the facts set forth herein.

2. I am an attorney duly licensed to practice law in the State of Nevada, and in that capacity, I am co-counsel for Kirk Harrison.

3. I am familiar with the terms of Paragraph 6 of the Stipulation and Order Resolving Parent/Child Issues, filed July 11, 2012. I have read the letters from Radford J. Smith, Esq., setting forth his interpretation of this provision, which are both dated November 6, 2013. As set forth in my letter of November 6, 2013, I strongly disagree with the interpretation made by Mr. Smith and it is directly contrary to my own interpretation. All three letters are attached to the prior motions regarding teenage discretion.

4. I have also read the affidavit of Gary Silverman, Esq., wherein he wrote, "Mr. Harrison must know that the teen exception in the custody agreement will be exploited by the girls and it is Vivian who will have de facto primary custody." As is evident from the letter I wrote on November 6, 2013, and the prior points and authorities I have submitted on this issue, it was never my interpretation of the teenage discretion provision that it could be utilized so that Vivian will have de facto primary custody.

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1           5.       In all of the years I have practiced, I have never seen a teenage discretion provision  
2 interpreted in the manner this provision has been interpreted by Messrs. Smith and Silverman and  
3 certainly would never advise a client to agree to such a provision, as interpreted by Messrs. Smith and  
4 Silverman.

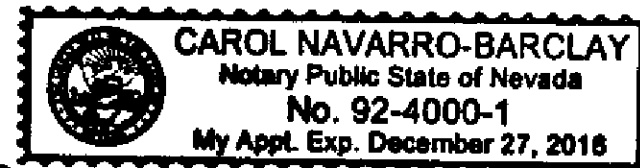
5           FURTHER AFFIANT SAYETH NAUGHT.

6  
7  
8

EDWARD KAINEN, ESQ.

9       SUBSCRIBED and SWORN to before me  
10 this 21<sup>st</sup> day of April, 2014.

11 



12       NOTARY PUBLIC in and for said  
13       County and State

## **EXHIBIT 2**

**AFFIDAVIT OF THOMAS J. STANDISH, ESQ.**  
**FILED IN SUPPORT OF PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING**  
**PARENT/CHILD ISSUES AND FOR OTHER EQUITABLE RELIEF**

STATE OF NEVADA

COUNTY OF CLARK

ss.

Thomas J. Standish, Esq., being first duly sworn, deposes and says:

1. The matters stated in this Affidavit are based upon my personal knowledge or upon information and belief, if so stated. If called upon to testify, I could and would competently testify to the facts set forth herein.

2. I am the attorney for Kirk Harrison (hereinafter "Kirk"), the Plaintiff in case number D-11-443611-D. I am employed by the law firm of Standish Law Group, and am duly licensed to practice law in the State of Nevada. I was retained as co-counsel to Edward Kainen, Esq., for Kirk, in June 2011.

3. On behalf of Kirk Harrison, I negotiated the terms of the Stipulation and Order Resolving Parent/Child Issues, entered July 11, 2012, with Radford J. Smith, Esq.

4. In particular, I negotiated with Mr. Smith Paragraph 6 of said stipulation and order, which for purposes of clarity is set forth hereafter:

6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the time the child desires to spend with each parent once that child reaches 14 years of age.

6.1. The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to feel comfortable in requesting and/or making adjustments to their weekly schedule, from time to time, to spend additional time with either parent or at either parent's home.

6.2. Such adjustments **shall not be prompted or suggested by either parent**, but shall originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and they **shall each encourage the children to follow the regular schedule** to the extent possible. If either party feels that his or her time is being unduly eroded by this provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address this issue with the Parenting Coordinator and/or the Court.

6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator. **Nothing in this section is intended to limit the discretion of the District Court in making child custody determinations.**



1                   6.4. In the event either child wishes to permanently modify the regular  
2                   custodial schedule beyond the scope of this provision once that child reaches 14 years  
3                   of age, she may address this matter with the therapist or Parenting Coordinator, or either  
4                   party may address this issue with the Parenting Coordinator. If the parties cannot agree,  
5                   the Court shall consider the children's wishes pursuant to NRS 125.480(4)(a).

6           5.       The emboldened language was specific material language that I bargained for on my  
7           client's behalf. I advised my client that these emboldened provisions were critical to the teenage  
8           discretion provision and to safeguard the children from parental manipulation and abuse.

9           6.       It is evident the bargained-for material provision prohibiting either parent from  
10           prompting or suggesting adjustments has been violated by Vivian Harrison. Ms. Harrison's  
11           manipulation and prompting of Brooke has undermined the entire Paragraph 6, as it was never intended  
12           that a child's wishes to modify the weekly custody schedule would originate with and be prompted by  
13           either parent. It also was never intended to empower a 14-year-old child to order her parent as Brooke  
14           has done and is continuing to do.

15           7.       The manner in which opposing counsel and Ms. Harrison have chosen to interpret this  
16           teenage discretion provision (despite the Court's admonitions to the parties regarding the limited scope  
17           thereof) demonstrates that the intent of that provision has been undermined and has been used to  
18           prejudice Kirk Harrison. Given that, it is strongly suggested that paragraph 6 of the Stipulation and  
19           Order Resolving Parent/Child Issues, entered July 11, 2012, should be stricken by this court..

20           8.       Kirk had never seen a teenage discretion provision before and did not know what it was.  
21           When he read it he expressed concern. I assured him with the changes I ultimately had made, it did not  
22           provide anything differently than the law otherwise provides. Kirk questioned if that was the case, then  
23           why was the provision necessary. I told him it was because Vivian was aware of teenage discretion and  
24           Mr. Smith said he had to have it in the agreement to satisfy his client.


25           9.       I have read Mr. Silverman's affidavit wherein he wrote, "Mr. Harrison must know that  
26           the 'teen' exception in the custody agreement will be exploited by the girls and it is Vivian who will  
27           have de facto primary custody."  
28           ...

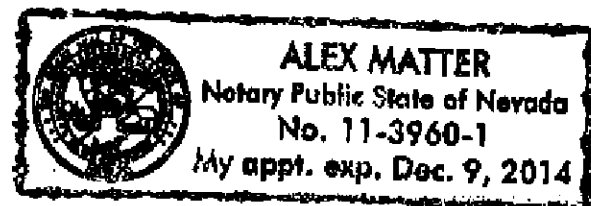
10. Although I did negotiate the teenage discretion provision with Mr. Smith, I certainly did not expect or anticipate what Mr. Silverman claims Mr. Harrison "must" have known. As written, it was my interpretation of the provision that after the age of 14 years, the child could make a request. It was never my understanding under this provision that a child could order a parent to make a change to the weekly schedule and the parent had to obey without question or discussion, and it would be irrelevant what prior plans have been made or whether, under the circumstances, it would be harmful to the younger sibling.

FURTHER AFFLIANT SAYETH NAUGHT.

  
THOMAS J. STANDISH, ESQ.

SUBSCRIBED and SWORN to before me  
this 21<sup>st</sup> day of April, 2014.

  
NOTARY PUBLIC in and for said  
County and State



## **EXHIBIT 3**

BOARD CERTIFIED SPECIALIST IN  
• CHILD AND ADOLESCENT  
• ADULT PSYCHIATRY  
CONSULTATION  
FORENSIC AND INDEPENDENT  
MEDICAL EVALUATIONS

## Norton A. Roitman, MD, DFAPA

Distinguished Fellow of the  
American Psychiatric Association

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January 14, 2014

Kirk Ross Harrison v. Vivian Marie Lee Harrison  
CASE NO.: D-I 1-443611-D

I was asked by Mr. Harrison's attorneys to review the documents listed below and prepare a reasoned opinion about the matter at hand (teenage discretion), with emphasis on the facts, allegations and circumstances of his children, Brooke Harrison (DOB June 26, 1999-age 14) and Rylee Harrison (DOB January 24, 2003-age 10).

The primary issue in the documents provided is whether the fourteen year old should be granted the ability to request, or the ability to *decide* changes to the weekly custody schedule. It is my understanding that the court has not yet ruled on this issue. For the purpose of my analysis I was asked to assume that, under this provision, the fourteen year old becomes the decider and is granted the authority to order her parent to make custody changes, regardless of the wisdom or judgment underlying her choices.

If the fourteen year old is given the role of decider, the court grants her the unnatural power to order her parents, escape responsibility and avoid chores, tasks and other familial responsibilities. It also puts her in a position to impress upon the younger child the powerlessness of her parents because it establishes her in a position above her parents by turning the family unit upside down.

### Documents reviewed

1. Plaintiffs Motion to Modify Order Resolving Parent/Child Issues and For Other Equitable Relief (filed 10.1.13)
  2. Defendant's Opposition to Plaintiff's Motion To Modify Order Resolving Parent-Child Issues [To Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions To Resolve Parent/Child Issues, To Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's fees and Sanctions (filed 10.16.13)
  3. Plaintiffs Reply in Support of Plaintiffs Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief and Plaintiffs Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions (filed 10.23.13)
  4. Plaintiffs (sic) [DEFENDANT'S] Reply to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions (filed 10.28.13)
  5. Order denying both Plaintiffs motion and Defendant's countermotion (filed 12.17.13)
- 
1. Plaintiffs Motion for a Judicial Determination of the Teenage Discretion Provision (filed 11.18.13)
  2. Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees (filed 12.6.13)

3. Plaintiffs Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision and Plaintiffs Opposition to Defendant's Countermotion for Attorney's Fees (filed 12.13.13)

4.

Discussion

The issue of parity and quality of parenting

Much of the material in the motions and counter claims reads as a contest between the parenting parties competing for the parent of the year award. This is an unfortunate artifact of the adversarial process which demands the presentation of evidence and, to some degree, the denigration of the adverse party. While conflict is natural in court proceedings, in therapeutic settings it is discouraged.

In family therapies, each parent is valued and makes a contribution, regardless of who is better at any given function. It doesn't matter if one or the other is better at shopping, running the majority of errands, or picking up the kids at school. Their roles need not be identical, and it is not possible to quantify their contributions.

One parent may perform the most tasks but does so with a lack of empathy or coldness that is not so helpful as the quality of the other parent's relationship. The relative frequency of tasks and contact is not the determining factor in the emotional growth and well being of children. Caring as an emotional communication has impact regardless of the amount of time spent in driving, buying and watching. Unfortunately, the word "care" has both connotations, loving and doing and in adjudication, it can be confused.

Regardless of the strengths and weaknesses of any parent, the functionality of the parental unit is the critical issue. In both intact and divorced families, parental harmony does not have to do with equality. There are wonderful parental environments in which each party makes loving contributions even if one parent travels for work and the other attends to 95% of the care giving tasks.

Sharing parental responsibility is not defined by matching duties and time spent 50-50. Quality parenting is related to how parents compliment each other and through sharing, compensate for each other's weaknesses. The inevitable faults of one party can't be highlighted in the service of the parental contest without detriment to the children's best interests. In natural families, there are conflicts and differences of opinions. With court oversight there is a tendency to emphasize, instead of work through differences. The tendency for one parent to offer constructive assistance is undermined when there are motions and score keeping, which is also not best for children.

Court responsibility to foster cooperative parental relationships despite adversarial pressures

Even though divorce leads to separated households, children need to feel the intactness of the family. At every instance where decisions must be adjudicated, this factor of fostering harmony needs to be considered since harmony is the nature of "Best Interest" advocacy, the province of the judge. Since the adverse parties are not inclined to make the best interest arguments, except as they interpret it from their position, the judge's responsibility is to accept their oversight of the entire divorcing family unit and the ultimate outcome from the empathic perspective of the children. If not the court might as well relinquish the principle of best interests since it becomes only a catch phrase and a ruse. Ultimately the court has the responsibility that the children's best interests are met.

In this regard, to enable the family to achieve its natural balance in the aftermath of divorce, there needs to be minimal third party intermediaries to inject their various values into the family scheme once the asset and custody separation is enacted. Successful families, whether divorced or not, cannot be continuously subjected to the scrutiny of adverse party claims and counter claims without promoting blame and deterioration of the nest-like feeling children need for their own psychological wellbeing and positive models for their own families once they get older. As soon as possible, after the family separation and breach, the system needs to be encouraged to heal to it's best potential. The only complaints that involve matters that are critical to the well being of the children should reopen the deliberation, and then limited to the least possible intervention. Like a wound in the process of healing, it should not be unnecessarily disrupted.

It is unfortunate when the differences between parents require court interventions. When chronic disharmony or dissemblance of the necessary conditions for adequate child development requires this, it's important for the court to make decisions to revisit the formula it came up with in the first place. The dominant best interest of the children principle should guide whether to disturb the new family system, and not to be distracted by the parental contest, no matter how compelling they seem on the surface. Both parties are injured and it is inevitable they will continue to revisit the divorce, and perhaps frame their fight by referencing the children. On closer look, the origin of the complaint is often obviously not that the child is having a problem so much as the parent is having difficulty parenting under the new split. It takes time to develop new patterns as a single parent and to withstand the absence of children who once filled the house. But loneliness, worry and a sense of abandonment is the fault of the failed marriage, not the former spouse or their parenting.

The decision to reopen the family wound must be decided by the court's estimation of the ultimate effect the matter and the perpetuating dispute will have on the children's growth and development in the long run. Some of the complaints that arise are inevitably due to the consequences of the divorce itself. How couldn't there be problems due to the failed marriage itself and the resulting changes in routines and households? Some complaints are due to this, reframed, often unconsciously as problems with the other's parenting. The court is wise to consider that what is on the surface, manifest in the complaint may not be what is underneath. The dissatisfaction with the divorced lifestyle can cause distress and a search for complaints to legitimize more motions, the most potent being allegations of parental inadequacy or abuse.

Since there is a certain amount of inevitable dissatisfaction that comes after divorce, it behooves the court to discern what are significant complaints in the direct effect on the children. Divorce does not produce monster parents, and what had been safe enough exposure to a married parent can't be converted to unsafe just because the parenting alliance was broken apart. There are always child risks to parents arguing, and the potential benefits should be weighed against more fighting.

It would be better for the court to guide parents toward approaches that foster resolution instead of adversarial attacks during the divorce aftermath. Both parents should be guided to find ways forward to work with each other, even though the divorce itself may have hurt their feelings even more. This is in the best interests of the children, since their parents should be able to go to graduations, awards, sports events, and other child centered hallmarks as soon as possible after the separation. The ability

accept the imperfections of the co-parent rather than picking the brittle union apart about where and how they shop and other trivialities.

There is an emotional cost to every debate, whether the children are privy to it or not. Parents can't make, or keep certain commitments to their children when everything is put up in the air again. The effect of proceedings that necessitate re-confrontation with the unwanted former spouse has on time, financial expense, mental tormented, stress, attitude, fatigue, and unsettled mindset of parents can't be shielded from the children, even if none of the facts are discussed. A new battle has to be worth it to the children, not the parents, since more family pain and debate throw the children's new conditions up in the air, yet again.

#### The issue of teenagers' custody preference

##### Cost versus benefit to open this matter in the first place

In this matter, the court is being asked to rule on the preferences of a fourteen year old and granting her a power over her parents, and therefore control over her entire family. The court is in the position to decide to what degree a teenager's wishes should determine her regulations. I have been asked by Mr. Harrison's attorneys to offer my opinion about his duty when his daughter wants to go over to her mother's house. Brooke thinks she should be get what she wants on demand and her mother agrees. Mr. Harrison would like to reinforce his concept of family unity despite his daughter's desires, a normal and necessary function of a responsible parent.

The first consideration is whether this matter holds the weight necessary to reopen the fighting. As discussed above, does this issue benefit the children enough to restart a battle? How positive will the outcome be to decide to change the way this divorced family has been operating since the dust settled? What are the unforeseen consequences? Will this issue of low significance lead to issues of higher significance in relationship to psychological impacts once this precedent is set? The court must decide if this matter is of sufficient weight before removing the bandage and letting the parties pick at the scab. Is this matter worth it to risk restarting this particularly disruptive conflict?

##### The domain of the court versus parental traditions and culture

Pertaining to the content of the teenager discretion issue and its consequence, the decision relates to the tricky issue of structured versus laissez-faire parenting. By empowering a teenager, the court imposes it's values and in so doing it determines how this family will work, despite the familial and religious traditions and family culture.

The decision about how much control a child has over their lives and future is poised against how much parents should. Although on the surface the teenager discretion seems to be just about custody time, underneath it effects the organizational structure of both families.

##### Changing developmental needs

A young child must be told what to do, when and how. The older the child gets the more important it is to gradually lessen their structure and let them exercise their own judgment, witness the consequences of their decisions and prepare them in this manner to eventually assume responsible control over their own lives. Chronological age is not the key factor since it only measure physical

maturity, and even then there is wide variance. The slow transition from child to independent young adult must be individualized. Their capacities across a range of opportunities and responsibilities needs to be observed over time to get an accurate sense of how much they can handle, and what they can't. There needs to be discussion, correction and guidance in conversations about successes, and failings. The better judgment a young person demonstrates, with proper preparation, the more latitude they should be given. They should never be given so much say-so that they could ruin their lives.

A fourteen child is in the in between years. While they are more apt to express what they want and don't want, many are still no more capable of making informed and reasonable decisions than when they were younger. At this age they are likely driven by pubescent impulses and passions. Sometimes in teenage years the level of responsibility and forethought the child had earlier goes down. They are under the influence of their generation's culture and are exposed to peers from diverse family systems and neighborhoods. They are pulled and tugged by their bodies, their friends and the demands of their other activities. Temptations and fear abound.

#### Context of teenage discretion in this matter in particular and in divorce cases in general

In the matter before the court, along with the above considerations, this fourteen year old may be allowed to disrupt her family system. Even in the best of circumstances, the court giving the adolescent decision-making power over the family system of questionable psychological benefit. In the case of this family in particular, her choices are being made in the throes of constant parental dysfunction and allegations of unhealthy influence. The ruling will effect the parental authority not just regarding this matter of time spent, but to all other issues for the next four years, since the adolescent has basically veto power. It set up the conditions in which the winning parent will be the indulgent parent and in this way, the youth escapes accountability. There are no redos when it comes to child development and mistakes are irreversible. Only in delinquency, dependency and divorce is the state, through the court, given parental override.

The willingness of the court to reenter into the fray of custody and it's implications is questionable from a child psychiatric perspective. Authorizing a non-adult with a vested interest in their own pleasure can intoxicate them with power by undermining the relationship with family authority. Children need their parents, not a court to chose winners and losers except where the child's health issue is critical and the differences between parents are detrimental and truly irreconcilable. A narrow participation is preferable to a global dictum, such is the case with the teenager discretion ruling.

#### Courts are unlikely to properly substitute for parents in teenage custody discretion and other matters

Instead of promoting the re-empowerment of the child's parental environment after a tumultuous divorce, inserting the adolescent as the controlling party is an error. To do so is serious and ill advised from a psychiatric perspective. Placing the adolescent in the position of deciding when she is going to be with whom, even within an intact, functional family is a bad idea. The teen should be granted increasing levels of authority in a step by step fashion so their expanding independence is supervised. At first they should not be given so much latitude that they can make irreversible mistakes. Healthy families don't allow the child to go with one or another parent on impulse, just because they might be angry, or for some adolescent reason that don't make sense to the family as a whole. A preference is



often expressed and encouraged on certain matters, but not on all. There are often nonnegotiable decisions, such as education and health, some that are discretionary, such as style (within reason) and menu choices, and others that are in the in between area in which their judgment is under development, such as driving, curfew and career choice. Each family decides which decisions belong in which category.

In the developmental domain, the teenager's preferences should be expressed, but it is the parents who make the plans. It is critical for the child's well being to know they are not the boss of everyone, since they are not yet ready. Anxieties often accompany premature authority.

**Adversarial positioning is not the best interests of children**

Also, in successful families, the child is expected, by both parents, to respect each parent, even if there are disagreements. Psychological structures form in the mind that have implications on self image and future relationships. How many times have counselors heard clients and patients refer to their parents as the determining factor in their current habits and attitudes in their own relationships and their approach to their own children. Human development requires a period of time during which offspring depend on parents to hold opinions, set limits and grapple with differences. What follows this psychological incubation is a gradual relinquishment of parental authority when each individual child becomes ready.

Parents disgracing and fostering doubt towards the other, treating the other with negativity, competing for the children's attention and affection by using their parental authority to satisfy their personal needs causes families to fail, and often leads to the beginning of therapy.

Referring the parents to a court authorized psychologist who is granted decision making powers by proxy instead of the mission to repair the family's faulty controls is very serious and should only be enacted after it is apparent that there is a serious hopeless inadequacy and only after repeated efforts to conduct parents into a functional parenting unit, working out methods and communication, and establishing common ground and interests.

When there is no hope of basic harmony enough to function as a unit, which is an inarguable child best interest position, only then should the court act in ways that amounts to parental substitution, but even then, should not presume it knows what the adolescent is capable for doing from an interview or a letter. The skill to present oneself in a positive and assertive light does not mean the party has responsibility. The definition of character is what a person does when no one is watching, and the Diagnostic Statistical Manual of the American Psychiatric Association, current edition (DSM 5) does not grant the possibility of full character development until a person is eighteen years old.

When the court has no choice other than to assume parental responsibility, to avoid becoming the source of further psychological injury to the children, it needs to conduct itself in manner and tone so as not to further separate parenting parties or to foster, reward or encourage difference. It needs to be focused on the health and wellbeing of the children's family system, which is the life support for them until they are able to make choices.

Unintended consequences of court authorization of teenage discretion  
Arbitrary powers

Before the court erodes parental authority, there needs to be sufficient justification, which, in this case, there isn't. Granting parental authority to a fourteen year old sends a message to the youth that what she is doing, how she is feeling, and what she is thinking at fourteen, has reached the age of majority in these matters, and her personal conduct, whether seriously deliberated or not, is sanctioned. This partial parentification opens the door for radical decisions once the novelty and anxiety of her power wears off. This can happen because it supports a false notion of what the child decides is equivalent to adult judgment and power. This risk intensifies unhealthy adolescent entitlement which is already a problem with this age group. Teenage rebellion, opposition, all or none thinking, and a confusion between desire and judgment is prominent. It gives the child the right to tell the parent, "Take me to the other household right now. Why? Because I say so." Giving permission for everything elaborates the narcissistic tendencies older children need to grow out of by the time they are adults.

Interferes with self discipline and frustration tolerance

The most critical developmental task of adolescence is practicing and perfecting self discipline, which is always at the expense of desires. If a person does what they should do, there is no need for any kind of discipline. Commitment is taught and does not arise automatically. It comes from experiencing the benefits of sticking with something a person does not want to do.

Frustrating the deleterious tendencies of teenagers is the most difficult and important parental skill. Counselors tell parents that they can't be their friend, which means they can't please their children and should not compromise what is necessary for their children's health and psychological well being. At first glance stating that parents are supposed to frustrate their children may sound counter intuitive and unloving. On the other hand since everyone can't have what they want outside the family either, it is best for the children to be told, "No," by someone they know loves them. The alternative to frustration is indulgence. Spoiling a child or always giving them what they want which doesn't promote the decision making capacity young adults must have to achieve in college and live independently.

Repeated Indulgence and inability to tolerate frustration is associated with self destructive behaviors later in life. If a child doesn't learn what their frustration feels like and how to cope with it, they don't learn to deal with urgency, despair or inner distress. Since the template of their experience is fixated in their early years, they have an unchecked visceral sense that all authorities, like their parents before them, are supposed to serve them for their gratification. Working independently in school or taking supervision at work is more difficult when an 18 year old feels that the social contract is that others are there to fill their needs.

Inability to tolerate frustration is seen in young adults with substance abuse and addiction, immaturity in relationships, antisocial conduct, psychosomatic symptoms, attitudinal problems, promiscuity and delinquency. If not properly shaped within the family, the urgency of emotions is intense and often intolerable. The young adult can't stand not getting what they want, have no psychological strategies to delay gratification, and can't develop long term plans to achieve happiness that comes from work

and planning. Without practice and rehearsing the effort it takes to resist gratification, when faced with the requirement to sustained effort, they seek the kind of instant gratification that comes with drugs, sex, fantasy and impulsive behavior.

**Misplaced and inappropriate authority and its affect on family dynamics and sibling well being**

A developing adolescent needs to be given discretion over some decisions to foster independence, but it is irresponsible to give to them the key to determine how her family works, the power to reject parents, replace them, set into motion a contest to see who is more apt to grant her wishes, reduce her responsibilities and punish and reward the one who does not frustrate her. The decision of where she is when, subverts the effort and expense of determining the custody arrangement already deliberated with her override, backed by full force and authority of a judge.

The authorization to write and change the custody arrangement on demand is deeply entrenched in, how the family works, and therefore on the family experience of her younger sister. Already in turmoil due to the long standing disturbances between parents sustained and serious enough to decide to end the marriage, the exacerbation of the conflict in the conduct of the separation and divorce, the impact of the changes in households and time with parents, the younger child now sees her sister being able to control parents by coming and going on a whim. A fourteen year old is not expected to see her role in the life of the sister, especially since very few teenagers have empathy towards their younger siblings.

It is not uncommon for teens in intact families to want to leave their little brothers and sisters and wish they had an alternative place to go. The sibship, though, is effected by these escapes and may take an entirely different course for the rest of their lives. Values in dependency court have turned toward preserving sibling groups. The teenage discretion allowance is 180 degrees opposed to this principle. The stress of giving the responsibility for the bond with her little sister and the impact on their future relationship should not be given, but imposed. The family unit should be not taken for granted and not be continuously up to negotiations with the teenager making the final decision. Later in life both sisters could regret that the younger one was left behind feeling like a loser, rejected and powerless.

While the teenager thinks she is just going over to the other parent's house, and it is no big deal, she has no experience making decisions about what is best for her in the long run, the effect on her sister, or how a family should work. The teenage discretion provision inevitably can negatively affect the younger daughter who does not have this 'right,' but may, as seeing it implemented, long to get it. In her mind she can feel less than the other child. She sees a parent rejected, perhaps in the middle of an argument, demand a ride. She can see disrespect for parental authority and their powerlessness. She can be left by her sister at the drop of a hat and can't depend on long time periods with both families. Modeling on her sister she is encouraged to accept that momentary emotions, temptations and enticements are the basis for decision making. It is never a good idea to allow the teen to abandon the sister or a parent in the middle of a dispute. They need to work out differences and reestablish their bond, and accept the results whether with a sibling or a parent.

Allowing the adolescent discretion over her stay not only rewards impulsivity, it gives her the power to control her parents. Although currently she expresses her wish to be with her mother, in the future she may reverse this, especially as she gets older and has even more of a mind of her own. Her mother may regret this. It also sets the situation of parental rejection, causing the child to chose to leave in an argument.

#### Choosing parental messages

In this situation, the fourteen year old tried to avoid having her father being present during parent observation of a dance class in which the child thought the dancing was provocative. Her efforts were rewarded by the other parent. His daughter was anxious about what he would think, and her mother helped her dismiss her father's input. The approach to the child's best interest would be to preserve her father's role and participation in her life. Regardless of the unpleasantness, every child needs to hear from the opposite sex parent about certain matters such a social appropriateness. The other parent should not colluded with the child's tendency to bypass her father's opinion and guidance. The more he is discounted, the less his credibility, and a girl will go to other males to reflect their sexuality. Divorce problems should be mitigated by the court, not exacerbated. Permitting a child to avoid the moral guidance of either parent is not a best interest outcome. Both parents, whether the child likes it or not, needs to be constructive in the child's developing morality and religion.

Differences between the parents in this and other matters need to be heard in order for the teen to receive the benefit of having two parents, especially if they are not identical. Psychological research shows that sexual identity is often determined by the regard and attitude of the opposite sex parent in combination with the modeling of the other. Since this is in the process of being set, father should not be discounted. How many teens ask to be restricted and advised in more conservative ways? If they can reject his guidance on this matter, they can erase the other parent and leave themselves open to temptation, indulgence and unhealthy freedoms. This situation allows for the other parent to loosen their morals to get the child to be with them, creating a race to the bottom. A teen can be allowed to threaten, reward and punish parents with her decisions, turning parental authority upside down. It can result in parents feeling lonely for their daughter, or acting on behalf of the other child, to contemplate how to entice their daughter.

#### Interference with the repair of the emotional breach caused by the divorce

Instead of preparing divorced parents for the more difficult tasks ahead, sanctioning the momentary decisions of an older child can inflame continuous competition, rejection and resentment that the parents should be helped to go beyond. At some point every party needs a new set of unchanging circumstances if they are going to feel resolve. Instead this provision put everything in flux and does not allow anything to be taken for granted. Although proposed as a remedy, encouraging the child to take part in the court proceedings by expressing her wishes to the court encourages a third party to try to influence the court, further complicating the lines of authority and deliberation, especially as she gets older and more sophisticated.

Not allowing an issue to close, especially that as sensitive to the family system as custody, perpetuates the contest between parents who can use this as an opening to act out the inevitable anger and disappointment that comes with compromise.

Children both need time to know and learn from each parent. It is also important for children to witness their parents having their own problems. Children need to see how their parents deal with problems and rectify mistakes, and sometimes apologize. If allowed to escape every time they are upset, the child is more likely to leave instead of address inevitable issues in their future relationships.

#### Fluctuating terms of visitation and custody and ill effects on character development

Although underappreciated, the terms of a visit home is important. In so many ways life experiences are segmented into minutes, hours and days. Greetings, welcomes, adjustments and sustained periods are the nature of home, school and times with friends and family. Every experience has a beginning, middle and end. Children especially should be able to anticipate a visit and mentally and in other ways prepare themselves, their things, greet and adjust. Near the end of a stay, children start to transition and say their goodbyes. When parents are well coordinated they facilitate the children's routines.

After the transition, a certain amount of time is needed for the family to form and function before preparing for the next transition. Without regularity the child can internalize a sense of chaos, often experienced as anxiety. Humans relate to each other through these units of time and to some degree, everyone goes through the three stages of experiences, and find it disruptive when there are sudden changes. Well constructed separations are vital experiences. The good byes are as important as the visit and the greeting, all part of what help people become civil and graceful. This is especially challenging with many adolescents who fall so deeply into one or another experience in a moment, distracted by media and devices, they depend on the adults to construct and maintain the structure of their lives. When they can't immediately get what they want they learn the importance of planning and priorities. While they go in and out, they need the parents and adults to reinforce the hellos, stays and goodbyes, helping them in nonverbal ways to incorporate what relationships are about and how they are facilitated. When a child is permitted to leave on demand the regularity is disrupted. Experience can become disorderly, hasty and confused, triggered in an instant from a variety of sources, not always within the family system. It is not unusual for a teenager to become irritated and seek some relief. When they have the power to require their parent to drive them to the other parent, when they feel powerless for any reason they can resort to this remedy.

#### Long term psychological impacts on teenagers manifesting when they become adults

Another psychological consideration in the matter of teenage discretion release from parenting on demand policy is the after effect of guilt the child can experience later in life. She may realize when she is older, after the negative energy of the divorce and earlier conflict laden childhood dissipates, that she doesn't really know her father. Once they are more experienced with their own lives and meet more people, they come to realize that they had a perfectly good father who they never got to know well because they were given the authority to reject him. She could wonder why she was given this decision to undermine their relationship. Often in therapy, adults talk about how being spoiled in childhood was a handicap.

Getting what they wanted didn't help them develop their skills. They regret that they were given the parent role instead of the healthy constructive limits they needed at a critical juncture of their childhood. They feel a special kind of regret when they feel like they are missing the ability to work

things out with their partners, spouses or deal with their own children because the program they needed was never installed. Tolerance, forbearance, patience, communication and forgiveness are part of any successful relationship. Indulgence is often at the expense of growth.

#### Interference with preparation for the future

Hopefully resolve will allow each parent to pick up the pieces of their family and stop looking for faults that undermine the other parent's rights. Accepting the divorce on a profound psychological level and living out the inevitability that the family will have to live out the aftermath of a failed marriage stops claims and counter claims that makes the divorced situation much worse. The sooner acceptance and resolve can occur the more likely a functional divorced family system will develop, instead of moving the goal posts and rules all the time.

Sometimes with therapeutic assistance, divorced parents can look forward to prepare for unavoidable sharing, family celebrations, weddings, graduations, the birth of grandchildren and grand parenting in a way that gives their children and their grandchildren an example of success, instead of perpetuating failure and dysfunction that can continue through the generations.

Giving an adolescent, even a mature one, the ability to continually split the parents who then register and record complaints will not help them develop the vision of how to work everything out for the sake of the children and their children and in laws. While some sharing means taking turns, there is sharing that must be done together. Grace and experiences of good coordination is most likely to create the positive future, and allow the children to concentrate on themselves and their lives, instead of being distracted by the issues and complaints of their parents.

#### Principles of adjustment and interference of court interventions after divorce

Although it is referenced repeatedly as a guiding principle, children's happiness is not the goal of parenting. Developing sound, resourceful and responsible adults is the purpose of parents and family so one day they can make themselves happy with sound choices and intelligent conduct. When making a child happy today interferes with happiness tomorrow, a wise parent's choice should be for tomorrow, even if they have to witness some tears and some anger. When the court is directing the parents, they should consider the same.

Child rearing needs to instill sustaining nutritional traits while happiness is fleeting and is difficult to discern from pleasure. In many ways it is the job of children and teenagers to seeking happiness and pleasure, while parents guide them and deal with unhappiness so that they can do the right thing without so much distress and invest their efforts to a positive future. The end of childhood should be the emergence of functional adults, not just indulgent memories and the sense that the best time in their lives is over.

#### Unobvious motivations for teenage discretion contrary to child's best interest principle

Although a teenager's request to go to the other parents house seems simple on the surface, it is actually a demand, with the power of the court behind them. They establish when and where a law is to be enacted, and can cause their parent to be in violation. They are then reporters to authority on the wrong doing of their parent, just because a parent wants the family to get through an unpleasant

dinner or a family dispute. Beneath the surface of the teenage discretion principle is a practice that is fraught with psychological challenges, not all of which are always immediately obvious. As an example, often children are under the control of the most expressive, most fragile parent because they feel they are the source of the parent's happiness and pain. The other parent, they sense, will be okay without them. The more intact and forgiving parent is easier to hurt.

The most intense parent can dominate a child's mind as they become preoccupied with anticipating the impact their decisions have on the more angry, volatile or unstable parent. Over focus on the intense and emotional parent set up sacrifices the child's emotional growth. A court making its decisions based on what a child says she wants may make this situation worse. The judicial process doesn't lend itself to the nuances of this sort. Regardless of instant preferences, a reasonable budget of time with each parent so she can remain close with both and benefit from their parental contributions is less apt to make mistakes than giving the process over to emotions.

Psychoanalysts discuss keeping a lid on the pot to let it simmer to produce a great tasting meal. They use this as an analogy to a family since it is necessary for them to have problems and find ways to work them out. Children are not always willing be properly parented. Many have to be held back from poor choices ranging from diets, tattoos and piercings and social activities. Teenagers are normally rebellious and often view parents as unreasonable and unnecessarily strict. Giving them the latitude to escape a parent's limits does not permit the youth's character to mature and deepen because the lid can be removed from the pot whenever it becomes uncomfortable. Skittish impulsivity should not be supported. Commitment should be encouraged. This guidance distinguishes a child's wishes from their best interests.

It is not in the best interests of teenagers to be given the authority to decide when and where to spend time with their parents, especially when they are undergoing such tremendous changes themselves. Once they are young adults, they are allowed to drive, drink alcohol, vote, incur debt and enter into contracts, live alone and make the decision about who to visit and when. There is no scenario I can imagine in which giving children the right to direct their parents over matters as important as custody and visits not only because it allows for escape from being parented, but because of the wide implications of the dissolution of parental authority and the adjustments the entire family undergoes as a result.

This grant is especially egregious when a younger child is exposed to the unsound and narrow decision making of an older sibling. The sister can see an older sister be self absorbed, reward and punish parents, indulging her momentary feelings, and the chaos that results when children are allowed to parent their parents.

#### Conclusion

In the best case scenario teenage discretion over custody on demand is ill advised and poor parenting. In the worst case, it is deeply damaging. It is impossible to predict based on the status of a fourteen year old because once implemented and enforced, all parties can be changed by this to the deficit of all parties.

Psychiatric opinion regarding teenage discretion-custody  
January 14, 2014  
Pertaining to Kirk Ross Harrison v. Vivian Marie Lee Harrison  
CASE NO.: D-I 1-443611-D  
Page 13 of 13

Unless the situation is extreme, the court should not override its own deliberated custody arrangements by giving the youth, who can at this age be moody and inconsistent, a blank check to do whatever they want. When the situation is so bad, the court should determine the custody arrangement based on the knowledge and wisdom derived from the judicial process. On face value it is only custody, but the impact of what amounts to a get-out-of-the-house-free card is a court sanctioned runaway and negatively compromises the entire parenting scheme. I can't envision any scenario where it would be in the best interest of a teenager to be able to order a parent to modify their custody schedule. This is especially true when younger siblings are affected by those decisions.



Norton A. Roitman, MD

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Board Certified in Developmental and General Psychiatry  
Clinical Professor of Psychiatry and Pediatrics  
University of Nevada School of Medicine  
Distinguished Fellow of the American Psychiatric Association

*Qualification: The above report was developed from materials sent by the referring party only, there were no examinations of the parties involved. These opinions are offered based on the understanding of the issue gained from the review of records. This report does not constitute the start of treatment. The materials sent by Mr. Harrison and this report are the only documents in the file held by this office for this aspect of expert consultation to Mr. Harrison. Additional discovery could lead to a reconsideration of these findings.*



## **EXHIBIT 4**

1 **ORDR**

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17 10091 Park Run Drive, Suite 110

18 Las Vegas, NV 89145

19 (702) 823-4900

20 (702) 823-4488 (Fax)

21 Attorneys for Plaintiff

22 DISTRICT COURT

23 CLARK COUNTY, NEVADA

24 KIRK ROSS HARRISON,

25 Plaintiff,

26 vs.

27 VIVIAN MARIE LEE HARRISON,

28 Defendant.

CASE NO.: D-11-443611

DEPT NO.: Q

Date of Hearing: N/A

Time of Hearing: N/A

29 **ORDER FOR APPOINTMENT OF PARENTING COORDINATOR**

30 The Court having considered all of the pleadings on file herein, and good cause appearing, does  
31 hereby Order the appointment of a Parenting Coordinator under the following terms and conditions:

32 ...

33 ...

34 ...

1 **1.0 AUTHORITY OF PARENTING COORDINATOR**

2 1.1 This Court is not and shall not delegate any judicial authority to a Parenting Coordinator  
3 in this matter. This or any subsequent appointment of a Parenting Coordinator is not made pursuant to  
4 NRCP 53(a) and is not intended to be a delegation of judicial authority pursuant to said Rule.

5 1.2 Notwithstanding anything elsewhere contained in this Order, the Parenting Coordinator,  
6 upon the request of one or both parties, shall have the authority to make non-binding recommendations  
7 to the parties concerning custody matters and, upon the mutual assent of the parties, informally mediate  
8 custody matters with the parties. The Parenting Coordinator shall have no authority whatsoever to  
9 make binding decisions which affect the parties custody of their children.

10 1.3 In the event either party believes it to be in the best interest of the children or either one  
11 of the children, that party may, at any time, seek an order from this Court regarding a custody issue or  
12 issues, irrespective of whether the Parenting Coordinator has not addressed the issue, is presently  
13 addressing the issue, or has already addressed the issue.

14 1.4 In the event this Court addresses a custody issue or issues previously addressed by the  
15 Parenting Coordinator, this Court's analysis and determination shall be *de novo* and shall not give any  
16 deference whatsoever to any recommendation or recommendations previously made by the Parenting  
17 Coordinator.

18 1.5 The Parenting Coordinator is a neutral jointly retained to assist the parties to mutually  
19 and expeditiously resolve custody issues by making non-binding recommendations to the parties, and  
20 when the parties first agree, to informally mediate custody disputes. As a neutral in an advisory  
21 capacity, the Parenting Coordinator will not provide testimony or any written reports to the Court.

22 1.6 The Parenting Coordinator may make non-binding recommendations, upon a request by  
23 a party or both parties, concerning disputes regarding the implementation of the parenting plan, the  
24 schedule, or parenting issues.

25 1.7 The Parenting Coordinator may make non-binding recommendations, upon a request by  
26 a party or both parties, concerning the implementation of the parenting plan, including, but not limited  
27 to, issues such as:  
28

- (a) transitions/exchanges of the child including date, time, place, means of transportation and transporter;
- (b) holiday sharing;
- (c) summer or track break vacation sharing and scheduling;
- (d) communication between the parents;
- (e) health care management issues, including choice of medical providers and payment of unreimbursed medical expenses (including dental, orthodontic, psychological, psychiatric or vision care), pursuant to the Court's order for payment of said expenses;
- (f) education or day care including but not limited to, school choice, tutoring, summer school, and participation in special education testing and programs;
- (g) child's participation in religious observances and religious education;
- (h) child's participation in extracurricular activities, including camps and jobs;
- (i) child's travel and passport issues;
- (j) purchase and sharing of child's clothing, equipment and personal possessions, including possession and transporting of same between households;
- (k) child's appearance and/or alteration of child's appearance, including haircuts, tattoos, ear, face or body piercing;
- (l) communication between the parents including telephone, fax, e-mail, notes in backpacks, etc. as well as communication by a parent with the child including telephone, cell phone, pager, fax, and e-mail when the child is not in that parent's care;
- (m) contact with significant other(s) and/ or extended families.

**2.0 PROCEDURES AND RELATED REQUIREMENTS**

2.1 All written communications by a party to the Parenting Coordinator shall be copied or provided to the other party, concurrently.

2.2 In the event it is reasonably deemed necessary by the Parenting Coordinator, after a request for a non-binding recommendation by one or both parties, the parties and the Parenting

1 Coordinator shall each use their respective best efforts to schedule a meeting and/or appointment with  
2 the Parenting Coordinator. The Parenting Coordinator shall reasonably determine in each instance  
3 whether an issue warrants an in person meeting with the parties. Telephonic conferences are encouraged  
4 when reasonably sufficient.

5 2.3 In the event both parties agree to informally mediate an issue with the Parenting  
6 Coordinator, the parties shall participate in good faith in an initial mediation/conflict resolution process  
7 with the Parenting Coordinator in an effort to resolve a dispute. Should mediation result in an  
8 agreement, the Parenting Coordinator shall prepare a simple "Agreement" on the subject for signature  
9 by each party and the Parenting Coordinator. The Parenting Coordinator shall send a copy of the  
10 Agreement to each party; the parties shall each sign the Agreement, have it notarized, and return their  
11 copy to the Parenting Coordinator within two weeks.

12 **3.0. NO PARENTING COORDINATOR CONFLICTS**

13 3.1 The Parenting Coordinator may not serve as a custody evaluator, investigator, neutral  
14 negotiator, psychotherapist, counselor, attorney or Guardian ad Litem for any party or another member  
15 of the family for whom the Parenting Coordinator is providing or has provided parenting coordination  
16 services.

17 **4.0 SCHEDULING:**

18 4.1 Each parent is responsible for contacting the Parenting Coordinator within ten days after  
19 the appointment of the Parenting Coordinator to schedule an initial meeting.

20 **5.0 EMERGENCY COMMUNICATION WITH THE COURT:**

21 5.1 Upon request, the Parenting Coordinator shall work with both parents to resolve conflicts  
22 and may make non-binding recommendations for appropriate resolution to the parties and their legal  
23 counsel. However, the Parenting Coordinator shall immediately communicate in writing with the Court  
24 without prior notice to the parties, counsel or a guardian ad litem, in the event of an emergency in  
25 which:

26 5.1.1 A party or child is anticipated to suffer or is suffering abuse, neglect, or  
27 abandonment.  
28

1 5.1.2 A party or someone acting on his or her behalf, is expected to wrongfully remove  
2 or is wrongfully removing the child from the other parent and the jurisdiction of  
3 the Court, without prior Court approval.

4 5.2 A copy of the written communication to the Court shall be submitted to Metro, CPS, and  
5 to the parties, by the Parenting Coordinator.

6 **6.0 PARENTING COORDINATOR FEES/EXPENSE SHARING**

7 6.1 Hourly fees for the services of the Parenting Coordinator shall be mutually set by the  
8 parties and the Parenting Coordinator pursuant to a written agreement, but said fees shall not exceed  
9 such fees as are customary in Southern Nevada for such services. All fees shall be advanced equally by  
10 the parties. The Court reserves jurisdiction to re-allocate said payments between the parties.

11 **7.0 APPOINTMENT**

12 7.1 \_\_\_\_\_, is hereby appointed as Parenting Coordinator in this matter  
13 under the terms and conditions set forth herein. The Parenting Coordinator's full name, title, mailing  
14 addresses and phone numbers are as follows:

15 Name: \_\_\_\_\_

16 Street Address: \_\_\_\_\_

17 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

18 Telephone #: \_\_\_\_\_ Fax # \_\_\_\_\_

19 E-mail: \_\_\_\_\_

20 **8.0 TERMS OF APPOINTMENT**

21 8.1 The Parenting Coordinator is appointed until discharged by the Court. The Parenting  
22 Coordinator may apply directly to the Court for a discharge, and shall provide the parties and counsel  
23 with notice of the application for discharge. The Court may discharge the Parenting Coordinator without  
24 a hearing.

25 8.2 Either party may move this Court at any time to discharge and/or replace any Parenting  
26 Coordinator who is appointed hereunder. The Court may discharge and/or replace the parenting  
27 coordinator upon good cause shown, or, alternatively, in the event good cause is not shown, but, in the  
28

1 sole discretion of the Court, the Court concludes it will be in the best interest of the children and/or the  
2 parties.

3 8.3 In the event that the Parenting Coordinator is discharged, the Court will furnish a copy  
4 of the Order of termination of the Parenting Coordinator to counsel.

5 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

6  
7 DISTRICT COURT JUDGE

8 Submitted by:

9 KAINEN LAW GROUP, PLLC

10  
11 By:

12 EDWARD L. KAINEN, ESQ.  
13 Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

14  
15 Approved as to form and content:

16 RADFORD J. SMITH, CHARTERED

17  
18 By:

19 RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorney for Defendant

## **EXHIBIT 5**



## **Kirk Harrison**

---

**From:** Mary Jo Nyitrai [mjnyitrai@yahoo.com]  
**Sent:** Thursday, February 20, 2014 1:09 PM  
**To:** kharrison@harrisonresolution.com; vivianlharrison@aol.com  
**Subject:** Parenting Coordination with Margaret Pickard  
**Attachments:** Welcome Letter - Parent Coordination.pdf; PC Agreement.pdf; Parenting Coordinator Consultation Form.pdf; Credit Card Authorization Form.pdf; Release\_for\_Child\_Interviews MEP.pdf; CCSD School Release - Harrison.pdf; HIPAA.pdf

Kirk and Vivian,

Our office was notified that Margaret Pickard was appointed by Judge Duckworth to serve as your Parenting Coordinator. The Court refers child custody cases for Parenting Coordination when there are ongoing issues regarding child custody. The Courts have provided Parenting Coordinator's with the judicial authority to resolve parent/child and custody/visitation issues. Margaret is an attorney, author, and educator, specializing in family mediation and high conflict custody cases. She currently serves as a Special Master/Parent Coordinator and Family Law Mediator for the Las Vegas Family Courts and provides weekly UNLV Cooperative Parenting seminars for Family Court litigants, as well as continuing legal education courses on high conflict custody for Nevada Family Court judges.

The primary goal of Parent Coordination is to provide parents with a forum for resolving child-related disputes outside of the courtroom. The responsibilities of a Parent Coordinator include providing parents with problem-solving and conflict management services, monitoring compliance with court orders, and providing parents, attorneys and the court with recommendations for new or modified parenting time provisions and/or other child related issues, as necessary.

The information attached will assist you in beginning the Parent Coordination process. Please review these documents, sign them, and send them back to our offices with a retainer of \$2,000.00 from each party. The releases will be kept on file for use if and when they are needed.

Once the client intake documents and retainer is received, we can schedule your initial consultation with Margaret.

Please feel free to contact us if you have any questions.

Regards,

--

Mary Jo Nyitrai  
Paralegal to Margaret Pickard, Esq.

## **MARGARET PICKARD PLLC**

10120 S. Eastern Avenue, Suite 140  
Henderson, Nevada 89052

(702) 595-6771 Office  
(702) 605-7321 Fax

Mediator and Parenting Coordinator  
[NevadaMediator@gmail.com](mailto:NevadaMediator@gmail.com)  
[www.MargaretPickard.com](http://www.MargaretPickard.com)

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**Mediation – Parenting Coordination**  
*NevadaMediator@gmail.com*

## ***An Overview of Parenting Coordination***

The Court refers child custody cases for Parenting Coordination when there are ongoing child related disputes. The primary goal of Parenting Coordination is to provide parents with a forum for resolving these disputes outside of the courtroom. The responsibilities of a Parenting Coordinator include monitoring compliance with court orders, resolving minor custodial issues and providing the court with recommendations on child related issues when the parents are unable to reach an agreement.

The information enclosed will assist you in beginning the Parenting Coordination process. Please review these documents, sign them, and send them back to our offices with your retainer.

### **READ CAREFULLY PRIOR TO THE INITIAL CONSULTATION**

#### **Parenting Coordination Goals**

The goal of parenting coordination is to assist the parties with the following issues:

- i. Facilitate the resolution of disputes regarding the implementation of the parenting plan, the schedule, or parenting issues, provided such resolution does not involve a substantial change to the shared parenting plan, as defined by the Court's Order.
- ii. Direct as necessary, one or both parents to utilize community resources, such as counseling, anger management, psychiatric and/or medical evaluations, etc. with the Parenting Coordinator to have access to the results of any psychological testing or other assessments of the child and/or parents.
- iii. Implement non-substantive changes to, and/or clarify, the shared parenting plan, including but not limited to issues such as:
  1. Transition/exchanges of the child including date, time, place, means of transportation and transporter;
  2. Holiday sharing;
  3. Summer or track break vacation sharing and scheduling;
  4. Communication between the parents
  5. Health care management issues, including choice of medical providers and payment of unreimbursed medical expenses, pursuant to the Court's Order for payment of said expenses;
  6. Education or daycare;

7. Child's participation in religious observances and education;
8. Child's travel and passport issues;
9. Purchase and sharing of child's clothing, equipment and personal possessions, including possession and transporting items between homes;
10. Child's appearance and/or alteration of child's appearance including haircuts, tattoos, car, face, or body piercing;
11. Communication between the parents;
12. Contact with significant others or extended families;
13. Requiring the signing of appropriate releases from each parent to provide access to confidential and privileged records, including medical, psychological or psychiatric records of a parent or child;
14. Reporting to the Court compliance with the parenting coordination process which could include recommendations to the Court about how to more effectively implement the parenting coordination process;
15. Reporting to the Court the extent of the parent's compliance with other Court orders (therapy, drug tests, child therapy, behavior orders) with or without providing a recommendation on what should be done regarding any lack of compliance;
16. Individually communicating with, and providing information to, persons involved with, or providing services to, the family members, including but not limited to, the custody evaluator, lawyers, teachers, and school officials, physical and mental health providers, grandparents, stepparents, significant others, or anyone else the Parenting Coordinator determines have a significant role in the life of the family; and
17. All additional responsibilities/authority granted pursuant to the court order.

#### **Parenting Coordinator Recommendations**

In the event an agreement cannot be reached, the Parenting Coordinator will, based upon the directives of your *Order for Appointment of Parenting Coordinator*, make a formal *Recommendation* to the Court. Prior to making a *Recommendation*, the Parenting Coordinator will notify the parties in writing that an agreement could not be reached and I will, therefore, be submitting a *Recommendation* on the issue to the judge. Once a *Recommendation* is filed, each party has 10 days to file an *Objection* to the *Recommendation* with the Court. If one party files an *Objection*, it is recommended that the other party notify the Court of his or her position with regard to the *Recommendation*. If no *Objection* is made, the Court has the authority to sign the *Recommendation* to make it a formal *Order* of the Court after 10 days have passed with no *Objection* on the record.

#### **Co-Parenting Tips**

- ***Custodial Exchanges:*** Minimize parental exchanges and exchange through school and daycare when possible.
- ***Communications:*** Limit communications to emails except for last minute exchanges or emergencies. Emails should be limited to 4 sentences (20 words per sentence) and must only (1) request information or (2) provide information.

- ***Parenting Coordinator Involvement:*** If a dispute arises which you are unable to resolve with your co-parent, please notify me by email at [MargaretPickard@aol.com](mailto:MargaretPickard@aol.com) and I will address the issue with both parties within 48 hours.
- ***Email Notification:*** All email communications sent to my office MUST be simultaneously copied to the other party; emails which are not copied to the other party will returned and not be considered by my office.

**Filing Motions with the Court**

In the event either party files a *Motion* with the Court regarding a custodial issue or any issues related to Parenting Coordination, a copy must be provided to the Parenting Coordinator. The Parenting Coordinator will review the Motion and provide a *Recommendation* or *Response* to the Court if child related issues are addressed.

**Confidentiality**

The Parenting Coordination process is transparent and there is no confidentiality between the parties and the Parenting Coordinator. This means that there is no privilege which protects the Parenting Coordinator's communications with either party. Therefore, all of written communications sent to the Parenting Coordinator must be copied, by the sender, to both parties.

*By moving forward and participating in Parenting Coordinator services with Margaret Pickard, PLLC, I acknowledge that I have read and fully understand the preceding statements and conditions of service and I have had the opportunity to discuss these provisions with my attorney.*

*Acknowledged this \_\_\_\_\_ day of February, 2014.*

\_\_\_\_\_  
Mother's Signature

\_\_\_\_\_  
Father's Signature

\_\_\_\_\_  
Mother's Printed Name

\_\_\_\_\_  
Father's Printed Name

Attachments: *Parenting Coordination Agreement*  
*Parenting Coordination Intake Forms*

# MARGARET PICKARD | PLLC

10120 S. Eastern Avenue, Suite 200  
Henderson, Nevada 89052

(702) 595-6771  
(702) 605-7321 FAX

**Mediation – Parenting Coordination**  
*NevadaMediator@gmail.com*

## ***Agreement for Parent Coordination Services***

Margaret E. Pickard, Esq.

### **1. *Appointment:***

***Judicial Appointment:*** Judge Duckworth, Department Q, appointed Margaret E. Pickard, Esq. as the Parent Coordinator in the case entitled *Vivian Harrison vs. Kirk Harrison*. The appointment was made pursuant to NRCP 53(a) and is intended to be a delegation of quasi-judicial authority pursuant to this rule.

### **2. *Authority of Parent Coordinator:***

- a. ***Role:*** The primary goal of Parent Coordination is to provide parents with a forum for resolving child-related disputes outside of the courtroom. The responsibilities of a Parent Coordinator include providing parents with problem-solving and conflict management services, monitoring compliance with court orders, and providing parents, attorneys and the court with recommendations for new or modified parenting time provisions and/or other child related issues, as necessary.
- b. ***Authority:*** The parties recognize that pursuant to the judicial appointment, the court has provided the Parent Coordinator with the judicial authority to resolve parent/child and custody/visitation issues, in order to:
  - i. Facilitate the resolution of disputes regarding the implementation of the parenting plan, the schedule, or parenting issues, provided such resolution does not involve a substantial change to the shared parenting plan, as defined by the Court's Order.
  - ii. Direct as necessary, one or both parents to utilize community resources, such as counseling, anger management, psychiatric and/or medical evaluations, etc. with the Parenting Coordinator to have access to the results of any psychological testing or other assessments of the child and/or parents.
  - iii. Implement non-substantive changes to, and/or clarify, the shared parenting plan, including but not limited to issues such as:
    - 1. Transition/exchanges of the child including date, time, place, means of transportation and transporter;
    - 2. Holiday sharing;
    - 3. Summer or track break vacation sharing and scheduling;
    - 4. Communication between the parents
    - 5. Health care management issues, including choice of medical providers and payment of unreimbursed medical expenses, pursuant to the Court's Order for payment of said expenses;
    - 6. Education or daycare;
    - 7. Child's participation in religious observances and education;
    - 8. Child's travel and passport issues;

9. Purchase and sharing of child's clothing, equipment and personal possessions, including possession and transporting items between homes;
10. Child's appearance and/or alteration of child's appearance including haircuts, tattoos, ear, face, or body piercing;
11. Communication between the parents;
12. Contact with significant others or extended families;
13. Requiring the signing of appropriate releases from each parent to provide access to confidential and privileged records, including medical, psychological or psychiatric records of a parent or child;
14. Reporting to the Court compliance with the parenting coordination process which could include recommendations to the Court about how to more effectively implement the parenting coordination process;
15. Reporting to the Court the extent of the parent's compliance with other Court orders (therapy, drug tests, child therapy, behavior orders) with or without providing a recommendation on what should be done regarding any lack of compliance;
16. Individually communicating with, and providing information to, persons involved with, or providing services to, the family members, including but not limited to, the custody evaluator, lawyers, teachers, and school officials, physical and mental health providers, grandparents, stepparents, significant others, or anyone else the Parenting Coordinator determines have a significant role in the life of the family; and
17. All additional responsibilities/authority granted pursuant to the court order.

c. **Responsibilities:** The parties hereby recognize, consent, and agree that the Parent Coordinator shall have the following rights and responsibilities:

- i. Temporary decision-making authority to resolve minor disputes between the parties concerning shared parenting decisions until such time as a Court order is entered modifying the decision. Such decision-making services provided by the Parenting Coordinator shall apply to both substantive and non-substantive changes to the parenting plan.
- ii. Make recommendations to the Court concerning modifications to the shared parenting plan including but not limited to, parenting time/access schedules or conditions, including variations from the existing parenting plan.

3. **Scope of Parent Coordination:** The scope of Parent Coordination is limited to matters concerning your child.

- a. **Process:** The Parent Coordinator will set up an initial meeting with each party individually, either in person or via telephone conference. At the discretion of the Parent Coordinator, joint parent sessions may be scheduled, to facilitation direct resolution of pending issues.
  - i. **Child Involvement:** Children are not to be involved in the legal issues before the Court or the Parent Coordinator. However, if the Parent Coordinator deems it necessary to interview the child, for purposes of understanding the child's perspective regarding the issues, the parties agree to make the children available to the Parent Coordinator.
  - ii. **Agreements:** In the event a written agreement is reached by the parties, the parent coordinator will prepare a Stipulation and Order for each party's signature, as well as for review and approval by all attorneys of record. Once the Stipulation is signed by the parties, the Parent Coordinator will submit it to the Court to be incorporated into and adopted as an Order.

4. **Fee/Expense Sharing:** The parties shall share equally the cost of the Parent Coordinator's fees, which shall include reviewing documents, meeting with the parties and their children, speaking with third parties, including counselors and other professional providers, teachers, and family members, as well as others not specifically designated herein, court hearing attendance and preparation, preparing communications to the parties and/or the judge, preparing notes of meetings, preparing documents for the parties and/or the court, including agreements, recommendations, and decisions.
- a. **Hourly Rate:** The hourly fee for Parent Coordination services is \$300.00, to be shared equally by the parties. The court may re-allocate the fees and payments at its discretion.
    - i. **Allocation of Fees:** The court will be informed if one party incurs excessive fees and, as appropriate, the Parent Coordinator, will make recommendations to the court regarding allocation of the fees.
    - ii. **No Insurance Reimbursement:** Insurance companies do not reimburse parties for Parent Coordination services and neither party should anticipate such reimbursement.
  - b. **Retainer:** Prior to Parent Coordination services beginning, the parties shall pay a retainer of \$4,000.00, with each party paying \$2,000.00 before the Parent Coordinator begins services, unless otherwise ordered by the Court. Each party will receive a monthly account statement. All account balances are due within 30 days of receipt, with each party to pay ½ of the monthly balance due, after each party's retainer has been applied.
  - c. **Joint and Several Liability:** The parties are jointly and severally liable for the fees and costs of the Parent Coordinator. In the event one party fails to pay all or a portion of their bill, the other party shall be liable for the unpaid amount and may seek a judgment for this amount from the Court.
  - d. **Cancellations:** In the event a party needs to reschedule or cancel an appointment with the Parent Coordinator, s/he must notify the Parent Coordinator more than 48 hours prior to the scheduled appointment, otherwise, each party acknowledges and agrees that they will be billed for a one hour consultation of \$250.00. In the event that one parent does not appear for a scheduled appointment and has not given 48 hours advanced notice and the other parent appears or is prepared to appear, the parent who does not appear shall be responsible for both parent's fees.
  - e. **Challenge to Parent Coordinator Decision:** If either party challenges a Decision of the Parent Coordinator, and the Court determines that the challenge is without substantial basis, or not made in good faith, the party challenging the decision shall be responsible for all costs, including the reasonable attorney's fees incurred by the other party.
  - f. **Judgment for Unpaid Fees:** The parties consent that the Court issuing the *Order for Appointment of Parenting Coordinator* may issue a judgment for amounts that are unpaid on the account for Parenting Coordination services, pursuant to N.R.C.P 53 (a)(1) and that Special Master/Parenting Coordinator shall be entitled to a Writ of Execution for unpaid or delinquent amounts.
  - g. **Bankruptcy:** The parties consent that the Parenting Coordinator fees due under this contract are in the nature of child support payments, and therefore, are not dischargeable in bankruptcy.
  - h. **Court Appearances:** In the event a Special Master/Parenting Coordinator Recommendation or Status Update is prepared, the Parenting Coordinator will appear at the court hearing(s) on the Recommendation/Status Update to provide clarification for the Court and the parties shall be equally responsible for the costs associated with the appearance, including but not limited to travel and waiting time.



5. **Confidentiality:** Parent Coordination is not a confidential process and no attorney/client privilege attaches. All communications with the Parent Coordinator by either party may be shared with the other party.

a. **Third Party Consultations:** By signing this Consent, both parties agree that the Parent Coordinator can participate in communication with the court and with all attorneys involved in the case without either party being present or having notice of such communication. In addition, each party hereby consents to allow the Parent Coordinator to communicate with therapists, teachers, physicians, law enforcement officials, and other professionals who have relevant information about either parent or a child, without either parent being present or receiving notice of such contact.

i. **Release:** In the event a third party requires a Release to be signed by any individual or professional the Parent Coordinator deems it necessary to interview, each party agrees to sign all releases necessary to allow the Parent Coordinator to speak with these individuals or professionals.

b. **Court Testimony:** The Parent Coordinator may be called to testify concerning actions, communications, and responses of either party, or their children. In the event the Parent Coordinator is called to testify, any information shared with the Parent Coordinator by either party or their child(ren) may be disclosed and discussed during the sessions, and in any testimony required at a later date.

i. **Cost Assessment for Testimony:** The party who subpoenas the Parent Coordinator for testimony shall be solely responsible for all fees and charges associated with the time involved for the Parent Coordinator to prepare and testify for the court hearing. The Parent Coordinator shall not testify for or on behalf of either parent but shall truthfully testify regarding the acts, communications, and information received during the Parent Coordination process.

ii. **Disclosures:** There are some situations that may be compel the Parent Coordinator to disclose information without consent or authorization to parties not involved in the court proceedings. This Agreement constitutes authorization for release of records and information:

1. If a government agency is investigating allegations of abuse;
2. If a party files a claim or lawsuit against the Parent Coordinator;
3. If the Parent Coordinator believes a parent presents a risk of imminent or serious harm to another person, or to him/herself. Disclosures may include contacting family members, law enforcement, or the court.

c. **Tape Recording:** Neither party may tape record his or her conversations, or those of a third party, with the Parent Coordinator. The Parent Coordinator will not tape record individual or joint sessions unless directed by the Judge and only after informing all parties present in the session.

6. **Communication Between the Parties:** Written communications between a party and the Parent Coordinator will be shared with the other party at the discretion of the Parenting Coordinator, in the event that the Parent Coordinator determines that the written communications are or may be perceived as inflammatory by either party. The parties agree that in the event the Parent Coordinator determines, in their sole discretion, that a written communication is likely to be counter-productive to negotiations

and/or communications and sharing such communications would not be productive, the parties agree that the Parent Coordinator may withhold such communications from the other party. However, all substantive communications will be shared with both parties. Further, it is the responsibility of the parties to ensure that the other party is copied in all written communications with the Parent Coordinator.

7. **Grievances:** Pursuant to the *Grievance* Section 10.0 of the Order for Appointment of Parenting Coordinator, if Margaret Pickard, Esq. is required to retain the services of an attorney to defend against any grievance, professional complaint, or legal action filed against her regarding her duties as a Parenting Coordinator, the party bringing the action is contractually obligated to be financially responsible for 100% of Margaret Pickard, Esq.'s legal fees to respond to and defend such action.
8. **Service By Electronic Mail:** The parties hereby agree that service of documents shall be allowed to be effectuated by electronic mail (Email).
9. **E-mail Communications:** The transmission and content of E-communication cannot be guaranteed to be secure or error-free. Therefore, Margaret Pickard, Esq., cannot represent that the information in E-communication is complete, accurate, uncorrupted, timely or free of viruses, and cannot accept any liability for E-communications that have been altered in the course of delivery.

*I have read and fully understand the preceding statements and conditions of service and I have had the opportunity to discuss these provisions with my attorney. I enter into this contract with the full understanding and agreement that if we, the parents, cannot resolve conflicts between ourselves, Margaret E. Pickard, Esq., shall have the authority to make decisions and recommendations regarding the provisions set forth in 2(b), above and we will each abide by those decisions.*

\_\_\_\_\_  
Vivian Harrison's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Vivian Harrison's Name (Printed)

\_\_\_\_\_  
Kirk Harrison's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kirk Harrison's Name (Printed)

\_\_\_\_\_  
Margaret E. Pickard, Esq.  
Parent Coordinator

\_\_\_\_\_  
Date

# MARGARET PICKARD

PLLC

10120 S. Eastern Avenue, Suite 200  
Henderson, Nevada 89052

(702) 595-6771  
(702) 605-7321 FAX

Mediation – Parenting Coordination  
*NevadaMediator@gmail.com*

## PARTY INFORMATION SHEET – Parent Coordinating

### YOUR INFORMATION:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Numbers: Home: \_\_\_\_\_ Work: \_\_\_\_\_

Email: \_\_\_\_\_

Cellular: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Issue you need to discuss today:

\_\_\_\_\_

Are you currently represented by counsel? \_\_\_\_\_ If yes, name and phone number of attorney: \_\_\_\_\_

How did you hear about this office?

\_\_\_\_\_

### Co-Parent:

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: Home: \_\_\_\_\_ Work: \_\_\_\_\_

Email: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**CHILDREN OF YOURS WITH THE ADVERSE PARTY:**

CHILD'S COMPLETE NAME	AGE	DATE OF BIRTH	Mother's Timeshare	Father's Timeshare

**CUSTODY AND VISITATION:** Please provide Current Order for Custody and Visitation

Physical Custody Arrangement: Joint \_\_\_\_\_ Mother \_\_\_\_\_ Father \_\_\_\_\_

Visitation Arrangement:

What are the current arrangements regarding education or daycare requirements of the child(ren)?

Please explain your current transition/exchanges of the child(ren) including dates, time, place, and means of transportation and transporter:

Are there any changes that are being requested in the transition/exchange of the child(ren)?

**MEDICAL INSURANCE/PROVIDERS**

Who provides medical insurance for the child(ren) at issue?

Mother \_\_\_\_\_ Father \_\_\_\_\_ Both \_\_\_\_\_

Are there any unreimbursed medical expenses? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes state amount \$ \_\_\_\_\_

Current arrangement regarding choice of medical providers and payment of unreimbursed medical expenses: \_\_\_\_\_

**OTHER CHILDREN OF YOURS OR OF THE ADVERSE PARTY:**

CHILD'S COMPLETE NAME	AGE	DATE OF BIRTH	SOCIAL SECURITY NUMBER	WHO CHILD IS CURRENTLY LIVING WITH

**ARE THERE NOW, OR HAVE THERE BEEN ANY OTHER COURT ACTIONS IN THIS OR ANY OTHER STATE?**

If so, please state: \_\_\_\_\_  
\_\_\_\_\_

I understand and agree that this consultation does not create an attorney/client relationship and that Margaret Pickard has been appointed as the Special Master/Parenting Coordinator in my case, to serve at the direction of the Court. I accept the terms of her appointment and the provisions set forth in the "Agreement for Parenting Coordination Services," which I have reviewed and signed.

\_\_\_\_\_  
Party

\_\_\_\_\_  
Date

## Margaret Pickard, Esq.

10120 S. Eastern Avenue, Suite 200

Henderson, Nevada 89052

Phone: 702-595-6771

Fax: 702-605-7321

Email: [nevadamediator@gmail.com](mailto:nevadamediator@gmail.com)

## Credit Card Charge Authorization Form

### CARD HOLDER INFORMATION

Name on Card: \_\_\_\_\_

Credit Card No.: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Security Code: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Amount: \_\_\_\_\_

Type of Card: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

***Name on card must be the same as person signing this form.***

I wish to authorize Margaret E. Pickard, Esq. to charge the above referenced Credit Card the amount identified in this Credit Card Charge Authorization Form. I agree that I will pay for this purchase and indemnify and hold Margaret E. Pickard, Esq. harmless against any liability pursuant to this authorization. I understand that my signature on this form will serve as an authorized signature on the credit card charge slip.

\_\_\_\_\_  
*Signature of Credit Card Signatory and Authorized*

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

# MARGARET PICKARD

# PLLC

10120 S. Eastern Avenue  
Suite 200  
Henderson, Nevada 89052  
(702) 595-6771 Phone  
(702) 605-7321 Fax  
*NevadaMediator@gmail.com*

## AUTHORIZATION FOR THE INTERVIEWING OF MINOR CHILDREN

This Authorization provides a release by the below signed parents and/or guardians to allow Margaret Pickard, Esq. or one of her agents to interview the following minor child(ren) for the purpose of obtaining information regarding the child(ren)'s physical and emotional well-being, desires and concerns regarding the current and future living environment, school placement/attendance, parental influences, and all other information necessary for the Court and/or its agents, including Margaret E. Pickard, Esq., to assess the emotional and physical needs of the children and make appropriate determinations to determine the custodial arrangements which are in the child(ren)'s best interests pursuant to N.R.S. 125.480(4)(a).

CHILD'S NAME:

CHILD'S DOB:

INTERVIEW DATE/TIME:

CHILD'S NAME:

CHILD'S DOB:

INTERVIEW DATE/TIME:

We, the Parents of \_\_\_\_\_, authorize Margaret Pickard, Esq., Parenting Coordinator, access to interview the above referenced child.

The information gathered may be disclosed to the Court, to be used in a Status Reports or the Special Master/Parenting Coordinator's Decisions.

We understand and agree that we are providing our authorization to Margaret Pickard, Esq. to interview the above referenced child. It is agreed that a photocopy of this Authorization is to have the same force and effects as the original.

**Agreed and Accepted:**

**Father:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address, City State and Zip Code: \_\_\_\_\_

**Mother:**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address, City State and Zip Code: \_\_\_\_\_

## RELEASE OF INFORMATION

We, Kirk and Vivian Harrison, the parents of \_\_\_\_\_, hereby authorize the Clark County School District, school officials, faculty members, and/or teachers to release/discuss with Margaret Pickard, Esq., serving in her capacity as Parenting Coordinator appointed by the Eighth Judicial Court, Las Vegas, Nevada, information concerning our child's educational records and information, including IEP, conduct, attendance, disciplinary actions, and any pertinent matters related to the status of receiving services.

We agree and do hereby release from liability and to indemnify and hold harmless the Clark County School District, and any of its employees or agents representing or related to the district as regards to the release of this information.

This release will remain in effect until revoked in writing by both parents.

*Father:* \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_

*Mother:* \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_



# MARGARET PICKARD

# PLLC

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(702) 605-7321 Fax  
*NevadaMediator@gmail.com*

## AUTHORIZATION FOR THE RELEASE OF PROTECTED HEALTH INFORMATION

This Authorization authorizes the release of Protected Health Information pursuant to 45 CFR Parts 160 and 164.

PROVIDER: \_\_\_\_\_

PATIENT NAME/DOB: \_\_\_\_\_

PATIENT NAME/DOB: \_\_\_\_\_

The Parents of \_\_\_\_\_, the Patient, authorize the above-named provider ("Provider") to release any and all information (including billing statements) regarding the Patient's condition when under your observation or treatment, including history, findings and observations, conclusion, x-ray readings and diagnosis, and your prognosis as to subsequent or future development. You may also release any and all myelograms, x-rays, CAT Scans, or MRI images for independent examination.

The information may be disclosed by employees or business associates of Provider. The information may be disclosed to Margaret E. Pickard, Esq. Disclosure may be made orally or in writing and you may allow them to photocopy the Patient's records.

We understand and agree that the information to be disclosed may include medical or mental health records of the patient, including treatment, diagnosis, evaluations, or recommendations that are otherwise protected under Nevada or other federal law.

This authorization will expire in the event that Margaret E. Pickard, Esq. is released as the Parent Coordinator in the case *Vivian Harrison vs. Kirk Harrison*.

We hereby acknowledge: (I) that we have the right to revoke this authorization at any time, and (II) that we understand that we may revoke this authorization only in a writing sent by certified mail to the Provider at the address above. The revocation will be effective only upon receipt, except (I) to the extent the Provider has acted in reliance on the authorization, or (II) the authorization was obtained as a condition of obtaining insurance coverage and the insurer wishes to use the protected health information to lawfully contest a claim. Further information on the right to revoke may be provided from time to time in the Provider's Notice of Privacy Practices.

We understand that treatment by the Provider is not conditioned on my signing this authorization. It is agreed that a photocopy of this Authorization is to have the same force and effects as the original.

### Agreed and Accepted:

**Father:** \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address, City State and Zip Code: \_\_\_\_\_

**Mother:** \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Address, City State and Zip Code: \_\_\_\_\_

## **EXHIBIT 6**

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2012

PHILADELPHIA, TUESDAY, MAY 7, 2013

An ALM Publication

## Concern Over Judicial Authority Drove Parent Coordinator Elimination

BY BEN PRESENT

To many family law practitioners, the Pennsylvania Supreme Court's decision to eliminate parenting coordinators in custody matters was a reasonable measure to keep decision-making in the purview of the state's judges.

But several attorneys questioned whether the practice, which on May 23 becomes a thing of the past in Pennsylvania custody cases, could have survived with some tweaking. Attorneys said the practice, with proper oversight, was a suitable enterprise for refereeing situations such as "mom's sister's wedding on dad's Saturday" in high-conflict custody cases. The courts, lawyers said, simply do not have time for such minor issues.

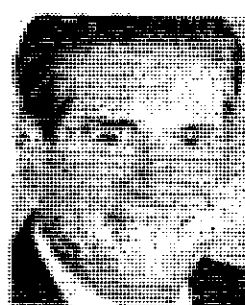
In other words, it seemed that while most attorneys had seen parenting coordinators work in many cases (though some had seen it go terribly), all recognized that the Supreme Court was trying to be cognizant of instances where courts are abdicating their authority to nonjudicial entities and, in turn, limiting that practice where it could.

And they said they couldn't knock the court for that.

As parenting coordination developed in Pennsylvania, it had been lawyers, psychologists and psychiatrists filling the role. Attorneys said the justices may have felt compelled to change the law as the latter two had grown accustomed to interpreting, and sometimes even changing, a court's custody order.

Others said the move was in response to the Luzerne County judicial scandal and recent scrutiny directed toward the Lackawanna County guardian ad litem program, whose central figure is now facing federal tax-evasion charges.

David L. Ladov, co-chair of the family law practice group at Obermayer Rebmann Maxwell & Hippel, summed up



David L. Ladov

the high court's sentiment:

"Before it happens in another area of the law — parent coordinators — why are we allowing judges to abdicate their authority?" Ladov said. "Why are we letting judges pass on their authority to somebody outside the judicial due process situation?"

Ladov is vice chair of the Pennsylvania Supreme Court Domestic Relations Procedural Rules Committee, but said he was not speaking in his capacity as a rules committee member. Instead, he said he was speaking as an "experienced family law practitioner."

The word spreading through the family law practice bar, according to attorneys, is that the Luzerne County scandal and the stain it left on Pennsylvania's judiciary compelled the domestic relations rules committee and the justices to do away with parent coordinators.

The timeline seems to fall in line with that school of thought.

Fox Rothschild family law practitioner Natalie L. Famous pointed out the Supreme Court submitted the rules committee's proposal to *The Pennsylvania Bulletin* for public comment in November 2010, right around the time the Luzerne County scandal, which involved allegations of two judges taking \$2.8 million in kickbacks from the co-owner and the builder of a private juvenile prison, was still very much in the news.

Famous, who was the first parenting

coordinator in the state, said the court made the decision to do away with parent coordinators in favor of transparency by the judiciary and to hold the judges directly accountable for decisions.

Meanwhile, the Lackawanna County guardian ad litem program has come under scrutiny as attorneys have questioned a system in which one person was handling an overwhelming majority of the guardian work in that county. That one person, attorney Danielle M. Ross, awaits trial on federal tax-evasion charges.

"I would have to think that, with 'kids-for-cash' in the background, the failure of the guardian ad litem program in Lackawanna County, it has to be in the back of the justices' minds in considering whether continuing to grant quasi-judicial powers to people such as parenting coordinators is an appropriate remedy in resolving such delicate custody matters," said Jonathan T. Hoffman, an attorney in Klehr Harrison Harvey Branzburg's family law practice group. "I would think it would have to be relevant here."

For Ladov, though, regardless of whether lawyers viewed the decision to nix parent coordination as a positive or negative one, it was not a monumental event.

For one thing, most litigants can't afford a parent coordinator. Additionally, most cases don't rise to the level of conflict that warrants the appointment of one — a level Ladov characterized as featuring "repeated offenders" or "repeated litigators."

Ladov said a judge would be inclined to appoint a parent coordinator only if a case gets back in court three times, maybe even six times, after a judgment is entered.

"There's probably one parent coordinator in every 1,000 cases," Ladov said.

But in cases where it was successful, others said it helped clear the dockets and ease tensions.

"In the cases where it helped, it was a god-send," said Mary Cushing Doherty of High

Swartz. "In cases where the parent coordinator was going beyond what was their responsibility, what the parents thought was their responsibility, the Supreme Court is pulling back and saying, 'we are not delegating judicial responsibility.'"

"The problem is, how do you draw that magic line?" Doherty added.

Hoffman also said the right parenting coordinators had proven to be an "excellent resource."

"It took people who were clogging up the dockets and turned their cases around really quickly," Hoffman said.

The net effect in most cases, according to Hoffman, was that children who were suffering got relief in the midst of continuing conflict between their parents.

## 'BALLS AND STRIKES'

In interviewing a handful of family lawyers, more than one used the phrase "calling balls and strikes" in outlining the work of parent coordinators over the last four years — the lifespan of the practice — in Pennsylvania.

For example, if a custody order required divorced parents to split their child's birthday but provided no further elaboration, a parent coordinator could interpret the ruling and implement a game plan.

Blue Bell, Pa., solo practitioner Maria E. Gibbons, who had been devoting much of her practice to parent coordination, further provided the example of an ex-husband who won't give up his Saturday so his ex-wife could take their daughter to her sister's wedding.

Gibbons said that by the time a judge would be able to hear the issue, the wedding would be long past. Plus, dragging the parties into court for such a small issue, in Gibbons' view, is a waste of judicial resources, which are scarce to begin with in many counties throughout the state.

"A judge shouldn't be wasting their time hearing that," she said.

Those were the type of day-to-day decisions a parent coordinator could make on the spot.

Another part of Gibbons' job, as she described it, had been helping parents settle for alternatives when their custody order didn't seem to help either party in a particular dispute.

Saying, "Go back and settle so I don't have to make this ruling," would often incite parents to swallow their pride and resolve whatever their dispute was without forcing a ruling from the coordinator,

Gibbons said.

Referring to a hypothetical custody order, Gibbons added: "If you make me rule, whether I like it or not, I have to rule the way this paragraph is written."

## PSYCHOLOGISTS' INVOLVEMENT

Licensed psychologists and psychiatrists sometimes didn't seem to understand the letter of the law, according to attorneys interviewed, a possible impetus for the justices' rule change.

Every attorney interviewed expressed concern with psychologists filling a position that, to some degree, involves the interpretation of a court decision and an application of the law.

Lynne Z. Gold-Bikin, chair of the family law practice group at Weber Gallagher Simpson Stapleton Fires & Newby, was the most outspoken lawyer in favor of ridding the court system of the position. Gold-Bikin said she was "delighted" the court put an end to parent coordinators, particularly where psychologists were making decisions.

"Every time the psychologists get involved, they take over because they say the court system and the lawyers don't know what they're doing," Gold-Bikin said. "Even though they don't know the law, they take over."

The longtime family law practitioner said the therapists had "carved out an area to make money" and ended up costing litigants more money than they did help them with their conflicted cases.

Hoffman and Famous also said there was a real sense of concern that psychologists and psychiatrists were acting in place of the courts.

While Gold-Bikin used the psychologists' body of work in bidding farewell to the coordinators as a whole, other attorneys questioned whether the parent coordinator position could have survived with some tweaking.

Gibbons, the parent coordinator, said the Supreme Court could have crafted an order that narrowed the practice to only licensed attorneys, removing unauthorized practice of law questions from the equation. She said decisions were always appealable, but that only happened once.

"I think it's short-sighted," Gibbons said. "I think that the ones who made the decision didn't necessarily talk to the people in the trenches who it affects day to day."

The court's April 23 rule change says that

only judges may make decisions in custody cases and that masters and hearing officers may continue to make recommendations. Other than that, the courts may not appoint someone to "make decisions or recommendations or alter a custody order in child custody cases."

"Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective," the court's rule said. "Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective."

Most attorneys agreed that language did not call for the vacating of parent coordinators' decisions to date, but rather called for them to be taken off their respective cases.

Moving forward, Hoffman said his first order of business approaching the rule change's effective date is to notify his clients of the change.

Hoffman said he would be informing his clients who have parent coordinators that dispute resolution is going to have to go through court.

In wealthier counties such as Montgomery, Chester, Delaware and Bucks, Hoffman said the courts should prepare for increased filings and more backlog.

"It leaves families in tremendous limbo," Hoffman said.

Doherty, although she was not surprised the Supreme Court took the action, did not see a viable alternative to fill the upcoming void.

"Am I shocked the Supreme Court has done this? No," Doherty said. "But do I think we have a solution yet? No."

*Ben Present can be contacted at 215-557-2315 or [bpresent@alm.com](mailto:bpresent@alm.com). Follow him on Twitter @BPresentTLI.*

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5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

8 KIRK ROSS HARRISON,

9 Plaintiff(s),

10 -VS-

11 VIVIAN MARIE LEE HARRISON,

12 Defendant(s).

CASE NO. D443611

DEPT. NO. Q

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

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

17 MOTION FOR OPPOSITION TO MODIFY

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

27 **NOTICE:**

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

**Mark correct answer with an "X."**

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

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

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

Dated this 21st of April, 20014

Carol Navarro  
Printed Name of Preparer

Carol Navarro  
Signature of Preparer

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



MAY 12 2014

**OPP**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-44361-D

DEPT.: Q

**FAMILY DIVISION**

ORAL ARGUMENT REQUESTED

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER  
RESOLVING PARENT/CHILD ISSUES, etc.; COUNTERMOTION FOR ATTORNEY'S FEES  
AND SANCTIONS**

DATE OF HEARING: May 21, 2014

TIME OF HEARING: 10:00 a.m.

COME NOW, Defendant, VIVIAN MARIE LEE HARRISON, through her attorneys Radford J. Smith, Esq., of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm of Silverman, Decaria, & Kattleman, and submits the following points and authorities to support her Opposition

1 identified above, and requests that the Court deny Plaintiff's Motions. Further, Defendant requests this  
2 Court's order:

- 3 1. Directing Kirk to execute the fee agreement proposed by the Court appointed parenting  
4 coordinator;
- 5 2. Entering sanctions under EDCR 7.60 against Plaintiff based upon his filing of a frivolous  
6 motion; and,
- 7 3. For such other and further relief as the Court finds equitable in the premises.

8  
9 Dated this 7 day of April, 2014

10  
11 RADFORD J. SMITH, CHARTERED

12  
13 RADFORD J. SMITH, ESQ.  
14 Nevada State Bar No. 002791  
15 GARIMA VARSHNEY, ESQ.  
16 Nevada State Bar No. 011878  
17 64 N. Pecos Road, Suite 700  
18 Henderson, Nevada 89074  
19 *Attorney for Defendant*

20  
21  
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I.

INTRODUCTION

Kirk seeks to "nullify" paragraph 4 (agreeing to appoint a parenting coordinator) and paragraph 6 (an agreement regarding the exercise of "teenage discretion) of the Court's July 11, 2012 Parenting Plan arising from the stipulation executed by the parties and their counsel. Vivian opposes Kirk's motions, and requests by countermotion that Kirk pay her attorney's fees and costs incurred to oppose these repeats of Kirk's multiple motions already denied by the Court. Vivian further countermoves for an order directing Kirk to execute the fee agreement of the Court appointed Parenting Coordinator, Margaret Pickard.



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II.

**THE COURT SHOULD CONFIRM ITS ORDER APPOINTING A PARENTING COORDINATOR THAT WAS ENTERED PURSUANT TO THE PARTIES' AGREEMENT**

Paragraph 4 of the Court's July 11, 2012 Parenting Plan reads:

*Parenting Coordinator:* The parties shall hire a Parenting Coordinator *to resolve disputes* between the parties regarding the minor children. The Parenting Coordinator shall be chosen jointly by the parties. The Parenting Coordinator shall serve pursuant to the terms of an order mutually agreed upon by the parties. If the parties are unable to agree upon a Parenting Coordinator, or the terms of an Order appointing the Parenting Coordinator, within thirty (30) days of the date of the filing of this Stipulation and Order, then the Court shall appoint that individual and resolve any disputes regarding the terms of the appointment.

[Emphasis supplied]. On May 10, 2013, after Kirk did not respond for nearly a year to Vivian's nomination of a parenting coordinator, and did not respond for months to her proposed order appointing a parenting coordinator, she filed a motion requesting that the Court exercise its discretion under paragraph 4. By Opposition and Countermotion filed July 19, 2013, Kirk opposed Vivian's motion and submitted his proposed Order Appointing Parenting Coordinator as Exhibit "2" to his Opposition. On October 29, 2014, this Court resolved the differences in the parties' proposed orders (as expressly agreed under Paragraph 4), and entered its Order Appointing Margaret Pickard as the parenting coordinator. Kirk did not seek to modify that order via motion to amend under NRCP 52 or NRCP 60, nor did he challenge the order through the Nevada Supreme Court.

Ms. Pickard initially sent a proposed retainer agreement ("Agreement for Parent Coordination Services") to the parties that included terms already addressed in the Court's order. Kirk objected to certain terms of the agreement, and demanded, as part of his requested revisions to the retainer agreement, that Ms. Pickard insert a provision prohibiting her from speaking to the parties' children. That demand was contrary to the express terms of the Court's orders, and consequently Vivian objected to any limitation on the Parenting Coordinator's ability to speak to the children, and to the restatement of

1 terms in the agreement already addressed in the Court's order. See, Correspondence attached hereto  
2 collectively as Exhibit "A."

3  
4 As addressed in Vivian's counsel's April 7, 2014 letter to Ms. Pickard, the Court's orders do not  
5 prevent the Parenting Coordinator from speaking to the children, and instead require the Parenting  
6 Coordinator to speak to the children under certain circumstances. Paragraph 4.7 of the Order Appointing  
7 Parenting Coordinator reads:

8 The Parenting Coordinator shall have the authority to interview and require the  
9 participation of other persons whom the Parenting Coordinator deems to have relevant  
10 information or to be useful participants in the parenting coordination process, including,  
11 but not limited to, custody evaluator, teachers, health and medical providers, stepparents,  
and significant others.

12 Further, the parties' stipulated parenting plan reads:

13  
14 6. Notwithstanding the foregoing time-share arrangement, the parents agreed that,  
15 once each child reaches the age of fourteen (14) years, such child shall have "teenage  
16 discretion" with respect to the time the child desires to spend with each parent. Thus,  
17 while the parents acknowledge the foregoing time-share arrangement, the parents further  
18 acknowledge and agree that it is in the best interest of each of their minor children to  
allow each child the right to exercise such "teenage discretion" in determining the time  
the child desires to spend with each parent once that child reaches 14 years of age.

19 6.1. The parties do not intend by this section to give the children the absolute  
20 ability to determine their custodial schedule with the other parent. Rather, the parties  
21 intend to allow the children to feel comfortable in requesting and/or making adjustments  
22 to their weekly schedule, from time to time, to spend additional time with either parent or  
at either parent's home.

23 6.2. Such adjustments shall not be prompted or suggested by either parent, but  
24 shall originate with the child(ren). The parties shall not allow the children to use this  
25 flexibility as a means to avoid spending time with the other parent, and they shall each  
26 encourage the children to follow the regular schedule to the extent possible. If either  
27 party feels that his or her time is being unduly eroded by this provision as an attempt by  
28 the other parent to minimize that parent's custodial time, he or she may address this issue  
with the Parenting Coordinator and/or the Court.

6.3. The Parenting Coordinator will not have the ability to revoke this provision,  
but may address those concerns within the context of the rights, duties and obligations of  
the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator.

1 Nothing in this section is intended to limit the discretion of the District Court in making  
2 child custody determinations.

3 6.4. In the event either child wishes to permanently modify the regular  
4 custodial schedule beyond the scope of this provision once that child reaches 14  
5 years of age, she may address this matter with the therapist or Parenting  
6 Coordinator, or either party may address this issue with the Parenting Coordinator. If  
the parties cannot agree, the Court shall consider the children's wishes pursuant to NRS  
125.480(4)(a).

7 Thus, far from any limitation on the Parenting Coordinator contacting the children, the Court's orders  
8 grant the Parenting Coordinator the right to speak to any third party that the Parenting Coordinator  
9 "deems to have relevant information" and they *expressly grant the children the right to speak to the*  
10 *Parenting Coordinator* under certain circumstances. There is no reasonable reading of these orders that  
11 would limit the Parenting Coordinator's right to speak to the children. Contrary to Kirk's assertion,  
12 however, Vivian has never requested that Ms. Pickard interview the children.  
13

14 Ms. Pickard revised her retainer agreement so that it only referenced the Court's orders, and  
15 addressed payment for her services. She did not include the language Kirk demanded eliminating her  
16 ability to speak to the children. (See Exhibit "B" attached hereto). Vivian executed the proposed  
17 agreement and provided Ms. Pickard with a retainer. Kirk has refused to execute the agreement.  
18

19 Kirk now moves the Court to "nullify" its October 29, 2013 Order because he did not agree to its  
20 terms. (*Motion*, page 15). Kirk's argument ignores his voluntary grant of discretion to the Court (under  
21 Paragraph 4 of the stipulated parenting plan) to resolve any disputes between the parties regarding either  
22 the parenting coordinator, or the terms under which the parenting coordinator would serve.  
23

24 Kirk's current motion goes far beyond his previous complaints about the content of the Order  
25 Appointing the Parenting Coordinator. He now decries the entire concept of parenting coordinators. He  
26 argues that the Court's October 29, 2013 Order is an unconstitutional grant of power to the Parenting  
27 Coordinator, and is thus a violation of Kirk's right of due process. (*Motion*, page 21). He suggests that  
28

1 other states have restricted or eliminated parenting coordination, and that this Court, and the State of  
2 Nevada should do so as well.

3  
4 Contrary to the Kirk's contention, the Court's order does not grant any judicial authority to the  
5 parenting coordinator, and is a proper exercise of the Court's discretion under NRCP 53. As previously  
6 argued by Vivian the first time Kirk raised these contentions, in the well written and researched opinion  
7 in *Jordan v. Jordan*, 14 A.3d 1136 (D.C. App. 2011), the court addressed and affirmed the power of a  
8 trial court to appoint a parenting coordinator in high conflict cases under the District of Columbia's  
9 nearly identical Rule 53.

10  
11 In *Jordan*, the Court addressed the increasing use and approval of parenting coordinators by  
12 courts in various states:

13 We begin by providing context for the trial court's appointment of a parenting coordinator  
14 in this case. In the past decade, the use of parenting coordinators in high-conflict custody  
15 cases has become increasingly common. Parenting coordinators simplify the litigation  
16 process in highly contentious parenting situations by helping parents to reduce conflict,  
17 while decreasing their reliance on the intervention of the courts. See Dana E. Prescott,  
18 *When Co-Parenting Falters: Parenting Coordinators, Parents-in-Conflict, and the*  
19 *Delegation of Judicial Authority*, 20 *Maine Bar J.* 240, 240 (Fall 2005); see also  
20 Christine Coates, et al., *Parenting Coordination for High-Conflict Families*, 42 *Fam. Ct.*  
21 *Rev.* 246 (April 2004). Because interparental conflict is "the major source of detriment to  
22 children of divorce," and "most [parental disputes in the divorce context are] minor . . .  
23 such as one-time changes in [matters like] telephone access [ . . . and ] after-school  
24 activities," the availability of a parenting coordinator to minimize day-to-day  
25 disagreements is in the best interests of the children. See Coates, *supra*, at 246-47. We  
26 are aware of 30 jurisdictions, in 27 states, that permit the appointment of parenting  
27 coordinators pursuant to a statute or court rule. In addition, we are aware of nine other  
28 jurisdictions where courts have referred to the use of parenting coordinators in opinions,  
but did not specifically cite the authority relied upon to appoint a parenting coordinator.

24 *Id.* at 1153-1154.<sup>1</sup>

---

27 <sup>1</sup> Pennsylvania Supreme Court's adoption of a rule prohibiting parenting coordination that Kirk cites in his motion may have  
28 its source in matters unrelated to the issue of parenting coordination. See, Exhibit "C" attached hereto. There is, of course,  
no such rule in Nevada, and the appointment of parenting coordinators in high conflict cases is common in the Family  
Division of the Eighth Judicial District Court.

1 Further, affirming the lower court's appointment of a parenting coordinator, the *Jordan* court  
2 found that its order granting the right to the parenting coordinator to address "day to day" decisions was  
3 not an unconstitutional grant of authority by the court:  
4

5 Rule 53 also authorized the trial court to delegate decision-making authority over day-to-  
6 day issues to the parenting coordinator. Subsection (c) of the rule provides that the order  
7 referring a matter to a special master "may specify or limit the master's powers and may  
8 direct the master to . . . do or perform particular acts . . . . Subject to the specifications  
9 and limitations stated in the order, the master has and shall exercise the power to . . . do  
10 all acts and take all measures necessary and proper for the efficient performance of the  
11 master's duties under the order." This language plainly gives the trial court discretion to  
12 determine what the duties and powers of the special master or parenting coordinator  
13 should be.

14 Of course, the court's ability to delegate authority to a special master or parenting  
15 coordinator has limits. Most clearly, in this context, a trial court may not abdicate its  
16 responsibility to decide the core issues of custody and visitation. By statute, when  
17 custody of a child is disputed, the trial court must decide what type of custody  
18 arrangement is appropriate. In addition, we have held that it is improper for a trial court  
19 to delegate decisions regarding a party's right to visitation. In keeping with these  
20 limitations, the Special Master Order specified that the parenting coordinator may "make  
21 decisions resolving day-to-day conflicts between the parties that *do not affect the court's*  
22 *exclusive jurisdiction to determine fundamental issues of custody and visitation.*"  
23 (Emphasis added.) The Special Master Order further stated, "In the event of a dispute  
24 between the parties as to issues significantly affecting their children, the Special Master  
25 may make decisions regarding the following *day-to-day issues.*" (Emphasis added.) Thus,  
26 the order properly acknowledged and preserved the trial court's responsibility to decide  
27 the issues of custody and visitation.  
28

*Id.* at 1157

21 The *Jordan* court further noted that the district court's citation to Rule 53 in the absence of a specific  
22 rule or statute appointing a parenting coordinator was consistent with the course of many courts around  
23 the country. *Id.* at 1158.

24 In the present case, the Court's October 29, 2013 order only grants the parenting coordinator the  
25 right to make recommendations regarding issues that do not "involve a substantive change to the shared  
26 parenting plan." (*Order For Appointment of Parenting Coordinator*, section 3.1). The Order grants  
27 either party the right to seek review of any recommendation of the parenting coordinator on the non-  
28

1 substantive issues upon which she renders a recommendation. There is no judicial authority to address  
2 custodial care of the children passed by the Order from the district court to the parenting coordinator.  
3 While the Court does not specifically reference NRCP 53, that rule grants the Court the ability to  
4 appoint a parenting coordinator in high conflict cases.  
5

6 Perhaps more important here, *the parties* granted the Court the power to appoint a parenting  
7 coordinator, and to resolve any disputed terms of appointment in the conflicting orders presented by the  
8 parties. The Court properly exercised that discretion. Kirk's argument that a parenting coordinator  
9 should be nothing more than a mediator is contrary to the language of the stipulated parenting plan. The  
10 parties agreed that they "shall hire a Parenting Coordinator *to resolve disputes* between the parties  
11 regarding the minor children." July 11, 2012 Parenting Plan, paragraph 4. Kirk's agreement to a  
12 parenting coordinator, and the method for determining the identity and terms for the appointment, estop  
13 him from seeking to "nullify" the order appointing one.  
14

15  
16 Kirk raises for the first time in his current motion that the appointment of the parenting  
17 coordinator violates his due process rights. In *Jordan*, the Court analyzed that argument:

18 A due process challenge to the sufficiency of procedures requires a two-part inquiry: first,  
19 "whether the asserted individual interest [is] . . . encompassed within the [Fifth  
20 Amendment's] . . . protection of 'life, liberty, and property'"; and secondly, if such an  
21 interest is implicated, "what procedures are required to satisfy due process." The  
22 procedural due process requirement is "flexible and calls for such procedural protections  
23 as the particular situation demands," varying according to the nature of the interest that is  
24 at issue. We balance "(1) the private interests affected by the proceeding; (2) the risk of  
25 error created by the jurisdiction's chosen procedure; and (3) the countervailing  
26 governmental interest supporting use of the challenged procedure

27 The use of a parenting coordinator under the circumstances presented does not unduly  
28 impinge upon Ms. Jordan's "fundamental liberty interest . . . in the care, custody, and  
management of [her] child[ren]." Ms. Jordan's liberty interest must be reconciled both  
with Mr. Jordan's liberty interest regarding the children, and with the principle that "a  
biological parent's liberty interest is not absolute, and must give way before the child's  
best interest." Although the parenting coordinator may sometimes supersede Ms. Jordan's  
authority to make decisions regarding her children, the parenting coordinator may  
exercise that power only in limited circumstances, *i.e.*, where Ms. Jordan has a dispute

1 with Mr. Jordan, who also has a liberty interest in making decisions for the children; and  
2 where the dispute concerns only a day-to-day issue.

3 In any event, even assuming that a fundamental liberty interest is implicated, that interest  
4 is adequately protected by the procedures available to a parent aggrieved by any decision  
made by the parenting coordinator.

5 *Jordan*, 14 A.3d 1158-1160 (citations and footnotes omitted). *See also, Barnes v. Barnes*, 2005 OK 1,  
6 107 P.3d 560, 565 (Okla. 2005) (holding that appointment of parenting coordinator did not violate  
7 procedural due process, and that "[t]he extent to which a parent may be inconvenienced by cooperating  
8 with a parenting coordinator is subordinate to the need to protect the child's welfare").

9  
10 Kirk cites a series of cases that stand for the proposition that a court cannot delegate its power to  
11 make custodial decisions for the children. The Court has not done so here; it specifically tailored the  
12 order to address the arguments Kirk now makes for the second time to this Court. The Court should  
13 deny Kirk's motion, and enter its order directing that Kirk execute Ms. Pickard's retainer agreement so  
14 that the parenting coordination agreed by the parties nearly two years ago can begin.

### 15 16 III.

#### 17 **THE COURT SHOULD DENY KIRK'S THIRD MOTION ATTEMPTING TO MODIFY (NOW** 18 **"NULLIFY) THE "TEENAGE DISCRETION" PORTION OF THE PARENTING PLAN**

19 Kirk's present motion is his third attempt to "nullify" or eliminate paragraph 6 of the Parenting  
20 Plan. The Court has denied the previous two motions. It is plain that his purpose of filing the third  
21 motion is to bolster the record for an appeal of the Court's previous order (which has not yet been  
22 submitted to the Court), and the order arising from this motion. Vivian submits that Kirk cannot in good  
23 faith believe that the Court will reverse its previous decisions on this issue.  
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1 Kirk cites only two new bases for his third motion on this issue.<sup>2</sup> First, he submits an opinion  
2 from Dr. Norman Roitman regarding the “teenage discretion” provision. Dr. Roitman has never met the  
3 parties’ children, or Vivian. Dr. Roitman previously unethically submitted an opinion diagnosing  
4 Vivian and recommending a custodial plan without ever meeting her or the children. *See*, Defendant’s  
5 Reply to Opposition to Motion for Attorney’s Fees and Sanctions, filed September 11, 2013, page 10.  
6 Dr. Roitman’s latest opinion ignores the mechanism and terms contained in paragraph 6 that protect  
7 either parent from abuse of the teenage discretion granted under that paragraph. Like his previous  
8 opinion, he renders diagnoses of the parties’ daughter Rylee without ever meeting her, and based solely  
9 on Kirk’s input. In light of the Court’s criticism of Kirk’s use of Dr. Roitman in this manner in the  
10 divorce action (*See*, Findings, Conclusions, and Orders, filed February 10, 2014, page 23), it is logical to  
11 conclude that Kirk’s submission of the opinion is for purposes of bolstering his record on appeal, not  
12 any good faith attempt to persuade the Court.  
13  
14

15  
16 Dr. Roitman also does not contemplate the essential facts present at the time of the entry of the  
17 agreement. As set forth in Vivian’s prior oppositions to this same motion, Brooke did not want to be in  
18 her father’s care, and Vivian did not believe that Kirk’s constant disparagement of Vivian was healthy  
19 for the children. She proposed, and the parties agreed to, a plan designed to relieve the pressure upon  
20 Brooke and Kirk that would result from disputes regarding her desire to spend more time with Vivian by  
21 granting her the right to occasionally choose to spend time with her (or with Kirk) outside the constructs  
22 of the normal weekly visitation. She proposed, and the parties accepted, a mechanism to monitor those  
23 requests and have an outlet for objection.  
24  
25

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26  
27 <sup>2</sup> Kirk repeats a series of arguments he has previously offered either directly or indirectly in his first two motions. Vivian’s  
28 pleadings relating to those motions adequately address those arguments, and for the purpose of judicial economy are  
incorporated as if fully set forth herein. *See*, Defendant’s Amended Opposition to Plaintiff’s Motion to Modify Order  
Resolving Parent Child Issues, etc., filed October 17, 2013, and Defendant’s Opposition to Motion for Judicial Determination  
of the Teenage Discretion Provision, filed December 6, 2013.



Moreover, the language of the plan specifically prohibits the over 14 year old child from modifying the normal visitation plan, and allows conflict resolution first through a parenting coordinator to address any abuse of the provision, or a request by the child to modify her visitation or custody. Vivian's goal was to place the parties' disputes in a forum that would be less expensive, trying and time consuming than the massive litigation that Kirk had continuously engendered and engaged in during the custody action.

Dr. Roitman predictably renders no opinion whether the multitude of motions Kirk has filed seeking to undermine the parenting plan have had a negative effect on the parties' relationship and ability to solve problems, and ultimately upon the children. Kirk and Dr. Roitman seem to suggest that the ideal forum for resolution of any dispute between the parents, or the children and the parents, is lengthy, repetitive and scathing court filings.

Kirk's second basis not addressed in his previous motion is his false assertion that Brooke has misused the "teenage discretion provision." Specifically, Kirk mischaracterizes the *only* use of the teenage discretion provision by Brooke in the months since his last motion was heard as "retaliation" for his scolding her about spending too much time at Vivian's home when retrieving their belongings.<sup>3</sup> On the contrary, Brooke's desire to be in Vivian's care Thursday evening February 27, 2014 stemmed from her fear of dental surgery that she was to undergo the following day, March 1. Friday March 1 was an exchange day when Brooke would normally transfer to Vivian's care, and so Brooke stayed the night at Vivian's home, underwent dental surgery, and returned to Vivian's home. Brooke's desire to be with Vivian in this circumstance was predictable; Vivian has always been the parent that took the lead role in arranging for and attending the children's medical care. As the Court may recall, Kirk's involvement in

---

<sup>3</sup> Contrary to Kirk's conjecture, Vivian does not encourage the children to take additional time at her home, does not engage them in conversation, is at times not even present when they come to the home, and encourages them to retrieve their things and not keep Kirk waiting. This, of course, is the kind of issue that could be best addressed with the help of a parenting coordinator.

1 the medical care of Brooke included refusing to leave Brooke alone in the room with the doctor after  
2 Vivian advised him that Brooke wanted to speak privately to the doctor about her first menstrual cycle.  
3 Vivian was not involved in “adversarial positioning” when Brooke asked her “Mom, can I stay with you  
4 tonight, I’m scared about the surgery,” and she agreed.

5  
6 The Court should again deny Kirk’s current motions designed to renege on his agreements that  
7 were a fundamental part of Vivian’s agreement to enter into the parenting plan granting the parties joint  
8 physical custody. Kirk’s continued claims that he did not understand that the children, after age 14,  
9 would have discretion to make small alterations to the custodial schedule at their discretion makes little  
10 sense. Paragraph 6.1 of the parenting plan reads: “[T]he parties intend to allow the children to feel  
11 comfortable in requesting **and/or making** adjustments to their weekly schedule, from time to time, to  
12 spend additional time with either part or at either parent’s home.” [Emphasis supplied]. Under that  
13 provision a child may request an adjustment **“AND” make an adjustment, “OR” simply make an**  
14 **adjustment.** The language cannot logically be read any other way, and is thus not subject to  
15 interpretation.

16  
17  
18 Nevertheless, Kirk claims that the use of the construction “and/or” in paragraph 6 is “patently  
19 ambiguous” and that “all of the authorities agree.” (*Motion*, page 11). Apparently not all of the  
20 authorities agree – the Nevada Supreme Court has used, and continues to use, that construction in its  
21 decisions. *See, e.g., Wingo v. Government Employees Insurance Co.*, 130 Nev. Adv. Rep. 20, 321 P.3d  
22 855, n.2 (March 27, 2014)(“The district court dismissed based on Geico’s alternative argument that,  
23 under *Allstate Insurance Co. v. Thorpe*, 123 Nev. 565, 170 P.3d 989 (2007), Wingco did not have a  
24 private right of action **and/or** that primary jurisdiction over the dispute lay with the Nevada Department  
25 of Insurance.”); *Huckaby Properties, Inc. v. NC Autoparts, LLC*, 130 Nev. Adv. Rep. 23 (March 27,  
26 2014)(“[W]e conclude that the factual nature of an underlying case is not an appropriate measure to  
27  
28

1 evaluate whether an appeal should be dismissed for violations of court rules and/or orders.”). The  
2 language of the agreement is plain, clear, and unambiguous. The Court should deny Kirk’s third request  
3 to “nullify” paragraph 6 of the parties parenting plan.  
4

5 IV.

6 **THE COURT SHOULD ORDER KIRK TO PAY THE ATTORNEY’S FEES AND COSTS**  
7 **INCURRED BY VIVIAN OPPOSING THE PRESENT MOTIONS, AND SHOULD ENTER AN**  
8 **ORDER SANCTIONING KIRK TO DETER HIS REPEATED FILINGS OF MERITLESS**  
9 **MOTIONS**

10 The Court may grant attorney’s fees under EDCR 7.60 when a party files a frivolous claim, or  
11 “unnecessarily multiplies the proceedings” in a case. Kirk’s repeated filings and attacks on Vivian, the  
12 parties’ children, and the Court’s orders evidence why Vivian requested a system of counseling and  
13 parenting coordination in the parties’ stipulated parenting plan. Vivian thought she was agreeing to a  
14 mechanism by which she could resolve day-to-day issues without having to constantly answer  
15 numerous motions, address opinions from experts, and avoid the continued cost of being involved in a  
16 case with Kirk. Vivian has spent hundreds of thousands of dollars addressing Kirk’s continuously  
17 virulent and disparaging allegations that are almost uniformly only supported by his uncorroborated  
18 allegations or opinions (or those that he has helped prepare). Vivian believed that when Kirk signed the  
19 parenting plan that he did so in good faith and would allow that mechanism to proceed. He, instead, has  
20 done everything in his power to “nullify” those terms of the agreement that he does not like.  
21

22 Parenting coordination is not a new idea, and Vivian and her counsel used what they believed  
23 was a standard agreement. The Court modified that agreement pursuant to Kirk’s objection. The  
24 teenage discretion provision was explained, negotiated and revised by Kirk’s experienced counsel.  
25 Nevertheless, nearly two years after the entry of the stipulated parenting plan, there have been no  
26 sessions with a parenting coordinator, and Kirk continues to stall the process through repetitive filings.  
27  
28

1 Kirk's latest motion can be fairly characterized as a challenge to the entire system of alternative  
2 dispute resolution to which he agreed. If Kirk has a general problem with the notion of parenting  
3 coordination, that is an issue for the legislature, not the basis to file another motion for which Vivian is  
4 required to respond and incur costs.  
5

6 Kirk has again filed a wholly meritless motion designed to undermine the system that was a  
7 fundamental part of Vivian's agreement to joint physical custody. The Court should indicate its direction  
8 to award Vivian fees, and allow Vivian to submit a memorandum of fees and costs for review by the  
9 Court. NRCP 54.  
10

11 Dated this 27 day of April, 2014

12 RADFORD J. SMITH, CHARTERED

13  
14 RADFORD J. SMITH, ESQ.

15 Nevada State Bar No. 002791

16 GARIMA VARSHNEY, ESQ.

17 Nevada State Bar No. 011878

18 64 N. Pecos Road, Suite 700

19 Henderson, Nevada 89074

20 *Attorney for Vivian Harrison*  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3 CERTIFICATE OF SERVICE

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

8 I served the foregoing document described as:

9  
10 DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER  
11 RESOLVING PARENT/CHILD ISSUES, etc.; COUNTERMOTION FOR ATTORNEY'S FEES  
12 AND SANCTIONS

13 on March 31, 2014, to all interested parties as follows:

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

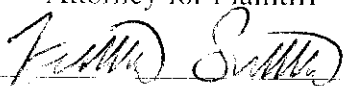
16 ☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this  
17 date via telecopier to the facsimile number shown below;

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

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

22 Tom J. Standish, Esq.  
23 3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
24 Las Vegas, Nevada 89169  
25 F: (702) 699-7555  
26 Attorney for Plaintiff

27 Edward L. Kainen, Esq.  
28 10091 Park Run Dr., Suite 110  
Las Vegas, Nevada 89145  
F: (702) 823-4488  
Attorney for Plaintiff

  
An employee of Radford J. Smith, Chartered

# EXHIBIT “A”

RADFORD J. SMITH, ESQ.  
GARIMA VARSHNEY, ESQ.  
JOLENE HOEFT, PARALEGAL  
KENNETH F. SMITH, PARALEGAL

**RADFORD J. SMITH, CHARTERED**

*A Professional Corporation*  
64 NORTH PECOS ROAD, SUITE 700  
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TELEPHONE: (702) 990-6448  
FACSIMILE: (702) 990-6456  
RSMITH@RADFORDSMITH.COM

VIA FACSIMILE  
Margaret Pickard, Esq.

April 7, 2014

*Re: Harrison Parenting Coordination*

Dear Margaret:

I reviewed the engagement letter (the redlined version) contained in your email your assistant sent to me last Thursday. You have apparently revised your engagement letter at Ed Kainen's request. Part of that revision includes, as you state in the accompanying letter to Mr. Kainen you copied me, an agreement that you will not interview the parties' children.

The Court's orders do not prevent you from speaking to the children, and instead require it under certain circumstances. Ms. Harrison objects to any limitation on your ability to do so in your Agreement for Parent Coordination Services. Paragraph 4.7 of the Order Appointing Parenting Coordinator reads:

The Parenting Coordinator shall have the authority to interview and require the participation of other persons whom the Parenting Coordinator deems to have relevant information or to be useful participants in the parenting coordination process, including, but not limited to, custody evaluator, teachers, health and medical providers, stepparents, and significant others.

Further, the parties' stipulated parenting plan reads:

6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the time the child desires to spend with each parent once that child reaches 14 years of age.

6.1. The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to feel comfortable in requesting and/or making adjustments to their weekly schedule, from time to time, to spend additional time with either parent or at either parent's home.

6.2. Such adjustments shall not be prompted or suggested by either parent, but shall originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and they shall each encourage the children to follow the regular schedule to the extent possible. If either party feels that his or her time is being unduly eroded by this provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address this issue with the Parenting Coordinator and/or the Court.

Margaret Pickard, Esq.  
April 7, 2014  
Page 2

6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator. Nothing in this section is intended to limit the discretion of the District Court in making child custody determinations.

6.4. In the event either child wishes to permanently modify the regular custodial schedule beyond the scope of this provision once that child reaches 14 years of age, she may address this matter with the therapist or Parenting Coordinator, or either party may address this issue with the Parenting Coordinator. If the parties cannot agree, the Court shall consider the children's wishes pursuant to NRS 125.480(4)(a).

Thus, far from any limitation on the Parenting Coordinator contacting the children, the Court's orders grant the Parenting Coordinator the right to speak to any third party that the Parenting Coordinator "deems to have relevant information" and *expressly grant the children the right to speak to the Parenting Coordinator* under certain circumstances. There is no reasonable reading of these orders that would limit your right to speak to the children.

I would ask that you amend the Agreement for Parent Coordination Services in one of two ways:

- 1) Take all of the references to powers and procedure for parenting coordination out of the Agreement (leaving only the agreement regarding payment of fees) and simply reference the Order Appointing Parenting Coordinator; or,
- 2) Add back in your right to interview the children.

Ms. Harrison would like to see this process begin. Let me know if you need anything further from my office.

Regards,

  
RADFORD J. SMITH, CHARTERED

Radford J. Smith, Esq.  
Board Certified Nevada Family Law Specialist

cc: Vivian Harrison (via email)  
Gary Silverman, Esq. (via email)  
Edward Kainen, Esq. (via email)  
Thomas Standish, Esq. (via email)



Hello All,

I have received your communications regarding the court's October 29, 2014 *Order for Appointment of Parenting Coordinator*. There appears to be some uncertainty regarding whether the *Order* permits the PC to:

1. Interview the parties' children;
2. Speak to third parties; and/or
3. Review reports the Court's Confidential Reports, including reports of mental health providers and evaluators.

It is customary for the Parenting Coordinator to interview the parties' children, speak to third parties and review the Court's Confidential file. If I am unable to do so, I will not be able to properly serve the parties or their children. Having access to the reports that have been filed in this matter, coupled with speaking to third parties, is insightful in providing an accurate reflection of what is occurring and allows me to get up to speed on the family dynamics in order to appropriately and effectively address issues which arise.

The purpose of a Parenting Coordinator is to monitor compliance with the Court's Orders and assist the parties in resolving issues that arise. Ultimately, my goal is to minimize the parties' conflict.

I have attached my Parenting Coordination Agreement which has been revised, per your request, to address only the parties' financial obligations; I will agree to proceed with the current *Order* as written. However, my interpretation of the *Order* is that Section 4.7 does, in fact, allow me to proceed with child interviews, interviewing third parties and reviewing the Court's Confidential Reports, absent any other subsequent Orders to the contrary, although I have not been provided the file in its entirety.

I am sure that you can appreciate that I have spent considerable time trying to find a resolution to the terms of my appointment, but if the parties are not able to reach agreement on this first issue, my ability to assist them to move forward may be very limited and the PC process may not be the appropriate avenue for them to proceed.

*Margaret*

Margaret E. Pickard, Esq.  
Mediator  
Parenting Coordinator

Adjunct Faculty  
University of Nevada, Las Vegas  
Duke University  
University of California, Davis

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(702) 595-6771

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**MARGARET PICKARD**

**Mediation – Parenting Coordination**

[NevadaMediator@gmail.com](mailto:NevadaMediator@gmail.com)

# EXHIBIT “B”

Filters Used:  
1 Tagged Record

# Email Report

Form Format

Date Printed: 5/09/2014  
Time Printed: 4:53PM  
Printed By: JHOEFT

Date	3/14/2014	Time	4:58PM	12:00AM	Duration	0.00 (hours)	Code	Case Related
Subject	Harrison Parent Coordination Agreement						Staff	Radford J Smith
Client	Vivian Harrison	MatterRef Harrison adv. Harrison					MatterNo D-11-443611-C	
From	Margaret Pickard <nevadamediator@gmail.com>							
To	ed@kainenlawgroup.com; tjs@standishlaw.com; Radford Smith; gary silverman <silverman@silverman-de							
CC To								
BCC To								
Reminders	(days before)	Follow	Done	Notify	Hide	Trigger	Private	Status
Custom1				Custom3				
Custom2				Custom4				

Hello All,

I have included everyone on this email to make sure that all attorneys receive the same information with respect to the above matter. Once the Parent Coordination process begins, I will generally communicate with the parties directly; they are, of course, welcome to share any communications with their respective attorneys at any time.

I received a call from Ed regarding my standard Parent Coordination Agreement. Specifically, the Court's Order of Appointment does not provide for the children to be interviewed; therefore, I have removed this provision.

The remainder of the agreement is intended to track the Order of Appointment; I have removed the temporary decision making authority provision as that is also beyond the current Order in this case.

The other provisions of the Agreement primarily define the fees and costs, as well as collections, if that becomes necessary. As you can imagine, Parent Coordination cases involve extremely conflictual personalities and therefore it is vital to clearly set forth the expectations of my appointment.

Please let me know when everyone is ready to move forward with the Parenting Coordination process.

All my best,

Margaret

Margaret E. Pickard, Esq.  
Mediator  
Parenting Coordinator

Adjunct Faculty  
University of Nevada, Las Vegas  
Duke University  
University of California, Davis

Filters Used:  
1 Tagged Record

# Email Report

Form Format

Date Printed: 5/09/2014

Time Printed: 4:53PM

Printed By: JHOEFT

10120 S. Eastern Avenue, Suite 140  
Henderson, Nevada 89052  
MargaretPickard@a <mailto:MargaretPickard@aol.com> ol.com  
(702) 595-6771

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MARGARET PICKARD PLLC

Mediation – Parenting Coordination

NevadaMediator@gmail.com

# EXHIBIT “C”

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2013

PHILADELPHIA, TUESDAY, JULY 9, 2013

An ALM Publication

## Family Law

### Parenting Coordination Eliminated in Pennsylvania

BY KELLEY L. MENZANO

*Special to the Legal*

Effective May 23, the Pennsylvania Supreme Court adopted Pennsylvania Rule of Civil Procedure 1915.11-1, titled "Elimination of Parent Coordination," which states:

"Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective."

This rule prohibits judges from delegating their authority to make decisions in child custody cases. Custody masters and hearing officers may continue to make recommendations, but all custody decisions are ultimately subject to judicial approval. Thus, the parenting coordinator role in Pennsylvania has been eliminated.

#### PARENTING COORDINATION IN PENNSYLVANIA

Parenting coordination in Pennsylvania began approximately five years ago. The

creation of the parenting coordination program was intended to allow the court to appoint a third party to decide custody disputes promptly and without judicial involvement. Parenting coordination was meant to be used in the context of custody conflicts between parents who were unable to resolve even minor custodial issues such as vacation planning, make-up parenting time, scheduling conflicts, a child's extracurricular involvement and other such issues that would become the subject of endless special relief petitions. Such issues, which often have more to do with the inability of parents to compromise and plan than a child's best interest and welfare, seemed to be a safe zone that could be appropriately delegated to individuals with some experience in family law. As parenting coordination developed, lawyers, psychologists, psychiatrists and other mental health professionals began to fill the parenting coordinator role.

In 2008, the Pennsylvania Superior Court decided the case of *Yates v. Yates*, 963 A.2d 535 (Pa. Super. 2008). Through the *Yates* opinion, parenting coordination was established in Pennsylvania. In this case, the father appealed a custody order from the Bucks County Court of Common Pleas that granted shared legal custody of the minor child to him and to the mother, awarded him primary physical custody and appointed a parenting coordinator to assist both parties in effectuating the custody order. The Superior Court first addressed the issue of parenting coordination as the trial court had "relied upon the appointment of the parenting coordinator to bolster its decision to grant mother shared legal custody."

The Superior Court recognized that parenting coordination was a novel con-

cept in Pennsylvania and described parenting coordination as a method to "shield children from the effects of parenting conflicts and to help parents in contentious cases comply with custody orders and implement parenting plans." On appeal, the father argued that the trial court lacked authority to appoint a parenting coordinator because the appointment of a parenting coordinator was an improper delegation of judicial decision-making authority. The Superior Court disagreed and found that the trial court had limited the role of the parenting coordinator, had "empowered the parenting coordinator to resolve only ancillary custody disputes" and had specifically addressed the majority of the details surrounding physical and legal custody. The trial court also specifically provided for a de novo review of a parenting coordinator's decision by the trial court at the request of the dissatisfied party. Through this opinion, the legitimacy and scope of a parenting coordinator's role was formally established and *Yates* became the seminal case concerning parenting coordination.

In 2012, the Superior Court was again faced with a parenting coordination issue. In the case of *A.H. v. C.M.*, 58 A.3d 823 (Pa. Super. 2012), the Superior Court reiterated a portion of its findings in *Yates*, upheld a dissatisfied party's right to a de novo review of a parenting coordinator's decisions and provided further guidance as to what such a de novo review required.

Despite the Superior Court's recent holdings in both *Yates* and *A.H.*, the Supreme Court overruled the parenting coordination findings reached in both cases by enacting Rule 1915.11-1.

---

KELLEY L. MENZANO is an associate in the family law group of Hangley Aronchick Segal Pudlin & Schiller and is admitted to practice law in Pennsylvania and Illinois. Contact her at [kln@hangley.com](mailto:kln@hangley.com)

---

## POSITIVES AND NEGATIVES

From the outset, parenting coordination in Pennsylvania was controversial. This controversy was recognized by the Pennsylvania Superior Court in both the *Yates* and *A.H.* opinions. While there were many benefits to the parenting coordination program, there were also negative aspects that weighed heavily against those benefits.

The positive aspects of a parenting coordination program include, but are not limited to:

- Promoting judicial economy by reducing the special relief petitions filed and litigated on ancillary custody issues.
- Providing a mechanism for the prompt resolution of time-sensitive custodial issues that may not rise to such an egregious level so as to trigger emergency intervention by the courts but nevertheless require timely resolution.
- Providing ongoing and consistent services to parents and providing those parents with a framework for dealing with future disputes.
- Insulating minor children from the litigation process.
- Allowing parties to avoid the costs of custody evaluations, attorney fees and other costs associated with the preparation for a custody trial.

The negative aspects of a parenting coordination program include, but are not limited to:

- The general confusion as to who is qualified to be a parenting coordinator and the resulting inconsistency with which individuals with varied backgrounds carry out the role.
- The general confusion as to the issues a parenting coordinator may decide and the limits on a parenting coordinator's authority (and/or the improper delegation of judicial authority).
- The general confusion as to the appropriate manner in which to review parenting coordinator decisions.
- The lack of finality of parenting coordinator decisions.

## POSSIBLE MODIFICATIONS

Many members of the Pennsylvania domestic relations bar were surprised to learn of the Pennsylvania Supreme Court's decision to eliminate parenting coordination altogether. While most Pennsylvania family

law practitioners recognized the multitude of flaws in the parenting coordination program, few expected the Supreme Court to eliminate it entirely.

Several domestic relations bar members believe that the Supreme Court's decision to eliminate the parenting coordination program was prompted by the Luzerne County "kids-for-cash" scandal (involving payoffs to two Luzerne County judges of approximately \$2.8 million), as the Supreme Court's rules committee submitted the proposed Rule 1915.11-1 for public comment while this scandal was very much in the news. By eliminating the program, it is possible that the Supreme Court hoped to create "transparency by the judiciary and to hold the judges directly accountable for decisions," thereby addressing some of the concerns the Luzerne County scandal had brought to the public's attention, as Ben Present wrote in a May 7 article in *Pennsylvania Law Weekly* titled "Concern Over Judicial Authority Drove Parent Coordinator Elimination."

Regardless of the Pennsylvania Supreme Court's motivation for propounding Rule 1915.11-1, Pennsylvania should now look to other jurisdictions, as well as the guidelines promulgated by the Association of Family and Conciliation Courts, for direction regarding how to rework the parenting coordination program to eliminate, or at least minimize, the negative aspects and areas of concerns, including the concern over the inappropriate delegation of judicial authority.

For example, the parenting coordination program could, and should, be revamped in the following ways:

- The Supreme Court should specify the minimum qualifications of a parenting coordinator. For example, parenting coordinators could be limited to those who are licensed attorneys with a specific amount of family law experience. Alternatively, parenting coordinators could be mediation professionals with certain degrees, certificates or licenses. Pennsylvania's Erie County had local rules containing such provisions.
- The Supreme Court should require parenting coordinators to acquire and maintain a certain level of competence in the parenting coordination process. For example, a parenting coordinator could be required to attend specific continuing legal education seminars to remain eligible for appointment as a parenting coordinator.

- The Supreme Court should provide a form parenting coordinator order. The form order should specify the manner of appointment, scope of authority and responsibilities of the parenting coordinator and delineate clearly the method of de novo review of a parenting coordinator's decision. The form order should also provide for the method of payment to the parenting coordinator and the apportionment of the parenting coordinator costs between the parties.

Modifications to the parenting coordination program in the above manner would dispel much of the confusion surrounding it.

## HIGH-CONFLICT CUSTODY CASES

Although modifications to parenting coordination could have been made, the Pennsylvania Supreme Court chose to eliminate it entirely. There is no indication that the program will be reinstated in the near future.

Therefore, parenting coordinators throughout the state have notified their clients of the change and practitioners and judges may see an influx of special relief petitions, emergency and otherwise, to deal with the types of issues formerly handled by parenting coordinators. Now, family law judges and practitioners must examine other options for dealing with high-conflict custody cases. Perhaps, family law practitioners may continue to use the same individuals who formerly served as parenting coordinators to assist high-conflict families in the dispute resolution process as mediators or arbitrators should the parties so agree. Another option may be to use software such as Our Family Wizard to assist families in reducing scheduling conflicts and planning ahead. Co-parent therapy and parenting classes may be other ways in which to assist clients in obtaining the assistance they need to resolve ancillary custody issues previously decided by a parenting coordinator. Family law practitioners and judges statewide will have to be creative in looking for alternatives to parenting coordination without resorting to increased litigation. •

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1 0001

2  
3  
4 DISTRICT COURT  
CLARK COUNTY, NEVADA

5 KIRK ROSS HARRISON,

CASE NO.: D-11-443611-D

6 Plaintiff,

DEPT NO.: Q

7 v.

8 VIVIAN MARIE LEE HARRISON,

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

9 Defendant.

10  
11 Party Filing Motion/Opposition : ☐ Plaintiff/Petitioner ☒ Defendant/Respondent

12 DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING  
13 PARENT/CHILD ISSUES, etc.; COUNTERMOTION FOR ATTORNEY'S FEES AND SANCTIONS

14 **Motions and**  
15 **Oppositions to Motions**  
16 **filed after entry of a final**  
17 **order pursuant to NRSS**  
18 **125, 125B or 125C are**  
19 **subject to the Re-open**  
20 **filing fee of \$25.00,**  
21 **unless specifically**  
22 **excluded (NRS 19.0312)**

Mark correct answer with an "X"

1. No final Decree or Custody Order has been  
entered. ☐ YES ☒ NO

2. This document is filed solely to adjust the amount of  
support for a child. No other request is made.  
☐ YES ☒ NO

3. This Motion is made for reconsideration or a new  
trial and is filed within 10 days of the Judge's Order  
if YES, provide file date of Order: \_\_\_\_\_  
☐ YES ☒ NO

20 **NOTICE:**

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

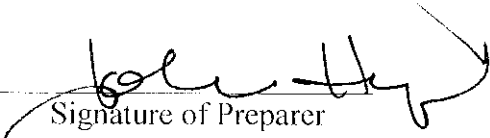
If you answered YES to any of the questions above,  
you are not subject to the \$25 fee.

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

25 Dated this \_\_\_\_ day of May, 2014

26 Jolene Hoeft

27 Printed Name of Preparer

  
Signature of Preparer

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_/

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 5**

**ROBERT L. EISENBERG**  
**Nevada Bar No. 0950**  
**Lemons, Grundy & Eisenberg**  
**6005 Plumas Street, Third Floor**  
**Reno, Nevada 89519**  
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[\*\*rle@lge.net\*\*](mailto:rle@lge.net)

**KIRK R. HARRISON**  
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**Boulder City, Nevada 89005**  
**702-271-6000**  
[\*\*kharrison@harrisonresolution.com\*\*](mailto:kharrison@harrisonresolution.com)

***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***

## CHRONO INDEX

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675



# EXHIBIT 26

MD Appointment

CONFIDENTIAL

Name

Vivian

Harrison



COPY

Sean Duffy, M.D.

July 19, 2005

**PSYCHIATRIC EVALUATION:**

Re: Vivian Harrison

Date of Birth: 08/16/62

Referred By: By Dr. Paula Squittieri, Ph.D.

**IDENTIFYING INFORMATION:**

This is a 42-year-old married Caucasian female. She has been married to her husband who is an attorney for over 20 years. They have three young adult children ages 20, 18, and 16, and two young children ages 4 and 2. Vivian has no financial problems at this time, but she is considering some legal issues.

**HISTORY OF PRESENT CIRCUMSTANCES:**

Vivian had difficulties in her family relationships. All three of her older children have had problems of one sort or another. The way she describes as they feel entitled and in a lot of ways, in terms of their inability to do things that have been asked of them which come down to the fundamentals including things like college admissions, applications, and things that one would expect they would be self-directed upon. She has been very involved with this, leading to conflicts with her husband who has a different philosophy of letting the kids be responsible for themselves. He is more of a laissez faire and she tends to be much more wanting to be proactive in making the children do things. This has led to problems in her relationship with her husband to the point that she actually consulted with an attorney considering divorce and getting out of this situation in regards to her older children and her husband. Her younger children it sounds like are doing okay at this point.

Her oldest daughter has been treated for anxiety and possible obsessive compulsiveness. She has been on medications including serotonin reuptake inhibitors, but has not recently been taking those and apparently is not doing as well from Vivian's perspective, although her daughter says she feels better off the medication. Her 16 year old has been apparently diagnosed with attention deficit disorder and has been treated with stimulants by a psychiatrist here in town. Currently, that child is off the medication for this summer.

Vivian had concerns about her weight. She was taking phentermine last year and just in the last couple of weeks she was given a prescription for tenuate, a different type stimulant. This is through a diet clinic and none of her emotional issues were brought up in terms of this prescription.

Symptomatically, what results in the referral this time from the psychologist she is met with three times, is that Vivian is having trouble with disrupted sleep at night. She tends to wake up and not able to go back to sleep. She is feeling very tense, irritable, and reactive to her family dynamics manifesting as frequent arguments and anger on her part. She also has an easy potentiality to crying in discussing this material, which was present through much of today's evaluation. There is no hopelessness and no suicidal thinking, but there is considerable ambivalence about her relationship with her husband and her older children. She may be overeating and/or not able to lose weight in part is a byproduct of what she has been feeling emotionally. There are no panic attacks. No history of eating disorder. Dr. Squittieri mentioned the possibility of some postpartum depression from her last delivery, but it is difficult to distinguish that from the ongoing symptoms that she is describing on the present time. She is open to idea of trying antidepressant to try and help her disposition and mood in coping with these things regardless of what decision she makes, and in fact, she was treated with Effexor from her regular doctor about a year ago which she took for a few months, but the maximal dose she was on was only 75 mg which would have been probably not enough to really help her feel better. Part of the reason Effexor was chosen apparently was because she was taking phentermine, and it is

Name

Vivian

Harrison

MD Appointment

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Sean Duffy, M.D.

not clear to her whether she has had her thyroid checked at any point in the recent past.

**PAST PSYCHIATRIC HISTORY:**

She denies any remote history of depression or anxiety disorders. No history of hospitalization or suicidal thinking.

**PAST MEDICAL HISTORY:**

She has a regular menstrual cycle. She does not have a very good libido and has very little to no interest in being sexually active with her husband at this time because of the issues between them. She is on no other prescriptions medications as I understand and has no drug allergies.

**MENTAL STATUS EXAM:**

**Appearance:** Reveals an alert and oriented mildly overweight Caucasian female who is dressed casually with good grooming and hygiene. Her eye contact was good.

**Speech:** A bit pressured through much of the interview due to emotion, but otherwise, normal for volume and rhythm.

**Motor Activity:** Within normal limits.

**Mood:** Moderately depressed.

**Affect:** Anxious and tense.

**Thought Processes:** Logical and goal directed.

**Thought Content:** There is no suicidal or homicidal ideation. No auditory or visual hallucinations. No thought broadcasting, thought insertion, or paranoid ideation.

**Cognition:** Appears grossly intact.

**Insight:** Appears fair.

**Judgment:** Appears good.

**ASSESSMENT:**

Vivian Harrison is a 42-year-old woman who has had some significant problems with her older children which have played into growing problems in her marriage and as a byproduct of this appears to be experiencing symptoms consistent with moderate depression and generalized anxiety. I will also code her as having marital relation problems at this time.

I think the onus of treatment probably is in the therapy but certainly if she wants to try medications to temper some of her reactivity and the anger and whether or not will make a difference in her sleep problems and so forth, I am open to that. I suggested that she not take the stimulants she was just prescribed for weight loss as it has potential to aggravate all of the symptoms that she is complaining of and instead to wait on that and try a serotonin reuptake inhibitor. I chose Celexa, and she will try that, titrating at 10 mg for a week, 20 mg for a week, and then 40 mg if the prior two dosages have gone okay. Risk, benefits, and side affects of SSRIs were described to her, and she gave informed concerns, and she plans on continued individual counseling with Dr. Paula Squittieri.

**DIAGNOSES:**

**AXIS I:** 29622 - Major depression disorder, single episode, and moderate.  
300.02 - Generalized anxiety disorder.  
V61.1 - Partner relational problem.

**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144

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Beginning of Chart

**Medical Record**  
**Psychiatric Eval**

MD Appointment

CONFIDENTIAL

Name

Vivian

Harrison

AXIS II: Deferred.  
AXIS III: No active medical problems at this time.  
AXIS IV: Moderate.



COPY

Sean Duffy, M.D.

AXIS V: Currently 50.

**PLAN:**

As per above regarding medications with the understanding that she shall continue to see Dr. Paula Squittieri for therapy. I did order a TSH level for her, and if she has any problems with the medication she is instructed to call me. I will actually meet with her in about eight weeks, which would be about six weeks into taking 40 mg of Celexa and trying and determine if it has been of any benefit to her time in that timeframe. If she does not tolerate the SSRI for some reason, we will either switch to different SSRI or consider another trial.

Thank you for the referral and opportunity to participate in this pleasant woman's care.

Respectfully,

Sean Duffy, M.D.

Diplomate of the American Board of Psychiatry &amp; Neurology

SD/MJ/AK

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**Beginning of Chart****Medical Record****MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

CONFIDENTIAL



COPY

Sean Duffy, M.D.

Date **9/19/05**MD Apt # **2**

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Great Improvement

8/25 - Thy wnl

none

Lab Results

Side Effects?

**Note**

**S/O** - Taking celexa and finding it does help, 40 mg once a day, not as reactive, less crying, not snapping or yelling as much. Positive feedback from people around her. Still trouble sleeping with waking up at 1-3 am, takes a while to get back to sleep, then up at 5 am. Not as much energy as before, tried it at night initially but then went to mornings as thought effects would wear off if taken at night. No sse that she is aware of, but not very sexual.

**A/P** - MDD, full remission, GAD is much better - Will try 60 of celexa to see if its more effective, let me know, once decided on final amount then if chooses to for her concerns about weight, can take phentermine or tenuate if chooses to, with my stating that stimulants could bring back or aggravate problems with irritability, nervousness, trouble sleeping. Also mentioned diphenhydramine as alternative to help sleep.

New Med? ☒ Informed Consent ☐ Informed Consent by GuardianReturn to Clinic: **Three Months**Date **1/19/06**MD Apt # **3**

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Effective

Patient Progress?

Unchanged

none

Lab Results

Side Effects?

**Note**

**s/O** - Not in counseling anymore, two older kids are away at school. Husband is retiring at the end of the month and a bit of a risk of this to stability. Her mood is much calmer and more even, handles stress a lot better. Sleep improved somewhat although still a bit of a problem. Increase in celexa may or not have been of much difference.

**a/P** - MDD, full remission, GAD in remission - Holding on 60 celexa, not fully clear if needs to be on this much but wants to stay on that since husband is about to retire at age 54. Meet in the fall, discuss whether or not to stay on it, dont stop it abruptly.

New Med? ☐ Informed Consent ☐ Informed Consent by Guardian

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**Beginning of Chart****Medical Record****MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

Sean Duffy, M.D.

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Return to Clinic:

**COPY**Date 2/27/2007MD Apt # 4

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Effective

Patient Progress?

Unchanged

none

**Note**

**S/O** - Not clinically depressed at this time, but did stop for one week a couple months ago and had noticeable irritability and tension. Sleep has never been regular entire with or without it. One sister is being treated for dep, not sure as only talks to her once a year, and a half-sister who killed herself. Daughter has anxiety and some tendencies toward obsessive compulsiveness, is now in college and struggling emotionally, not on meds at this time. Taking 40 mg a day, generic, down from 60 at time of the last visit.

**A/P** - MDD, full remission, GAD - Not clear if needs to be on celexa from the standpoint of risk for significant depression but on the other hand some sx of low grade when she did not take in just a few months ago, and gad is likely to be persistent given daughter's history of such. So asking about long term use and risks associated and with study came out about bone density that would be the main concern.

Lab Results

Side Effects?

New Med?

☐ Informed Consent☐ Informed Consent by Guardian

Return to Clinic:

One Year

Date 5/12/2008MD Apt # 5

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☒ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Some Deterioration

none

**Note**

**S/O** - Has been on medicine since last here although reduced to 20 mg over the last four months, and has noticed an increase in GAD sx including irritability, fatigue, low energy.

**A/P** - MDD, full remission, GAD - I think she should go back to 40 mg, 20 is just not going to hold her. If resumes 40 mg and feels better cont once a year visits. Call me in four to six weeks.

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**Beginning of Chart****Medical Record****MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

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Lab Results

Side Effects?

New Med?

☒ Informed Consent☐ Informed Consent by Guardian

Return to Clinic:

One Year

Date 6/12/2009

MD Apt # 6

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Some Improvement

none

Lab Results

Side Effects?

**Note****S/O** - Has been well, going back to the 40 mg did improve mood. No new health problems.**A/P** - MDD, full remission, GAD - Cont maintenance long term treatment with citalopram. Doing well.

New Med?

☒ Informed Consent☐ Informed Consent by Guardian

Return to Clinic:

One Year

Date 5/25/2010

MD Apt # 7

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

**Note****S/O** - Had a good year, going to Ireland in a few weeks, will be out of town for two months on trip so needs me to write double dose for the time she is away, if insurance won't go for that then will have to argue it out with them or just pay for it. Living together but physically and sexually separated from husband, no fighting. Has legal counsel to discuss how to go about ending the relationship.**A/P** - MDD, full remission, GAD - Doing well on maintenance antidepressant treatment. Has pending probable divorce with legal counsel but holding up alright.  
2/24/11 - phone - pt going through divorce and asks by phone msg to increase antidepressant, I think before I do that I would like to meet with her and discuss what has been going on and how she has been feeling before just bumping the dose.



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**Beginning of Chart****Medical Record****MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

**Sean Duffy, M.D.****CONFIDENTIAL****COPY**

Lab Results

Side Effects?

New Med?

☒ Informed Consent☐ Informed Consent by Guardian

Return to Clinic:

One Year

Date **3/1/2011**MD Apt # **8**

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

Lab Results

Side Effects?

New Med?

☒ Informed Consent☐ Informed Consent by Guardian

Return to Clinic:

Six Months

**Note**

**S/O** - She is in therapy with a Marvin Garwin, daughter has OCD and had seen that therapist. This is in the last two months. This was to help with her plan for divorce which is going forward at this point. Told therapist what dose she was on and he looked up and that she is on standard dose. So now she is reconsidering the increases in dose as psychologist said it might harm her.

**A/P** - MDD, full remission, GAD - As prophylaxis I do not have a problem with going to 60 mg in context of what is going to likely be an ugly divorce. I disagree with psychologist that taking a larger amount would harm her in some way which was not quantified by him. I think it may be wise in fact to go back on 60 mg just to help deal with stress.

10/10/11 - phone - pt wanted to talk to me about "medicine advice" - seven months since last seen - overdue for f/u - schedule apt.

Date **10/11/2011**MD Apt # **9**

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

**Note**

**S/O** - Taking 60 of celexa, doing well on that dose, no depression, has gained wt in the last several months in context of stress of her divorce, poor diet and lack of exercise.. Wt went from 150 to 180. Shows me an extensive report from Dr. Roitman, who did not interview her directly, diagnosing her as having impairments related to intermittent use of phentermine and narcissitic personality disorder, based on affidavits of husband and two adult daughters that she has problems. He formulated this "analysis". She then had her own psychiatric evaluation from Dr. Thienhaus that stated no diagnosis and clean MMPI - completely opposite from Dr. Roitman's report. Dr. Thienhaus did evaluate her directly. No phentermine use since last May. She remains in therapy. No Bontril since June. Has only used two xanax pills in the six months since I wrote that rx.

**A/P** - MDD, full remission, GAD - Atty asking whether I want to be in a role of evaluation of her in the complexity of her legal problems, and the answer is no I do not want to do that, clearly two forensic psychiatrists have formed opinions of her and their opinions should be the "expert opinions", one of whom interviewed her directly and did MMPI, the other whom never met her directly (is this ethical?). I am simply doing med management for anxiety and mood, and she is



Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

Sean Duffy, M.D.

CONFIDENTIAL COPY

		faring fairly well with the medicine she is on (no evidence of EKG abnormalities, last EKG was January). Ask her to have her regular doctor repeat EKG to verify no QT prolongation from citalopram. Advised her I would recommend not doing anything in terms of medicines or surgeries for weight while she has legal proceedings going on. Continue therapy.
Lab Results	Side Effects?	New Med? <input type="checkbox"/> Informed Consent <input type="checkbox"/> Informed Consent by Guardian
		Return to Clinic: Six Months

<div>Date</div> <div>MD Apt #</div> <div><input type="checkbox"/> Patient <input type="checkbox"/> Spouse/Sig. Other <input type="checkbox"/> Parent <input type="checkbox"/> Son/Daughter <input type="checkbox"/> Therapist <input type="checkbox"/> Case Conference</div>	<div><input type="checkbox"/> Noncompliant <input type="checkbox"/> Partial Compliance <input type="checkbox"/> Compliant</div> <div>Medication(s) Effective?</div> <div>Patient Progress?</div>	<div>Note</div> <div>S/O -</div> <div>A/P -</div>
Lab Results	Side Effects?	New Med? <input type="checkbox"/> Informed Consent <input type="checkbox"/> Informed Consent by Guardian
		Return to Clinic:

<div>Date</div> <div>MD Apt #</div> <div><input type="checkbox"/> Patient <input type="checkbox"/> Spouse/Sig. Other <input type="checkbox"/> Parent <input type="checkbox"/> Son/Daughter <input type="checkbox"/> Therapist <input type="checkbox"/> Case Conference</div>	<div><input type="checkbox"/> Noncompliant <input type="checkbox"/> Partial Compliance <input type="checkbox"/> Compliant</div> <div>Medication(s) Effective?</div> <div>Patient Progress?</div>	<div>Note</div> <div>S/O -</div> <div>A/P -</div>
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**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144

(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

Medical Record  
Medication Records

Name

Vivian

Harrison

MD Appointments

Nursing Notes

Labs

Allergies: nkda

Previous  
Medication Trials:  
Reason DC'd

CONFIDENTIAL



COPY

Sean Duffy, M.D.

Pharmacy

Costco - Henderson

Pharmacy Phone Number

352-2030

Meds From Other MDs	Dosage	Schedule	Active/DC'd	Rxing MD	Phone
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
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			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		

Previous Psychiatric Med Trials	Adequate Trial	Reason DC'd
effexor	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	75 mg max for about 3 months one year ago
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	

**Medication**

	Refill Date	Rx Change	Refill #	Name of Prescriber
Celexa name brand 10 mg for one week, 20 mg for one week, 40 mg after that take in am	8/11/05	40 mg i po qd 1 mo 1		srd/ah
	9/19/05	40 mg 1 1/2 1 mo 2		srd/ko
	10/03/05	40 mg 1 1/2 po qd 1mo 2		srd/ah
	12/16/05	40 mg 1 1/2 po qd 1mo		srd/ah
	1/19/06	40 mg 1 1/2 nb 1 mo 8		srd
	2/27/07	40 mg i po qd 1 mo 11 generic		srd
	03/03/08	generic 40 mg #30 i po qd		srd/faxed
Date First Rx 7/19/05	5/6/08	40 mg i po qd 1 mo 11		srd
# One Month Refill: 1	6/12/09	40 mg i po qd 1 mo 11		srd/tw

- ☒ Informed Consent  
☒ Side Effects Discussed  
☒ Risk/Benefit Discussed  
☐ Reason DC'd Discussed

Date DC'd

Reason  
DC'd

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(702) 360-2800 FAX (702) 360-2878

**Beginning of Chart****Medical Record  
Medication Records**

Name

Vivian

Harrison

**MD Appointments****Nursing Notes****Labs**☐ Pregnancy Risk Discussed**CONFIDENTIAL****COPY****Sean Duffy, M.D.****Medication**

	Refill Date	Rx Change	Refill #	Name of Prescriber
<b>Citalopram 40 mg ii po qd generic date 6/7 then rewrite for 40 mg i po qd on 8/20 with 9 refills</b>	9/14/10	40 mg i po qd #30 7		srd/faxed
	3/1/11	40 mg 1 1/2 po qd 1 mo 5		srd
	9/8/11	40 mg 1 1/2 po qd #45		srd/faxed
	10/7/11	40 mg 1 1/2 po pd #45		srd/faxed
	10/10/11	1 mo 5 same		srd
Date First Rx	5/25/10			
#		Refill:		
<input checked="" type="checkbox"/> Informed Consent <input checked="" type="checkbox"/> Side Effects Discussed <input checked="" type="checkbox"/> Risk/Benefit Discussed <input type="checkbox"/> Pregnancy Risk Discussed	Date DC'd		Reason DC'd	

**Medication**

	Refill Date	Rx Change	Refill #	Name of Prescriber
<b>Xanax 1 mg i po q4 prn #10 for divorce meeting with attys 293-6705</b>	5/26/11	1 mg i po every 4-6 hrs #10	3	srd/faxed
Date First Rx	5/5/11			
#	10	Refill:	0	
<input checked="" type="checkbox"/> Informed Consent <input checked="" type="checkbox"/> Side Effects Discussed <input checked="" type="checkbox"/> Risk/Benefit Discussed <input type="checkbox"/> Pregnancy Risk Discussed	Date DC'd		Reason DC'd	

**Medication**

	Refill Date	Rx Change	Refill #	Name of Prescriber
Date First Rx				
#		Refill:		

# EXHIBIT 27

## AFFIDAVIT OF JANIE HARRISON FERGUSON

State of Nevada     )  
                              ) ss.  
County of Douglas )

**JANIE HARRISON FERGUSON, declares and says:**

I am the daughter of Betty J. Harrison and J. Ross Harrison. My siblings are Kaye Harrison Reese, Jo Lyn Harrison Fogliani and Kirk R. Harrison.

Our father died in October 1990 at our family ranch in Pinto, Utah. After his death my siblings and I took several months to review the paperwork involved in the family ranch. It should be noted that our father's wishes regarding the ranch were very straightforward. He wanted the ranch to stay in the family and he wanted to make sure it was well taken care of and maintained. He had worked most of his life putting the ranch together and it was vitally important to him that what he had worked so hard to have, be kept in the family and well maintained. Our father worked every spare moment he had at the ranch in order to keep it in good repair.

After our father's death and after some deliberation, we all agreed that our sister Jo Lyn Harrison Fogliani and her husband, Michael Fogliani would be our representatives for the ranch. This decision was made in large part due to their close proximity to the ranch and their ability to spend their time at the ranch to take care of the maintenance and repair. Historically, we had rented pasture to a third party who would run cattle on the pastures at the ranch during the summer months. The party renting the pasture would be responsible for maintenance of the fences and the irrigation ditches, and would take the water turn from the Pinto Creek each week. The renter would also irrigate from the two reservoirs on the ranch and was generally responsible for the condition of the pastures. We just needed our representatives to make sure all that was being done by the renter. As time went on, it became apparent that there were going to be many times when there was a difference of opinion regarding the ranch management and the associated expenses. Access to the ranch for the family became an issue as did expenditures for remodeling and farm equipment. As our representatives for the ranch, our sister Jo Lyn Fogliani and her husband Mike Fogliani were hesitant to let family members visit the ranch without scheduling the visit with them first, and access to the ranch for the rest of the family became difficult. Our sister Kaye Reese took particular exception to this new development as she and her children live in relatively close proximity to the ranch and were unable to make a casual visit to the ranch without first obtaining permission. Jo Lyn and Mike insisted that we needed to purchase a backhoe for use at the ranch in order to make it easier to get the work done. I was not in a financial position to help with the purchase of this equipment, nor was our sister Kaye. This was also the case with Jo Lyn and Mike's request to remodel the ranch house – I couldn't afford the expenditure, nor

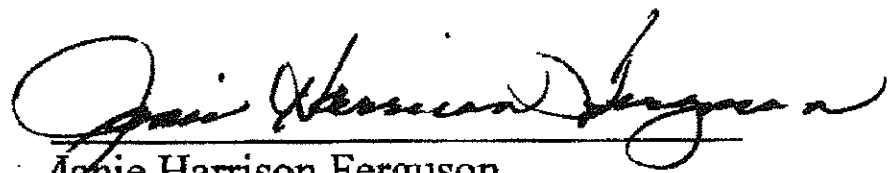
could our sister Kaye. Our brother Kirk offered to purchase a part of the backhoe, or the bear the lion's share of the expense of the backhoe so they would have it to use at the ranch. All of these discussions regarding the ranch were tense and confrontational and created hard feelings, especially between my sisters. This served to reinforce my desire to sell my ownership portion of the ranch. I had decided that I would rather remain friends with my brother and sisters than own any land in common with them.

I contacted each of my siblings on the same date regarding my wishes to sell my ownership interest in the ranch and offered to sell my portion to each of them. I did not receive any offers from any of them at the time so I just let them know what I was thinking and why I was interested in selling. They all encouraged me not to sell and the matter was put aside. At some point in 1994, my sister Jo Lyn and her husband Michael notified all of us that they were resigning their position as our representative at the ranch because we couldn't provide the addition investment they felt was needed to care for the ranch. At this point in time, our brother Kirk Harrison agreed to become the caretaker of the ranch. I approached him again regarding purchasing my ownership interest in the ranch property, but he again declined. He advised that he thought the problem with the management of the ranch was the joint ownership of the property and he asked if I would be interested in dividing the property we owned jointly so we would each have our own property. I discussed this with my family and we still came to the same conclusion that our distance from the ranch and our inability to invest financially precluded us from owning property that far away. I again reiterated my desire to sell my portion of the ranch. My brother indicated that he was going to discuss the property division with my sisters and see if they could work out a solution whereby he would purchase my portion and still go forward with a plan for each of them to have separate ownership of their property instead of ownership in common with the others. In early 1995, it was my understanding that my brother had come to an agreement with my sister Kaye Reese regarding the property division and he agreed to purchase my interest in the ranch property.

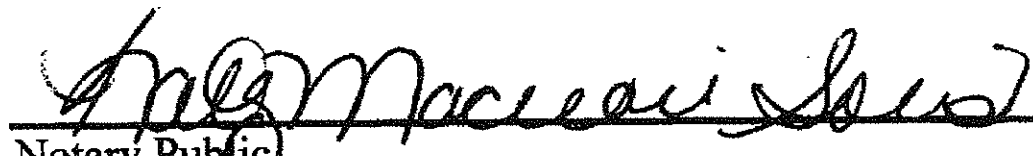
Sometime later I was advised that my siblings had exchanged offers and counter offers and our sister Kaye was not willing to stand by her previous agreement with our brother. After years of trying to solve the joint ownership problem and get the ownership interests separated, it is my understanding that my brother filed a court action in 1998 to have the court divide the property for my siblings. Needless to say, all of these things have created some very hard feelings and my siblings have been unable to maintain a good relationship. This is very unfortunate for our family as I know that my brother was trying to do the right thing at the ranch so all of our family members could enjoy it.

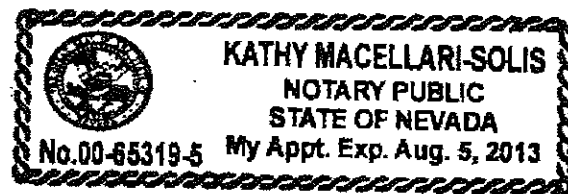
Kirk has provided me with a copy of Paragraph 42 of Vivian Harrison's Sworn Statement. Her statement that "Kirk wanted the land for himself, so he began putting pressure on his sisters" is not a true statement. As noted previously, I wanted to sell my ownership interest in the ranch and approached Kirk several times regarding purchasing my interest. I feel strongly that my brother went above and beyond the reasonable in an effort to be fair with me as well as both of our sisters.

FURTHER AFFIANT SAYETH NAUGHT.

  
Janie Harrison Ferguson

Subscribed and sworn before me this 3<sup>rd</sup> Day of January, 2012

  
Notary Public



# EXHIBIT 28



Name: Urvian Harrison Marital Status: M Age: 47 Sex: F  
 Occupation: \_\_\_\_\_ Education: \_\_\_\_\_

**Instructions:** This questionnaire consists of 21 groups of statements. Please read each group of statements carefully, and then pick out the **one statement** in each group that best describes the way you have been feeling during the **past two weeks, including today**. Circle the number beside the statement you have picked. If several statements in the group seem to apply equally well, circle the highest number for that group. Be sure that you do not choose more than one statement for any group, including Item 16 (Changes in Sleeping Pattern) or Item 18 (Changes in Appetite).

**1. Sadness**

- 0 I do not feel sad.  
☒ 1 I feel sad much of the time.  
 2 I am sad all the time.  
 3 I am so sad or unhappy that I can't stand it.

**2. Pessimism**

- 0 I am not discouraged about my future.  
☒ 1 I feel more discouraged about my future than I used to be.  
 2 I do not expect things to work out for me.  
 3 I feel my future is hopeless and will only get worse.

**3. Past Failure**

- ☒ 0 I do not feel like a failure.  
 1 I have failed more than I should have.  
 2 As I look back, I see a lot of failures.  
 3 I feel I am a total failure as a person.

**4. Loss of Pleasure**

- 0 I get as much pleasure as I ever did from the things I enjoy.  
☒ 1 I don't enjoy things as much as I used to.  
 2 I get very little pleasure from the things I used to enjoy.  
 3 I can't get any pleasure from the things I used to enjoy.

**5. Guilty Feelings**

- ☒ 0 I don't feel particularly guilty.  
 1 I feel guilty over many things I have done or should have done.  
 2 I feel quite guilty most of the time.  
 3 I feel guilty all of the time.

**6. Punishment Feelings**

- ☒ 0 I don't feel I am being punished.  
 1 I feel I may be punished.  
 2 I expect to be punished.  
 3 I feel I am being punished.

**7. Self-Dislike**

- 0 I feel the same about myself as ever.  
☒ 1 I have lost confidence in myself.  
 2 I am disappointed in myself.  
 3 I dislike myself.

**8. Self-Criticalness**

- 0 I don't criticize or blame myself more than usual.  
☒ 1 I am more critical of myself than I used to be.  
 2 I criticize myself for all of my faults.  
 3 I blame myself for everything bad that happens.

**9. Suicidal Thoughts or Wishes**

- ☒ 0 I don't have any thoughts of killing myself.  
 1 I have thoughts of killing myself, but I would not carry them out.  
 2 I would like to kill myself.  
 3 I would kill myself if I had the chance.

**10. Crying**

- 0 I don't cry anymore than I used to.  
☒ 1 I cry more than I used to.  
 2 I cry over every little thing.  
 3 I feel like crying, but I can't.

10 Subtotal Page 1

**Continued on Back**

**11. Agitation**

- 0 I am no more restless or wound up than usual.
- ☒ 1 I feel more restless or wound up than usual.
- 2 I am so restless or agitated that it's hard to stay still.
- 3 I am so restless or agitated that I have to keep moving or doing something.

**12. Loss of Interest**

- 0 I have not lost interest in other people or activities.
- 1 I am less interested in other people or things than before.
- ☒ 2 I have lost most of my interest in other people or things.
- 3 It's hard to get interested in anything.

**13. Indecisiveness**

- ☒ 0 I make decisions about as well as ever.
- 1 I find it more difficult to make decisions than usual.
- 2 I have much greater difficulty in making decisions than I used to.
- 3 I have trouble making any decisions.

**14. Worthlessness**

- 0 I do not feel I am worthless.
- ☒ 1 I don't consider myself as worthwhile and useful as I used to.
- 2 I feel more worthless as compared to other people.
- 3 I feel utterly worthless.

**15. Loss of Energy**

- 0 I have as much energy as ever.
- 1 I have less energy than I used to have.
- ☒ 2 I don't have enough energy to do very much.
- 3 I don't have enough energy to do anything.

**16. Changes in Sleeping Pattern**

- 0 I have not experienced any change in my sleeping pattern.
- 1a I sleep somewhat more than usual.
- 1b I sleep somewhat less than usual.
- 2a I sleep a lot more than usual.
- ☒ 2b I sleep a lot less than usual.
- 3a I sleep most of the day.
- 3b I wake up 1-2 hours early and can't get back to sleep.

**17. Irritability**

- 0 I am no more irritable than usual.
- ☒ 1 I am more irritable than usual.
- 2 I am much more irritable than usual.
- 3 I am irritable all the time.

**18. Changes in Appetite**

- 0 I have not experienced any change in my appetite.
- 1a My appetite is somewhat less than usual.
- ☒ 1b My appetite is somewhat greater than usual.
- 2a My appetite is much less than before.
- 2b My appetite is much greater than usual.
- 3a I have no appetite at all.
- 3b I crave food all the time.

**19. Concentration Difficulty**

- 0 I can concentrate as well as ever.
- ☒ 1 I can't concentrate as well as usual.
- 2 It's hard to keep my mind on anything for very long.
- 3 I find I can't concentrate on anything.

**20. Tiredness or Fatigue**

- 0 I am no more tired or fatigued than usual.
- 1 I get more tired or fatigued more easily than usual.
- ☒ 2 I am too tired or fatigued to do a lot of the things I used to do.
- 3 I am too tired or fatigued to do most of the things I used to do.

**21. Loss of Interest in Sex**

- ☒ 0 I have not noticed any recent change in my interest in sex.
- 1 I am less interested in sex than I used to be.
- 2 I am much less interested in sex now.
- 3 I have lost interest in sex completely.

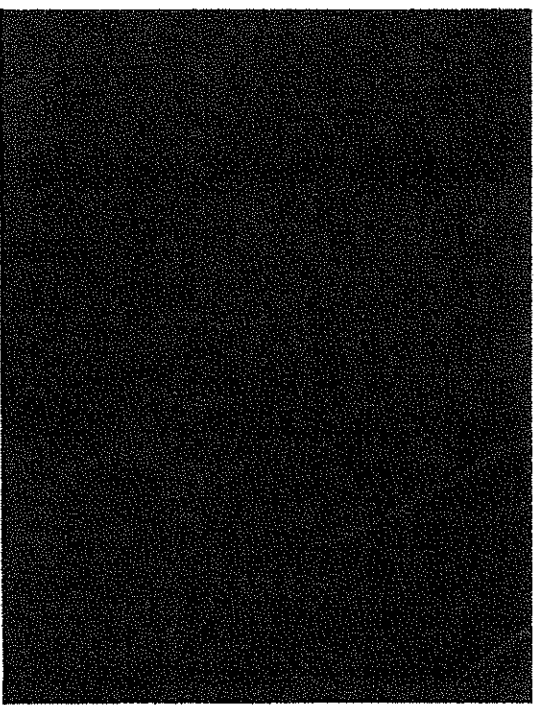
21 22 23 24 25 26 27 28 29 30 A B C D E

NOTICE: This form is printed with both blue and black ink. If your copy does not appear this way, it has been photocopied in violation of copyright laws.

12 Subtotal Page 2

6 Subtotal Page 1

18 Total Score



The Life Center for Healthy Aging

## QoL-AGHDA

### *Quality of Life*

Assessment of GH Deficiency in Adults

Listed below are some statements that people may make about themselves.

Please read the list carefully and answer each one honestly. If you are not sure whether to answer YES or NO, mark whichever answer you feel is most generally true.

- | YES                                 | NO  | YES                                 | NO   |
|-------------------------------------|---|-------------------------------------|--|
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>I have to struggle to finish jobs.</i> | <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I feel a strong need to sleep during the day.</i>          |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>My memory lets me down.</i>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I have to push myself to do things.</i>                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I lack confidence.</i>                            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>I often have to force myself to stay awake.</i> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I often feel very tense.</i>                      | <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>It is difficult for me to make friends.</i>     |

- | YES                                 | NO  |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I often feel too tired to do things I ought to do.</i>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>It takes a lot of effort for me to do simple tasks.</i> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I have difficulty controlling my emotions.</i>          |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I often lose track of what I want to say.</i>           |

- | YES                                 | NO  |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I often feel lonely even when I am with other people.</i>               |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I have to force myself to do all the things that need doing.</i>        |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>I have to read things several times before they sink in.</i> |

- | YES                      | NO   |
|--------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I feel as if I let people down.</i>                   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I find it hard to mix with people.</i>                |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I feel worn out even when I've not done anything.</i> |

- | YES                                 | NO   |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>There are times when I feel very low.</i>            |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> <i>I avoid responsibilities if possible.</i> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> <i>I avoid mixing with people I don't know well.</i>    |

- | YES                      | NO   |
|--------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I feel as if I'm a burden to people.</i>        |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I often forget what people have said to me.</i> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I find it difficult to plan ahead.</i>          |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> <i>I am easily irritated by other people.</i>      |

*\*Please Note: A Validation and Development  
Reference List is Available Upon Request.*

QoL-AGHDA English  
200-02-17  
OR 7064-01

# EXHIBIT 29

## Harrison, Kirk

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**From:** aspenhd [aspenhd@aol.com]  
**Sent:** Saturday, October 29, 2011 9:47 AM  
**To:** vivianlharrison@aol.com; Harrison, Kirk  
**Subject:** Oops, this one actually has something written

Kirk and Vivian,

I am sure that neither of you want any more suggestions or advice from me, but I wish you would read this, and then ponder your future. Hopefully it will help.

I challenge you to look down the road 5, 10, 15 years. What kind of future do you want for your children and grandchildren? Do you want them to be worried about having both of you to any event? To feel torn, like they have to choose sides? Imagine the difficulty at weddings, births and birthdays for your future grandchildren, holidays etc. Or could you both choose NOW to forgive and move forward with your children's best interests as your TOP priority. Earn your children's honor and respect by acting honorably and respectably. Teach them that it is possible to resolve differences and to live peaceably.

Instead of blowing thousands of MORE dollars on attorneys, use those funds to buy the lot across the street, from the Larsens. Build another home there, so Brooke and Rylee can have a stable life ASAP, and only have to cross the street to be with the opposite parent. I think your older children desperately need this right now too. They have enough stress in their lives right now without all the pain and sorrow that this is causing. Stop putting your energy into fighting, and choose instead to invest it in healing. If you don't do this, every time your children have big problems in the future, you will be wondering if part of their struggles were caused by your actions, BOTH of your actions. Show them that you can use all your amazing talents, resources, skills and intelligence to give them the BEST future possible; a future filled with love, caring and support from BOTH of their parents.

I have some good, fair suggestions on how to work out the details of dividing the home and its contents, as well as the ranch asset, IF you would like ideas. I would also be happy to help design another home, and then you can have an architect draw it up.

Now envision the reasonable, wonderful future that your children can have. Instead of feeling divided, stressed and broken, they can feel peace, love and respect. They can look forward to having you both come to events, because you have shown that you care more about them, than you do yourselves.

I know a lot has happened, but forgiveness and healing are still possible.

Love,

Nyla



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Divorce - Complaint**

**COURT MINUTES**

**February 24, 2012**

D-11-443611-D      Kirk Ross Harrison, Plaintiff.  
   vs.  
   Vivian Marie Lee Harrison, Defendant.

**February 24, 2012    9:00 AM**

**All Pending Motions**

**HEARD BY:**    Duckworth, Bryce C.

**COURTROOM:**    Courtroom 01

**COURT CLERK:**    Michael A. Padilla

**PARTIES:**

Emma Harrison, Subject Minor, not  
present

Kirk Harrison, Plaintiff, Counter  
Defendant, present

Rylee Harrison, Subject Minor, not  
present

Vivian Harrison, Defendant, Counter  
Claimant, present

Edward Kainen, Attorney, present

Radford Smith, Attorney, present

<b>JOURNAL ENTRIES</b>
------------------------

- CASE MANAGEMENT CONFERENCE... DEFENDANT'S MOTION TO RESOLVE TEMPORARY FINANCIAL ISSUES, PAYMENT OF INCURRED AND ONGOING ATTORNEY'S FEES AND EXPERT FEES... PLAINTIFF'S OPPOSITION AND COUNTERMOTION FOR TEMPORARY ORDERS PURSUANT TO NRS 125.040.

Attorney Mary Anne Decaria, Nevada Bar #25, present with Defendant and attorney Radford Smith.  
Attorney Danielle Taylor, Nevada Bar #7824, present with Defendant and attorney Radford Smith.

Court noted the parties have agreed by way of the pleadings that the parties agree to a monthly

PRINT DATE:	02/24/2012	Page 1 of 4	Minutes Date:	February 24, 2012
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disbursement and to some distribution. Court reviewed the psychological reports and evaluations which have been submitted thus far. Upon inquiry by Mr. Smith, Court noted Dr. Paglini is not performing a full blown custody evaluation. Following discussion, COURT ORDERED on a TEMPORARY basis, as follows:

1. The Case Management Conference is CONTINUED to 5/16/12 at 10:00 AM.
2. The parties are referred to an Outsourced Evaluation Service with Dr. John Paglini who shall conduct a psychological evaluation of the Plaintiff and Defendant and for a risk assessment of both party's parenting abilities. The cost for Dr. Paglini's services shall be paid from community funds. The Court is NOT requiring any reports or documents be provided to Dr. Paglini, however, the Court is NOT prohibiting or limiting what each party may submit to Dr. Paglini. Any documents provided to Dr. Paglini is to be copied to the other side specifically if the document has not been filed with the Court, if the document has been filed, then the cover letter or communications attached thereto is to be copied to the other side. Dr. Paglini may communicate with counsel should he deem it necessary. Counsel are free to sent correspondence to Dr. Paglini requesting he communicate with them and Dr. Paglini may do so if he so chooses. Each party is to be made aware of any communication between any party and Dr. Paglini. The Court is NOT expecting Dr. Paglini to be the fact finder in this action.
3. The Court shall NOT STAY the litigation pending Dr. Paglini's report.
4. Per STIPULATION, the parties shall maintain JOINT LEGAL CUSTODY of the minor children.
5. The parties shall maintain TEMPORARY JOINT PHYSICAL CUSTODY of the minor children.
6. Plaintiff's TEMPORARY PARENTAL TIME SHARE shall be every Monday after school or 10:00 AM if school is not in session to Friday before school or 10:00 AM if school is not in session. Plaintiff's custodial days are considered as Monday through Thursday.
7. Defendant's TEMPORARY PARENTAL TIME SHARE shall be every Friday after school or 10:00 AM if school is not in session to Monday before school or 10:00 AM if school is not in session. Defendant's custodial days are considered as Friday through Sunday.
8. The Court is NOT implementing a holiday schedule at this time.
9. The Defendant is NOT to sleep in the same bed with either minor child.
10. The Court shall allow the Right of First Refusal in the event the minor children shall be left alone over night and the custodial parent is unavailable. This does not include any sleepovers the children may have.
11. Plaintiff shall be awarded exclusive possession of the marital residence. Defendant shall have until 3/18/12 to relocate from the residence.

PRINT DATE:	02/24/2012	Page 2 of 4	Minutes Date:	February 24, 2012
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12. There is income listed on the Defendant's Financial Disclosure Form (FDF) which the Court is unsure of where it stems from and Court is NOT placing any labels as to this income. The Court is not including this amount into the allocation of income and Defendant may use these funds towards the cost of any rent she may incur once she moves out of the marital residence.

13. As to the monthly community expenses and income, the following is to be paid from community funds: taxes and insurance for the community residence (approximately \$702.19), cellular plan cost (approximately \$634.18), car insurance (approximately \$528.93 or what ever the amount is as both parties listed different amounts), license and registration (approximately \$100.00), health insurance (approximately \$1,903.30), any monthly unreimbursed medical expenses, "other" insurance, the minor children's extracurricular activities (approximately \$499.50, \$850.00 or whatever the amount is), child care, and any accounting and tax fees. All these amounts are to be paid off the top. Any other expenses the parties believe should come off the top needs to be agreed upon in writing.

14. After the amounts listed above have been paid, each party shall be entitled to a fifteen thousand dollar (\$15,000.00) monthly distribution beginning 3/1/12 and payable by the first day of each month.

15. Any community credit cards (specifically the Capital One card of \$7,401.00 and Best Buy card of \$8,100.00 approximately) are to be paid off as of the balance of today's date. Any amount incurred after today's date shall be paid with the monies the Court has allocated to the parties. Court retains jurisdiction over any disputes as to what items were purchased with these funds.

16. The parties have agreed to a seventy-five thousand dollar (\$75,000.00) distribution from community funds which shall be deemed to be the parties sole and separate property to be used at each party's discretion. This amount is to be paid by 3/1/12.

17. Aside from the amounts Ordered by the Court, there is to be NO access to any community funds without a written agreement from the other party. The Court is NOT authorizing any allowance payments to the parties' adult children.

18. Each party shall be allocated three hundred fifty thousand dollars (\$350,000.00) for preliminary ATTORNEY'S FEES which shall be paid by 3/1/12 or as soon as possible and shall be paid from the community funds. Additionally the Defendant shall receive an equalizing payment of ATTORNEY'S FEES to equal the amount the Plaintiff has paid. The Court retains jurisdiction to reallocate the payment of ATTORNEY'S FEES and whether one party shall receive a greater amount of community property at the conclusion of the case. It is not the Court's intent for the Defendant to use the money allocated to her for fees.

19. Counsel are to submit a litigation budget prior to the next hearing so the Court may determine whether there is need for an award of additional ATTORNEY'S FEES.

PRINT DATE:	02/24/2012	Page 3 of 4	Minutes Date:	February 24, 2012
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As both counsel offered to prepare the Order, the Court shall await an Order prepared by one and signed by the other.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

*Canceled: March 02, 2012 1:30 PM Motion to Compel*

March 09, 2012 1:30 PM Motion to Compel  
Beecroft, Chris A, Jr.  
Beecroft, Chris A, Jr.  
Courtroom 24

March 09, 2012 1:30 PM Opposition & Countermotion  
Beecroft, Chris A, Jr.  
Beecroft, Chris A, Jr.  
Courtroom 24

May 16, 2012 10:00 AM Case Management Conference  
Courtroom 01  
Duckworth, Bryce C.

May 16, 2012 10:00 AM Return Hearing  
Courtroom 01  
Duckworth, Bryce C.

PRINT DATE:	02/24/2012	Page 4 of 4	Minutes Date:	February 24, 2012
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18 *Attorneys for Defendant*

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 **KIRK ROSS HARRISON,**

22 Plaintiff,

23 vs.

24 **VIVIAN MARIE LEE HARRISON,**

25 Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q

**FAMILY DIVISION**

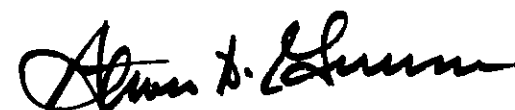
26 **STIPULATION AND ORDER RESOLVING PARENT/CHILD ISSUES**

27 DATE OF HEARING: N/A

28 TIME OF HEARING: N/A

COME NOW, Defendant, Vivian Marie Lee Harrison (hereinafter Vivian"), by and through her attorneys, Radford J. Smith, Esq., and Gary R. Silverman, Esq., and Plaintiff, Kirk Ross Harrison

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CLERK OF THE COURT

1 (hereinafter "Kirk") by and through his attorneys, Thomas Standish, Esq., and Edward L. Kainen, Esq.,  
2 and hereby stipulate and agree and request that the Court find and order as follows:

3 1. *Resolution of Custody and Support Issues:* The parties (referred to individually as "parent"  
4 or collectively as "parents" below) have two (2) minor children born the issue of this marriage, namely  
5 Emma Brooke Harrison, born June 26, 1999, and Rylee Marie Harrison, born January 24, 2003. The  
6 parties have not adopted any children, and Vivian is not pregnant. The parties desire by this stipulation to  
7 resolve all issues regarding the care, custody, control and support of their minor children. The parties  
8 hereby represent and agree that the provisions set forth below outline a plan that is in the best interest of  
9 the minor children.  
10

11 2. *Legal Custody:* The parents will share joint legal custody of the minor children. Joint legal  
12 custody shall be defined as follows:  
13

14 2.1. Each parent shall consult and cooperate with the other in substantial questions  
15 relating to religious upbringing, educational programs, significant changes in social environment, and  
16 health care of the children. Each parent shall have access to medical and school records pertaining to the  
17 children, and (except as limited in paragraph 3 below) shall each be permitted to independently consult  
18 with any and all professionals involved with the care, treatment or education of the children.  
19

20 2.2. The parents shall jointly select all schools, day care providers, and counselors for the  
21 children. In the event the parents cannot agree to the selection of a school, the child(ren) shall remain in  
22 the school she is (or they are) then attending pending mediation and/or further court order.  
23

24 2.3. Unless otherwise stated herein, the parents shall jointly select all health care  
25 providers for the children, including all medical providers, dentists or orthodontists, optical care providers,  
26 psychological counselors and mental health providers, and neither parent shall seek non-emergency health  
27 care, whether physical or mental, for the children without the knowledge and consent of the other.  
28



1           2.4. Each parent shall be empowered to obtain emergency health care for either child  
2 without the consent of the other parent. Each parent shall notify the other parent as soon as reasonably  
3 possible of any illness or injury of either child requiring emergency medical attention, the location of any  
4 emergency care of either child, and the result of such care.  
5

6           2.5. Each parent shall provide the other parent, upon receipt, with any information  
7 concerning the children's care, education, or activities, including, but not limited to, copies of report cards,  
8 school meeting notices, vacation schedules, class programs, requests for teacher conferences, results of  
9 standardized or diagnostic tests, notices or schedules of activities, samples of school work, order forms for  
10 school pictures, all communications from health care providers, and the names, addresses, and telephone  
11 numbers of all the children's schools, health care providers, regular day care providers, and counselors.  
12

13           2.6. Each parent shall advise the other parent of school, athletic, church, and social events  
14 in which the children participate, and each agrees to notify the other parent within a reasonable time after  
15 first learning of such event so as to allow the other parent to make arrangements to attend the event if he  
16 or she chooses to do so. Both parents may participate in and attend activities involving the children,  
17 including, but not limited to, activities such as open house, school and church activities and events,  
18 athletic events, school plays, graduation ceremonies, school carnivals, and any other activities involving  
19 the children. Regardless of what parent has the custodial care of the children on the date of such event,  
20 each parent shall be afforded a reasonable time to greet, congratulate, take pictures, or participate in other  
21 normal activities with the children acknowledging or memorializing the event.  
22

23           2.7. Each parent shall provide the other parent with the address and telephone number at  
24 which the minor children reside, and each shall notify the other parent at least thirty (30) days prior to any  
25 change of address of the children, and shall provide the telephone number of such address change as soon  
26 as it is assigned.  
27  
28

1           2.8. Each parent shall provide the other parent with a travel itinerary and, whenever  
2 reasonably possible, telephone numbers at which either child can be reached, whenever either child will be  
3 away from that parent's home for a period of twenty-four (24) hours or more. The parties each  
4 acknowledge that pursuant to current federal law, each will need to seek the written permission of the  
5 other party for any travel with the children outside of the United States, which written permission shall not  
6 be unreasonably withheld.  
7

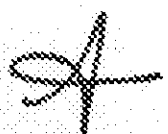
8           2.9. Each parent shall encourage liberal communication between both children and the  
9 other parent. Each parent shall be entitled to reasonable telephone communication with the children.  
10 Each parent agrees to be restrained, and is restrained, from unreasonably interfering with the children's  
11 right to privacy during such telephone conversations.  
12

13           2.10. Neither parent shall interfere with the right of the children to transport clothing, toys  
14 and other personal belongings freely between the parents' respective homes.  
15

16           2.11. Neither parent shall disparage the other in the presence of either child, nor shall  
17 either parent make any comment of any kind that would demean the other parent in the eyes of either  
18 child. Additionally, each parent agrees to instruct their respective family and friends that no disparaging  
19 remarks are to be made regarding the other parent in the presence of either child.  
20

21           2.12. The parents further agree to communicate directly with each other regarding the  
22 needs and well being of their children, and each parent agrees that he or she shall not to use either child to  
23 communicate with the other parent regarding parental issues, or to transfer notes, payments, or other  
24 documents to the other parent without the other parent's consent.  
25

26           3. *Therapist for the Minor Children:* The parents agree that the minor children shall engage  
27 in therapeutic sessions with a mutually agreed-upon child psychologist or psychiatrist upon the request of  
28 either party. The psychologist or psychiatrist shall be chosen jointly by the parties. If the parties are





1 unable to agree upon a psychiatrist or psychologist within 30 days of the date of the filing of this  
2 Stipulation and Order, then the Court shall appoint that individual. The determination of the need for the  
3 children to engage in and/or continue with therapy shall be at the discretion of the therapist, unless  
4 otherwise agreed in writing by the parties. The therapist shall not be called as a witness in this case in the  
5 absence of an issue requiring mandatory reporting under NRS 432B.220. In the absence of such a  
6 mandatory reporting issue, the therapist shall be immune from process in this matter, and shall not be  
7 called to testify. The therapist's role would be entirely therapeutic and one to which the children would  
8 address any issues or problems for peaceful resolution. For any instance where the therapist believes that  
9 the behavior of either parent should be addressed, and the child provides consent to the therapist to  
10 address the issue, the psychologist shall direct any discussion, suggestions, or questions to the parties.  
11 Parenting Coordinator appointed pursuant to paragraph 4 below. Neither party shall directly contact the  
12 therapist in the absence of a written agreement to that effect. The parties shall equally divide the cost of  
13 such therapy.

14  
15  
16  
17 4. *Parenting Coordinator:* The parties shall hire a Parenting Coordinator to resolve disputes  
18 between the parties regarding the minor children. The Parenting Coordinator shall be chosen jointly by  
19 the parties. The Parenting Coordinator shall serve pursuant to the terms of an order mutually agreed upon  
20 by the parties. If the parties are unable to agree upon a Parenting Coordinator, or the terms of an Order  
21 appointing the Parenting Coordinator, within thirty (30) days of the date of the filing of this Stipulation  
22 and Order, then the Court shall appoint that individual and resolve any disputes regarding the terms of the  
23 appointment.

24  
25 5. *Weekly Division of Time with the Minor Child:* The parties shall share joint physical  
26 custody of the minor children. VIVIAN shall have the children in her care each Monday from after  
27 school, or Monday at 9:00 a.m. when the children are not in school (subject to the provisions of paragraph  
28

1 7.6), until Wednesday after school, or Wednesday at 9:00 a.m. when the children are not in school. KIRK  
2 shall have the children in his care from Wednesday after school, or Wednesday at 9:00 a.m. when the  
3 children are not in school, until Friday after school, or Friday at 9:00 a.m. when the children are not in  
4 school. The parties shall alternate weekends with the children, from Friday after school, or Friday at 9:00  
5 a.m. when the children are not in school, until Monday after school, or Monday at 9:00 a.m. when the  
6 children are not in school.  
7

8 6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each  
9 child reaches the age of fourteen (14) years, such child shall have "teenage discretion" with respect to the  
10 time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-  
11 share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their  
12 minor children to allow each child the right to exercise such "teenage discretion" in determining the time  
13 the child desires to spend with each parent once that child reaches 14 years of age.  
14

15 6.1. The parties do not intend by this section to give the children the absolute ability to  
16 determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to  
17 feel comfortable in requesting and/or making adjustments to their weekly schedule, from time to time, to  
18 spend additional time with either parent or at either parent's home.  
19

20 6.2. Such adjustments shall not be prompted or suggested by either parent, but shall  
21 originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to  
22 avoid spending time with the other parent, and they shall each encourage the children to follow the regular  
23 schedule to the extent possible. If either party feels that his or her time is being unduly eroded by this  
24 provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address  
25 this issue with the Parenting Coordinator and/or the Court.  
26  
27  
28

1           6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may  
2 address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator  
3 as detailed in the order appointing the Parenting Coordinator. Nothing in this section is intended to limit  
4 the discretion of the District Court in making child custody determinations.  
5

6           6.4. In the event either child wishes to permanently modify the regular custodial schedule  
7 beyond the scope of this provision once that child reaches 14 years of age, she may address this matter  
8 with the therapist or Parenting Coordinator, or either party may address this issue with the Parenting  
9 Coordinator. If the parties cannot agree, the Court shall consider the children's wishes pursuant to NRS  
10 125.480(4)(a).  
11

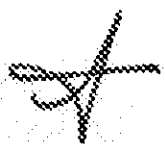
12           7. *Holiday Time with the Minor Children:* Holidays and special times shall take precedence  
13 over but not break the continuity of the plan. The parties will discuss and agree on a schedule of holiday  
14 visitation for any holiday not specifically addressed herein.  
15

16           7.1. *Summer Vacation or Intersession Break:* The parties shall each be entitled to two  
17 weeks of uninterrupted visitation with the children during the children's Summer Vacation/Intersession  
18 periods. The party exercising such visitation shall advise the other party, in writing, thirty (30) days in  
19 advance of the visitation. The parties shall alternate yearly having the priority for scheduling visitation,  
20 with Kirk having the priority in odd-numbered years, and Vivian having priority in even-numbered years,  
21 provided, however, Kirk shall not designate vacation time during the period of the children's sewing  
22 camp. That priority in scheduling must be exercised by notice to the other party by March 1 of each year,  
23 and if the party with priority fails to notify the other party of a summer vacation schedule by that time,  
24 then priority in that year shall be granted to the first party to notice the other of such vacation plans. The  
25 two week period may be broken into two one-week periods, but no smaller unit. The visitation periods  
26 shall not be taken during the other parties' holiday visitation periods outlined herein. In addition, the  
27  
28

1 parties shall be entitled to the following additional periods: VIVIAN shall be entitled to an additional ten  
2 days to attend the sewing camp with the children each year in which she and the children have previously  
3 participated. VIVIAN shall advise KIRK of the dates as soon as she learns of them so that the parties may  
4 schedule summer vacation periods. KIRK shall be entitled to an additional seven (7) days to attend the  
5 Utah/Lagoon trip with the children each year in which he and the children have previously participated.  
6 KIRK shall advise VIVIAN of the dates of the Utah/Lagoon trip as soon as he learns of them so that the  
7 parties may schedule summer vacation periods. The particular activities during these additional periods  
8 may be modified at each party's discretion. Also, because of the proximity of the date of this Agreement,  
9 for the Summer Break 2012 Vivian shall have the children in her care from August 5 through August 19  
10 for her two week vacation period, and July 19 through July 31 for sewing camp. Kirk shall have the  
11 children in his care for the period beginning July 10 and ending on July 19, and from August 20 through  
12 August 26.

13  
14  
15 7.2. *Winter Break:* The Winter Break shall be defined utilizing the nine-month school  
16 year calendar for the Clark County, Nevada school district. The holiday shall be divided into two periods,  
17 the first beginning after school the day school recesses for the Winter Break, and ending December 25<sup>th</sup> at  
18 noon. The second period shall be defined as commencing December 25<sup>th</sup> at noon, and ending at 7:00 p.m.  
19 the day before school recommences. The parties shall alternate care of the child during those periods,  
20 with VIVIAN having the children during the first period in even-numbered years, and for the second  
21 period in odd-numbered years. KIRK shall have the children during the first period in odd-numbered  
22 years, and for the second period in even-numbered years.

23  
24  
25 7.3. *Thanksgiving Visitation:* The Thanksgiving holiday shall be defined as commencing  
26 after school (or at 3:00 p.m. if the children are not in school) on the Wednesday before Thanksgiving, and  
27 ending the Sunday following Thanksgiving at 7:00 p.m. The parties shall alternate having the children  
28



1 during the Thanksgiving holiday, with VIVIAN having the children in her care during the Thanksgiving  
2 holiday in odd-numbered years, and KIRK having the children in his care during the Thanksgiving  
3 holiday in even-numbered years.

4  
5 7.4. *Spring Break:* The Spring Break vacation shall be based upon the nine-month school  
6 calendar in Clark County, Nevada. The Spring Break period shall be defined as commencing the Friday  
7 that school recesses before the vacation period, and shall end on at 7:00 p.m. the Sunday before school  
8 recommences. KIRK shall have the children during the Spring Break vacation period in even-numbered  
9 years, and VIVIAN shall have the children during the Spring Break vacation period in odd-numbered  
10 years.

11  
12 7.5. *Independence Day:* The Independence Day holiday shall be defined as commencing  
13 July 4<sup>th</sup> at 9:00 a.m., and ending July 5th at 10:00 a.m. KIRK shall have the children in his care for the  
14 Independence Day holiday during even-numbered years, and VIVIAN shall have the children in her care  
15 for the Independence Day holiday in odd-numbered years.

16  
17 7.6. *Other Nationally And State-Observed Holidays:* With respect to such nationally  
18 observed holidays and holidays observed by the State of Nevada, to wit: 1) Martin Luther King Day; 2)  
19 President's Day; 3) Memorial Day; and 4) Labor Day, VIVIAN shall have the children in her care both  
20 that Monday holiday and the preceding weekend. In the event that VIVIAN does not normally have the  
21 children the weekend before the Monday holiday, she shall take the weekend with the children but grant  
22 the following two weekends to KIRK. KIRK shall have the children on the weekend of one Staff  
23 Development Day each year (which for the 2012-2013 school year is October 12, 2012), and each Friday  
24 that Nevada Day is observed (which for 2012-2013 school year is October 26, 2012). Commencing 2013,  
25 Kirk shall designate the Staff Development Day weekend he will have the children in his care by  
26 September 1 each year. In the event that KIRK does not normally have the children the weekend  
27  
28



1 following these Friday school holidays, he shall take the weekend with the children but grant the  
2 following two weekends to VIVIAN. No other Staff Development Days shall create any exceptions to  
3 the normal visitation schedule.

4  
5 7.7. *Veteran's Day:* Veteran's Day shall be observed on the day that it falls as a holiday  
6 (typically November 11), provided, however, if Veteran's Day is observed on a Monday, VIVIAN shall  
7 have the preceding weekend with the children. In the event that VIVIAN does not normally have the  
8 children the weekend before the Monday holiday, she shall take the weekend with the children but grant  
9 the following two weekends to KIRK. KIRK shall have the children on Veteran's Day in 2016, when it  
10 shall fall on a Friday, and the weekend following that Friday. In the event that KIRK does not normally  
11 have the children the weekend before the Friday Veteran's Day holiday, he shall take the weekend with  
12 the children but grant the following two weekends to VIVIAN.

13  
14 7.8. *Father's Day:* Regardless of which parent is entitled to have the children on the  
15 Sunday which is designated "Father's Day," KIRK shall be entitled to have the children from at least 10:00  
16 a.m. until 8:00 p.m. that day.

17  
18 7.9. *Mother's Day:* Regardless of which parent is entitled to have the children on the  
19 Sunday designated as "Mother's Day," VIVIAN shall be entitled to have the children from at least 10:00  
20 a.m. until 8:00 p.m. that day.

21  
22 7.10. *Children's Birthdays:* The parties shall alternate having the children for the  
23 children's birthdays. VIVIAN shall have the children for their birthday in odd-numbered years, and KIRK  
24 shall have the children for their birthday in even-numbered years. The children's birthday shall be defined  
25 as beginning at 9:00 a.m. on the birthday, and ending at 9:00 p.m. on that day.

1           8.     *Miscellaneous Provisions Regarding Care of Children:*

2           8.1.   While the parties recognize that the majority of exchanges shall be effectuated by  
3 dropping off and picking up the children at school, when school is not in session, the parents agree that in  
4 effectuating and implementing the aforementioned custody arrangements, the parent to whom the physical  
5 custody of the children is to be transferred at any such time that the physical custody of the children is to  
6 be changed from one parent to the other shall be responsible for picking up the children at the other  
7 parent's residence (i.e., when KIRK is to have the actual physical custody of the children, KIRK shall be  
8 responsible for picking up the children at VIVIAN's residence; and, conversely, when VIVIAN is to have  
9 the physical custody of the children, VIVIAN shall be responsible for picking up the children at KIRK's  
10 residence.  
11  
12

13           8.2.   The parents agree that the children shall be picked up, and shall be available to be  
14 picked up, at the designated times set forth above. Should a delay become necessary, the parent  
15 responsible for such a necessary delay shall immediately notify the other parent to advise him or her of the  
16 problem. For example, if the receiving parent is unable to pick up the children at the designated time,  
17 such receiving parent shall immediately notify the other parent of that fact. Conversely, if the children are  
18 not available for the receiving parent to pick up at the designated time, the receiving parent shall be  
19 notified immediately by the other parent. Moreover, in the event any scheduled time cannot be kept due  
20 to the illness or other unavailability of a child and/or the receiving parent, the parent unable to comply  
21 with the schedule shall notify the other parent and the children as soon as reasonably possible. In the  
22 event the time-shared arrangement cannot be kept due to the illness or other unavailability of a child, the  
23 receiving parent shall be entitled to comparable time within thirty (30) days after the occurrence of such  
24 missed time with the child(ren).  
25  
26  
27  
28

1           9.     *Child Support:* Based upon the current financial condition of the parties, and the fact that  
2 neither party currently engages in full time employment, neither party shall be required to pay child  
3 support to the other.

4           9.1. The provisions regarding child support herein are consistent with the statutory  
5 requirements of NRS 125B.070 and NRS 125B.080, as applied in *Wright v. Osburn*, 114 Nev. 1367, 970  
6 P.2d 1071 (1998), and *Wesley v. Foster*, 119 Nev. 110, 65 P.3d 251 (2003).

7           10.    *Tax Exemption:* VIVIAN shall be entitled to claim Rylee as a dependent each year, and  
8 KIRK shall be entitled to claim Brooke each year as a dependent until such time that Brooke is no longer  
9 eligible as a tax dependent. In the year following the last year that Brooke is eligible to be claimed as a  
10 tax dependent, the parties shall begin alternating Rylee as a dependant with VIVIAN claiming Rylee in the  
11 first year.

12           10.1. *Health Insurance:* Pending the entry of a Decree of Divorce in this matter, KIRK  
13 shall maintain the minor children on the current policy of health insurance, and pay all healthcare  
14 expenses for the minor children not covered by insurance, with community funds. Commencing upon the  
15 first day of the month following the filing of a Decree of Divorce in this matter, KIRK shall be solely  
16 responsible for any premiums for such insurance, or for a policy reasonably comparable in benefits and  
17 premiums, which policy shall be chosen by KIRK. The parties shall be equally responsible for  
18 deductibles or co-pays required by the insurance policy, and any and all expenses for the healthcare costs  
19 of the minor children not covered by the insurance, including orthodontic and optical expenses, until such  
20 time as each child, respectively, reaches the age of eighteen (18), or if still in high school, the age of  
21 nineteen (19), marries, or otherwise becomes emancipated.

22           10.2. *Documentation of Out-of-Pocket Expenses Required:* A party who incurs an  
23 out-of-pocket expense for medical care is required to document that expense and provide the other party  
24 with a copy of the documentation.



1 proof of payment of that expense. A receipt of payment from the health care provider is sufficient to prove  
2 the expense so long as it has the name of the child on it and shows an actual payment by the party seeking  
3 reimbursement.

4       10.3. *Timely Submission of Requests for Reimbursement:* The party who has paid or  
5 incurred a health care expense for a minor child must submit a claim for reimbursement to the insurance  
6 company within the deadline required for reimbursement by the insurance policy. If a party fails to timely  
7 submit such a claim for reimbursement, and the claim is denied by the insurance company as untimely,  
8 that party shall pay the entire amount which would have been paid by the insurance company as well as  
9 one-half of the expense which would not have been paid by insurance if the claim had been timely filed.  
10

11       10.4. *Mitigation of Health Expenses Required; Use of Covered Insurance Providers:* Each  
12 party has a duty to mitigate medical expenses incurred by or for the minor children. Absent compelling  
13 circumstances, a party must take the minor children to a health care provider covered by the insurance in  
14 effect and use preferred or covered providers, if available, in order to minimize the cost of healthcare for  
15 the minor children. The burden is on the party using a non-covered health care provider to demonstrate  
16 that the choice not to use a covered provider, or the lowest cost option under the policy, was reasonably  
17 necessary in the particular circumstances. If the Court finds the choice of a non-covered or more  
18 expensive covered provider was not reasonably necessary, then the Court may impose a greater portion of  
19 financial responsibility for the cost of that health care on the party who incurred that expense up to the full  
20 amount which would have been provided by the lowest cost insurance choice.  
21

22       10.5. *Sharing of Insurance Information Required:* The party providing insurance coverage  
23 for the children has a continuing obligation to provide insurance information to the other party including,  
24 but not limited to, copies of policies and policy amendments as they are received, claim forms, preferred  
25 provider lists (as modified from time to time), and identification cards. If the insuring party fails to timely  
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1 supply any of the above items to the other party, and that failure results in a denial of a claim because of  
2 the non-insuring party's failure to comply with the procedures required by the amended or updated  
3 insurance policies, the party providing insurance shall be responsible for all healthcare expenses incurred  
4 by the minor child for any claim that would have been covered by insurance.  
5

6       10.6. *Reimbursement For Out-of-Pocket Expenses:* A party that seeks reimbursement for  
7 one-half of an unreimbursed healthcare expense he or she has incurred on behalf of a minor child must  
8 submit such request for reimbursement to the other party within thirty (30) days of incurring such expense  
9 or being advised by the provider that such expense would not be reimbursed. If a party fails to request  
10 such reimbursement with that time period, that party shall forfeit any right to seek reimbursement. A  
11 party who receives a written request for contribution for an unreimbursed health care expense for a child  
12 incurred by the other party must reimburse the other party one-half of that expense within thirty (30) days  
13 of receipt of the written request for contribution. The party receiving the request for contribution must  
14 raise any objection to the request for contribution within the thirty (30) day period after the request for  
15 contribution is received or shall be deemed to have waived such objection. Any objection to the request  
16 for contribution must be made in writing.  
17

18       10.7. *Sharing Insurance Reimbursement:* Any reimbursements for payments made directly  
19 by a party or the parties to any healthcare provider for a minor child shall be distributed according to the  
20 amount of payment by each party. If a party receives such a reimbursement, that party shall distribute the  
21 reimbursement within seven (7) days of its receipt.  
22

23       10.8. *Effect of Not Obtaining or Maintaining Required Health Insurance Coverage:* If  
24 either party is individually required to provide health insurance or pay other health care related costs for  
25 the parties' minor children and fails to do so, that party shall be responsible for that portion of any medical  
26 expense that would have been paid by a reasonably priced insurance policy available at the time. Should  
27  
28

1 the party obligated to provide health insurance for the minor children lose that ability, the parties shall  
2 jointly choose and pay for an alternative policy. The Court shall reserve jurisdiction to resolve any  
3 dispute relating to alternative insurance.

4 ***Mandatory provisions:*** The following statutory notices relating to custody/visitation of the minor  
5 children are applicable to the parties herein:

6 Pursuant to NRS 125C.200, the parties, and each of them, are hereby placed on notice that if either  
7 party intends to move their residence to a place outside the State of Nevada, and take the minor children  
8 with them, they must, as soon as possible, and before the planned move, attempt to obtain the written  
9 consent of the other party to move the minor children from the State. If the other party refuses to give  
10 such consent, the moving party shall, before they leave the State with the children, petition the Court for  
11 permission to move with the children. The failure of a party to comply with the provision of this section  
12 may be considered as a factor if a change of custody is requested by the other party. This provision does  
13 not apply to vacations outside the State of Nevada planned by either party.

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

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

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

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

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

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

19 The State of Nevada in the United States of America is the habitual residence of the parties'  
20 children.

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

28 The parties acknowledge, pursuant to NRS 125B.145, that an order for the support of a child, 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,

must 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 STIPULATED.

SMITH & TAYLOR

JOLLEY, URGAL WIRTH, WOODBURY &  
STANDISH

RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 002791  
64 N. Pecos Road, Suite 700  
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10091 Park Run Dr. #110  
Las Vegas, Nevada 89145  
(702) 823-4900  
*Attorney for Plaintiff Kirk Harrison*

VIVIAN HARRISON

KIRK HARRISON

Good Cause appearing,

IT IS SO ORDERED this 11<sup>th</sup> day of JULY, 2012.

DISTRICT JUDGE

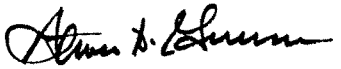
*Respectfully Submitted:*

SMITH & TAYLOR

RADFORD J. SMITH, ESQ.  
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Henderson, Nevada 89074  
*Attorneys for Defendant Vivian Harrison*



**FILE COPY**  
MAY 15 2013

  
CLERK OF THE COURT

0026

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Email: silverman@silverman-decaria.com  
Attorneys for Defendant

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-44361-D

DEPT.: Q

**FAMILY DIVISION**

ORAL ARGUMENT REQUESTED

NOTICE: PURSUANT TO EDCR 5.25(b) YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**DEFENDANT'S MOTION FOR AN ORDER APPOINTING A PARENTING COORDINATOR  
AND THERAPIST FOR THE MINOR CHILDREN AS REQUIRED BY THE COURT  
ORDERED PARENTING PLAN; MOTION FOR SANCTIONS AND ATTORNEY'S FEES**

DATE OF HEARING: 06/11/2013  
TIME OF HEARING: 10:00 A.M.



COMES NOW, Defendant, VIVIAN MARIE LEE HARRISON ("Vivian"), through her attorneys, Radford J. Smith, Esq., of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm of Silverman, Decaria, & Kattleman moves this court for its Order:

1. Appointing Parenting Coordinator in the form attached hereto as **Exhibit "A"**. This request is made pursuant to paragraph 4 of the Stipulation and Order re: Child Support Issues filed on July 11, 2012 (hereinafter the "Parenting Plan");

2. Appointing a therapist for the children pursuant to paragraph 3 of the Parenting Plan;

3. Directing Plaintiff, KIRK ROSS HARRISON ("Kirk"), under EDCR 7.60, to pay sanctions to Vivian for his unnecessary multiplication of the proceedings and willful failure to comply with this Court's orders;

4. Directing Kirk to pay all attorneys fees and costs incurred by Vivian in the prosecution of this motion; and,

5. For such other and further relief as to the Court may seem proper.

This motion is made and based upon the points and authorities and affidavits attached hereto, and upon all such argument as made by counsel at the time of the hearing.

Dated this 10 day of May, 2013.

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
*Attorney for Defendant Vivian Harrison*



1 NOTICE OF MOTION

2 TO: KIRK HARRISON, Plaintiff;

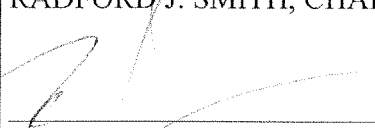
3 TO: EDWARD L. KAINEN, ESQ., Attorney for Plaintiff; and

4 TO: THOMAS STANDISH, ESQ., Attorney for Plaintiff

5  
6 PLEASE TAKE NOTICE that the undersigned will bring the foregoing DEFENDANT'S  
7 MOTION FOR AN ORDER APPOINTING A PARENTING COORDINATOR AND THERAPIST  
8 FOR THE MINOR CHILDREN AS REQUIRED BY THE COURT ORDERED PARENTING PLAN;  
9 MOTION FOR SANCTIONS AND ATTORNEY'S FEES on for hearing before the above-entitled Court  
10 on the 11<sup>th</sup> day of June, 2013 at the hour of 10:00 a.m or as soon thereafter as  
11 counsel may be heard.  
12

13 Dated this 10 day of May, 2013.

14 RADFORD J. SMITH, CHARTERED

15  
16   
17 RADFORD J. SMITH, ESQ.  
18 Nevada State Bar No. 2791  
19 64 N. Pecos Road, Suite 700  
20 Henderson, Nevada 89074  
21 *Attorney for Defendant Vivian Harrison*

22 I.

23 INTRODUCTION

24 By this motion, Vivian seeks entry of orders appointing a therapist for the children and a  
25 parenting coordinator, as required by the parties' stipulated parenting plan. Specifically, the parties  
26 resolved all child custody issues by Stipulation and Order Resolving Parent/Child Issues filed on July 11,  
27 2012. That Order contains provisions for the appointment Parenting Coordinator and Therapist for the  
28 children. Under those provisions, the parties were required to nominate individuals for each position by

1 August 11, 2012. Though Kirk has been aware of Vivian's nominations for months, he has failed to  
2 respond to those nominations or the proposed Order Appointing Parenting Coordinator. This motion  
3 follows.  
4

5 II.

6 **PURSUANT TO THE TERMS OF THE PARENTING PLAN, THE COURT SHOULD DIRECT**  
7 **THE APPOINTMENT OF DR. STEPHANIE HOLLAND AS PARENTING COORDINATOR,**  
8 **AND DR. LISA M. LINNING OR DR. SHERA BRADLEY AS THERAPIST FOR THE MINOR**  
9 **CHILDREN**

10 The facts leading to the parties' entry of a stipulated parenting plan are detailed and argued in  
11 various pleadings. The Court understands the level of conflict arising from Kirk' all out assault in the  
12 custody matters. See Motion for Attorney's Fees and Costs filed on April 3, 2013. That conflict led to  
13 the parties agreeing, as part of the parenting plan, to resolve differences about the care of their minor  
14 children, Brooke, now 13, and Rylee, now 10, through a parenting coordinator. The concern about the  
15 effect of the litigation on the children, and, from Vivian's perspective, the possible effect of Kirk's  
16 continued disparagement of her to the children, led to the agreement to appoint a therapist for the  
17 children.  
18

19 The Parenting Plan states, in relevant part, as follows –

20 3. *Therapist for the Minor Children:* The parents agree that the minor children shall  
21 engage in therapeutic sessions with a mutually agreed-upon child psychologist or  
22 psychiatrist upon the request of either party. The psychologist or psychiatrist shall be  
23 chosen jointly by the parties. If the parties are unable to agree upon a psychiatrist or  
24 psychologist within 30 days of the date of the filing of this Stipulation and Order, then  
25 the Court shall appoint that individual.

26 4. *Parenting Coordinator:* The parties shall hire a Parenting Coordinator to resolve  
27 disputes between the parties regarding the minor children. The Parenting Coordinator  
28 shall be chosen jointly by the parties. The Parenting Coordinator shall serve pursuant to  
the terms of an order mutually agreed upon by the parties. If the parties are unable to  
agree upon a Parenting Coordinator, or the terms of an Order appointing the Parenting  
Coordinator, within thirty (30) days of the date of the filing of this Stipulation and Order,  
then the Court shall appoint that individual and resolve any disputes regarding the terms  
of the appointment.

1  
2 See Stipulation and Order Resolving Parent/Child Issues filed on July 11, 2012, page 4, lines 25-28 and  
3 page 5, lines 1-2 and lines 17-24.  
4

5 The parties informally discussed the finalization of the Parenting Coordinator order and the  
6 appointment of a parenting coordinator and therapist on numerous occasions after the entry of the  
7 Parenting Plan.  
8

9 Finally, receiving no response to previous requests from Kirk or his counsel, on March 15, 2013,  
10 Vivian sent Kirk's counsel a proposed Order Appointing Parenting Coordinator attached to an email.  
11 That email reads in pertinent part:

12 As a result of recent mistreatment of Brooke by Kirk, we need to get a PC and therapist  
13 in place. Vivian has requested this be finalized as soon as possible, and I don't blame her.  
14 We need to turn our attention to this part of the case and finalize it. I am attaching a  
15 revised PC order. The changes to the previous order are highlighted in yellow. As we  
16 discussed over the phone today, I'll get in touch with you next-week to discuss the  
17 provisions in detail to finalize the PC Order. As we indicated earlier, our choices are  
18 Gary Lenkiet or Stephanie Holland for PC. I am also attaching my previous letter  
19 regarding our choice of therapists. So we can have some movement on this, I'll have my  
20 office set up a conference with you mid-week to discuss the status. If we can't get a  
21 consensus next week, let's get a conference call with the judge and have him address  
22 whatever disputes we have over the PC order or choices of PCs and therapists. Again,  
23 both parties deserve and need to have this part finalized.

24 The Order Appointing Parenting Coordinator sent to Mr. Standish in that email is attached hereto as  
25 **Exhibit "A."** The letter referenced is attached hereto as **Exhibit "B."** Neither Kirk nor his counsel  
26 responded to that email.  
27

28 On April 11, 2013, Vivian's counsel again requested Kirk's counsel respond to the proposed  
parenting plan. See, email from Vivian's counsel to Kirk's counsel dated April 11, 2013 attached hereto  
as **Exhibit "C."** Neither Kirk nor his counsel responded to that email.

Between April 11, 2013 issues arose that could have been addressed through a parenting  
coordinator. The issues are outlined in the email and letter exchanges between the parties attached hereto

1 as **Exhibit "D."** Vivian incurred attorney's fees and costs as she tried to obtain Mr. Harrison's  
2 compliance with the custody order.

3  
4 Vivian proposes the parties use Stephanie Holland as a Parenting Coordinator. Dr. Holland is an  
5 experienced and well respected psychologist in the community. Vivian proposes Dr. Lisa M. Linning or  
6 Dr. Shera Bradley as a therapist for the children (these were the doctors that came most highly  
7 recommended to Vivian). Vivian has not met with any of these individuals, but believes their experience  
8 and expertise is appropriate for the positions for which she proposes they serve.<sup>1</sup>

9  
10 **III.**

11 **MRS. HARRISON SEEKS SANCTIONS FOR MR. HARRISON'S MULTIPLICATION OF**  
12 **PROCEEDINGS AND REFUSAL TO COMPLY WITH THE STIPULATION AND ORDER;**  
13 **SHE SEEKS ATTORNEY'S FEES FOR HAVING TO FILE THIS MOTION**

14 EDCR 7.60 states in relevant part,

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

19 [...]

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

22 [...]

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

24 Kirk has failed to respond to Vivian's repeated requests for his nomination of a parenting coordinator and  
25 therapist, and failed to advise Vivian of any requested revisions to the draft Order Appointing Parenting

26 <sup>1</sup> In the March 15<sup>th</sup> email, one of the people Vivian's counsel suggested as a parenting coordinator was Gary Lenkeit.  
27 Throughout this proceeding, Kirk indicated that he was not interested in Dr. Lenkeit because Dr. Lenkeit had become too busy  
28 in his practice. On April 10, 2013, Kirk produced his expert billings. A review of the expert billings revealed that Kirk  
consulted with Dr. Lenkeit, and submitted to an MMPI without ever advising Vivian or the Court that he had done so. Kirk's  
failure to do so is troubling. He should have simply advised Vivian that he has consulted Dr. Lenkeit, and that as a result,  
there was a conflict. Vivian notes that Shera Bradley works in the same office as Dr. Lenkeit, and recognizes that there may  
be a potential conflict with her nomination as well.

Coordinator. Vivian has been forced to file the present motion by that inaction, and the cost of doing so should be borne by Kirk.<sup>2</sup>

IV.

CONCLUSION

Based on the foregoing, Vivian Harrison respectfully requests this Court order as follows:

1. Appointing Parenting Coordinator in the form attached hereto as **Exhibit "A"**. This request is made pursuant to paragraph 4 of the Stipulation and Order re: Child Support Issues filed on July 11, 2012 (hereinafter the "Parenting Plan");

2. Appointing a therapist for the children pursuant to paragraph 3 of the Parenting Plan;

3. Directing Plaintiff, KIRK ROSS HARRISON ("Kirk"), under EDCR 7.60, to pay sanctions to Vivian for his unnecessary multiplication of the proceedings and willful failure to comply with this Court's orders;

4. Directing Kirk to pay all attorneys fees and costs incurred by Vivian in the prosecution of this motion; and,

5. For such other and further relief as to the Court may seem proper.

Dated this 10 day of May, 2013.

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.  
Nevada State Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
*Attorney for Defendant*

<sup>2</sup> Late in the day on May 9, 2013 after preparation of the present motion and after advising counsel the motion would be filed, for the first time Vivian received a reply from Kirk's counsel stating concerns, without suggested revision, regarding the proposed Order Appointing Parenting Coordinator.

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**CERTIFICATE OF SERVICE**

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

I served the foregoing document described as "DEFENDANT'S MOTION FOR ORDER APPOINTING PARENTING COORDINATOR AND THERAPIST FOR THE MINOR CHILDREN CONSISTENT WITH COURT ORDERED PARENTING PLAN; MOTION FOR ATTORNEY'S FEES AND OTHER RELATED RELIEF" on this 16<sup>th</sup> day of May, 2013, to all interested parties :

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


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

☐ BY ELECTRONIC MAIL: under 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 enclosed in a sealed envelope, return receipt requested, addressed :

Tom J. Standish, Esq.  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
F: (702) 699-7555  
Attorney for Plaintiff

Edward L. Kainen, Esq.  
10091 Park Run Dr., Suite 110  
Las Vegas, Nevada 89145  
F: (702) 823-4488  
Attorney for Plaintiff

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

# EXHIBIT "A"

1 **ORDR**

2 RADFORD J. SMITH, CHARTERED

3 RADFORD J. SMITH, ESQ.

4 Nevada State Bar No. 002791

5 64 N. Pecos Road, Suite 700

6 Henderson, Nevada 89074

7 Telephone: (702) 990-6448

8 Facsimile: (702) 990-6456

9 rsmith@radfordsmith.com

10 GARY R. SILVERMAN, ESQ.

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13 6140 Plumas Street, Suite 200

14 Reno, NV 89519

15 Telephone: (775) 322-3223

16 Facsimile: (775) 322-3649

17 silverman@silverman-decaria.com

18 *Attorneys for Defendant*

19 **DISTRICT COURT**

20 **CLARK COUNTY, NEVADA**

21 KIRK ROSS HARRISON,

22 Plaintiff,

23 vs.

24 VIVIAN MARIE LEE HARRISON,

25 Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q

**FAMILY DIVISION**

26 **ORDER FOR APPOINTMENT OF SPECIAL**

27 **MASTER/PARENTING COORDINATOR**

28 DATE OF HEARING: N/A

TIME OF HEARING: N/A

COME NOW, Defendant, Vivian Marie Lee Harrison (Vivian"), through her attorneys, Radford J. Smith, Esq., and Gary R. Silverman, Esq., and Plaintiff, Kirk Ross Harrison ("Kirk") by and through his



1 attorneys, Thomas Standish, Esq., and Edward L. Kainen, Esq., and stipulate and agree and request that  
2 the Court find and order :

3 **APPOINTMENT AND DESIGNATION OF TERMS**

4  
5 1. \_\_\_\_\_ is appointed as Special Master and Parenting Coordinator in  
6 this matter ( "Parenting Coordinator"). The Parenting Coordinator's full name, title, mailing address and  
7 telephone number are :

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 Telephone: \_\_\_\_\_

12 Facsimile: \_\_\_\_\_

13 Email: \_\_\_\_\_

14  
15  
16 2. This appointment is made under NRCP: 53(b) and is a delegation of judicial authority  
17 under said Rule, subject to the terms and conditions set forth.

18 **PARENTING COORDINATOR FEES/EXPENSE SHARING**

19 3. Hourly fees for the services of the Parenting Coordinator shall be set by the Parenting  
20 Coordinator under a written agreement with the parties. All fees shall be advanced equally by the parties.  
21 The Court reserves jurisdiction to reallocate said payments between the parties. The Parenting  
22 Coordinator may determine a reallocation of fees and costs on a single issue if the conduct of one party  
23 warrants such.

24  
25 4. Objection to any fees or costs billed by the Parenting Coordinator shall be made in writing  
26 within thirty (30) days of receipt, or the bill is deemed accepted. Objections will be handled under the  
27 grievance procedure .  
28

1           5.     If the testimony and/or written report of the Parenting Coordinator is required for any  
2 hearing, settlement conference or court action by one or both parties, the Parenting Coordinator's Fees for  
3 such services shall be paid by both parties, in advance, according to the estimate by the Parenting  
4 Coordinator. Ultimately, the Court shall determine the proper allocation between the parties for all fees of  
5 the Parenting Coordinator for such services and may require reimbursement by one party to the other for  
6 any payment to the Parenting Coordinator.  
7

8  
9                                   GENERAL AUTHORITY

10           6.     The Parenting Coordinator shall have the general authority to resolve parent/child and  
11 custody/visitation issues, , provided, however, that the following provisions shall not be used to  
12 circumvent the provisions regarding the children's therapist as set forth in the Stipulation and Order  
13 Resolving Parent/Child Issues between the parties or Paragraph 6(r) below:

- 14           • Facilitate resolving disputes regarding implementing the parenting plan, the schedule, or  
15 parenting issues, provided such resolution does not involve a substantive change to the  
16 shared parenting plan. A "substantive change" is defined as a modification to the parenting  
17 plan that (a) significantly changes the timeshare of the child with either parent; (b) modifies  
18 the timeshare such that it amounts to a change of primary physical custody or a joint  
19 physical custody arrangement.  
20
- 21           • Direct, for good cause, one or both parents to utilize community resources at his or her  
22 cost, for the following services including, but not limited to: random drug screens,  
23 parenting classes, and any mental health and/or counseling services, psychotherapy or a  
24 substance abuse assessment or treatment for either or both parents, or the children, with the  
25 Parenting Coordinator to have access to the result of any psychological testing or other  
26 assessments of the child and/or parents.  
27  
28

- 1 • Implement non-substantive changes to, and/or clarify, the shared parenting plan, including  
2 but not limited to such issues as:
- 3 (a) Transitions/exchanges of the children including date, time, place, means of  
4 transportation and transporter;
- 5 (b) Holiday sharing;
- 6 (c) Summer or school break vacation sharing and scheduling;
- 7 (d) Communication between the parents;
- 8 (e) Health care management issues including choice of medical providers and payment of  
9 unreimbursed medical expenses (including dental, orthodontic, psychological,  
10 psychiatric or vision care), under the Court's order for payment of said expenses;
- 11 (f) Education or daycare including, but not limited to, school choice, tutoring, summer  
12 school, and participation in special education testing and programs;
- 13 (g) Child(ren)'s participation in religious observances and religious education;
- 14 (h) Child(ren)'s participation in extracurricular activities, including camps and jobs;
- 15 (i) Child(ren)'s travel and passport issues;
- 16 (j) Purchase and sharing of child(ren)'s clothing, equipment and personal possession,  
17 including possession and transporting of same between households;
- 18 (k) Child(ren)'s appearance and/or alteration of appearance, including haircuts, tattoos, and  
19 ear, face or body piercing;
- 20 (l) Communication between the parents including telephone, facsimile, email, notes in  
21 backpacks, etc., and communication by a parent with the children, including telephone,  
22 cellular telephone, pager, facsimile, Skype, and email when the children are not in that  
23 parent's care;
- 24  
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- 1 (m) Contact with significant others and/or extended family;
- 2 (n) Requiring signing appropriate releases from each parent to provide access to
- 3 confidential and privileged records, including medical, psychological or psychiatric
- 4 records of a parent or child;
- 5 (o) Reporting to the Court regarding compliance with the parenting coordination process
- 6 that could include recommendations to the Court about how to more effectively
- 7 implement the parenting coordination process;
- 8 (p) Reporting to the Court the extent of each parent's compliance with other Court orders
- 9 (therapy, drug tests, child therapy, etc.) with or without providing a recommendation
- 10 what should be regarded any lack of compliance;
- 11 (q) Individually communicating with, and providing information to, persons involved with
- 12 or providing services to the family members, including but not limited to custody
- 13 evaluators, lawyers, teachers, school officials, physical and mental health providers,
- 14 grandparents, stepparents, significant others, or anyone else the Parenting Coordinator
- 15 determines to have a significant role in the life of the family;
- 16 a. Any non-emergency verbal communication between the Parenting Coordinator
- 17 and the attorneys shall be via phone conference involving all other attorneys of
- 18 record. In case of emergency, the Parenting Coordinator shall make a good
- 19 faith attempt to involve all counsel. Counsel shall provide emergency numbers
- 20 to the Parenting Coordinator for emergencies, only.
- 21 b. Written communication between the Parenting Coordinator and the attorneys
- 22 should normally be copied simultaneously to all other attorneys of record.
- 23
- 24
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1 (r) The parties have previously agreed in the Stipulation and Order Resolving Parent/Child  
2 Issues that the minor children shall engage in confidential therapeutic sessions with a  
3 mutually agreed-upon child psychologist or psychiatrist. The Parenting Coordinator  
4 shall not interfere with determining the need for the children to engage in and/or  
5 continue with therapy, which shall be at the sole discretion of the therapist, unless  
6 otherwise agreed in writing by the parties. The Parenting Coordinator shall not contact  
7 the therapist to initiate any discussion; however, for any instance where the therapist  
8 believes that the behavior of either parent should be addressed, the psychologist shall  
9 direct any discussion, suggestions, or questions to the Parenting Coordinator. The  
10 Parenting Coordinator may then discuss those issues directly with the parties, or either  
11 of them; and,  
12

13  
14 (s) Making recommendations to the Court concerning modifications to the shared  
15 parenting plan, including but not limited to, parenting time/access, schedules or  
16 conditions, and variations from the existing parenting plan.  
17

#### 18 ADDITIONAL RESPONSIBILITIES

19 7. The Parenting Coordinator should have the following additional responsibilities, if initiated  
20 below by the Judge making this Order:  
21

22 7.1. Temporary decision-making authority to resolve minor disputes between he parties  
23 concerning shared parenting decisions until a Court order is entered modifying the decision. Such  
24 decision-making services provided by the Parenting Coordinator shall apply to non-substantive changes to  
25 the Parenting Plan or Custody Order. \_\_\_\_\_ (Judge's initials)  
26  
27  
28

1           7.2. Making recommendations to the Court concerning modification to the Parenting  
2 Plan or Custody Order, including but not limited to, parenting time/access schedules or conditions,  
3 including variations from the existing Parenting Plan or Custody Order. \_\_\_\_\_ (Judge's initials)  
4

5           7.3. Direct, as necessary, one or both parties to utilize community resources for the  
6 following services, including but not limited to: random drug screens; parenting classes; and any mental  
7 health and/or counseling services; psychotherapy or a substance abuse assessment or treatment for either  
8 or both parties, or the children; with the Parenting Coordinator to have access to the results of any  
9 psychological testing or other assessments of the children and/or parties. \_\_\_\_\_ (Judge's initials)  
10

11                           **PROCEDURES AND RELATED REQUIREMENTS**

12           8. The Parenting Coordinator shall be provided with copies of pertinent pleadings, orders and  
13 custody evaluation reports that relate to the issues to be brought to the Parenting Coordinator. The  
14 Parenting Coordinator shall also have direct access to all orders and pleadings on file , including files  
15 under a Sealing Order of the Court.  
16

17           9. The Parenting Coordinator shall copy or provide all written or electronic communications  
18 or documents he or she receives from a party or their agent to the other party at the time such documents  
19 are received. Further, the Parenting Coordinator may speak individually to either party or their agents, but  
20 must within a reasonable period provide the other party with an explanation or outline of the conversation.  
21

22           10. The parties shall make themselves and the minor children available for meetings and/or  
23 appointments as deemed necessary by the Parenting Coordinator. The Parenting Coordinator shall  
24 determine in each instance whether an issue warrants a meeting with the parties.

25           11. If a dispute occurs as to the construction, interpretation, or application of the Court's  
26 orders, or a dispute regarding a matter not encompassed within the scope of the Court's orders, the  
27  
28

1 following procedures will be followed. In no event, however, may the Parenting Coordinator override,  
2 suspend, or contradict the Court's orders by Agreement, Recommendation, or otherwise.

3           11.1. The parties shall participate in good faith in an initial mediation/conflict resolution  
4 process with the Parenting Coordinator to resolve a dispute. Should mediation result in an agreement, the  
5 Parenting Coordinator shall prepare a simple Agreement on the subject for signature by each party and the  
6 Parenting Coordinator. The Parenting Coordinator shall send a copy of the Agreement to each party; the  
7 parties shall each sign the Agreement and return his or her respective copy to the Parenting Coordinator  
8 within two weeks. The Agreement shall have the force of a court order, but shall be binding as between  
9 the parties until and unless superseded by Recommendation or further court order.

10           11.2. Should the mediation not result in a stipulated agreement, the Parenting Coordinator  
11 shall prepare and send to the parties a written Recommendation, and a courtesy copy to the Court,  
12 resolving the dispute, which Recommendation shall be followed by the parties until otherwise ordered by  
13 the Court. The Recommendation shall set forth the reasons for the Parenting Coordinator's  
14 Recommendation.

15           11.3. Should either party dispute the written Recommendation of the Parenting  
16 Coordinator, that party must file a Motion with the Court within two weeks of receiving the  
17 Recommendation. Any such objection must be served upon the other party (or, if represented, all other  
18 attorneys of record), concurrently.

19           12. The parties understand that all Recommendations by the Parenting Coordinator are not  
20 final decisions, but rather can be reviewed by the Court. However, the parties are on notice and  
21 understand that the purpose and intent of the Court in appointing a Parenting Coordinator is to resolve  
22 disputes between the parties without the expense of litigation and the expenditure of judicial resources.  
23 Therefore, the Court will not overturn a Recommendation of the Parenting Coordinator without substantial  
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1 evidence. A Recommendation of the Parenting Coordinator remains a binding decision unless it is  
2 overturned or modified by the Court.

3 13. The parties shall provide in a timely manner any documents requested by the Parenting  
4 Coordinator and/or execute any releases required for the Parenting Coordinator to directly obtain  
5 documents or records that the Parenting Coordinator deems relevant to the submitted issues. Failure to do  
6 so may cause imposition of sanctions .  
7

8 14. The Parenting Coordinator shall have the authority to determine the protocol of all fact-  
9 finding procedures.  
10

11 15. Communications by the Parenting Coordinator shall be per whichever of the following  
12 protocols is directed by the Court:

13 15.1. The Parenting Coordinator shall have the authority to engage in ex-parte  
14 communications with the parties, and/or their counsel. \_\_\_\_\_ (Judge's initials)  
15

16 **OR**

17 Any non-emergency verbal communication between the Parenting Coordinator and the  
18 parties or attorneys shall be via phone conference involving all parties or attorneys of record, and all non-  
19 emergency written communication between the Parenting Coordinator and any part or attorney shall be  
20 copied to all other parties (and, if represented, their attorneys of record), concurrently. \_\_\_\_\_ (Judge's  
21 initials).  
22

23 16. The Parenting Coordinator shall have the authority to interview and require the  
24 participation of other persons who the Parenting Coordinator deemed to have information or to be useful  
25 participants in the parenting coordination process, including but not limited to, custody evaluators,  
26 teachers, health and medical providers, stepparents and significant others. This provision shall not be used  
27  
28



1 to circumvent the provisions regarding the children's therapist as set forth in the Stipulation and Order  
2 Resolving Parent/Child Issues between the parties or Paragraph 6(r) above.

3  
4 **PARENTING COORDINATOR LIMITS**

5 17. The Parenting Coordinator may not serve as a custody evaluator, investigator, mediator,  
6 psychotherapist, attorney or Guardian Ad Litem for any party or another member of the family for whom  
7 the Parenting Coordinator is providing or has provided parenting coordination services.

8 18. The Parenting Coordinator shall abide by all existing orders. A court order may only be  
9 modified by the Court.

10 19. The Parenting Coordinator will take no action having the appearance, substance, or  
11 intimation of interference in the attorney/client relationship between any party and that party's existing or  
12 prospective counsel, nor seek to invade the attorney/client privilege, nor to hinder any party's free access  
13 to the Court.  
14

15  
16 **SCHEDULING**

17 20. Each parent contacts the Parenting Coordinator within ten days of Notice of Entry of this  
18 Order to schedule an initial meeting. Subsequent appointments may be scheduled at the request of the  
19 parents or at the request of the Parenting Coordinator.

20  
21 **EMERGENCY COMMUNICATION WITH THE COURT**

22 21. The Parenting Coordinator shall work with both parents to resolve conflicts and may  
23 recommend appropriate resolution to the parties and their legal counsel prior to the parents seeking court  
24 action. However, the Parenting Coordinator shall immediately communicate with the Court without prior  
25 notice to the parties, counsel or Guardian Ad Litem, if an emergency occurs in which:

26 (a) A party or child is anticipated to suffer or is suffering abuse, neglect, or abandonment; or  
27  
28

1 (b) A party, or someone acting on his or her behalf, is expected to wrongfully remove or is  
2 wrongfully removing the child(ren) from the other parents and the jurisdiction of the Court,  
3 without prior Court approval.  
4

5 **PARENTING COORDINATOR REPORTS AND APPEARANCES IN COURT**

6 22. The Parenting Coordinator's report(s) to the Court shall be sent to the Court, the parties, the  
7 parties' attorney(s), if represented, and the *guardian ad litem* (if any), concurrently. The Parenting  
8 Coordinator's reports are not confidential and may be presented to the Court by the parties or counsel  
9 according to the rules of evidence. The Parenting Coordinator shall make available file documents and  
10 notes upon the request of either party, or their attorneys, if represented.  
11

12 23. If the testimony and/or written report of the Parenting Coordinator is required for any  
13 hearing, settlement conference, deposition, or other court action by one or both parties, the Parenting  
14 Coordinator's fees for such services shall be paid by both parties, in advance, according to a written  
15 estimate provided by the Parenting Coordinator. Ultimately, the Court shall determine the final allocation  
16 of such fees between the parties. The Parenting Coordinator shall be given a copy of the motion and  
17 notice of the hearing.  
18

19 24. A Parenting Coordinator directed by the Court to testify in a court proceeding shall not be  
20 disqualified from participating in further parenting coordination efforts with the family, but the Court in  
21 its discretion may order the substitution of a new Parenting Coordinator or may relieve the Parenting  
22 Coordinator of his/her duties, or the Parenting Coordinator may voluntarily determine that such  
23 substitution would be in the best interests of the child(ren).  
24

25 **GRIEVANCES**

26 25. The Parenting Coordinator may be disqualified on the grounds applicable to the removal of  
27 a judge, referee, or arbitrator, except that no peremptory challenge shall be permitted.  
28

1        26.     Complaints or grievances from any party regarding the performance, actions or billing of  
2 the Parenting Coordinator shall only be determined according to the following procedure:

3            (a) A person having a complaint or grievance regarding the Parenting Coordinator must discuss  
4            the matter with the Parenting Coordinator in person before pursuing it in any other manner.

5            (b) If, after discussion with the Parenting Coordinator, the party pursues a complaint, that party  
6            must first submit a written letter detailing the complaint or grievance to the Parenting  
7            Coordinator with a copy to all other counsel or parties.  
8

9            (c) The Parenting Coordinator shall then respond to the grievance to the party and all counsel or  
10           parties within thirty (30) days of the written complaint or grievance.  
11

12           (d) If the grievance or complaint is not resolved after this exchange, the complaining party may  
13           proceed by noticed motion to the Court addressing the issues raised in the complaint or  
14           grievance.  
15

16        27.     Neither party may initiate court proceedings for a complaint or grievance regarding the  
17 Parenting Coordinator without following the preceding procedure. Failure to comply with said procedure  
18 may cause sanctions .

19        28.     The Court shall reserve jurisdiction to determine if either or both parties and/or the  
20 Parenting Coordinator shall ultimately be responsible for any portion of all of the Parenting Coordinator's  
21 time and costs spent in responding to the grievance and the Parenting Coordinator's attorney's fees, if  
22 any.  
23

24        29.     Neither party shall file any complaint or make any written submission regarding the  
25 Parenting Coordinator to the Parenting Coordinator's licensing board without first complying with these  
26 grievance procedures and obtaining the Court's decision ratifying the grievance.  
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TERMS OF APPOINTMENT

30. The Parenting Coordinator is appointed until discharged by the Court. The Parenting Coordinator may apply directly to the Court for a discharge and shall provide the parties and counsel with notice of the application for discharge. The Court may discharge the Parenting Coordinator without a hearing unless either party requests a hearing in writing within ten (10) days from the application for discharge.

31. Either party may seek to suspend or terminate the Parenting Coordinator process by filing a motion with the Court. The Parenting Coordinator's services may not be terminated by either of the parties without order of the Court or written agreement of the parties.

32. If the Parenting Coordinator is discharged, the Court will furnish a copy of the Order of termination of the Parenting Coordinator to counsel for the parties.

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
DISTRICT JUDGE

*Respectfully submitted:*

*Approved by:*

RADFORD J. SMITH, CHARTERED

JOLLEY, URGAS, WIRTH, WOODBURY & STANDISH

\_\_\_\_\_  
RADFORD J. SMITH, ESQ.  
Nevada Bar No. 002791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
*Attorneys for Defendant*

\_\_\_\_\_  
THOMAS STANDISH, ESQ.  
Nevada Bar No. 001424  
3800 Howard Hughes Parkway, Sixteenth Floor  
Las Vegas, Nevada 89169  
*Attorney for Plaintiff*

# **EXHIBIT “B”**

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:04PM

Printed By: GVARSHNEY

Date 3/15/2013 Time 4:34PM 4:40PM Duration 0.10 (hours) Code Client  
Subject Harrison - PC Order, Therapists, and other case related issues Staff Radford J Smith  
Client Vivian Harrison CaseRef Harrison adv. Harrison CaseNo D-11-443611-C  
From RSMITH  
To vivianlharrison@aol.com; Thomas Standish <tjs@juww.com>; Thomas Standish <cc@juww.com>; Radford  
CC To Gary Silverman <silverman@silverman-decaria.com>; Gary Silverman <toni@silverman-decaria.com>; Ed K.  
Bcc To  
Reminders (days before) Follow N Done N Notify N Hide N Trigger N Private N Status

User1

User3

User2

User4

Tom,

I received your message last evening. You proposed we extend the deadline for filing motions regarding fees to April 1 because Kirk and Ed will both be out of town after March 18th. That is acceptable, and this email confirms our agreement. To let the Court know, I've prepared the attached stipulation; it may not be necessary, but it will give the Court some idea of what's going on. The continuance will give us a chance to forward to you the billings Vivian incurred directly for expert costs, and allow me time to go through the billings and identify experts my firm paid directly (I believe there was only one, but I'll check).

We have reviewed the proposed MSA; I will be providing you a revised MSA next week for review. Most revisions will be simple, others more complicated. I will work with you to resolve any issues with the language in the MSA.

One of the primary concerns I had with the MSA was the suggestion that Kirk has distributed the account we had preserved to equalize property and address any attorney's fees issues. We did not authorize this, nor were we provided, to my knowledge any notice of the division, or any accounting of how Kirk divided the account. Please provide me Kirk's accounting of distribution, and his reasoning why he felt he could divide the account when no division was ever agreed to.

As a result of recent mistreatment of Brooke by Kirk, we need to get a PC and therapist in place. Vivian has requested this be finalized as soon as possible, and I don't blame her. We need to turn our attention to this part of the case and finalize it. I am attaching a revised PC order. The changes to the previous order are highlighted in yellow. As we discussed over the phone today, I'll get in touch with you next-week to discuss the provisions in detail to finalize the PC Order. As we indicated earlier, our choices are Gary Lenkiet or Stephanie Holland for PC. I am also attaching my previous letter regarding our choice of therapists. So we can have some movement on this, I'll have my office set up a conference with you mid-week to discuss the status. If we can't get a consensus next week, let's get a conference call with the judge and have him address whatever disputes we have over the PC order or choices of PCs and therapists. Again, both parties deserve and need to have this part finalized. I also wanted to address other concerns. First, we sent documents to you more than a month ago that Kirk would need to execute to permit the renewal of Brooke and Rylee's passports, and to permit Vivian to travel with them this summer. I have again attached those documents; please have Kirk sign the documents and return the originals to Vivian or my office. We are running out of time on this, so absent receiving those documents we'll have no choice but seek to compel compliance.

Further, at the meeting to exchange the coins and other items, I provided another copy of the list of items Vivian sought compensation for. In our meeting next week, we need to address this issue as well.

Finally, at the meeting to exchange items, Kirk provided me with a check for Vivian from a lawsuit that we had never heard of. This raises questions. I am sending a subpoena to Harrison, Kemp & Jones requesting all documents surrounding any settlement that could lead to Kirk receiving compensation from the firm for work performed during marriage. I want to look into the possibility of having Vivian's checks made directly to her; I can't do that without the settlement documents.

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:04PM

Printed By: GVARSHNEY

Please call me to discuss the contents of this email when you have a chance.  
Radford

Radford J. Smith, Esq.  
Radford J. Smith, Chartered  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074

Phone: (702) 990-6448  
Fax: (702) 990-6456

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# EXHIBIT "C"



Filters Used:

1 Tagged Record

## Email Report

Form Format

Date Printed: 4/12/2013

Time Printed: 12:09PM

Printed By: RSMITH

Date 4/11/2013 Time 7:40PM 7:48PM Duration 0.12 (hours) Code Case Related  
Subject Harrison - Parenting Plan URGENT Staff Radford J Smith  
Client Vivian Harrison CaseRef Harrison adv. Harrison CaseNo D-11-443611-C  
From RSMITH  
To Ed Kainen <Ed@KainenLawGroup.com>; Thomas Standish <tjs@juww.com>  
CC To Vivian Harrison <vivianlharrison@aol.com>; Gary Silverman <silverman@silverman-decaria.com>; gvarshnc  
Bcc To  
Reminders (days before) Follow N Done N Notify N Hide N Trigger N Private N Status  
User1 User3  
User2 User4

Gentlemen:

Vivian advises me that Kirk has taken the position that he is entitled to three weekends in a row with the girls because Vivian had the girls over the weekends comprising Spring Break. The plan doesn't work that way. The stipulated Parenting Plan, like nearly all parenting plans, indicates that "holidays and special times shall take precedence over but not break the continuity of the plan." This provision is universally interpreted to mean that even though a party may suffer loss of time with the children because of holiday time with the other parent, the plan reverts to the normal schedule after the end of the holiday period. Vivian had the children during the last weekend of Spring Break, Kirk had them last weekend (the weekend following Spring Break) and Vivian would have them this weekend on the alternating weekend custody schedule.

I would ask that you advise Kirk that this is Vivian's weekend. If you disagree, please contact me immediately so we can avoid a scene when Vivian picks up the children from school.

Rad

Radford J. Smith, Esq.  
Radford J. Smith, Chartered  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074

Phone: (702) 990-6448  
Fax: (702) 990-6456

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# EXHIBIT "D"

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:56PM

Printed By: GVARSHNEY

Date 4/12/2013 Time 3:29PM 3:29PM Duration 0.00 (hours) Code Case Related  
Subject Fwd: Transfer this weekend Staff Radford J Smith  
Client Vivian Harrison CaseRef Harrison adv. Harrison CaseNo D-11-443611-E  
From Vivian Harrison <vivianlharrison@aol.com>  
To Radford Smith <rsmith@radfordsmith.com>  
CC To  
Bcc To  
Reminders

(days before) Follow Done Notify Hide Trigger Private Status

User1

User2

User3

User4

Sent from my iPhone

On Apr 12, 2013, at 12:12 PM, "Kirk Harrison" <kharrison@harrisonresolution.com> wrote:

- > Vivian you had input in the schedules that others initially prepared. My
- > recollection is that Kim Bailey usually prepared the initial schedule
- > because both she and her husband were employed. It was more important to
- > have a schedule that made sense for them, than those of us who were
- > fortunate enough not to have to work and therefore had more flexibility.
- > Since you didn't drive the girls either to school or to dance from February
- > of 2006 until September of 2011, when you started driving one-half the time,
- > how important is it to you that you had some input in preparing schedules
- > for people who actually were doing the driving? Since you were not
- > participating in the driving, it was nonsensical for you to have any
- > involvement in preparing the schedule anyway, since it didn't affect you.

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:56PM

Printed By: GVARSHNEY

>  
> -----Original Message-----  
> From: Vivian Harrison [mailto:vivianlharrison@aol.com]  
> Sent: Friday, April 12, 2013 11:45 AM  
> To: Kirk Harrison  
> Subject: Re: Transfer this weekend  
>  
> Kirk, as usual u are mistaken. Kim Bailey , Nyla Roberts & Michelle Walker  
> all confirmed that we, not you, prepared all schedules for driving to and  
> from dance and school for years...including 2006 thru 2011. You never  
> prepared one. You would not know that since you were not part of nor  
> contributed in any way to preparing our driving schedules. However, all you  
> need to do is read agreement, you r an attorney. I will be picking up  
> girls.  
>  
> Sent from my iPhone  
>  
> On Apr 12, 2013, at 10:27 AM, "Kirk Harrison"  
> <kharrison@harrisonresolution.com> wrote:  
>  
>> You have not always prepared driving schedules. You didn't prepare a  
>> driving schedule until September of 2011 when you started driving for  
>> the first time since January of 2006 and you prepared one! I wasn't  
>> saying it was a legal document. It was however something I trusted to be  
> correct.  
>> Have there been times when I was supposed to have Brooke and Ryle, but  
>> didn't because of an error? I have not had a chance to look at the  
>> updated schedule. As I previously wrote, I have not seen Mr. Smith's  
>> email nor had a chance to talk anyone about this. I will get back to  
>> you as soon as I can.  
>>  
>> -----Original Message-----  
>> From: Vivian Harrison [mailto:vivianlharrison@aol.com]  
>> Sent: Friday, April 12, 2013 9:32 AM  
>> To: Kirk Harrison  
>> Cc: Radford Smith  
>> Subject: Re: Transfer this weekend  
>>  
>> The schedule you are referring to was updated to reflect agreement and  
>> summer vacations and a copy of that updated calendar/schedule was  
>> given to you for convenience-since I've always prepared driving  
>> schedules etc. It was not given to you with the intent of being an  
>> "official legal" document and be used as a detriment to anyone.  
>> Preparing these types of schedules on the computer takes considerable  
>> time. To prevent any further complications, I will no longer be  
>> providing you a copy of my calendar. This will hopefully eliminate the  
> possibility of your losing any further "trust" in me.  
>>  
>>  
>>  
>> Sent from my iPhone  
>>

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:56PM

Printed By: GVARSHNEY

>> On Apr 12, 2013, at 8:47 AM, "Kirk Harrison"  
>> <kharrison@harrisonresolution.com> wrote:  
>>  
>>> You prepared the schedule we have been following. I trusted it was  
>>> correct and it shows that I have Brooke and Rylee this weekend. I  
>>> haven't  
>> seen Mr.  
>>> Smith's email. I will try to get that and talk to someone this  
>>> morning and will get back to you as soon as I can.  
>>>  
>>> -----Original Message-----  
>>> From: Vivian Harrison [mailto:vivianlharrison@aol.com]  
>>> Sent: Friday, April 12, 2013 7:45 AM  
>>> To: Kirk Harrison  
>>> Subject: Transfer this weekend  
>>>  
>>> Spring Break weekends do not change the rotation/continuity of the  
>>> weekend transfers. See agreement and Email from Radford to your atty.  
>>> sent yesterday. I will be picking up the girls today after school as  
>> usual.  
>>>  
>>>  
>>> Sent from my iPhone  
Sent from my iPhone

Begin forwarded message:

> From: "Kirk Harrison" <kharrison@harrisonresolution.com>  
> Date: April 12, 2013, 12:12:11 PM PDT  
> To: "'Vivian Harrison'" <vivianlharrison@aol.com>  
> Subject: RE: Transfer this weekend  
>  
> Vivian you had input in the schedules that others initially prepared. My  
> recollection is that Kim Bailey usually prepared the initial schedule  
> because both she and her husband were employed. It was more important to  
> have a schedule that made sense for them, than those of us who were  
> fortunate enough not to have to work and therefore had more flexibility.  
> Since you didn't drive the girls either to school or to dance from February  
> of 2006 until September of 2011, when you started driving one-half the time,  
> how important is it to you that you had some input in preparing schedules  
> for people who actually were doing the driving? Since you were not  
> participating in the driving, it was nonsensical for you to have any  
> involvement in preparing the schedule anyway, since it didn't affect you.  
>  
> -----Original Message-----  
> From: Vivian Harrison [mailto:vivianlharrison@aol.com]  
> Sent: Friday, April 12, 2013 11:45 AM  
> To: Kirk Harrison  
> Subject: Re: Transfer this weekend  
>  
> Kirk, as usual u are mistaken. Kim Bailey , Nyla Roberts & Michelle Walker  
> all confirmed that we, not you, prepared all schedules for driving to and

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:56PM

Printed By: GVARSHNEY

> from dance and school for years...including 2006 thru 2011. You never  
> prepared one. You would not know that since you were not part of nor  
> contributed in any way to preparing our driving schedules. However, all you  
> need to do is read agreement, you r an attorney. I will be picking up  
> girls.  
>  
> Sent from my iPhone  
>  
> On Apr 12, 2013, at 10:27 AM, "Kirk Harrison"  
> <kharrison@harrisonresolution.com> wrote:  
>  
>> You have not always prepared driving schedules. You didn't prepare a  
>> driving schedule until September of 2011 when you started driving for  
>> the first time since January of 2006 and you prepared one! I wasn't  
>> saying it was a legal document. It was however something I trusted to be  
> correct.  
>> Have there been times when I was supposed to have Brooke and Ryle, but  
>> didn't because of an error? I have not had a chance to look at the  
>> updated schedule. As I previously wrote, I have not seen Mr. Smith's  
>> email nor had a chance to talk anyone about this. I will get back to  
>> you as soon as I can.  
>>  
>> -----Original Message-----  
>> From: Vivian Harrison [mailto:vivianlharrison@aol.com]  
>> Sent: Friday, April 12, 2013 9:32 AM  
>> To: Kirk Harrison  
>> Cc: Radford Smith  
>> Subject: Re: Transfer this weekend  
>>  
>> The schedule you are referring to was updated to reflect agreement and  
>> summer vacations and a copy of that updated calendar/schedule was  
>> given to you for convenience-since I've always prepared driving  
>> schedules etc. It was not given to you with the intent of being an  
>> "official legal" document and be used as a detriment to anyone.  
>> Preparing these types of schedules on the computer takes considerable  
>> time. To prevent any further complications, I will no longer be  
>> providing you a copy of my calendar. This will hopefully eliminate the  
> possibility of your losing any further "trust" in me.  
>>  
>>  
>>  
>> Sent from my iPhone  
>>  
>> On Apr 12, 2013, at 8:47 AM, "Kirk Harrison"  
>> <kharrison@harrisonresolution.com> wrote:  
>>  
>>> You prepared the schedule we have been following. I trusted it was  
>>> correct and it shows that I have Brooke and Rylee this weekend. I  
>>> haven't  
>> seen Mr.  
>>> Smith's email. I will try to get that and talk to someone this  
>>> morning and will get back to you as soon as I can.

Filters Used:

1 Tagged Record

# Email Report

Form Format

Date Printed: 5/07/2013

Time Printed: 1:56PM

Printed By: GVARSHNEV

>>>

>>> -----Original Message-----

>>> From: Vivian Harrison [mailto:vivianlharrison@aol.com]

>>> Sent: Friday, April 12, 2013 7:45 AM

>>> To: Kirk Harrison

>>> Subject: Transfer this weekend

>>>

>>> Spring Break weekends do not change the rotation/continuity of the

>>> weekend transfers. See agreement and Email from Radford to your atty.

>>> sent yesterday. I will be picking up the girls today after school as

>> usual.

>>>

>>>

>>> Sent from my iPhone

>

1 **0001**

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

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

13 KIRK ROSS HARRISON,

CASE NO.: D-11-44361-D

14 Plaintiff,

DEPT NO.: Q

15 v.

16 VIVIAN MARIE LEE HARRISON,

17 **FAMILY COURT**  
18 **MOTION/OPPOSITION FEE**  
19 **INFORMATION SHEET**  
20 **(NRS 19.0312)**

21 Defendant.

22 Party Filing Motion/Opposition: ☐ Plaintiff/Petitioner ☒ Defendant/Respondent  
23 Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor  
24 Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees.  
25

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

**Mark correct answer with an "X"**

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

**NOTICE:**

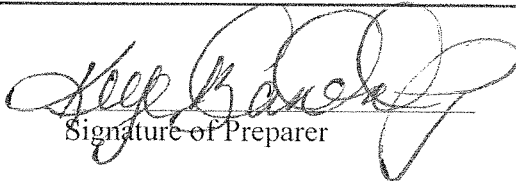
If it is determined that a motion or opposition is filed without payment of the appropriate fee, the matter may be taken off the Court's calendar or may remain undecided until payment is made.

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

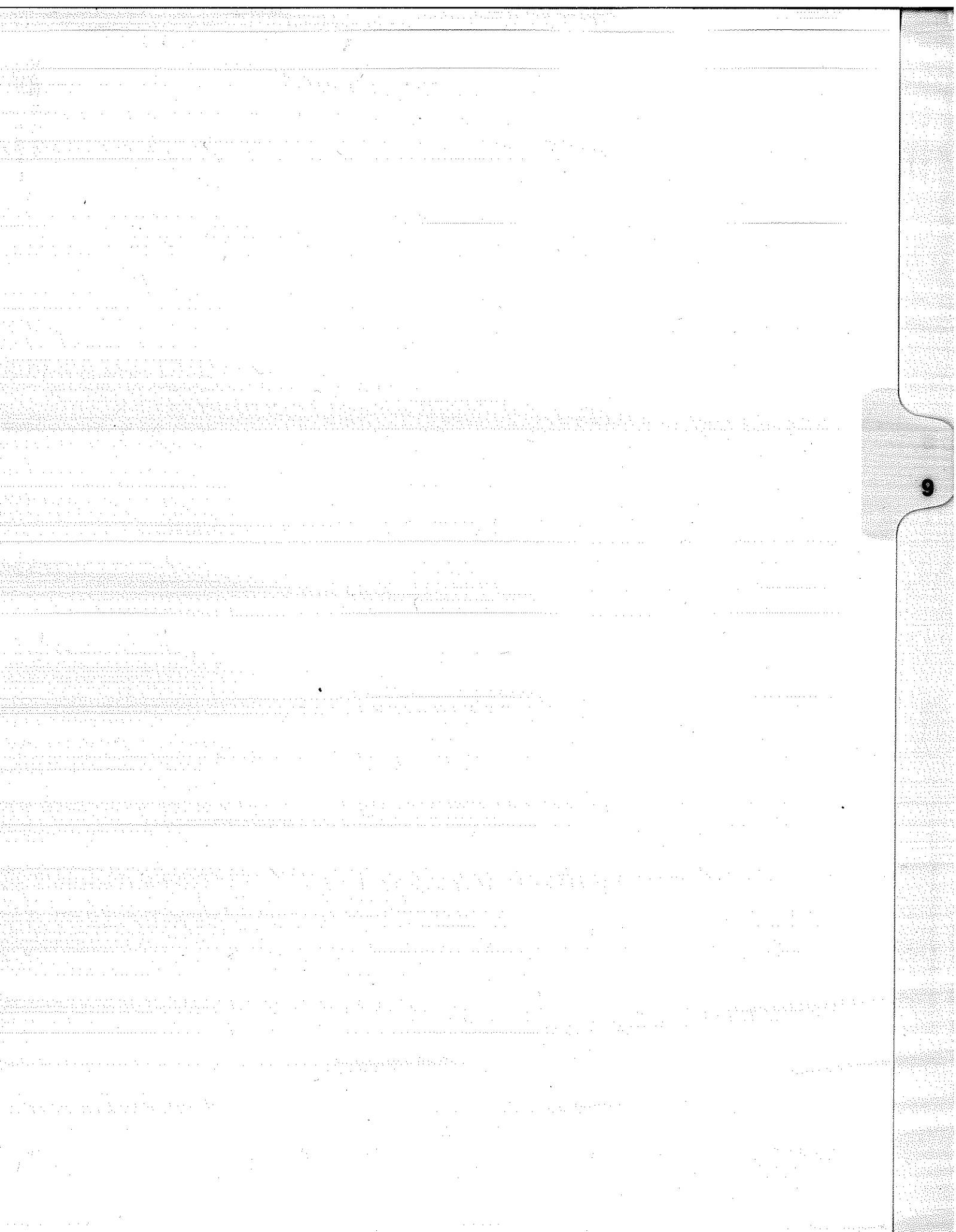
Motion/Opposition ☒ IS ☐ IS NOT subject to \$25 filing fee

Dated this 10th of MAY, 2013

Kellye Blankenship  
Printed Name of Preparer

  
Signature of Preparer





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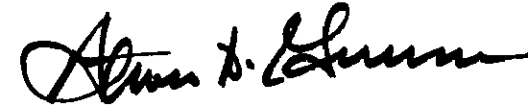
18 Las Vegas, NV 89145

19 (702) 823-4900

20 (702) 823-4488 (Fax)

21 Attorneys for Plaintiff

Electronically Filed  
07/19/2013 04:45:57 PM



CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

22 KIRK ROSS HARRISON,

23 Plaintiff,

24 vs.

25 VIVIAN MARIE LEE HARRISON,

26 Defendant

CASE NO.: D-11-443611

DEPT NO.: Q

Date of Hearing:

Time of Hearing:

**PLAINTIFF'S OPPOSITION TO  
DEFENDANT'S MOTION FOR AN  
ORDER APPOINTING A  
PARENTING COORDINATOR  
AND THERAPIST FOR THE  
MINOR CHILDREN AS  
REQUIRED BY COURT ORDERED  
PARENTING PLAN; PLAINTIFF'S  
OPPOSITION TO DEFENDANT'S  
MOTION FOR SANCTIONS AND  
ATTORNEY'S FEES.**

27 COMES NOW, Plaintiff Kirk Ross Harrison by and through his attorneys, Thomas J.  
28 Standish, Esq., of the law firm of Jolley, Urg, Wirth, Woodbury & Standish, and Edward L. Kainen,

Esq., of the Kainen Law Group, and submits the following points and authorities in opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; and Defendant's Motion for Sanctions and Attorney's Fees.

DATED this 19 day of <sup>July</sup> ~~May~~, 2013.

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ.  
Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff

**I.**

**STATEMENT OF FACTS**

As the Court is undoubtedly well aware, this case has seen protracted litigation, mostly caused by Vivian's unreasonable demands and expectations which then lead to unnecessary arguments and allegations which require Court intervention in order to resolve. Here too, once again, Vivian's "my way is right" mentality is interfering with finalizing this Order. Vivian's counsel prepared an Order for the Parenting Coordinator, ostensibly because of some "issue" which resulted between Brooke and Kirk (to date Kirk still has absolutely *no idea* what Vivian thinks happened, or what has upset her).

This "issue" supposedly arose in mid-March, at which time Vivian's counsel set the proposed Order and requested to confer regarding the language with Mr. Standish. The email even acknowledges that if an agreement is not reached, then a conference call with the Judge would be appropriate. During this time the parties have also been attempting to get a response from Vivian as to an MSA, exchange billing information for attorney's fees briefing and deal with all of the "minor" issues which crop up every time Vivian decides to interpret previous statements or agreements. Vivian's counsel has requested extensions due to scheduling conflicts. Kirk's counsel has requested extensions as well.

The fact of the matter is this case has a number of balls in the air at any given time and not all of them can have immediate attention. The Parenting Coordinator Order is one such thing that

1 briefly fell to the wayside. Despite that fact, the day *before* Vivian sent her Motion to Kirk, his counsel  
2 had provided a letter identifying his concerns with the proposed Order. **See Exhibit "1."** Rather than  
3 participate in discussions regarding these rather critical concerns, Vivian filed a Motion, demanding that  
4 her Order be entered and that Kirk be sanctioned because he did not immediately jump and participate  
5 as Vivian demanded, when Vivian demanded it.

6           Meanwhile Kirk has been trying to obtain any response on the MSA from Vivian and has  
7 even attempted to exchange his proposed changes to the Parenting Coordinator Order (prepared by  
8 Vivian), for Vivian's proposed changes to the Marital Settlement Agreement (prepared by Kirk), since  
9 at least March 2013. In fact, in March 2013, Vivian's counsel informed Kirk's counsel that, "We have  
10 reviewed the proposed MSA; I will be providing you a revised MSA next week for review." Despite  
11 this representation, no exchange occurred. Additional agreements have been made to actually exchange  
12 the parties' respective alternate drafts, the most recent deadline being July 12, 2013. However, although  
13 Kirk was prepared to make the exchange, Vivian was not ready. Therefore, rather than waste additional  
14 resources trying to make the exchange which has been promised by Vivian's counsel for at least four  
15 months, Kirk is submitting his proposed "Order for Appointment of Parenting Coordinator," attached  
16 hereto as **Exhibit "2,"** to the Court for consideration. After many months, Vivian has still not responded  
17 on the proposed MSA.

18           That said, the simple fact is there is no reason to determine who the Parenting  
19 Coordinator is going to be, until the parties have agreed on what the Parenting Coordinator can and  
20 cannot do. To pick the Coordinator in advance is to invite Vivian to attempt to steamroll past the issues  
21 with the Order itself and simply attempt to set up the situation the way she wants it. In the long run, that  
22 scenario is the more costly. As a result, Kirk is interested in getting the Order to a point where everyone  
23 is in agreement as to the terms, then the Coordinator can be determined. Right now, there are far too  
24 many problems with the Order.

## 25 II.

### 26 ARGUMENT

#### 27 A. **The Proposed Parenting Coordinator Order is Unacceptable.**

28           The proposed Parenting Coordinator Order effectively takes the Parenting Coordinator

1 and makes them a Hearing Master, a judicial role not suited to a Mental Health professional. The  
2 agreement in the Parenting Plan was to put in place a mechanism whereby the parties weren't constantly  
3 and immediately in Court every time they had a disagreement. Kirk did not agree at any time to create  
4 a quasi-judicial form of Alternate Dispute Resolution; nor does he believe such a role is appropriate to  
5 an individual with no actual legal or judicial training. In fact, such a role, at least with the generous  
6 authority granted by Vivian's proposed Order, violates due process and is largely unconstitutional. A  
7 trend being recognized across the country. **See Exhibit "3"**. As can be seen in this article, other  
8 jurisdictions are realizing that the vagueness of the structure and extra-judicial authority which often  
9 comes with Parenting Coordinator statutes and authorization is an issue with severe ramifications in  
10 Family Law cases. The trend is becoming to do away with Parenting coordinators entirely (**See Exhibit**  
11 **"4"**); limiting their authority is certainly a reasonable compromise.

12 As Kirk's attorneys have shared with Vivian's attorney's, the proposed Parenting  
13 Coordinator Order has several issues. The proposed Order 1) contains too many provisions for the  
14 protection of the Coordinator against the parties themselves; 2) grants an authority nearly tantamount  
15 to the Judge's authority to the Parenting Coordinator; 3) severely limits the parties access to the Court  
16 and grants too much weight to the Coordinator's "recommendations;" 4) contains internal  
17 inconsistencies regarding communication with the Coordinator and the Coordinator's authority. <sup>1</sup>

18 The parenting Coordinator is a mechanism for the parties to attempt to negotiate, with  
19 a neutral third party, resolutions to *minor* custody disputes, such as scheduling conflicts, or  
20 disagreements on extra curricular activities. A parenting coordinator should not be allowed to require  
21 either parent to submit to drug tests, therapy, or other such procedures, nor should they be able to trump  
22 a parents authority in deciding if such assessments or treatments are necessary for the minor children.<sup>2</sup>

---

24 <sup>1</sup> For instance, at one point the proposed Order grants the Parenting Coordinator temporary decision  
25 making power, and requires the parties to follow any signed agreement they come up with in their  
26 mediation, or any recommendation by the Parenting Coordinator until the Court Orders otherwise,  
27 yet also states that Parenting Coordinator cannot "override, suspend, or contradict the Court's  
28 Orders..."

<sup>2</sup> Such authority trumps even what the government or the Court has at its disposal because it does  
not require the parents to submit a dispute regarding the best interests of the minor children prior to

1 A parenting Coordinator should not be allowed to alter the parenting plan in any way without the  
2 express approval of the parties, nor should they be able to make a judicial-style determination between  
3 the parties' conflicting parenting desires. It should not be the Parenting Coordinator's decision what  
4 third parties are authorized to receive information about the case, the parties or the minor children, and  
5 what information they can receive, nor should the Parenting Coordinator be allowed to recommend  
6 sanctions for what is viewed as "non-compliance" *with the Parenting Coordinator's directions*.  
7 Candidly, it is alarming that the proposed Order even suggests that a disagreement with the Parenting  
8 Coordinator's instructions could result in sanctions.

9           These proposed provisions, as well as several others (such as the provision allowing the  
10 Parenting Coordinator to make temporary orders, and only allowing said Parenting Coordinator to be  
11 disqualified on those grounds which would disqualify a judicial officer) serve to create a vaguely  
12 defined, inappropriate, transfer of judicial authority to an untrained, unqualified individual. On the  
13 whole, Vivian's proposed Order creates a completely unconstitutional scenario. Her grant of expansive  
14 authority and judicial level protection to a mental health professional violates both substantive and  
15 procedural due process.

16           Parents have a fundamental right in the care and custody of their children. *Troxell v.*  
17 *Granville*, 530 U.S. 57, 65-66 (2000). Therefore the highest level of scrutiny is granted to laws and  
18 decisions which affect the due process granted to Parents with regard to their parenting decisions. Both  
19 procedural and substantive due process are implicated by the proposed Order.

20           Procedural due process does not prevent the government from depriving a person of a  
21 fundamental interest. What it requires is that the government provides "due process" prior to the  
22 deprivation. *Howard v. Grinage*, 82 F.3d 1343, 1349 (6<sup>th</sup> Cir. 1996). Procedural due process is meant  
23 to protect individuals from risk of error, assure fairness, and make certain that the individual has a  
24 chance to participate in the process. *Id.* Although no particular process is considered necessary, the U.S.  
25 Supreme Court has determined that notice and a opportunity to be heard in a "meaningful manner" are  
26 essential elements to due process. *Bute v. Illinois*, 333 U.S. 640, 648-649 (1948).

27 \_\_\_\_\_  
28 receiving such authority.

1 Courts have not specified that a particular procedure is necessary to fulfill the  
2 “meaningful manner” requirement. As a matter of fact, courts have stated that a variety of procedures  
3 can fulfill the requirement. The important things are that the procedure: first, not conflict with  
4 fundamental principles of liberty and justice and second, prevent the government from arbitrary use of  
5 its power. *Id.* at 648 and *Howard*, 82 F.3d at 1350. Although courts do not officially require adversarial  
6 procedures to meet due process requirements, they tend to prefer them. Ronald D. Rotunda & John E.  
7 Nowak, 3 Treatise on Constitutional Law ss 17.8(i) (3<sup>rd</sup> ed. 2008). The elements the courts look for to  
8 ascertain if due process has been met are traditionally elements found in the adversarial process. *Id.* at  
9 ss 17.8. Those elements of adversarial process are: adequate notice, a neutral decision-maker,  
10 opportunity to present evidence and testimony to the decision maker, a chance at cross examination and  
11 confrontation, the right to have an attorney present, and a decision based on the record that contains a  
12 rationale for the decision. *Id.* at ss 17.8(a).

13 When ascertaining if the Government has met its burden of protection with regards to  
14 the above elements, courts employ a balancing test to weigh the individual rights against the government  
15 interest. *Id.* at ss 17.8(i). The test consists of three factors: first, what the private interest affected is,  
16 second, how great a risk there is within the current procedure of a wrongful deprivation and third, the  
17 government’s interest. *Id.*

18 The Order Vivian has proposed does not meet the standard necessary for procedural due  
19 process. First, the vagueness of the specific authority granted to the Parenting Coordinator and  
20 overwhelming amount of decision making authorized in the proposed Order, without sufficient legal  
21 training, lend themselves to a system that is both arbitrary and inconsistent. This leads to a situation  
22 where custody decisions (and temporary Orders) are decided not based on the application of consistent  
23 laws, but rather on the personal morals and ideas of fairness of the Parenting Coordinator. Also, with  
24 a lack of training in law and evidence, decisions are more likely to be made based not on the facts  
25 weighted appropriately but rather on which party is capable of getting the Parenting Coordinator to  
26 sympathize with them.

27 Although most Parenting Coordinators have some experience in custody evaluations and  
28 family law cases, their limited experience does not give one a comprehensive knowledge of domestic

1 law or the rules of evidence and procedure that are in place to safeguard the parties. Given the discretion  
2 of authority granted by the proposed Order, these safeguards, both procedural and statutory become  
3 particularly important. This person has the ability to drastically alter the fundamental rights of a parent,  
4 up to and including temporarily removing custody of a child from that parent, or granting decisions  
5 which could implicate the religious and moral objections of another party. When the state seeks to do  
6 the same its behavior is strictly scrutinized and it is required to meet a high burden of proof. The  
7 proposed Order appear to grant the parenting coordinator extra-judiciary authority, while they are  
8 assuming the responsibility of a state actor. Yet their decisions regarding the care and custody of a child,  
9 a fundamental right belonging to the parents, are protected under the terms of the proposed Order and  
10 their recommendations automatically become Orders, absent an objection and are reviewed under a  
11 judicial standard of "substantial evidence" (without the legal training as to what is appropriate  
12 evidence). There is no guarantee of consistent results and there are a host of evidentiary issues such as  
13 hearsay.

14           Although there is no specific requirement for appeal in the court's interpretation of due  
15 process, it is implied to be important. In the case of *Wilkinson v. Austin*, 125 S. Ct. 2384 (2005), a major  
16 reason the transfer procedure of Ohio was held not to violate due process was the idea that at every  
17 level, the recommendation was independently reviewed and if the recommendation was disagreed with,  
18 the transfer was stopped. The court also specifically pointed out that the inmates had a regular and  
19 predicable date of review to transfer back out. It is important to note that the Court in *Wilkinson*  
20 specifically declined to grant the prisoners a fundamental right to less harsh conditions than the prison  
21 they were being transferred to. Yet it still found that a right to review, of some kind, was proper and  
22 necessary. Even in cases involving agency decisions, where the court has denied the necessity of *judicial*  
23 review, it did so not because review was improper, but because it was relying on the idea that the  
24 agency's expertise and knowledge of its own rules were better suited to review than the judiciary.  
25 *Meachum v. Fano*, 427 U.S. 215, 228 -229 (1976). It stands to reason therefore that in the instance of  
26 a Parenting Coordinator, when the rules being applied are "laws," that the ability for reasonable judicial  
27 review, or appeal, ought to be expected.



Given that reasoning, a standard of “substantial evidence” is too high. That standard is applied to decisions where evidence has been taken pursuant to the rules of evidence, where the sixth amendment right to confrontation has been met, and where a party had a reasonable opportunity for the assistance of counsel, should they so choose. None of those events take place with a Parenting Coordinator. These are the safeguards which then allow for *validly received* evidence to be weighed against the specific laws implicated by the issue. Since the decisions of the Parenting Coordinator cannot possibly be based on a sufficient understanding of the laws of Nevada and because the Parenting Coordinator is not required to be trained in the law, it is unreasonable to assume that appropriate evidence was received, or weighed against the appropriate laws.

Procedural due process also requires that there be a fair and neutral decision maker. The ability to ensure fairness is one of the reasons that parties have a right to an attorney, especially where fundamental rights might be abridged. Part of the reason to have an attorney in an adjudicative proceeding is to ensure that the party’s rights are not violated and to provide a check and balance on legal knowledge and skills of the judge. Although the judge in any given case is versed in the law, having attorneys involved allows a full range of legal arguments, leading to the best application and most objective decision possible. Attorneys are not involved in meetings with the Parenting Coordinator. Under the proposed Order, the Parenting Coordinator can speak with them to gain information regarding the case and they receive a copy of any recommendations made, however, they are not involved enough to ensure their clients rights or that the objective standards of law and evidence are employed in the decision making process.

The proposed safeguards against removal granted to the Parenting Coordinator provides no check on their behavior. Effectively, such a safeguard almost condones an arbitrary exercise of power, because the Parenting Coordinator is being turned into a Judge, without any requirement for training, or being held under the judicial code of ethics.

These points all lead to second of the factors in the procedural due process test: the risk of erroneous deprivation. The first factor, the interest involved, is easily managed. The right involved is the right of a parent over the care and custody of their children. This is a fundamental right, in the class of the highest protected rights within the country. Therefore the risks of erroneous deprivation are

1 given serious concern and the government interest must be compelling or the court will determine that  
2 due process is violated by the current system. The last factor to be considered then is the government  
3 interest involved.

4 Governments have a valid interest in unburdening the courts from their overwhelming  
5 case loads and cases such as this one do involve greater instances of litigation, which clog the  
6 department's calendar. However, such cases (often classified as "High Conflict") generally make up a  
7 small percentage of a Court's calendar. Given that fact (and the severe chances for abuse within the  
8 system created by the proposed Order) alleviating the burden on the Department does not appear a  
9 compelling enough interest to overcome the numerous risks, especially where a fundamental right is  
10 implicated.

11 Additionally, the proposed Order violates the parties' substantive due process rights as  
12 well. Substantive due process is meant to limit government action that infringes on fundamental rights  
13 or to limit action against non-fundamental rights that is so egregious that it "shocks the conscience and  
14 is therefore oppressive." *Howard*, 82 F.3d at 1349. Substantive due process assures that fundamental  
15 rights are not infringed upon regardless of the procedures allowed for remedy. *DeKalb Stone, Inc. v.*  
16 *DeKalb*, 106 F.3d 956, 959 (1997). Where the interest is not fundamental, the government merely has  
17 to prove that there is a reasonable relationship between the action and a permissive objective and that  
18 the action is not discriminatory, arbitrary, or oppressive. *Ilkanic v. Fort Lauderdale*, 705 So.2d 1371,  
19 1372 (Fla. 1998). Because of the greater importance of fundamental rights, when the allegation is a  
20 substantive due process violation of a fundamental right, the test is far more difficult. *Attorney General*  
21 *of New York v. Soto-Lopez*, 476 U.S. 898, 904 (1986). This test, called the strict scrutiny test, requires  
22 that the government prove that its action has a compelling state interest and is narrowly tailored to meet  
23 that interest. *Bernal v. Fainter*, 47 U.S. 216, 219 (1984).

24 Although it is true that the court often determines custody and some management  
25 decisions based on disputes that arise between the parties, the Order proposed by Vivian takes that  
26 further. The broad authority granted within permits the Parenting Coordinator to direct the parties'  
27 behavior and mandate changes to the parenting plan. No aspect of the proposed Order directs that the  
28 parenting coordinator is limited to the parties disputes, or even to making recommendations (or

temporary Orders) which pick between the options presented by the parties. Additionally, the proposed Order allows the parenting coordinator to make such decisions as whether or not the minor children need therapy or mental health assessments. At that point the parenting coordinator is not even simply adjudicating disputes, but rather becoming an active third participant in the care and management of the child and is depriving the parties of their fundamental right to be the final authority in the care and management of their children.

Therefore the government interest being met would have to withstand strict scrutiny for the statutes to pass a due process violation. Strict scrutiny requires that the state interest be compelling and the statutes be narrowly tailored to fit the interest. Although, as was stated in section on procedural due process, the courts have an interest in preventing themselves from being overburdened it is unlikely that such interest would be seen as compelling. Compelling interests are generally those clearly relating to the safety and security of the citizens. However, the court could determine that efficiency of the courts is adequately related to the necessary function of government, which may be seen as compelling. In that instance, although the proposed Order is tailored to meet the interest of increasing efficiency in the courts, because there are solutions that would not burden the right so heavily (such as a far more limited Parenting Coordinator Order), it is unlikely that the proposed Order would be held constitutional if entered.

**B. Kirk's Proposed Parenting Coordinator Order**

The above argument does not reflect an issue with *having* a Parenting Coordinator, rather an issue with the specifics of Vivian's Parenting Coordinator Order. Kirk did agree to a Parenting Coordinator, but envisioned a substantially different role for the same based upon Paragraphs 4 and 6.2-6.4 of the parties' Custody Order. Pursuant to his understanding of those terms, Kirk provides, attached as "**Exhibit 2**" his proposed Parenting Coordinator Order, which more accurately reflects the agreement in the Custody Order.

**III.**

**CONCLUSION**

Vivian's proposed Order Appointing a Parenting Coordinator is wholly unconstitutional. It grants an unbelievable amount of authority to the Parenting Coordinator, is vague and contradictory,

1 and creates an extra-judicial authority where one should not exist. While Kirk has no issue with the  
2 concept of appointing a parenting coordinator to facilitate negotiation between the parties when minor  
3 custody issues arise, he does not agree to the creation of such extra-judicial authority, nor does he agree  
4 to any procedure which neuters his ability to seek necessary judicial intervention in the future.

5 Kirk attempted to address this issue with Vivian, but rather than discuss the matter in  
6 good faith (when there was finally time to discuss the issue at all, given everything else going on in the  
7 case), Vivian filed her Motion to have her proposed Order entered. Kirk requests that the Court enter  
8 a far more limited order for Parenting Coordination, one that allows the Parenting Coordinator to  
9 facilitate negotiation on issues, but does not limit a parties ability to seek redress in Court, nor grant the  
10 Parenting Coordinator an active role in parenting the parties children.

11 DATED this 1<sup>st</sup> <sup>July</sup> June, 2013.

12 KAINEN LAW GROUP, PLLC

13  
14 By: 

15 EDWARD L. KAINEN, ESQ.  
16 Nevada Bar No. 5029  
17 10091 Park Run Drive, Suite 110  
18 Las Vegas, NV 89145  
19 Attorneys for Plaintiff  
20  
21  
22  
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24  
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## **EXHIBIT “1”**

**KAINEN**  
**LAW GROUP**  
A Professional Limited Liability Company



May 9, 2013

**Via Facsimile: (702) 990-6456**

Radford Smith, Esq.  
Radford J. Smith, Chartered  
64 North Pecos Road, Suite 700  
Henderson, Nevada 89074

Re: **Kirk Harrison v. Vivian Harrison**

Dear Rad:

This letter is in response to your letter, dated May 8, 2013, which was faxed to my office late yesterday afternoon. I was hoping to speak with you about the contents of this letter this afternoon (at 4:30 as we had scheduled before we got your letter and before sending this letter), but I understand your Court schedule necessitated postponing that telephone conference. I will respond by the categories set forth in your letter.

**Allegations in your April 15, 2013 letter:**

The letter is dated April 12, 2013. Your continued unfounded character assault upon Kirk, both in letters and in pleadings, is unprofessional.

The facts concerning the visitation issue are set forth in the second paragraph of my April 12, 2013 letter. It is difficult to understand how you can spin and twist those facts to falsely reference "Kirk's misunderstanding" and further state the matter "was resolved by your client understanding that his interpretation was in error even before you wrote your missive." Kirk never had a misunderstanding, nor was he in error. Kirk was simply relying upon the schedule/calendar provided

Radford Smith, Esq.  
May 9, 2013  
Page 2

by *your client*. Vivian took a position that was *contrary to the schedule* to which the parties had been abiding. Kirk called me the very day Vivian first broached the subject. I told him the *calendar* was in error. Kirk immediately sent an email to Vivian confirming that fact.

Neither Kirk nor I have made any assault upon Vivian because there was an error in the calendar, nor should we. Mistakes happen. Kirk appreciates the fact that Vivian took the time to prepare the calendar, which has been for the benefit of both parties and has been very helpful. This should not have been a big deal. No one's visitation was disrupted, even for one millisecond.

This issue, however, is indicative of the approach you have taken throughout this litigation. You know that Kirk has consistently acted in good faith. Yet, you continually try to spin and twist events to the point there is no correlation between your allegations and actual facts. For example, based upon these facts, you frivolously claim that "Kirk only seems to lack understanding of orders, rules or agreements when it is to his advantage." This is nonsensical. Kirk did absolutely nothing wrong here -- as soon as Vivian took a position which was contrary to the schedule to which the parties had been adhering, he contacted me immediately; as soon as I told him there was an error in the schedule, he contacted Vivian immediately.

Turning to the issue of your e-mails, this is not the first time that Tom or I received an email from your office on a day or time after the time and/or date memorialized on the e-mail. On January 11, 2013, I sent you a letter, which provided in relevant part:

As a preliminary matter, it should be noted your letter is dated December 27, 2012 and represented as being sent **via e-mail**. Based upon this, one would assume your letter was e-mailed on December 27, 2012. However, Tom's office indicates it was not e-mailed to their office until 9:06 a.m. on January 3, 2013, with a demand that items be returned or a statement in detail on or before January 7, 2013.

As previously noted, we then get an e-mail from you on April 12, 2013 at 12:27 p.m., which is erroneously identified as being sent at 7:40 p.m. on April 11, 2013.

This is truly bizarre. To the best of my knowledge, the time memorialized on other emails is accurate and can be relied upon. This issue reminds me of the scene from the movie, *My Cousin Vinny*, when the Joe Pesci's character "Vinny," is cross examining "Sam Tipton" about the time it allegedly took him to cook grits. He asked, "Are we to believe that boiling water soaks into a grit faster in your kitchen than on any place on the face of the earth? Well perhaps the laws of physics cease to exist on your stove?"

**PC Order:**

The Stipulation and Order Regarding Parent/Child Issues filed on July 11, 2012, contains the following language regarding the parenting coordinator:

The parties shall hire a Parenting Coordinator to resolve disputes between the parties regarding the minor children. The Parenting Coordinator shall be chosen jointly by the parties. The Parenting Coordinator shall serve pursuant to the terms of an order mutually agreed upon by the parties. If the parties are unable to agree upon a Parenting Coordinator, or the terms of an Order appointing the Parenting Coordinator, within thirty (30) days of the date of the filing of this Stipulation and Order, then the Court shall appoint that individual and resolve any disputes regarding the terms of the appointment.

I was attempting to defer to Tom on the parenting coordinator issues, but time necessitates an immediate response. Therefore, my concerns with respect to your proposed Parenting Coordinator Order are as follows:

- (1) There are far too many provisions designed solely to protect the parenting coordinator, which does not benefit the parties in any way;
- (2) The near total delegation of authority to the parenting coordinator, where it is my belief that the parenting coordinator's authority should be more limited in terms of what they can do;
- (3) Access to the Court should be more readily available to the parties during fundamental disagreements;
- (4) There are potential problems with the ability to have objections timely heard and the binding nature of the recommendations made by the parenting coordinator; and
- (5) There are internal inconsistencies regarding communication with the parenting coordinator.

I believe your recollection of my statements regarding Dr. Lenkeit are misstated. In any case, if I had agreed to Gary Lenkeit as the parenting coordinator without making the disclosure, *then* you would have a basis to complain. I did not.



Radford Smith, Esq.  
May 9, 2013  
Page 4

### **The Proposed MSA:**

There was never any agreement that Kirk could not take any personal property from the marital residence.

The proposed MSA is consistent with the correspondence between the parties and the record before the Court. On the other hand, your position is inconsistent with the correspondence between the parties and the record before the Court. In the interest of clarity, I will again set forth the problem with your position, as previously written in my January 11, 2013, letter to you:

Significantly, the last written proposal between the parties concerning the division of personal property is set forth in the attachment to Tom's letter to you, dated November 14, 2012 ("Kirk's proposal"). This proposal was in response to the proposal contained in your letter, dated November 9, 2012, which proposed:

If he is not willing to choose one of the A/B lists for the property at the residence, Vivian proposes that Joyce Nelson [sic] value *everything* in the marital residence (with the parties dividing the cost of the appraisal), and Vivian paying Kirk for one-half of the personal property at the residence. She will then retain all of the property at the residence. (Emphasis added).

Joyce Nelson [sic] did not value "everything" in the marital residence, the parties did not divide the cost of the appraisal, and the parties never agreed that Kirk would get none of the personal property at the marital residence. Under this proposal, Kirk would not have gotten *any* personal property at the marital residence whatsoever, including his own clothes. The proposal contained in Tom's letter, dated November 14, 2012, was an unequivocal rejection of your proposal.

We agreed to a division of the items on Joyce Newman's list. At no time during the negotiations, did we ever agree that Kirk would only get specified items on Joyce Newman's list and Vivian would get *everything else*. Under your present position, Kirk would not be entitled to take his own parents' bedroom furniture, heirlooms he received from his parents, his mother's alder china hutch and alder buffet, his great aunt's hand painted china and paintings, his mother's needlepoint bench that was hand made by Kirk's uncle, his mother's oak children's rocking chair she had as a child, etc. That was never the agreement, nor would it ever be the agreement.

There was no agreement as to any items that did not appear on the list prepared by Joyce Newman, other than each party would take their own personal items and miscellany. As to the personal items located in the marital residence that were not on Joyce Newman's list, Kirk strongly believes Vivian received in excess of ninety-five per cent (95%) of them.

(Letter, dated January 11, 2013)

Moreover, your position makes no sense whatsoever from a practical and equitable perspective. There is a monumental difference between the personal property at the marital residence and the personal property at the ranch. The parties were married for over 30 years. During that 30 year period, they accumulated a significant amount of personal property, almost all of which had any monetary or sentimental value was located at the marital residence. Moreover, most of Kirk's most cherished possessions from his parents were in the marital residence.

In contrast, there was very little, if any, community personal property of any monetary or sentimental value located at the ranch, other than the tools and equipment for which Joyce Newman identified and for which Kirk has paid. Until Kirk built the first metal building in 2007, there was a mice infested 800 square foot cabin that was built by Kirk's father in 1949 using two CCC offices for which he paid \$25.00 each, which were originally built during the 1930s. There is water in the basement every winter. Therefore, no community personal property of any sentimental or monetary value was kept there. It is not coincidental that all of the community equipment and tools valued by Joyce Newman were acquired after the first metal building was constructed in 2007.<sup>1</sup> The notable exception is the 1968 backhoe, which was previously stored in the two sided old barn and therefore exposed to the weather.

Vivian is well aware of the fact that, historically, the personal property that was taken to the ranch was stuff Vivian did not want which would otherwise have been thrown away. For that reason, Vivian did not want anything from the ranch, except her mother's bed (for which Kirk went to the ranch, loaded, and took to the marital residence) and two cut down church pews. The church pews had been cut down and utilized in the elementary school in Payson, Utah, where Kirk's mother went to school. They are only large enough for two children to sit side by side. The only reason Kirk

---

<sup>1</sup> Unfortunately, Joyce Newman also appraised, and Kirk paid for, very old equipment that has been left outside in the weather for many many years, which belonged to Kirk's father, and was never community property. For example, Ms. Newman valued a World War II wagon at \$1,400.00. The axle on this approximately 70 year old wagon is completely rusted out. The wagon only has salvage scrap value, which is far less than \$1,400.00. The only reason it is still at the ranch is because it belonged to Kirk's father. Yet, as part of a settlement, a community property value was assessed.

Radford Smith, Esq.  
May 9, 2013  
Page 6

bought the church pews was because they were at his mother's school when she attended and it is for this reason he was unwilling to let Vivian have them.

In your letter, dated December 27, 2012 (which, as noted above, was not received until January 3, 2013) you listed 15 different descriptions of personal property which Kirk took from the marital residence. In my letter to you, dated January 11, 2013, I set forth in painstaking detail our position with respect to each of those 15 different descriptions of personal items, which Kirk legally and equitably took from the marital residence.

In your missive of May 8, 2013, you reference "photographs and other family memorabilia (which is priceless)." We have previously proposed that all photographs and videos in the possession of both Kirk and Vivian be electronically copied with a copy for Vivian, Kirk, *and each of their children*. It is impossible to respond to the obscure and nebulous "other family memorabilia (which is priceless)." Would you please be more specific as to what you are referring to as "other family memorabilia (which is priceless)?" Are you referring to anything other than what has been previously identified in your 15 different listed items?

You also allege there are many items in the proposed MSA "that have never been discussed...". I don't believe that is true. Would you please identify which items were never identified in the correspondence between the parties or on the record before the Court?

It appears that you are making much to do about nothing.

#### **Your Ex-Parte Motion:**

Let me make sure I understand your position. You have filed a motion wherein you want Kirk to pay all of Vivian's attorneys' fees and costs. However, you have redacted over Twenty-Six Thousand Dollars (\$26,000.00) of those costs. We received your motion on April 5, 2013. Despite repeated requests to be provided the descriptions of the costs **for which you seek payment**, it is now May 9, 2013 and we still have not received that information.

You now take the position you really never agreed to provide that information, it is really no big deal, and we should simply file our response without that information. The remaining redacted big ticket cost items are on Mr. Silverman's invoices and remain unknown at this time. We need that information to respond.

Radford Smith, Esq.  
May 9, 2013  
Page 7

In order to tell you when we will be able to file our responsive pleading, I need to know when you will provide the missing items. Please advise.

Very truly yours,

KAINEN LAW GROUP, PLLC

By: 

EDWARD L. KAINEN, ESQ.

ELK/cn

cc: Kirk Harrison  
Tom Standish, Esq.



FAX COVER SHEET

**DATE:** May 9, 2013  
**TO:** Rad Smith, Esq.  
**FAX NUMBER:** (702) 990-6456  
**FROM:** Ed Kainen, Esq.  
**RE:** Harrison v. Harrison

**NUMBER OF PAGES (Including Cover Sheet):** 8

**MESSAGE/COMMENTS:**

Please see attached.

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TRANSMISSION VERIFICATION REPORT

TIME : 05/09/2013 16:52  
NAME : KAINEN LAW GROUP  
FAX : 8234488  
TEL : 7028234900  
SER. # : C1N995789

DATE, TIME  
FAX NO./NAME  
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05/09 16:51  
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FAX COVER SHEET

DATE: May 9, 2013  
TO: Rad Smith, Esq.  
FAX NUMBER: (702) 990-6456  
FROM: Ed Kainen, Esq.  
RE: Harrison v. Harrison

NUMBER OF PAGES (Including Cover Sheet): 8

MESSAGE/COMMENTS:

Please see attached.

## **EXHIBIT “2”**

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16 KAINEN LAW GROUP, PLC

17 10091 Park Run Drive, Suite 110

18 Las Vegas, NV 89145

19 (702) 823-4900

20 (702) 823-4488 (Fax)

21 Attorneys for Plaintiff

22  
23 DISTRICT COURT

24 CLARK COUNTY, NEVADA

25 KIRK ROSS HARRISON,

26 Plaintiff,

27 vs.

28 VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-443611

DEPT NO.: Q

Date of Hearing: N/A

Time of Hearing: N/A

29 **ORDER FOR APPOINTMENT OF PARENTING COORDINATOR**

30 The Court having considered all of the pleadings on file herein, and good cause appearing, does  
31 hereby Order the appointment of a Parenting Coordinator under the following terms and conditions:

32 ...

33 ...

34 ...



1 **1.0 AUTHORITY OF PARENTING COORDINATOR**

2 1.1 This Court is not and shall not delegate any judicial authority to a Parenting Coordinator  
3 in this matter. This or any subsequent appointment of a Parenting Coordinator is not made pursuant to  
4 NRCP 53(a) and is not intended to be a delegation of judicial authority pursuant to said Rule.

5 1.2 Notwithstanding anything elsewhere contained in this Order, the Parenting Coordinator,  
6 upon the request of one or both parties, shall have the authority to make non-binding recommendations  
7 to the parties concerning custody matters and, upon the mutual assent of the parties, informally mediate  
8 custody matters with the parties. The Parenting Coordinator shall have no authority whatsoever to  
9 make binding decisions which affect the parties custody of their children.

10 1.3 In the event either party believes it to be in the best interest of the children or either one  
11 of the children, that party may, at any time, seek an order from this Court regarding a custody issue or  
12 issues, irrespective of whether the Parenting Coordinator has not addressed the issue, is presently  
13 addressing the issue, or has already addressed the issue.

14 1.4 In the event this Court addresses a custody issue or issues previously addressed by the  
15 Parenting Coordinator, this Court's analysis and determination shall be *de novo* and shall not give any  
16 deference whatsoever to any recommendation or recommendations previously made by the Parenting  
17 Coordinator.

18 1.5 The Parenting Coordinator is a neutral jointly retained to assist the parties to mutually  
19 and expeditiously resolve custody issues by making non-binding recommendations to the parties, and  
20 when the parties first agree, to informally mediate custody disputes. As a neutral in an advisory  
21 capacity, the Parenting Coordinator will not provide testimony or any written reports to the Court.

22 1.6 The Parenting Coordinator may make non-binding recommendations, upon a request by  
23 a party or both parties, concerning disputes regarding the implementation of the parenting plan, the  
24 schedule, or parenting issues.

25 1.7 The Parenting Coordinator may make non-binding recommendations, upon a request by  
26 a party or both parties, concerning the implementation of the parenting plan, including, but not limited  
27 to, issues such as:  
28

- (a) transitions/exchanges of the child including date, time, place, means of transportation and transporter;
- (b) holiday sharing;
- (c) summer or track break vacation sharing and scheduling;
- (d) communication between the parents;
- (e) health care management issues, including choice of medical providers and payment of unreimbursed medical expenses (including dental, orthodontic, psychological, psychiatric or vision care), pursuant to the Court's order for payment of said expenses;
- (f) education or day care including but not limited to, school choice, tutoring, summer school, and participation in special education testing and programs;
- (g) child's participation in religious observances and religious education;
- (h) child's participation in extracurricular activities, including camps and jobs;
- (i) child's travel and passport issues;
- (j) purchase and sharing of child's clothing, equipment and personal possessions, including possession and transporting of same between households;
- (k) child's appearance and/or alteration of child's appearance, including haircuts, tattoos, ear, face or body piercing;
- (l) communication between the parents including telephone, fax, e-mail, notes in backpacks, etc. as well as communication by a parent with the child including telephone, cell phone, pager, fax, and e-mail when the child is not in that parent's care;
- (m) contact with significant other(s) and/ or extended families.

## **2.0 PROCEDURES AND RELATED REQUIREMENTS**

2.1 All written communications by a party to the Parenting Coordinator shall be copied or provided to the other party, concurrently.

2.2 In the event it is reasonably deemed necessary by the Parenting Coordinator, after a request for a non-binding recommendation by one or both parties, the parties and the Parenting

1 Coordinator shall each use their respective best efforts to schedule a meeting and/or appointment with  
2 the Parenting Coordinator. The Parenting Coordinator shall reasonably determine in each instance  
3 whether an issue warrants an in person meeting with the parties. Telephonic conferences are encouraged  
4 when reasonably sufficient.

5       2.3     In the event both parties agree to informally mediate an issue with the Parenting  
6 Coordinator, the parties shall participate in good faith in an initial mediation/conflict resolution process  
7 with the Parenting Coordinator in an effort to resolve a dispute. Should mediation result in an  
8 agreement, the Parenting Coordinator shall prepare a simple "Agreement" on the subject for signature  
9 by each party and the Parenting Coordinator. The Parenting Coordinator shall send a copy of the  
10 Agreement to each party; the parties shall each sign the Agreement, have it notarized, and return their  
11 copy to the Parenting Coordinator within two weeks.

12 **3.0.     NO PARENTING COORDINATOR CONFLICTS**

13       3.1     The Parenting Coordinator may not serve as a custody evaluator, investigator, neutral  
14 negotiator, psychotherapist, counselor, attorney or Guardian ad Litem for any party or another member  
15 of the family for whom the Parenting Coordinator is providing or has provided parenting coordination  
16 services.

17 **4.0     SCHEDULING:**

18       4.1     Each parent is responsible for contacting the Parenting Coordinator within ten days after  
19 the appointment of the Parenting Coordinator to schedule an initial meeting.

20 **5.0     EMERGENCY COMMUNICATION WITH THE COURT:**

21       5.1     Upon request, the Parenting Coordinator shall work with both parents to resolve conflicts  
22 and may make non-binding recommendations for appropriate resolution to the parties and their legal  
23 counse. However, the Parenting Coordinator shall immediately communicate in writing with the Court  
24 without prior notice to the parties, counsel or a guardian ad litem, in the event of an emergency in  
25 which:

26               5.1.1   A party or child is anticipated to suffer or is suffering abuse, neglect, or  
27                           abandonment.

28

1           5.1.2 A party or someone acting on his or her behalf, is expected to wrongfully remove  
2           or is wrongfully removing the child from the other parent and the jurisdiction of  
3           the Court, without prior Court approval.

4           5.2 A copy of the written communication to the Court shall be submitted to Metro, CPS, and  
5           to the parties, by the Parenting Coordinator.

6   **6.0   PARENTING COORDINATOR FEES/EXPENSE SHARING**

7           6.1 Hourly fees for the services of the Parenting Coordinator shall be mutually set by the  
8           parties and the Parenting Coordinator pursuant to a written agreement, but said fees shall not exceed  
9           such fees as are customary in Southern Nevada for such services. All fees shall be advanced equally by  
10          the parties. The Court reserves jurisdiction to re-allocate said payments between the parties.

11   **7.0   APPOINTMENT**

12          7.1 \_\_\_\_\_, is hereby appointed as Parenting Coordinator in this matter  
13          under the terms and conditions set forth herein . The Parenting Coordinator's full name, title, mailing  
14          addresses and phone numbers are as follows:

15          Name: \_\_\_\_\_

16          Street Address: \_\_\_\_\_

17          City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

18          Telephone #: \_\_\_\_\_ Fax # \_\_\_\_\_

19          E-mail: \_\_\_\_\_

20   **8.0   TERMS OF APPOINTMENT**

21          8.1 The Parenting Coordinator is appointed until discharged by the Court. The Parenting  
22          Coordinator may apply directly to the Court for a discharge, and shall provide the parties and counsel  
23          with notice of the application for discharge. The Court may discharge the Parenting Coordinator without  
24          a hearing.

25          8.2 Either party may move this Court at any time to discharge and/or replace any Parenting  
26          Coordinator who is appointed hereunder. The Court may discharge and/or replace the parenting  
27          coordinator upon good cause shown, or, alternatively, in the event good cause is not shown, but, in the  
28

1 sole discretion of the Court, the Court concludes it will be in the best interest of the children and/or the  
2 parties.

3 8.3 In the event that the Parenting Coordinator is discharged, the Court will furnish a copy  
4 of the Order of termination of the Parenting Coordinator to counsel.

5 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

6

7

\_\_\_\_\_  
DISTRICT COURT JUDGE

8 Submitted by:

9 KAINEN LAW GROUP, PLLC

10

11 By:

EDWARD L. KAINEN, ESQ.  
Nevada Bar No. 5029  
10091 Park Run Drive, Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

14

15 Approved as to form and content:

16

RADFORD J. SMITH, CHARTERED

17

18

By:

RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
64 N. Pecos Road, Suite 700  
Henderson, Nevada 89074  
Attorney for Defendant

20

21

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23

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25

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## **EXHIBIT “3”**

## Concern Over Judicial Authority Drove Parent Coordinator Elimination

**BY BEN PRESENT**  
Of the Law Weekly  
bpresent@alm.com

To many family law practitioners, the Pennsylvania Supreme Court's decision to eliminate parenting coordinators in custody matters was a reasonable measure to keep decision-making in the purview of the state's judges.

But several attorneys questioned whether the practice, which on May 23 becomes a thing of the past in Pennsylvania custody cases, could have survived with some tweaking. Attorneys said the practice, with proper oversight, was a suitable enterprise for refereeing situations such as "mom's sister's wedding on dad's Saturday" in high-conflict custody cases. The courts, lawyers said, simply do not have time for such minor issues.

In other words, it seemed that while most attorneys had seen parenting co-



Ladov's authority to nonjudicial entities and, in turn, limiting that practice where it could. And they said they couldn't knock the court for that.

As parenting coordination developed in Pennsylvania, it had been lawyers, psychologists and psychiatrists filling the role. Attorneys said the justices may have felt compelled to change the law as the latter two had grown accustomed to interpreting, and sometimes even changing, a court's custody order.

Others said the move was in response to the Luzerne County judicial scandal

ordinators work in many cases (though some had seen it go terribly), all recognized that the Supreme Court was trying to be cognizant of instances where courts are abdicating their authority to nonjudicial entities and, in turn, limiting that practice where it could.

David L. Ladov, co-chair of the family law practice group at Obermayer Rebmann Maxwell & Hippel, summed up the high court's sentiment:

"Before it happens in another area of the law — parent coordinators — why are we allowing judges to abdicate their authority?" Ladov said. "Why are we letting judges pass on their authority to somebody outside the judicial due process situation?"

Ladov is vice chair of the Pennsylvania Supreme Court Domestic Relations Procedural Rules Committee, but said he was not speaking in his capacity as a rules committee member. Instead, he said he was speaking as an "experienced family law practitioner."

The word spreading through the family law practice bar, according to attorneys, is that the Luzerne County scandal

and the stain it left on Pennsylvania's judiciary compelled the domestic relations rules committee and the justices to do away with parent coordinators.

The timeline seems to fall in line with that school of thought.

Fox Rothschild family law practitioner Natalie L. Famous pointed out the Supreme Court submitted the rules committee's proposal to *The Pennsylvania Bulletin* for public comment in November 2010, right around the time the Luzerne County scandal, which involved allegations of two judges taking \$2.8 million in kickbacks from the co-owner and the builder of a private juvenile prison, was still very much in the news.

Famous, who was the first parenting coordinator in the state, said the court made the decision to do away with parent coordinators in favor of transparency by the judiciary and to hold the judges directly accountable for decisions.

Meanwhile, the Lackawanna County

See 'Coordinator' on Page 5

# Coordinator

continued from 1

Guardian ad litem program has come under scrutiny as attorneys have questioned a system in which one person was handling an overwhelming majority of the guardian work in that county. That one person, attorney Danielle M. Ross, awaits trial on federal tax evasion charges.

"I would have to think that, with 'kids-for-cash' in the background, the failure of the guardian ad litem program in Lackawanna County, it has to be in the back of the justices' minds in considering whether continuing to grant quasi-judicial powers to people such as parenting coordinators is an appropriate remedy in resolving such delicate custody matters," said Jonathan T. Hoffman, an attorney in Klehr Harrison Harvey Branzburg's family law practice group. "I would think it would have to be relevant here."

For Lado, though, regardless of whether lawyers viewed the decision to nix parent coordination as a positive or negative one, it was not a monumental event.

For one thing, most litigants can't afford a parent coordinator. Additionally, most cases don't rise to the level of conflict that warrants the appointment of one — a level Lado characterized as featuring "repeated offenders" or "repeated litigators."

Lado said a judge would be inclined to appoint a parent coordinator only if a case gets back in court three times, maybe even six times, after a judgment is entered.

"There's probably one parent coordinator in every 1,000 cases," Lado said. But in cases where it was successful, others said it helped clear the dockets and ease tensions.

"In the cases where it helped, it was a godsend," said Mary Cushing Doherty of High Swartz. "In cases where the parent coordinator was going beyond what was their responsibility, what the parents thought was their responsibility, the Supreme Court is pulling back and saying, 'we are not delegating judicial responsibility.'"

"The problem is, how do you draw that magic line?" Doherty added.

Hoffman also said the right parenting coordinators had proven to be an "excellent resource."

lent resource."

"It took people who were clogging up the dockets and turned their cases around really quickly," Hoffman said.

The net effect in most cases, according to Hoffman, was that children who were suffering got relief in the midst of continuing conflict between their parents.

## BALLS AND STRIKES!

In interviewing a handful of family lawyers, more than one used the phrase "calling balls and strikes" in outlining the work of parent coordinators over the last four years — the lifespan of the practice — in Pennsylvania.

For example, if a custody order required divorced parents to split their child's birthday but provided no further elaboration, a parent coordinator could interpret the ruling and implement a game plan.

Blue Bell, Pa., solo practitioner Maria E. Gibbons, who had been devoting much of her practice to parent coordination, further provided the example of an ex-husband who won't give up his Saturday so his ex-wife could take their daughter to her sister's wedding. Gibbons said that by the time a judge

would be able to hear the issue, the wedding would be long past. Plus, dragging the parties into court for such a small issue, in Gibbons' view, is a waste of judicial resources, which are scarce to begin with in many counties throughout the state.

"A judge shouldn't be wasting their time hearing that," she said.

Those were the type of day-to-day decisions a parent coordinator could make on the spot.

Another part of Gibbons' job, as she described it, had been helping parents settle for alternatives when their custody order didn't seem to help either party in a particular dispute.

Saying, "Go back and settle so I don't have to make this ruling," would often incite parents to swallow their pride and resolve whatever their dispute was without forcing a ruling from the coordinator, Gibbons said.

Referring to a hypothetical custody order, Gibbons added: "If you make me rule, whether I like it or not, I have to rule the way this paragraph is written."

## PSYCHOLOGISTS' INVOLVEMENT

Licensed psychologists and psychia-

See 'Coordinator' on Page 12



## Coordinator

continued from 5

trists sometimes didn't seem to understand the letter of the law, according to attorneys interviewed, a possible impetus for the justices' rule change.

Every attorney interviewed expressed concern with psychologists filling a position that, to some degree, involves the interpretation of a court decision and an application of the law.

Lynne Z. Gold-Bikin, chair of the family law practice group at Weber Gallagher Simpson Stapleton Fires & Newby, was the most outspoken lawyer in favor of ridding the court system of the position. Gold-Bikin said she was "delighted" the court put an end to parent coordinators, particularly where psychologists were making decisions.

"Every time the psychologists get involved, they take over because they say the court system and the lawyers don't know what they're doing," Gold-Bikin said. "Even though they don't know the

law, they take over."

The longtime family law practitioner said the therapists had "carved out an area to make money" and ended up costing litigants more money than they did help them with their conflicted cases.

Hoffman and Famous also said there was a real sense of concern that psychologists and psychiatrists were acting in place of the courts.

While Gold-Bikin used the psychologists' body of work in bidding farewell to the coordinators as a whole, other attorneys questioned whether the parent coordinator position could have survived with some tweaking.

Gibbons, the parent coordinator, said the Supreme Court could have crafted an order that narrowed the practice to only licensed attorneys, removing unauthorized practice of law questions from the equation. She said decisions were always appealable, but that only happened once.

"I think it's short-sighted," Gibbons said. "I think that the ones who made

the decision didn't necessarily talk to the people in the trenches who it affects day to day."

The court's April 23 rule change says that only judges may make decisions in custody cases and that masters and hearing officers may continue to make recommendations. Other than that, the courts may not appoint someone to "make decisions or recommendations or alter a custody order in child custody cases."

"Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective," the court's rule said. "Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective."

Most attorneys agreed that language did not call for the vacating of parent coordinators' decisions to date, but rather called for them to be taken off their respective cases.

Moving forward, Hoffman said his

first order of business approaching the rule change's effective date is to notify his clients of the change.

Hoffman said he would be informing his clients who have parent coordinators that dispute resolution is going to have to go through court.

In wealthier counties such as Montgomery, Chester, Delaware and Bucks, Hoffman said the courts should prepare for increased filings and more backlog.

"It leaves families in tremendous limbo," Hoffman said.

Doherty, although she was not surprised the Supreme Court took the action, did not see a viable alternative to fill the upcoming void.

"Am I shocked the Supreme Court has done this? No," Doherty said. "But do I think we have a solution yet? No."

Ben Present can be contacted at 215-557-2315 or [bpresent@alm.com](mailto:bpresent@alm.com). Follow him on Twitter @BPresentTL. •

## Waiver

continued from 9

Eakin said Pennsylvania law has upheld numerous releases for claims that had not yet accrued when the release

## **EXHIBIT “4”**

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 1915 ]

#### Adoption of Rule 1915.11-1 of the Rules of Civil Procedure; No. 577 Civil Procedural Rules Doc.

[43 Pa.B. 2559]  
[Saturday, May 11, 2013]

#### Order

*Per Curiam*

*And Now*, this 23rd day of April, 2013, upon the recommendation of the Domestic Relations Procedural Rules Committee; the proposal having been published for public comment in the *Pennsylvania Bulletin*, 40 Pa. Bull. 6512 (November 13, 2010):

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 1915.11-1 of the Pennsylvania Rules of Civil Procedure is adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in thirty days on May 23, 2013.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1915. ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN

#### Rule 1915.11-1. Elimination of Parenting Coordination.

Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective.

[Pa.B. Doc. No. 13-848. Filed for public inspection May 10, 2013, 9:00 a.m.]

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SEP 11 2013

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14 Attorneys for Defendant

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

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 v.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO.: D-11-443611-D

DEPT.: Q

**FAMILY DIVISION**

21 **DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR**  
22 **AN ORDER APPOINTING A PARENTING COORDINATOR AND THERAPIST FOR THE**  
23 **MINOR CHILDREN AS REQUIRED BY COURT ORDERED PARENTING PLAN AND**  
24 **DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION FOR SANCTIONS AND**  
25 **ATTORNEY'S FEES**

26 DATE OF HEARING: September 11, 2013

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

28 COMES NOW Defendant VIVIAN MARIE LEE HARRISON, by and through her attorneys  
Radford J. Smith, Esq. of the firm of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm  
of Silverman, Decaria & Kattleman, and submits her Reply to Plaintiff's Opposition referenced above.

I.

**THE COURT SHOULD ENTER VIVIAN'S PROPOSED ORDER  
APPOINTING A PARENTING COORDINATOR**

Vivian has proposed an Order Appointing a Parenting Coordinator as contemplated by the Stipulated Parenting Plan filed with the Court on July 11, 2012. Vivian's goal in agreeing to the appointment of a Parenting Coordinator ("PC") was to avoid litigation over small matters, particularly in light of Kirk's propensity to file extremely long briefs, and exacerbate the cost of litigation. Vivian envisioned the PC as a simple cost effective method of resolving day-to-day non-substantive disputes.

Kirk has objected to Vivian's Proposed Order Appointing Parenting Coordinator (hereinafter "Order") as an unconstitutional grant of power. He has proposed an alternative order that essentially reduces the role of the parenting coordinator to a mediator with no power to enforce any recommendation. Contrary to Kirk's assertion, Vivian's proposed order is an appropriate and constitutional designation of a PC that is consistent with Nevada law, and both case decisions and statutes in other jurisdictions.

The PC's powers as set forth in Vivian's proposed Order, to decide day-to-day disputes and recommend resolutions to the Court, are the primary functions of PCs. Parenting Coordinators offer an alternative to expensive and protracted litigation over small disputes between parents. The procedure set forth in Vivian's proposed Order promotes the best interests of the children by providing a mechanism to resolve parental conflicts in a timely fashion.

**A. Vivian's proposed Order allows the parenting coordinator to make decisions resolving day-to-day conflicts between the parties and provides both parties remedies should they disagree with the parenting coordinator's recommendations**

While Nevada does not have a statute that specifically pertains to the appointment of a parenting coordinator, the Courts in Nevada routinely appoint a parenting coordinator in custody cases under NRCP 53.

1 NRCP 53 states in relevant part,

2 **(a) Appointment and Compensation.**

3 (1) The court in which any action is pending may appoint a special master  
4 therein. As used in these rules the word "master" includes a referee, an auditor, an  
5 examiner and an assessor. . .

6 **(c) Powers.** The order of reference to the master may specify or limit the master's  
7 powers and may direct the master to report only upon particular issues or to do or  
8 perform particular acts or to receive and report evidence only and may fix the time and  
9 place for beginning and closing the hearings and for the filing of the master's report.  
10 Subject to the specifications and limitations stated in the order, the master has and shall  
11 exercise the power to regulate all proceedings in every hearing before the master and to  
do all acts and take all measures necessary or proper for the efficient performance of the  
master's duties under the order. . .

12 In *Cosner v. Cosner*, 78 Nev. 242, 371 P.2d 278 (1962), the Court found that a grant of the power  
13 to master or other subordinate official of the court was an unconstitutional delegation of the Court's  
14 power of decision.

15 Under Vivian's proposed Order, however, the PC would have no right to affect the custodial  
16 relationship of the parties; that is specifically prohibited by the Order. *See* Order Appointing the  
17 Parenting Coordinator attached as Exhibit "A" to Motion for an Order Appointing a PC, etc. filed on May  
18 10, 2013, paragraph 6.

19 The PC's role would be to meet or confer with the parties regarding disputes in the enumerated  
20 areas, and make recommendations if the parties were unable to resolve the dispute. The parties have a  
21 mechanism for review of any recommendation to the district court and the Court's review is tempered by  
22 the acknowledgement that a party challenging a recommendation must provide substantial evidence in  
23 support of the challenge. *See* Order Appointing the Parenting Coordinator attached as Exhibit "A" to  
24 Motion for an Order Appointing a PC, etc. filed on May 10, 2013, paragraph 12.



1 While there is no reported case in Nevada regarding this issue, in *Jordan v. Jordan*, 14 A.3d 1136  
2 (2011), the superior court of the District of Columbia used a statute similar to NRCP 53 in discussing the  
3 issues pertaining to the appointment of a parenting coordinator.  
4

5 In *Jordan*, the parties were awarded joint legal and physical custody of the parties' two children  
6 and the Court appointed a parenting coordinator pursuant to D.C. Super. Ct. R. Dom. Rel. R. 53(c) to  
7 mediate and resolve any disputes concerning the children.<sup>1</sup> In that case, the court held that a parenting  
8 coordinator has the authority to make decisions about day-to-day issues, such decisions are not, in  
9 themselves, subject to the reporting requirements. Rather, the day-to-day decisions made by the parenting  
10 coordinator are analogous to the subsidiary decisions that special masters routinely make in other  
11 contexts — such as when special masters make evidentiary rulings, or make decisions about what  
12 methodology should be used to calculate damages. *Id.* at 1158 (quoting *Fed. Mktg. Co. v. Va. Impression*  
13 *Prods.*, 823 A.2d 513, 533-35 & n.13 (D.C. 2003) (co-special masters appointed to calculate damages  
14 arising from violation of consent decree excluded from consideration records that were "unavailable,  
15 voluminous or difficult to obtain"; made finding that certain acts did not violate the consent decree; chose  
16 to employ a "sampling methodology" instead of examining every transaction that occurred over the  
17 course of five years; and ruled on how "profits" should be measured).  
18  
19

20 These types of *subsidiary decisions* must be made in order for the special master to fulfill her  
21 duties. Such decisions are necessarily effective immediately, but may be reviewed by the trial court. *Id.*  
22  
23  
24

---

25 <sup>1</sup> D.C. Super. Ct. R. Dom. Rel. R. 53, governs the use of "special masters," and provides, in relevant part:

26 (c) Powers. The order of reference to the master may specify or limit the master's powers and may direct  
27 the master to report only upon particular issues or to do or perform particular acts or to receive and report  
28 evidence only and may fix the time and place for beginning and closing the hearing and for the filing of the  
master's report. Subject to the specifications and limitations stated in the order, the master has and shall  
exercise the power to regulate all proceedings in every hearing before the master and to do all acts and take  
all measures necessary and proper for the efficient performance of the master's duties under the order.

1 The language set forth in Vivian's proposed Order Appointing the Parenting Coordinator is  
2 consistent with the language routinely adopted by the courts in the Nevada and in courts across the  
3 Country.

4  
5 **B. The use of a Parenting Coordinator does not impinge upon Kirk's due process or equal**  
6 **protection rights**

7 Also in *Jordan*, Ms. Jordan contended that allowing the parenting coordinator to make day-to-day  
8 decisions about the children violates her right to procedural due process. *Jordan*, 14 A.3d at 1159. She  
9 asserted that this decision-making authority abrogates her right to determine the best interests of her  
10 children, and that the process contemplated by the Special Master Order allows the parenting  
11 coordinator to enter a "final order" on a disputed issue without giving her adequate notice and  
12 opportunity to be heard. *Id.* In deciding that issue, the court first noted that the parenting  
13 coordinator's power to decide day-to-day disputes is a standard feature in the cases overseen by the OPC;  
14 and indeed, the efficacy of the parenting coordinator would be greatly diminished without this authority.

15  
16 The court then held that the use of a parenting coordinator under the circumstances presented does  
17 not unduly impinge upon Ms. Jordan's "fundamental liberty interest . . . in the care, custody, and  
18 management of [her] child[ren]." *In re J.T.B.*, 968 A.2d 106, 116 (D.C. 2009) (citing *Santosky v. Kramer*,  
19 455 U.S. 745, 753, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982)). Ms. Jordan's liberty interest must be  
20 reconciled both with Mr. Jordan's liberty interest regarding the children, and with the principle that "a  
21 biological parent's liberty interest is not absolute, and must give way before the child's best interest." *In*  
22 *re J.T.B.*, 968 A.2d at 116 (internal quotations omitted); *see also In re A.H.*, 842 A.2d 674, 685 (D.C.  
23 2004) ("In the final analysis, the state has the right and duty to protect minor children through judicial  
24 determinations of their interest."). Although the parenting coordinator may sometimes supersede Ms.  
25 Jordan's authority to make decisions regarding her children, the parenting coordinator may exercise that  
26 power only in limited circumstances, *i.e.*, where Ms. Jordan has a dispute with Mr. Jordan, who also has a  
27  
28

1 liberty interest in making decisions for the children; and where the dispute concerns only a day-to-day  
2 issue. *Id.*

3  
4 The court in *Jordan* further held that even assuming that a fundamental liberty interest is  
5 implicated, that interest is adequately protected by the procedures available to a parent aggrieved by any  
6 decision made by the parenting coordinator. *Id.* at 1160. In that case, the Special Master Order required  
7 that the parenting coordinator's decisions be reduced to writing, and preserved the trial court's authority to  
8 "modif[y] or set aside" the parenting coordinator's decisions at the request of either party, through "a  
9 timely motion requesting judicial intervention." Ms. Jordan erroneously contended that the parenting  
10 coordinator has the power to enter "final orders," and may do so without revealing the evidence relied  
11 upon to make the decision at issue. *Id.*

12  
13 The court in *Jordan* held that the review procedure outlined in the Special Master Order reserved  
14 "final" decision-making to the court, and the written record of the decision under review would  
15 presumably describe the basis of the parenting coordinator's decision. Although the process contemplates  
16 a limited period during which a decision by the parenting coordinator will be in effect before the trial  
17 court has an opportunity to review it, this procedure for resolving day-to-day disputes serves a valid  
18 government interest. The day-to-day disagreements at issue often will require immediate resolution, and  
19 courts are not able to adjudicate such matters in the necessary time frame. The procedure established by  
20 the Special Master Order promotes the best interests of the children by providing a mechanism to resolve  
21 parental conflicts in a timely fashion. *See Barnes v. Barnes*, 2005 OK 1, 107 P.3d 560, 565 (Okla.  
22 2005) (holding that appointment of parenting coordinator did not violate procedural due process, and that  
23 "[t]he extent to which a parent may be inconvenienced by cooperating with a parenting coordinator is  
24 subordinate to the need to protect the child's welfare"). Accordingly, the procedure outlined in the Special  
25  
26  
27  
28

1 Master Order for resolving day-to-day disputes did not violate Ms. Jordan's right to procedural due  
2 process.

3 Similarly, here, the parenting coordinator's powers as set forth in Vivian's proposed Order, to  
4 decide day-to-day disputes, is a standard feature in the cases overseen by the parenting coordinators.  
5 Indeed, the efficacy of the parenting coordinator would be greatly diminished without this authority.  
6

7 If the Court were to adopt Kirk's proposed order appointing a parenting coordinator, the parenting  
8 coordinator will essentially be limited to the role of a mediator. The purpose of the parenting coordinator  
9 is to resolve minor day-to-day issues and avoid costs and fees that the parties will incur if they seek  
10 judicial intervention for basic issues. If a parenting coordinator is limited to the role of a mediator, the  
11 purpose of appointing a parenting coordinator is defeated.  
12

13 It does not appear that Kirk is in disagreement with the appointment of Dr. Stephanie Holland as  
14 the parenting coordinator in this case. Vivian moves for an order appointing Dr. Stephanie Holland as a  
15 PC in this case.  
16

## 17 II.

### 18 **PURSUANT TO THE TERMS OF THE PARENTING PLAN, THE COURT SHOULD DIRECT** 19 **THE APPOINTMENT DR. LISA M. LINNING OR DR. SHERA BRADLEY AS THERAPIST** 20 **FOR THE MINOR CHILDREN**

21 Kirk does not object to the appointment of Dr. Lisa M. Linning or Dr. Shera Bradley as a therapist  
22 for the minor children. Accordingly, Vivian moves for an order appointing either Dr. Linning or Dr.  
23 Bradley as the children's therapist.

24 . . .

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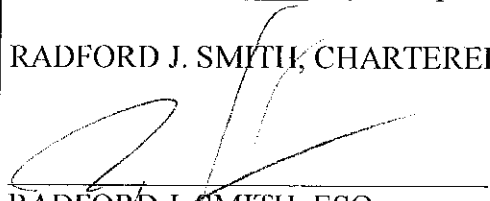
III.

CONCLUSION

Based on the foregoing, the Court should grant the request Vivian seeks in her Motion in its entirety.

Dated this 9 day of September, 2013.

RADFORD J. SMITH, CHARTERED



RADFORD J. SMITH, ESQ.

Nevada State Bar No. 2791

64 N. Pecos Road, Suite 700

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*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 firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR AN ORDER APPOINTING A PARENTING COORDINATOR AND THERAPIST FOR THE MINOR CHILDREN AS REQUIRED BY COURT ORDERED PARENTING PLAN" on this 9 day of September, 2013, 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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Attorneys for Defendant

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

v.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-44361-D

DEPT NO.: Q

**FAMILY DIVISION**

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR ATTORNEYS' FEES AND SANCTIONS**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION STYLED REQUEST FOR REASONABLE DISCOVERY AND EVIDENTIARY HEARING**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR EQUITABLE RELIEF;**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR ATTORNEYS' FEES AND SANCTIONS;**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR DECLARATORY RELIEF**



**UNNECESSARY  
PAGES OMITTED**

## **Exhibit “S”**

1                                   **DECLARATION OF GARY R. SILVERMAN**  
2                                   **DECLARATION EXECUTED IN THE STATE OF NEVADA (NRS 53.045)**

3               1.       I am a licensed attorney in the State of Nevada. I make this declaration  
4 of my personal knowledge unless stated otherwise.

5               2.       I am Mrs. Harrison's attorney.

6               3.       I read Mr. Harrison's Opposition to Mrs. Harrison's Motion for Sanctions  
and Attorney's Fees.

7                                   ***Preface***

8               Mrs. Harrison retained counsel to defeat a claim that sought her removal from  
9 the marital residence, that she become the visiting parent of children awarded to her  
10 spouse, and that she submit to conditions on sleeping arrangements, and blood tests  
11 for phentermine and testosterone (Husband's Motion for Joint Legal and Primary  
12 Physical Custody and Exclusive Possession of Marital Residence, September 14,  
2011.) In support of his Motion, Mr. Harrison claimed, *inter alia*, Vivian had battered  
13 him, was a Phentermine and Bontril addict, had recklessly stunted a daughter's growth,  
14 slept with her daughters, and was an incurable narcissist (via the claim of "disorder" not  
15 "condition").

16              Mrs. Harrison resolved the case with equal physical custody, the marital  
17 residence, no blood tests or conditions on co-sleeping. She was further awarded a  
18 "teen exception" to equal custody, giving the girls the right to spend extra time with her  
19 as they might desire. Mrs. Harrison met and defeated Mr. Harrison's claims by  
showing those claims had little or no foundation in fact.

20                               **(Rejecting settlement in the Jimmerson mediation and beyond.)**

21              4.       James J. Jimmerson was selected as mediator and the mediation held for  
22 a day and a half in the week after Thanksgiving, 2011.

23              Mr. Harrison's settlement position, fairly characterized, was to enlist a mental  
24 health professional and resolve the case through a diagnosis, with "treatment"  
25 appropriate to that diagnosis to follow, but with various conditions imposed pending  
26 further review by the mental health professional, e.g., cameras in the home and girls'  
room, drug testing, a nanny to report on activity in the home, etc.

27              In my professional opinion, Mr. Harrison's settlement posture was designed to  
28 foreclose Vivian from gathering more facts, reduce or end her efforts to prepare for trial,  
and thus leave his claims unanswered. It was designed to keep the case out of the

1 critical of Vivian. This issue then had to be investigated and an expert, perhaps *the*  
2 expert in the field, enlisted to review the facts and give an opinion. That issue showed  
3 client and counsel no stone could be left unturned.<sup>2</sup>

4 Mrs. Harrison had little choice but to meet every attack (remarkably vicious and  
5 demeaning), every misguided claim, every theory, every strategy and tactic. Vivian  
6 Harrison did not start this fight nor did she ask for a fight on the scale on which Mr.  
7 Harrison attacked her. It is strange that Mr. Harrison filed a 180 page pleading seeking  
8 primary custody of two young girls and now claims fees were high because his wife had  
9 the temerity to resist him.

10 Mr. Harrison's claim the lawsuit was merely an attempt to "wake her up and get  
11 some treatment" defies credulity. Vivian knows Mr. Harrison best and she informed  
12 her lawyers they had to do all they could to help her. From the beginning of the case  
13 Vivian maintained that if he prevailed Mr. Harrison would strain and stretch her  
14 relationship with the girls to a thin tread of communication, and if the Court gave him  
15 primary custody, he would act as an intrusive and officious probation officer. Custody,  
16 for her, really was at stake.

17 Fight, she had to and fight she did. The result was Vivian met and overcame Mr.  
18 Harrison's claims. Mr. Harrison must know that the "teen" exception in the custody  
19 agreement will be exploited by the girls and it is Vivian who will have de facto primary  
20 custody.

21 Mrs. Harrison is neither crazy, mentally ill, disturbed, nor a drug addict. Three  
22 mental health experts said so, two of whom have world-wide reputations. Mr. Harrison  
23 simply claimed they were all either corrupt and incompetent.

24 Mrs. Harrison never neglected or abused any of the children, instead raised  
25 good, successful ones, while for most of their lives Mr. Harrison was simply not home.

26 The younger girls love their mother deeply, dearly, widely. Mr. Harrison cooked  
27 a scheme against Vivian that alienated the older girls, but which failed to capture the  
28 younger ones. But, before the matter settled, the case rent a family that even with  
estranged parents had soothed or overcome its routine hurts and differences,  
supported each other, and maintained the affection and care children need to stay  
intact. After settlement-wreckage.

---

<sup>2</sup> Mr. Harrison claimed the experts Vivian retained were, essentially, prostitutes. Yet, he never rebutted them.

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

Executed on this date: Sept. 9, 2013, at

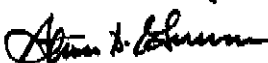
this place: Los Angeles.

Signature: G. P. Silverman

**NO NOTARY REQUIRED**



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CLERK OF THE COURT

1 MOTN  
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10 Co-counsel for Plaintiff

11  
12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 vs.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO. D-11-443611-D  
DEPT NO. Q

Date of Hearing: 10/30/2013  
Time of Hearing: 10:00 am

ORAL ARGUMENT REQUESTED:  
YES XX NO     

19 **NOTICE: PURSUANT TO EDCR 5.25(b) YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO**  
20 **THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY**  
21 **OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE**  
22 **A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT**  
23 **OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT**  
24 **WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.**

25 **PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING PARENT/CHILD ISSUES**  
26 **AND FOR OTHER EQUITABLE RELIEF**

27 COMES NOW, Plaintiff, KIRK ROSS HARRISON, by and through his attorneys,  
28 THOMAS J. STANDISH, ESQ., of the law firm JOLLEY, URGAL, WIRTH, WOODBURY &  
STANDISH, and EDWARD L. KAINEN, ESQ., of the KAINEN LAW GROUP, PLLC, and hereby  
...

KAINEN LAW GROUP, PLLC  
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1 moves this Court, pursuant to NRS 125.510, NRS 125.230(1), NRS 125.480(1), NRS 125.460, and NRS  
2 125C.101(1) to modify the Order Resolving Parent/Child Issues, entered July 11, 2012.

3 This Motion is made and based upon the papers and pleadings on file herein, the Points  
4 and Authorities submitted herewith, and oral argument of counsel to be adduced at the time of hearing.

5 DATED this 1<sup>st</sup> day of October, 2013.

6 KAINEN LAW GROUP, PLLC

7  
8 By: 

9 EDWARD L. KAINEN, ESQ.  
10 Nevada Bar No. 5029  
11 10091 Park Run Drive, Suite 110  
12 Las Vegas, NV 89145  
13 Attorneys for Plaintiff

14 **NOTICE OF MOTION**

15 TO: VIVIAN MARIE HARRISON, Defendant; and

16 TO: RADFORD SMITH, ESQ. and GARY SILVERMAN, ESQ., counsel for Defendant:

17 PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for  
18 hearing before the above-entitled Court on the 30 day of October 2013, at the hour of  
19 10:00 AM .m., or as soon thereafter as counsel may be heard.

20 DATED this 1<sup>st</sup> day of October, 2013.

21 KAINEN LAW GROUP, PLLC

22 By: 

23 EDWARD L. KAINEN, ESQ.  
24 Nevada Bar No. 5029  
25 10091 Park Run Drive, Suite 110  
26 Las Vegas, Nevada 89145  
27 Attorney for Plaintiff  
28

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## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. INTRODUCTION**

This motion is perhaps the most important motion this Court will be asked to decide in this matter, largely as a result of the impact of this issue upon the lives of Brooke and Rylee as well as hopefully preempting the conflict associated with the parties' interaction for many years. For the reasons which will be set forth herein, it is, without question, in the best interests of Brooke and Rylee to have the "teenage discretion" provision (Paragraph 6 of the Stipulation and Order Resolving Parent/Child Issues) struck in its entirety. As a result of Vivian's bad faith, it has become readily apparent this provision will be detrimental to the children's lives and unduly subject them to needless emotional manipulation and distress.

Such a provision is suspect under any circumstance as it encourages instability and uncertainty in parent/child relationships.<sup>1</sup> Children always need consistent love, care and certainty. This is especially true for children who have had to live through the uncertainty and instability of a contested custody proceeding. In this case, where the mother has a well documented history of callously manipulating her children, this provision was destined to fail. (Affidavits of Tahnee and Whitney, Exh. 2 & 3, respectively, to Kirk's motion for temporary custody, filed 9.14.11; Paragraph 46 of Kirk's Affidavit, Exh. 5 to Kirk's Opposition and Countermotion re: Attorneys Fees, filed 5.28.13) As will be shown below, in blatantly violating prohibitions regarding communication with the children on this topic, Vivian has again demonstrated no hesitation whatsoever to callously manipulate these children to advance her self created vindictive competition with Kirk.

Paragraph 6 of the Stipulation and Order Resolving Parent/Child Issues provides:

6. Notwithstanding the foregoing time-share arrangement, the parents agreed that, once each child reaches the age of fourteen (14) years, **such child** shall have "**teenage discretion**" with respect to the time the child desires to spend with each parent. Thus, while the parents acknowledge the foregoing time-share arrangement, the parents further acknowledge and agree that it is in the best interest of each of their minor children to allow each child the right to exercise such "teenage discretion" in determining the time the child desires to spend with each parent once that child reaches 14 years of age.

<sup>1</sup> As noted in Kirk's Opposition and Countermotion re attorneys' fees, Dr. Roitman strongly advised Kirk to settle the custody portion of this case or risk long term emotional harm to Brooke and Rylee. Kirk underestimated Vivian's willingness to inflict emotional anguish upon Brooke and Rylee, and to separate Brooke and Rylee in her zeal to win the vindictive competition she has created with Kirk.

6.1. The parties do not intend by this section to give the children the absolute ability to determine their custodial schedule with the other parent. Rather, the parties intend to allow the children to feel comfortable in requesting and/or **making adjustments to their weekly schedule**, from time to time, to spend additional time with either parent or at either parent's home.

6.2. Such adjustments **shall not be prompted or suggested by either parent**, but shall originate with the child(ren). The parties shall not allow the children to use this flexibility as a means to avoid spending time with the other parent, and they **shall each encourage the children to follow the regular schedule** to the extent possible. If either party feels that his or her time is being unduly eroded by this provision as an attempt by the other parent to minimize that parent's custodial time, he or she may address this issue with the Parenting Coordinator and/or the Court.

6.3. The Parenting Coordinator will not have the ability to revoke this provision, but may address those concerns within the context of the rights, duties and obligations of the Parenting Coordinator as detailed in the order appointing the Parenting Coordinator. **Nothing in this section is intended to limit the discretion of the District Court in making child custody determinations.**

6.4. In the event either child wishes to permanently modify the regular custodial schedule beyond the scope of this provision once that child reaches 14 years of age, she may address this matter with the therapist or Parenting Coordinator, or either party may address this issue with the Parenting Coordinator. If the parties cannot agree, the Court shall consider the children's wishes pursuant to NRS 125.480(4)(a). (Emphasis added)

## II. STATEMENT OF FACTS

### A. **In Blatant Disregard and Violation of the Explicit Terms of the "Teenage Discretion" Provision, Vivian Has Convinced Brooke That She Can and Must Make a Choice Between Her Parents, and That Choice Impacts Rylee.**

As a consequence of Vivian's emotional and physical absence from February of 2006 until September of 2011, Brooke and Rylee are especially close. Vivian instilled fear in Rylee and caused Rylee to be dependent upon Brooke, by manipulating Rylee each night. (Motion re Custody, filed 9.14.11, p. 30, l. 10-28; p. 31, l. 1-7.) When they were younger, if Rylee got in trouble for doing something wrong, Brooke would cry and be much more upset than Rylee. As previously noted in the litigation, when Brooke was upset about Vivian leaving on yet another trip for an extended period of time, Brooke noted that Rylee "has really never had a mom." (Kirk's Motion re Custody, filed 9.14.11, p. 14, l. 22) As a consequence of this fact, Brooke became a pseudo "mother" to Rylee. Brooke and Rylee have always slept in the same bed and continue to do so. Kirk cannot imagine a better older sister than Brooke has always been to Rylee. Brooke has consistently been an attentive, loving, and caring older sister to Rylee.

Brooke's 14<sup>th</sup> birthday was on June 26, 2013. Kirk had never even broached the subject of the "teenage discretion" provision with Brooke. In fact, subparagraph 6.2 prohibits a parent from

1 prompting or suggesting the child spend more time with them. Vivian had uninterrupted custody of  
2 Brooke and Rylee from June 26, 2013 through July 16, 2013. Despite the prohibition, Vivian did not  
3 waste a moment of time in informing Brooke about her "rights" under the provision. The very day  
4 Brooke was returned to Kirk, on July 17, 2013, Brooke told both Kirk and her older sister, Whitney, that  
5 *"since I am now 14 years old, I am independent, and can decide where I live."*

6 Because of the way the summer vacation schedule fell, Kirk only had custody of Brooke  
7 and Rylee for those two days – July 17 & 18, 2013 – before Vivian again had Brooke and Rylee from  
8 July 19, 2013 until August 1, 2013. In fact, because of the summer vacation schedule, Vivian had  
9 custody for all but two of 38 days during that period.

10 Right after Brooke's return, on August 3, 2013, crying and emotionally distraught,  
11 Brooke announced to Kirk that she was going to live with Vivian full time.<sup>2</sup> Brooke told Kirk that she  
12 had not yet told Rylee that she wanted to live with Vivian full time, which would mean she would live  
13 without Rylee for one-half the time. Kirk asked Brooke why she wanted to live with Vivian full-time.  
14 Brooke initially responded that "girls are supposed to live with their mommies." This is a phrase Kirk  
15 has heard before from Brooke, which was previously attributed to Vivian and Heather Atkinson. Kirk  
16 asked Brooke if he had done anything to cause her to not want to live with him. The only incident to  
17 which Brooke referred, occurred in front of Vivian, and undoubtedly with the prior prompting of Vivian  
18 -- Brooke had asked Kirk to leave a dance class during parent observation and Kirk did not leave; Kirk  
19 had previously attended numerous dance classes during parent observation – he was supposed to be  
20 there.

21 Kirk told Brooke he could not understand why she did not want to live with him as he  
22 had always been there for Brooke and Rylee. Obviously parroting Vivian, Brooke responded that  
23 Vivian had only left she and Rylee to help children in India, and that Kirk was never home when  
24

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25  
26 <sup>2</sup> The insidiousness of the "teenage discretion" provision is highlighted by the very position Kirk finds himself. In  
27 order to protect his children, Kirk, of necessity, must refer to conversations with them. Vivian will, undoubtedly, tell Brooke  
28 of these references in an effort to place Kirk in a poor light, such as, "See, you have to be careful what you say to your Dad,  
because he will tell others what you say." This is why subparagraph 6.2, while containing language restricting  
communication with the children, affords no real protection from Vivian's abusive manipulation, and it places Kirk in the  
untenable position of making assertions which will provide Vivian fodder to further alienate Brooke from him.

1 Tahnee, Whitney and Joseph were younger.<sup>3</sup> Despite Kirk facilitating communication with Vivian  
2 during his custody periods, Vivian now actively interferes with the regular communication that existed  
3 between Kirk and the children during her custody periods.<sup>4</sup>

4 The following day, Kirk finally broached the topic of teenage discretion with Brooke and  
5 told her that it is not within her power to decide to live full-time with Vivian and it will just happen.  
6 He indicated that Brooke can certainly express her wishes, but only the Judge can decide where she lives  
7 full-time. Kirk told Brooke that under the circumstances, he did not believe it was best for she and  
8 Rylee that she lives with her mother full-time. Brooke acknowledged it would hurt Rylee's feelings,  
9 if Brooke told her she did not want to live with her for one-half the time. As if a weight was lifted,  
10 Brooke seemed very relieved that she did not have to carry the burden of deciding where she was to live.

11 Later during the Utah/Lagoon vacation, following a conversation with Vivian, Brooke  
12 asked Kirk if they could cut the family vacation to California short or not go altogether. Kirk asked  
13 Brooke what she wanted to do if they stayed home during that time. Brooke said to spend an evening  
14 or a lunch with Vivian.

15 **B. The Very First Time Brooke Requested Additional Time With Vivian During**  
16 **Kirk's Custodial Period, Vivian Intentionally Violated the Stated Time Parameters**  
17 **of the Visit.**

18 Vivian has convinced Brooke that if she wanted dance shoes, Vivian would have to be  
19 the one to take her to get them and erroneously told Brooke and Rylee that Kirk has never taken Brooke  
20 and Rylee to buy dance shoes and dance clothes.<sup>5</sup> Despite having Brooke and Rylee as recently as

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21 <sup>3</sup> This criticism is ironic, in that not only does the evidence contradict this assertion, the time period to which Brooke  
22 was referring was prior to Brooke's birth.

23 <sup>4</sup> Vivian has the girls call her when they are with Kirk after they go to bed each night. There have been times when  
24 Kirk has reminded the girls to call Vivian. However, more recently Brooke rarely calls or even returns Kirk's texts or  
25 voicemail messages. Prior to Vivian's vacation in July 2013, Rylee would consistently return Kirk's texts and call him  
26 whenever requested via text. Now, Rylee does neither. When Kirk has asked Brooke and Rylee why they don't call or text  
27 him, they just shrug their shoulders. At one point, Kirk indicated that someone must be saying something to cause them to  
28 not text or call. Brooke responded that "*you don't have any proof.*"

29 <sup>5</sup> In response to Brooke's and Rylee's statements that they desperately needed clothes for dance classes, Kirk just  
30 bought Brooke and Rylee over \$350.00 of clothes at Scheel's in Salt Lake City during their Utah/Lagoon trip earlier that  
31 month. Prior to that, during May and June of this year, Kirk, in response to requests from Brooke, bought clothes for dance  
32 classes for Brooke at Target. On past occasions in the past, Kirk has taken Brooke and Rylee to buy dance shoes and dance  
33 clothes (leotards and tights) at the very same store Vivian likely took Brooke on this occasion.

1 August 12<sup>th</sup> and 13<sup>th</sup>, when Vivian could have taken Brooke and Rylee to buy dance shoes, Vivian  
2 convinced Brooke that she had to take Brooke to buy dance shoes before Vivian was to get them again  
3 on August 26, 2013. Accordingly, Brooke told Kirk that she and Vivian “*planned to go get dance*  
4 *shoes*” on Saturday, August 24, 2013, during Kirk’s custodial period with Brooke and Rylee.

5           Kirk told Brooke that he’d be happy to take her to get dance shoes as he had done before.  
6 To Kirk’s surprise, both Brooke and Rylee both immediately parroted Vivian’s blatantly false statement  
7 that Kirk had “never taken them to get dance shoes and dance clothes.” Despite Kirk identifying the  
8 two stores where he had purchased dance shoes and dance clothes (leotards and tights) for them in the  
9 past and the different times he had taken them this year to buy clothes for dance classes, they adamantly  
10 denied he ever had. Deciding that it was silly to have this argument, Kirk asked Brooke how long she  
11 needed to be with Vivian to get the shoes. Brooke indicated two hours or less. Kirk then told Brooke  
12 he would send a confirming email to Vivian concerning the two hours, as Brooke, Rylee and Kirk had  
13 plans to go into Henderson and do some shopping for other items. Kirk took Brooke to Vivian’s house  
14 at 2:50 p.m. Vivian did not return Brooke to Kirk’s house until over five (5) hours later, at 8:00 p.m.  
15 Needless to say, Brooke, Rylee and Kirk were unable to do the shopping they had planned during Kirk’s  
16 custodial period with Brooke and Rylee. Attached as **Exhibit “1”** are the emails between Kirk and  
17 Vivian, evidencing what occurred.

18           **C. As a Consequence of the Existence of the “Teenage Discretion” Provision, Vivian**  
19           **Has Convinced Brooke She is Totally In Control Of Not Only Her Time, But Kirk’s**  
20           **As Well.**

21           There are times during his custodial period when the children indicate a need to obtain  
22 items from the other parent’s home. However, there has been a recurring problem when Kirk takes  
23 Brooke to Vivian’s house to pick up items. This normally occurs on the transition days when Kirk picks  
24 the girls up from school, so it was not much of an issue this summer. Brooke, not Rylee, will typically  
25 leave Kirk sitting in the car waiting for her for anywhere from 20 to 35 minutes, when it should take her  
26 less than 5 minutes and, certainly, no more than 10 minutes to obtain the items and return. In contrast,  
27 when the children come to Kirk’s house to obtain items, Kirk always encourages Brooke and Rylee to  
28 be respectful and considerate of the fact that Vivian is waiting in her car, and they always take less than  
10 minutes and usually less than 5 minutes to get their stuff at his house.

1 Sometime after 8:00 p.m. on Sunday night, August 25, 2013, the night before the first  
2 day of school, Brooke told Kirk that she needed to go to Vivian's house to pick up some things. Rylee  
3 said she needed to get a pair of shorts. Kirk talked to both girls about being considerate and taking less  
4 than 10 minutes to return to the car, and they both agreed that even if they couldn't find something they  
5 wanted, that they would return to the car in no more than 15 minutes. After 15 minutes, Kirk could see  
6 Vivian and Brooke standing inside the house visiting and continuing to talk. After 21 minutes, Brooke  
7 and Rylee returned. Rylee made it clear that she was ready to return much earlier.

8 During the drive home, Kirk told Brooke she needed to be more considerate in the future.  
9 Brooke initially responded that if Kirk did not like waiting, then he should just drop them off and then  
10 come get them when they are ready. When Kirk told Brooke that it would be impractical to make two  
11 trips back and forth between the houses, Brooke responded by telling Kirk that she will take 2 hours  
12 next time. Kirk told Brooke that if she wasn't willing to be considerate, that he would not take her. It  
13 was then that Brooke told **Kirk that he "had to take" her to her mother's house anytime she wanted**  
14 **and she had the "right" to stay for as long as she wanted.** Kirk respectfully submits that Brooke did  
15 not come up with this on her own. This conduct continues regularly. On September 25, Brooke went  
16 into Vivian's house to just get a few items and didn't return to the car for 34 minutes. Vivian has  
17 wrongfully empowered Brooke, in specific opposition to the terms of the parenting agreement and sadly,  
18 Brooke is not mature enough to understand the manipulation.

19 Most recently, Kirk was informed by Brooke, that Vivian had planned an event this  
20 coming Saturday, at Vivian's house for Brooke and three of her girlfriends to get ready for the  
21 Homecoming Dance. The event will begin at noon, where Brooke and two of her girl friends will  
22 prepare for the dance, Brooke will do all of their makeup, get dressed and take pictures and meet the  
23 three boys that are going with them as part of the group to go to the dance. Incredulously, this is all  
24 during Kirk's custody time with the children. Kirk was not approached about this by Vivian, Vivian  
25 did not request any change to the schedule, nor has the matter ever been discussed between them.  
26 Instead, Kirk was simply *informed* about the plans at Vivian's home by Brooke.

27 ...

28 ...

1 The situation caused by the existence of the "teenage discretion" provision, combined  
2 with Vivian's inability to abide by the limitation of the same and her overt manipulation of Brooke, is  
3 untenable and not in the best interests of Brooke and Rylee.

4 **III. ARGUMENT**

5  
6 **A. The Best Interests of Brooke and Rylee Require This Court To Strike and Invalidate the "Teenage Discretion" Provision.**

7 Kirk has done everything possible to provide Brooke and Rylee a consistent caring family  
8 environment when they are with him. Brooke, Rylee and Kirk do as much as possible together. Under  
9 Subparagraph 6.1, and Vivian's prompting and manipulation of Brooke, in an effort to please Vivian,  
10 Brooke will indicate a desire to spend time with Vivian and away from Rylee and Kirk on a weekly  
11 basis. This will cause uncertainty and unnecessary emotional issues and stress for Rylee. She will have  
12 a very strong sense of being left behind. Kirk will, undoubtedly, be blamed for this predicament, and  
13 therefore Vivian's unwillingness to abide by the parenting plan will adversely affect Kirk's relationship  
14 with both Brooke and Rylee. In addition, how can Brooke living full time with Vivian possibly be  
15 argued as something positive for Brooke or the 10 year old sister who will be left behind.

16 The Court, obviously, would not allow a scenario where a callous parent could  
17 manipulate minor children to modify a custody arrangement. Theoretically, subparagraph 6.2 is  
18 supposed to provide a safeguard from that occurring. However, it is only theoretical, as it will be  
19 impossible for Kirk to prove the content of the communication that the sought after adjustments are  
20 originating with Vivian, who is prompting and suggesting Brooke not to follow the regular schedule.

21 The "teenage discretion" is already becoming an absolute nightmare for this family. This  
22 provision must be stricken and Vivian must be sent a clear message from this Court that absent some  
23 future significant event, the custody arrangement in place will not be changed. Otherwise, Vivian, in  
24 the interest of competition and vindictiveness (certainly not in the interest of compassion, consideration,  
25 or love for Brooke and Rylee), will continue to callously manipulate the children to their detriment. The  
26 continued existence of Paragraph 6 will insure weekly emotional conflict and uncertainty in this family.  
27 It is imperative, that there not be a vehicle that invites regular manipulation of the children.

28 ...

1 As the Court is aware, and by even a cursory review of the older children's affidavits,  
2 there is an especially well documented detailed history of Vivian's manipulation of her children. As  
3 shown by what has occurred since Brooke's 14<sup>th</sup> birthday, Vivian has no respect for that portion of this  
4 Court's order contained in Subparagraph 6.2. The Court may recall that Vivian's attorneys had Vivian  
5 evaluated and an MMPI report prepared. The findings in that report are relevant here. Dr. Margolis,  
6 in her MMPI report, found Vivian reported personality characteristics such as . . . proneness to rule  
7 infractions, and high-risk behavior, that may make her vulnerable to clashes with authority at times."  
8 (Exhibit "M" to Vivian's Reply Re Her Countermotions re Custody) It is respectfully submitted that  
9 these personality characteristics combined with Vivian's sense of entitlement (Criterion 5 of DSM-IV)  
10 and arrogant attitude and behavior (Criterion 9 of DSM-IV), explains why Vivian would, without a  
11 moment's hesitation, so callously manipulate Brooke to leave her 10 year old sister. In light of Vivian's  
12 lack of empathy (Criterion 7 of DSM-IV), one can only imagine the extent Vivian will exploit Brooke  
13 and Rylee (Criterion 6 of DSM-IV) in the vindictive competition she has created with Kirk. As noted  
14 above, Vivian's manipulation of the older children is well documented and the evidence of the recent  
15 conduct related to Brooke, which is already wreaking havoc, is only in its infancy.

16 After what they have had to endure for several years, Brooke and Rylee desperately need  
17 a family environment that is consistent, caring, loving, and certain. It is unimaginable that adults would  
18 knowingly and intentionally take any part in willingly creating an unstable, emotionally painful, and  
19 uncertain living environment for these children. Incredulously, however, that is just what Vivian has  
20 done with respect to the "teenage discretion" provision. Kirk respectfully begs the Court to not permit  
21 this to occur.

22 **B. Despite the Very Close Relationship Between Brooke and Rylee, Vivian Has**  
23 **Trained Brooke to Please Vivian, And Vivian Will Convince Brooke to Leave Rylee**  
24 **On A Weekly Basis And Then For One Half The Time.**

25 The Court may legitimately question Kirk's assertions of the closeness and bond between  
26 Brooke and Rylee, when Brooke has indicated a willingness to leave her little sister for one half of the  
27 time. If the Court could interview Tahnee the answer would be readily apparent. Tahnee is the oldest  
28 child. Studies have indicated that birth order is a powerful determining factor of a child's personality.  
(The Birth Order Book: Why You Are the Way You Are (Revell, 2009) The first born often times has



1 a very strong desire to please the parents. Until she went away to college, Tahnee's whole life was  
2 about pleasing Vivian. This unhealthy environment inhibited Tahnee's own personal growth,  
3 development of a strong self-identity, and maturity – the focus was always upon pleasing Vivian. As  
4 a consequence, Tahnee has suffered from depression, self-doubt and insecurities significantly more than  
5 she otherwise should have.

6 Brooke is ten years younger than Joseph, and therefore, for lack of a better description,  
7 is the second first born. It is of utmost importance to Brooke for her to please Vivian. Vivian, in all too  
8 subtle ways, creates a world where the first and foremost priority is to please Vivian.<sup>6</sup> It is a tremendous  
9 burden for the child to bear. Of necessity, it inhibits the development of the child's self identity,  
10 personal growth, confidence, and independence as she is trained to need Vivian's constant approval.  
11 In the current scenario, Brooke is regularly seeking Vivian's approval, even at the expense of Rylee.

12 Kirk submits, and the record supports, that Brooke knows that Kirk has always been there  
13 for her and will always be there for her. Brooke also knows that Vivian has not been there for her –  
14 being emotionally absent and physically away for many years. Brooke is therefore highly motivated  
15 to please Vivian for fear of losing her again. Vivian told Tahnee, often times in front of the other  
16 children, that Tahnee was her "very best friend." Vivian now tells Brooke, within earshot of Rylee, that  
17 Brooke is her "very best friend."

18 Vivian's Machiavellian style of parenting often is not in the best interests of Brooke and  
19 Rylee. Vivian simply lacks any empathy for these children. Just as Vivian blindly pursued Jonathon  
20 Rhys Meyers and Sergio Becerra to the emotional and physical exclusion of Brooke and Rylee, Vivian  
21 is now blindly pursuing the vindictive competition she feels with Kirk to the emotional detriment of  
22 Brooke and Rylee. The ill conceived "teenage discretion" provision is being used by Vivian to  
23 emotionally manipulate and harm Brooke and Rylee - in fact, the unwillingness of Vivian to abide by  
24 the terms, and the relative inability to enforce material terms, encourages the abuse.

25 ...

26  
27 <sup>6</sup> The middle child is often the most independent. This was true with Whitney. Vivian discovered she could not  
28 manipulate Whitney and emotionally discarded Whitney at a very young age. The Court may recall that Vivian wanted to  
send Whitney away when she was just 12 years old simply because Vivian did not like the way Whitney looked at her.

1 The competition isn't something imaginary. For Brooke's 13<sup>th</sup> birthday, Kirk gave  
2 Brooke a new cell phone cover from Target, which cost \$29.00. For the same birthday, Vivian gave  
3 Brooke a professional Cannon camera, which cost in excess of \$1,000.00. A responsible parent wants  
4 to instill moral values and personal responsibility in their children. Sadly, in stark contrast, and just like  
5 the "teenage discretion" provision, Vivian is motivated to win a perceived popularity contest with Kirk.

6 As a consequence of Vivian's lack of empathy for Brooke and Rylee, she will continue  
7 to emotionally run them into the ground to win this vindictive competition she has created. Under  
8 Subparagraph 6.1 there will continue to be weekly issues. This cannot be acceptable to this Court.  
9 Under Subparagraph 6.2, parents are "prohibited" from suggesting or prompting the children (in this  
10 case Brooke) to spend less time with the other parent. It is absolutely evident that Vivian has done a  
11 lot more than merely suggesting and prompting Brooke. The reality is this provision affords no  
12 protection whatsoever. The complaining parent will be placed in the untenable position of challenging  
13 their own child, who is being manipulated by the other parent. Further, there is virtually no way to  
14 enforce the prohibitions on misconduct. This "teenage discretion" provision, as applied to the  
15 circumstances of this case, is an insidious provision which severely compromises the ability of the  
16 children to be insulated from parental misconduct.

17 **C. This Court Has Ample Authority To Revoke This "Teenage Discretion" Provision,**  
18 **Which Is Contrary To The Policy of the State Of Nevada and In Violation of the**  
19 **Nevada Revised Statutes.**

20 There is ample authority for this Court modify its prior order and strike, revoke, nullify,  
21 and/or delete the "teenage discretion" provision – Paragraph 6. Under NRS 125.510(1)(b), this Court  
22 may "modify or vacate" its order regarding custody. And generally under NRS 125.230(1), this Court  
23 has the authority to enter such orders "as it may deem proper for the custody . . . of any minor child or  
24 children of the parties. The Court's sole consideration in such a circumstance, "is the best interest of the  
25 child." NRS 125.480(1).

26 . . .

27 . . .

28 . . .

1 This "teenage discretion" provision is in contravention of the clearly stated policy of the  
2 State of Nevada and NRS 125.460, which provides as follows:

3 The Legislature declares that **it is the policy of this State:**

- 4 1. To ensure that minor children have frequent associations and a  
5 continuing relationship with both parents after the parents have become  
6 separated or have dissolved their marriage, and  
7 2. To encourage such parents to share the rights and responsibilities  
8 of child rearing. (Emphasis added)

9 This "teenage discretion" provision clearly violates this statute as it has created, in Vivian's mind, a  
10 vehicle to pursue a vindictive competition with Kirk, wherein she has convinced Brooke that she should  
11 live with her full time – leaving Rylee one-half the time – and until then, leaving Rylee on a weekly  
12 basis. This provision not only does not "encourage" parents, it does the opposite – it encourages a  
13 parent, Vivian, to not share the rights and responsibilities of child rearing.

14 Importantly, this "teenage discretion" provision also violates NRS 125C.010(1)(a) as the  
15 right to visitation on a weekly basis is not defined "with sufficient particularity to ensure that the rights  
16 of the parties can be properly enforced and that the best interest of the child is achieved." For the  
17 reasons previously noted, under this "teenage discretion" provision, the rights of the parties cannot be  
18 properly enforced and this "teenage discretion" provision totally disregards the best interests of Brooke  
19 and Rylee. This provisions creates uncertainty, emotional issues, disrupts the family, causes  
20 inconsistency, needlessly instills fear, and facilitates immersing children in their parents' conflict.

21 Finally, under *Rivero v. Rivero*, 216 P.3d 213 (Nev. 2009), parties are free to contract  
22 and the Court will enforce those agreements, provided *they are not unconscionable, illegal or in*  
23 *violation of public policy. Id* at 227. Once a party moves to modify an agreement, however, the Court  
24 "must apply Nevada child custody law, including NRS Chapter 125C and case law." *Id*. Kirk has  
25 requested modification of the custody order to nullify this provision for teenage discretion at this time  
26 and therefore, the Court must look to Nevada law, rather than the parties' agreement. NRS  
27 125C.010(1)(a) specifically provides that visitation must be defined with sufficient particularity. By  
28 its very nature, a teenage discretion provision such as this does not provide any particularity and is  
violation of public policy for several reasons. First, it arguably delegates parenting rights and decisions

1 to the minor child and needlessly involves them in the divorce. Second, it does not allow either party  
2 to have a clear understanding of their rights to time (an important enough consideration so as to merit  
3 statutory language under NRS 125C.010(1)(a) requiring sufficient particularity). Additionally it is  
4 important to note that even if Kirk were not seeking to nullify this teenage discretion provision, the  
5 Court can only enforce agreements which are not unconscionable, illegal or in violation of public policy.  
6 As this provision for teenage discretion violates NRS 125C.010(1)(a) and NRS 125.460 and public  
7 policy, the Court should not enforce the provision in any event.

8 Kirk respectfully urges the Court to avoid the unnecessary emotional gauntlet for these children  
9 that Vivian, otherwise, has demonstrated a heartless eagerness to subject them. A truly caring mother  
10 would not manipulate her 14 year old daughter to separate her from her 10 year old sister on a weekly  
11 basis and, ultimately, for one half the time.

12 **D. Vivian Has Demonstrated Again and Again Throughout This Litigation That She**  
13 **Cannot Be Trusted To Abide By the Orders of this Court or Do The Right Thing**  
14 **By Her Own Children.**

15 Subparagraph 6.2 presumes good faith conduct on the part of each parent not to  
16 encourage or manipulate the child to seek to be with one parent more than the other. Vivian's behavior  
17 throughout this litigation gives every indication that presumption, with respect to Vivian, is erroneous.  
18 In addition, to the many examples of misconduct previously well documented before this Court, there  
19 are many more of more recent vintage.

- 20 1. Vivian intentionally circumvented this Court's order to successfully take two of Kirk's  
21 custody days with the children and attempted to steal a third day. Vivian unilaterally  
22 changed the dates of the "sewing camp" (even though the "sewing camp" never changed  
23 dates) and by doing so, Vivian "took" two days from Kirk with the girls – July 31 and  
24 August 1 – and tried to take a third.
- 25 2. Vivian, upset with the parties daughter, Whitney, without Whitney's knowledge or  
26 consent, made over \$1,200 in charges on a credit card account for which Whitney was  
27 responsible for payment.
- 28 3. Vivian has refused to give Tahnee and Whitney their birth certificates, and their  
childhood memorabilia, including childhood awards, school grades, class and individual  
school photographs, projects, crafts, etc. Both Tahnee and Whitney have requested their  
original birth certificates from Vivian. Vivian has either not responded or told them they  
are lost. Whitney has requested the storage bins containing all of her personal childhood  
memorabilia that Whitney organized. To date, Vivian has failed to provide the personal  
property, which indisputably belongs to Tahnee and Whitney. Both Tahnee and  
Whitney want their original birth certificates and their personal childhood memorabilia.  
Unless this Court orders that Vivian give these girls their property, they will never see

any of their very sentimental possessions. Unless Vivian is faced with a significant penalty for not providing these personal items to Tahnee and Whitney, it is expected that Vivian will erroneously claim that all of this is lost and cannot be found.

4. Whitney's wedding dress and other clothing were left in the marital residence. As part of her Physician Assistant training, Whitney was working in Southern Nevada during March of this year. Whitney attempted to get her wedding dress and other items of personal clothing when she was here in March. However, Vivian was "not available" and refused to let Whitney get her own wedding dress and clothes, if Vivian was not present. Vivian agreed Whitney could obtain her wedding dress and clothes when Whitney returned in July as Vivian would then be available. However, in July, Vivian rolled Whitney's wedding dress up in a ball with just a couple of other items of Whitney's clothes in a plastic bag and set it outside the front door. All of this begs the question as to why Vivian had to be present. Apparently, Vivian had to be present to not provide the majority of Whitney's clothes to her. Whitney would very much like to obtain the rest of her clothes.
5. Vivian has refused to give Kirk his copies of the bound books that Rylee wrote for her fourth grade class and for GATE. While in Kirk's custody, Rylee gave Kirk a form to purchase additional bound copies of the book that Rylee wrote for school. Rylee received a bound copy without charge. Since the money had to be paid within just a few short days, Kirk ordered two bound copies – one for Vivian and one for Kirk. Kirk has never received a copy of this book. Rylee also wrote a book for GATE. Rylee received a free bound copy. Although Kirk never saw the form, there was also an opportunity to purchase additional bound copies of this book written by Rylee. Kirk never received a copy of either book. Kirk has sent several emails to Vivian in an effort to obtain bound copies of these books, which were written by Rylee. Vivian has never responded. Unless this Court orders Vivian to provide these books, Kirk will be relegated to attempting to enlist the assistance of Rylee's school and the GATE teacher in an effort to obtain his bound copies of Rylee's books from Vivian.
6. Despite Kirk's name still being on the title to the marital residence, Vivian, without Kirk's knowledge or consent, hired an unlicensed handyman to perform significant structural work at the marital residence, who caused damages to the property and neighboring properties estimated to be in excess of \$150,000.00. But for Vivian's attorneys ongoing delay, of well over 7 months, in revealing their objections to the Marital Settlement Agreement, Kirk would not be in this precarious position.
7. Vivian has filed a frivolous lawsuit against Dr. Roitman in Washoe County, despite the lack of any legally cognizable ground to do so – Dr. Roitman did not owe Vivian a tort duty.
8. Vivian and Kirk agreed to a division of personal property located at the marital residence and identified on the personal property list prepared by Joyce Newman. Pursuant to that agreement, Kirk was to receive the old stairmaster. When Kirk vacated the marital residence he forgot to take the old stairmaster. As soon as Kirk realized his error, he notified Vivian and requested that he be allowed to come pick up the old stairmaster. Vivian has refused.

#### IV. CONCLUSION

The concept of teenage discretion is only workable in circumstances where the parents have a reasonable and functional relationship, which does not exist in this case. The protections that

1 are theoretically built into the provision to prevent abuse, are already being ignored and are objectively  
2 unenforceable. Within days of her 14<sup>th</sup> birthday, after spending 21 uninterrupted days with Vivian,  
3 Brooke, who would have no way of knowing about any provisions in the parenting plan, was suddenly  
4 insisting on the *free exercise of her "teenage discretion rights."* And, after spending another 14  
5 uninterrupted days with Vivian, announced she wanted to live with Vivian full time, which would mean  
6 leaving her 10 year old sister for one-half the time.

7 Kirk has tried to be reasonable and accommodating, but it has resulted in continued  
8 immersion of the children into their parents' custody dispute and further encroachment into his custodial  
9 periods. Vivian does not care about the impact on Brooke, who is placed in emotional turmoil and now  
10 forced to choose between her parents on a daily basis in order to placate one of them - even on the most  
11 basic of issues as when to return to the car. Vivian, consumed by competition at every interaction, has  
12 objectively tried to create problems by not being able to exercise even a modicum of common courtesy  
13 in minor situations (e.g. keeping the girls talking in the house for 20 to 35 minutes while Kirk waits in  
14 the car outside her house). As a result of Vivian immersing Brooke in this conflict (both by providing  
15 her with information she never should have had, and by butchering the explanation of the provision),  
16 the parties are in near daily conflicts, that was otherwise much more limited. Kirk implores the Court,  
17 in the best interests of Brooke and Rylee, to set aside this provision in its entirety.

18 DATED this 19<sup>th</sup> day of October, 2013.

19 KAINEN LAW GROUP, PLLC

20  
21 By: 

22 EDWARD L. KAINEN, ESQ.

23 Nevada Bar No. 5029

24 10091 Park Run Drive, Suite 110

25 Las Vegas, NV 89145

26 Attorneys for Plaintiff  
27  
28

**AFFIDAVIT OF KIRK R. HARRISON**  
**Filed in Support of Plaintiff's Motion to Modify Order Regarding Teenage Discretion**  
**and for Other Equitable Relief**

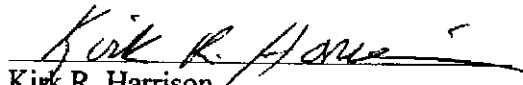
STATE OF NEVADA       )  
                                  )  
COUNTY OF CLARK     )       ss.

KIRK R. HARRISON, declares and says:

1.       The matters stated in this Affidavit are based upon my personal knowledge or upon information and belief. If called upon to testify, I could and would competently testify to the facts set forth herein.

2.       Each of the factual averments contained in Plaintiff's Motion To Modify Order Resolving Parent/Child Issues and Other Equitable Relief are true and correct to the best of my knowledge.

FURTHER AFFIANT SAYETH NAUGHT.

  
Kirk R. Harrison

State of Nevada  
County of Clark

Subscribed and sworn before me  
this 27<sup>th</sup> day of September, 2013.



Notary Public



## **EXHIBIT “1”**



---

**From:** Vivian Harrison [mailto:vivianlharrison@aol.com]  
**Sent:** Saturday, August 24, 2013 9:51 PM  
**To:** Kirk Harrison  
**Subject:** Re: dance shoes

I have given you no assurance or understanding about anything. Brooke took exactly the time she felt she needed and that is totally, completely acceptable.

Sent from my iPhone

On Aug 24, 2013, at 8:02 PM, "Kirk Harrison" <[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)> wrote:

I took Brooke to your house directly from her school dance rehearsal at Dance Etc., with the understanding you would return her in two hours or less. That is the amount of time Brooke requested. Brooke was at your house at 2:50 p.m. You just dropped her off at 8:00 p.m. This is unacceptable.

---

**From:** Vivian Harrison [mailto:vivianlharrison@aol.com]  
**Sent:** Saturday, August 24, 2013 6:40 PM  
**To:** Kirk Harrison  
**Subject:** Re: dance shoes

Lol.....we know the truth, do you know what yr the store ur referring to closed in BC???!! Funny Rylee Brooke & I have no recollection of the one time u went to trader joe store to by an outfit. if u did go once, ha ha congrats!!!! ur such a good dad!!!!u don't even remember the name of the store. Too funny.,.,.,

Sent from my iPhone

On Aug 24, 2013, at 5:00 PM, "Kirk Harrison" <[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)> wrote:

You have no idea what you are talking about. I bought Brooke a pair of ballet shoes at the store in Boulder City before they closed. The next year I bought them both dance shoes and clothes at the store near Trader Joe's. Rylee had a growth spurt and sometime later went to the same store and bought Rylee two new leotards and Brooke a pair of shoes. You are the one that is recreating the past by attempting to minimize my role in their lives with your lies.

---

**From:** Vivian Harrison [mailto:vivianlharrison@aol.com]  
**Sent:** Saturday, August 24, 2013 3:08 PM

**To:** Kirk Harrison  
**Subject:** Re: dance shoes

No you never have. Brooke & Rylee both know you haven't and have confirmed with me that you haven't. Stop recreating past. You were not involved.

Sent from my iPhone

On Aug 24, 2013, at 2:07 PM, "Kirk Harrison" <[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)> wrote:

I have bought shoes and dance clothes there in the past. I assumed you had as well.

---

**From:** Vivian Harrison [<mailto:vivianlharrison@aol.com>]  
**Sent:** Saturday, August 24, 2013 1:42 PM  
**To:** Kirk Harrison  
**Subject:** Re: dance shoes

You & I have never bought shoes there in the past.

Sent from my iPhone

On Aug 24, 2013, at 1:01 PM, "Kirk Harrison" <[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)> wrote:

Vivian,

Brooke has told me that you and she have made plans to go buy dance shoes for her this afternoon. I will take Brooke to your house shortly after 2:30 p.m. I am assuming you are going to the dance store in the Trader Joe's shopping center at Sunset and Green Valley Parkway, where we have purchased dance shoes and clothing in the past. Brooke said that she expects to be back in two hours or less.

Kirk

1 0001

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

8 KIRK ROSS HARRISON,

9 Plaintiff(s),

10 -vs-

11 VIVIAN MARIE LEE HARRISON,

12 Defendant(s).

CASE NO. D443611

DEPT. NO. Q

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

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

16 MOTION FOR OPPOSITION TO MODIFY RE: PARENT/CHILD ISSUES, ETC.

17 **Motions and**  
18 **Oppositions to Motions**  
19 **filed after entry of a final**  
20 **order pursuant to NRS**  
21 **125, 125B or 125C are**  
22 **subject to the Re-open**  
23 **filing fee of \$25.00,**  
24 **unless specifically**  
25 **excluded. (NRS 19.0312)**

26 **NOTICE:**

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

**Mark correct answer with an "X."**

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


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

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

Dated this 1st of October, 20013

Carol Navarro

Printed Name of Preparer

  
Signature of Preparer

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



1 **OPP**

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14 Attorneys for Defendant

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

14 KIRK ROSS HARRISON,

15 Plaintiff,

16 v.

17 VIVIAN MARIE LEE HARRISON,

18 Defendant.

CASE NO.: D-11-443611-D

DEPT.: Q

**FAMILY DIVISION**

21 **DEFENDANT'S AMENDED OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER**  
22 **RESOLVING PARENT-CHILD ISSUES [TO DELETE "TEENAGE DISCRETION"**  
23 **PROVISION] AND OTHER EQUITABLE RELIEF;**

24 **DEFENDANT'S COUNTERMOTIONS TO RESOLVE PARENT/CHILD ISSUES, TO**  
25 **CONTINUE HEARING ON CUSTODY ISSUES, FOR AN INTERVIEW OF THE MINOR**  
26 **CHILDREN, AND FOR ATTORNEY'S FEES AND SANCTIONS**

26 DATE OF HEARING: October 30, 2013

27 TIME OF HEARING: 9:00 a.m.

28 Defendant VIVIAN MARIE LEE HARRISON ("Vivian") opposes Plaintiff's Motion to Modify  
the Stipulated Parenting Plan, and requests the motion be denied in its entirety; she countermoves to

1 Resolve Parent/Child Issues, for a prompt interview of the children under EDCR 5.13, for the setting of a  
2 hearing on the issue of custody, and for sanctions under EDCR 7.60. This Opposition and these  
3 Countermotions are based upon all pleadings and papers on file herein, the evidence attached hereto, and  
4 any oral argument or evidence adduced at the time of hearing.  
5

6 I.

7 INTRODUCTION

8 From the commencement of this action in 2011, both of the parties' minor children, Brooke, born  
9 June 26, 1999 (age 14), and Rylee, born January 24, 2003 (age 10), have expressed their preference to live  
10 with Vivian. That preference arises from their close bond with Vivian. In March 2012, when the Court  
11 directed the parties share joint physical custody, the children still spent the majority of their time in  
12 Vivian's care.<sup>1</sup> After the Court's interim order, Brooke adamantly objected to any plan in which she  
13 would be required to spend equal time with Kirk. Vivian weighed Brooke's concerns, and instead of  
14 proceeding with an action for her primary care, negotiated a provision designed to address Brooke's  
15 problems with Kirk. See, Stipulation and Order Resolving Parent/Child Issues, filed July 11, 2013  
16 (hereinafter "Parenting Plan"), pages 6-7, paragraph 6.  
17

18 Under that provision, Brooke and Rylee can discuss their desires with a mutually agreed upon  
19 therapist, and the therapist and the parties can discuss any issues relating to the children (including their  
20 choice to spend more time with either parent) with a Parenting Coordinator ("PC"). The parties' counsel  
21 drafted the provision to place *less* pressure on the children to make any choice between parents by  
22 allowing the children a voice, after age 14, to spend more time with one parent without undermining the  
23 joint custodial plan. The fundamental goal of the provision was to avoid litigation, and seek resolutions  
24 through therapy and a Parenting Coordinator. This provision was an *essential* part of Vivian's agreement  
25  
26  
27

28 <sup>1</sup> See, Letter February 4, 2012 letter from Radford Smith, Esq., to Edward Kainen, Esq., attached hereto as Exhibit "A," at page 3.

1 to resolve custody in June 2012. The purpose of the provision is to prevent conflict, but if it arises, to  
2 manage it.

3 Kirk undermined the “teenage discretion” provision from its commencement. He waited over  
4 fourteen months from the parenting agreement to identify any objection to Vivian’s choice of therapists  
5 and Parenting Coordinator, or to propose any alternative professionals. By his tactical delay, Kirk  
6 prevented either the children or the parties from implementing the counseling and negotiation designed to  
7 help them with issues between parents, and monitor and discuss any behaviors harmful to the children.  
8 Kirk’s has designed his motion to further delay that process because Kirk knows the pressure to spend  
9 more time with Vivian is building.  
10  
11

12 Can Kirk believe his present motion has merit? He argues that a provision recognizing teenage  
13 discretion violates public policy even though Nevada law *requires* the court to weigh such discretion  
14 when determining the best interest of a child.<sup>2</sup> Kirk’s refusal to name or approve a therapist or PC for 14  
15 months, his attempt to reduce the power of the Parenting Coordinator to nothing<sup>3</sup>, and his current meritless  
16 Motion are not good faith attempts to protect the children, but are instead designed to prevent the children  
17 from having any mechanism to express their continued desire to spend more time with Vivian. It is a fair  
18 inference Kirk believed that if he could torpedo the entire process, he could prevent the inevitable  
19 conversation between the children and therapist/Parenting Coordinator about custodial time. It is  
20 submitted Kirk entered the Parenting Plan in bad faith, and refused to name a therapist or Parenting  
21 Coordinator to block its effect and enforcement. Vivian must now come directly to the Court for relief.  
22  
23  
24  
25

---

26 <sup>2</sup> NRS 125.480(4)(a)

27 <sup>3</sup> In his objection, filed months after Vivian provided his counsel with a draft parenting coordinator order, Kirk provides a  
28 proposed parenting coordinator order that reduces the PC to a toothless mediator whose only role is to make non-binding  
recommendations. Such a construct only adds a layer of cost to the disputes of the parties if the PC has no power to resolve  
those disputes. *See*, Plaintiff’s Opposition to Motion for Entry of Parenting Coordinator, filed July 19, 2013.

1 Kirk's motion admits that his relationship with Brooke is strained and conflicted, and that she  
2 desires to live with Vivian. His relationship is worse than he admits (which is why he wants to prevent  
3 her from having any input into her timeshare), and Vivian submits that continuing to force Brooke to  
4 endure the type of pressure and ridicule Kirk heaps on her increasingly damages her. Kirk's actions and  
5 words show he lacks insight into the emotional and physical needs of the children in their present  
6 developmental stages, and his motion evidences adequate cause for hearing on the issue of custody and  
7 timeshare. Vivian requests that the Court deny Kirk's motion, order an interview of the children, and set  
8 an evidentiary hearing on the issue of custody.  
9  
10

## 11 II.

### 12 STATEMENT OF FACTS

13 Kirk blames Vivian for his problems with Brooke, but acknowledges there is open conflict with  
14 her in his home. He argues that she has improperly influenced or alienated Brooke, and that influence is  
15 the source of the problem. He attributes Vivian's actions to "competition." Motion, page 3, line 20. He  
16 takes no responsibility for his relationship with Brooke, and oddly insists that if the Court would deny her  
17 any voice in the time she spends with either parent, she would suffer less stress. Kirk's present motion  
18 seeks to eliminate the "teenage discretion" provision negotiated by the parties, and placed into the  
19 Parenting Plan.  
20  
21

22 The genesis of the teenage discretion provision was Kirk's troubled relationship with Brooke. On  
23 June 1, 2012, counsel for Vivian explained her request for the provision:

24 *Teenage Discretion:* As we have discussed over the last several weeks, part of Vivian's  
25 reluctance to enter into a final agreement without the input from Dr. Paglini was based  
26 upon what appears to be Brooke's deteriorating relationship with Kirk. Brooke has  
27 regularly indicated to Vivian that she desires spend more time with Vivian. Vivian has  
28 compromised in large part based upon the desire of the other members of the family to  
see this matter close. She still has significant concerns about Kirk's relationship with and  
care of Brooke, but she has listened to the advice that the resolution of the matter would  
lead to an improvement of that relationship.



1  
2 What Vivian seeks to avoid by the language of paragraph 6 is the very thing that Kirk  
3 fears. At a certain point all Courts begin to place substantial weight on the desire of a  
4 teenage child regarding her care – we cannot affect that factor by any agreement.  
Paragraph 6 contains language designed to avoid litigation regarding this issue if it arises.  
Based upon what has occurred in litigation to date, this is an extremely important goal.

5  
6 Moreover, the concerns raised in your letter will be addressed through the system that the  
7 agreement puts in place - counseling and a parenting coordinator. Your client will have a  
8 year to address the problems in his relationship with Brooke. The provision does not  
place the responsibility of choosing on Brooke, it simply gives each child discretion after  
14 to spend more time with one parent or the other, a request that will likely be granted to  
them in any event by the Court. Again, the provision is designed to avoid litigation.

9  
10 *See*, Letter dated June 1, 2012 from Radford Smith, Esq. to Thomas Standish, Esq., **Exhibit “B”** hereto.

11 **1. Brooke and Rylees’s Longstanding Desire to Live Primarily with Vivian**

12 From the commencement of this case, Brooke and Rylee expressed their desire to spend a greater  
13 amount of time with Vivian than with Kirk. This was contrary to Kirk’s preposterous claim that Vivian  
14 was absent from the children’s lives for six years, so Kirk first asked that the Court ignore any statements  
15 by Brooke or Rylee from their eventual interview. *See*, Plaintiff’s Motion, filed September 14, 2011, page  
16 34, lines 24-28 and page 35, lines 1-9. Vivian, in order to avoid protracted litigation over Kirk’s claims  
17 that would be shown false by the interview of the children, repeatedly requested the interview. Vivian’s  
18 Opposition to Kirk’s Motion for Joint Legal and Primary Physical Custody, filed October 27, 2011, at  
19 page 10, lines 6-18, at page 45, lines 1-4; and at page 50, lines 25-28; Transcript of hearing of December  
20 5, 2011, page 8. Because the children would readily attest to all of the various and daily activities that  
21 Vivian engaged in with them, Kirk resisted any interview of the children. Transcript of the hearing of  
22 December 5, 2011, pages 15-16. Despite Kirk’s attempts to avoid the children’s input, the Court,  
23 consistent with its duty under law (NRS 125.480), ordered interviews of both children:  
24  
25

26  
27 COURT: Given the ages with [Rylee] just turning age 9 and Brooke at age 12 going on 13,  
28 certainly Brooke is at the age – she’s right at that borderline age where she is – she could  
be considered of sufficient age and capacity to express a preference. I don’t view that at  
[Rylee]’s age.

1  
2 So that's one of the subfactors that I have to look at, looking at the physical,  
3 developmental, emotional needs of the children and the nature of their relationship with  
4 both parents. It may be some form of pre-focus assessment to the extent that I need the  
5 involvement of an evaluator—again, not for the purposes of a custody evaluation, that's  
6 ultimately my decision, but there may be some assistance in providing insight really as it  
7 relates to those three subfactors NRS 125. 480 and whether – and who provides that  
8 service.

9 If it's someone on our provider list, I view it as something that expands more beyond just a  
10 simple FMC interview of Brooke, especially if [Rylee] is going to be involved – not  
11 necessarily for expressing a preference—but for purposes of evaluation her physical,  
12 developmental -- and that's been discussed throughout the papers and some of the  
13 conditions and treatment that she's going through, as well as the nature of her relationship  
14 with both parents.

15 See Written Transcript of the hearing on February 1, 2012, page 8, lines 13- 24 and page 9, lines 1-10

16 You know, perhaps, to the extent that [Tahnee and Whitney] were witness to anything that  
17 occurred, that's certainly something an evaluator can delve into, but the three factors that,  
18 in my opinion, really are more of a focal point for any outsource provider to provide me  
19 assistance on relating to just Brooke and [Rylee] are the nature of relationship of the child  
20 with each parent, the physical, developmental, emotional needs of the child, and then as it  
21 relates to Brooke, the wishes of the child who's of sufficient age and capacity to express a  
22 preference.

23 Written Transcript of the hearing on February 1, 2012, page 12, lines 6-15.

24 Kirk understood that children's statements would mirror the multiple witness statements Vivian  
25 had provided to the Court, and would confirm her close bond with the children, so he later resisted having  
26 the results of their interview published by Dr. Paglini. He did so to continue, as he did in the present  
27 Motion, to suggest that Vivian abandoned the children for six years, physically harmed them by sleeping  
28 with them, lied to them, refused to do anything for them, etc. There were two neutral witnesses in the  
home, and Kirk's actions consistently sought to suppress their testimony.

## 29 **2. The Historical and Developmental Basis of Vivian's Close Bond with Brooke and Rylee:**

30 Kirk claims that the children are unusually close, and want Vivian's approval, because she  
31 "abandoned" them for six years, between 2005 and September 2011. He argues, in sum, that the children  
32 should not be given a voice in their care because Vivian has improperly influenced them. By so arguing,

1 he attempts to undermine the true reason the children have continually desired to be in her care – their  
2 close bond formed through the care Vivian has provided to them their entire lives.

3 **A. Kirk's Claim that Vivian ever "Abandoned" the Children is False and**  
4 **Unsupported by the Evidence in this Case.**

5 Kirk claims in nearly every filing in this case that Vivian "abandoned" the children, failed to feed  
6 them, did not participate in their events, failed to help them with homework, and regularly left them with  
7 others over a six-year period. Vivian provided a quantum of evidence both broad and deep (including  
8 multiple witness affidavits, bank account records of purchases, etc.) of her continued daily involvement in  
9 the children's lives. Vivian summarily addresses that evidence below.

10  
11 With her first Opposition and Countermotion, filed October 27, 2011, Vivian provided sworn  
12 Declarations/Affidavits of Michele Walker, Nyla Roberts, Kim Bailey, Annette Mayer, Heather Atkinson,  
13 and Lizbeth Castelan – all of whom attest to Vivian's attentiveness and selflessness as a mother. In  
14 addition to demonstrating Vivian's total involvement with the children' daily lives, those sworn  
15 statements attested to their personal knowledge of countless events Vivian attended with the children –  
16 baptisms, vacations to Wyoming and Disneyland, sewing school, pageants, shopping trips, extensive  
17 school involvement, PAC meetings and events, book fairs, school activities (plays, programs,  
18 parent/teacher conferences etc.), cake decorating classes, birthday parties, and haunted houses to name a  
19 few. As the Court may recall, Ms. Atkinson and Ms. Walker were the parents of children that Rylee and  
20 Brooke played with nearly daily; they had adequate opportunity to witness Vivian's regular care and  
21 interaction with the children. Vivian even provided an affidavit from the parties' housekeeper, Elizabeth  
22 Castellan, who testified that when she was at the home weekly that it was Vivian that cared for the  
23 children, and did the bulk of the household chores.

24  
25 In her opposition, Vivian attached a detailed statement of many charges on credit cards evidencing  
26 Vivian's regular purchase of clothing, dance supplies and other items for the children, during the time  
27  
28

1 Kirk claims she abandoned them. Ironically, in his initial motion, he argued that Vivian would not take  
2 them to buy dance shoes – a fact belied by the statement in his present motion that the girls could not  
3 remember a single instance when anyone but Vivian had purchased their dance shoes. (Motion, page 7).  
4  
5 With her Reply to Kirk’s Opposition, filed January 27, 2013 and Supplement thereto, Vivian supplied  
6 numerous additional declarations of witnesses attesting to various activities in which Vivian had  
7 participated with Brooke and Rylee. A brief highlight from some of those statements is as follows:

- 8 • Declaration of Kellie Wendt: 2005-2012: Vivian attended games, dance recitals, rehearsals,  
9 and birthday parties, traveled to Disneyland, and took the girls Trick-or-Treating. Vivian is  
10 “present” and involved.
- 11 • Declaration of Melissa Mojica (gymnastics teacher), 2006-2008: Vivian brought Rylee to  
12 gymnastics and stayed to watch. Vivian was “involved and enthusiastic.”
- 13 • Declaration of Brandi Carstensen (gymnastics teacher and fellow parent), 2006-2009: Vivian  
14 did majority of driving and waiting for holiday event across town; Vivian assisted and  
15 volunteered at school. “Deeply involved in [the children’s] wants and was very attuned to their  
16 needs.”
- 17 • Declaration of Noel Kanaley (Rylee’s room parent) 2010-2011: Vivian was co-parent in  
18 Rylee’s classroom. Vivian responded to every parent request, contributed to and participated  
19 in classroom parties and events. Vivian is “intimately knowledgeable about their activities,  
20 hopes and desires.”
- 21 • Declaration of Lois Klouse (Brooke’s 5<sup>th</sup> Grade teacher) 2008: Vivian alone was “concerned  
22 for their advancement in swimming, who initiated the call and then arranged for private swim  
23 lessons”; Vivian was “engaged and absorbed in the children. She knew their habits and needs  
24 and she knew how to deal with them in constructive ways. She was interested in them. She  
25 was genuinely interested in their activities.”
- 26 • Declaration of Kelley Gray, (fellow parent): “Vivian was engaged and absorbed in Rylee’s  
27 life”; Vivian participated in Rylee’s activities.
- 28 • Declaration of Laurie Larson, (neighbor and friend)<sup>4</sup> “I emphatically state that I never  
understood I was signing a document which inferred I was ‘in support of’ primary custody and  
exclusive possession of their residence for Kirk Harrison . . . I do not claim that Vivian never  
drove the children to school or activities.” Vivian is a “caring, involved and supportive  
mother.”

<sup>4</sup> Kirk had submitted a declaration of Ms. Larsen with his pleadings indicating that she was aware that Kirk had driven the children to school. Apparently he was less than candid with her about the purpose of the statement.

- 1 • Declaration of Azure Fectau (Rylee's 3<sup>rd</sup> grade teacher) 2011-2012: Vivian has participated in  
2 a variety of school events and is "an interested, caring and energetic volunteer."
- 3 • Declaration of Gretchen Poindexter 2008: "Vivian was focused on Rylee and her swimming  
4 efforts" 2010 -2011 – "I recall seeing Vivian drop off and pick up from school from time to  
5 time[.] I have seen her assisting at the school. It appears to me that Vivian and Rylee have a  
6 very strong mother-daughter relationship."
- 7 • Declaration of Sue Broadbent 2008-2009: "I am certain I routinely saw Rylee and her mother  
8 and my grandchildren at soccer games in those years."
- 9 • Declaration of Tina Coleman 2007-2010: Vivian was actively involved in children's school.
- 10 • Declaration of Rosaleen Thomas 2010: "During her summer visit in Ireland . . . Vivian  
11 regularly spoke to the girls, and I said hello to them several times on Skype. She was very  
12 excited about their coming to Ireland; she was researching/planning what they were going to  
13 do when they came. One place in particular which was earmarked for a visit was the  
14 leprechaun museum in Dublin."
- 15 • Declaration of Lisa Morris, 2011-2012: "When Brooke Harrison was at King Elementary her  
16 mother Vivian helped with fund raising and other tasks in 2008 when she was a member of  
17 PAC. She was energetic, full of good ideas, always willing to donate her time and efforts. . . I  
18 have also witnessed Vivian attending the girls 2011 dance recitals and the 2012 parent  
19 observation dance classes in Boulder City, NV."
- 20 • Declaration of Sandy Wachtel, 2007-2011: "Since 2007, I have seen Mrs. Harrison at the dance  
21 studios, recitals, rehearsals and parent observation dates. I have seen her pick up and drop off,  
22 along with Mr. Harrison. I have seen mother and daughter Brooke interact there and at a few  
23 social events (including a birthday party this summer (2011)). It appears to me they have a  
24 solid, loving relationship; they like and love each other."

25 Further, Vivian attached as Exhibit "BB" to her Reply filed January 27, 2011 a list of just some of  
26 the activities that Vivian participated in with the children between 2004 and the filing of the Reply.  
27 Vivian listed the activities the parties shared; however, the vast majority of the activities she did with the  
28 children, she did without Kirk's parental assistance – including special activities and trips, school projects  
she did with the girls, her school-related volunteer work, the children's music lessons, dance classes,  
birthday parties, doctor appointments, holiday celebrations, and the miscellaneous other day-to-day "stuff"  
the children needed (haircuts, clothes shopping, etc.). She attached as Exhibit "CC" to that filing a list of

1 major vacations and other trips that Vivian planned and booked for the family – including many for which  
2 Kirk chose not to accompany the family.

3  
4 Kirk falsely alleged that Vivian did not interact with the children even when she was on vacation  
5 with them. For example, he argued in his Reply filed January 4, 2012, at page 70, lines 2-5, Vivian  
6 “really does nothing with Brooke and Rylee” on the family vacations at Disneyland – *even when he was*  
7 *not present*. Vivian submits that any person who has been to Disneyland understands the impossibility of  
8 taking young children to Disneyland and doing nothing. He also claims that Vivian “did nothing” with the  
9 children when she took them on sewing trips. He ignored the sworn testimony of Kim Bailey (who was  
10 actually was present on the trips and who he claimed to admire), who stated in her declaration:  
11

12 I do not believe Vivian neglected Brooke on that trip or any other I have been on with her.  
13 In fact, Vivian attended every scheduled event during the sewing school including  
14 Teacher’s Night and the fashion show. I also remember activities after school which in  
15 participated in with the girls such as shopping and dinners.

16 Attached hereto as **Exhibit “C”** is a chart in which Vivian has identified activities and tasks that  
17 she has performed for the children since the parties’ separation in March 2012. That list includes  
18 coordination of dance, piano and voice lessons, religious training, sports involvement, scheduling doctor’s  
19 appointments, school participation, and many other activities.

20 Perhaps his most nefarious argument contained in Kirk’s pleadings was his false claim that he was  
21 solely responsible for helping the Brooke and Rylee with their homework. Specifically, he claimed, “For  
22 all the years Vivian couldn’t be bothered, Kirk has helped Brooke and Rylee with their homework, when  
23 they needed help.” (Kirk’s Reply filed January 4, 2012, page 38) Kirk’s insulting claim, however, was  
24 directly contrary to *his own* statements in his January, 2010 letter to Dr. Roitman in which he wrote, “And  
25 as written previously, she has always done a good job spending time with the children with their  
26 homework and reading before bedtime.” (Kirk’s Reply, filed January 4, 2012, Exhibit 9, page 15.) Kirk  
27 did not qualify this to limit it only to the older children, nor did he allege anywhere that Vivian was not  
28

1 helping the younger children. Perhaps even more telling, Kirk removed this admission from his “diary”  
2 when he filed his Motion and Reply on September 14, 2011, *inserting the exact opposite allegation*. Kirk  
3 just could not keep his stories straight.

4  
5 Moreover, Kirk has never disputed that Vivian put Brooke and Rylee (as she did with the older  
6 children) to bed each night. During that time, Vivian has always read to and with all of the children. The  
7 children’s grades in Reading are now and have almost always (if not always) been A’s, and they have  
8 repeatedly been commended on their reading skills, as shown in their report cards. Brooke and Rylee  
9 learned to read before starting Kindergarten, and Vivian’s nightly reading with them surely contributed to  
10 that. The children have each won awards for the amount and level of their reading.

11  
12 As shown by her list attached hereto as **Exhibit “C”**, Vivian has continued to ensure the children’s  
13 academic success. The children come to Vivian when they need help with special projects, when they are  
14 feeling ill, when they need things for dance, when they have special occasions (dance shoes, prom dresses,  
15 etc.). One shining example is Rylee’s completion of the “Great American Recital,” a fifth grade honor that  
16 requires the child to recite from memory the Gettysburg Address, Star Spangled Banner, List of presidents  
17 in order, US states and capitals in alphabetical order, the Preamble to the US Constitution and write the  
18 Star Spangled Banner. As part of this very special award to the child, she receives a special chair at  
19 school. Vivian, of course, purchased that chair for Rylee in the pink that Rylee chose.

20  
21 All of the activities that are listed in Vivian’s **Exhibit “C”** are activities for which she has always  
22 been primarily responsible for Brooke and Rylee both before and after the parties’ separation. Indeed,  
23 Vivian has been primarily responsible for these type of activities for *all* of the children. Attached hereto  
24 as **Exhibit “D”** is the list of all of the various activities in which Vivian engaged in, signed the children up  
25 for, supported, provided equipment and transportation, attended events and games and recitals, etc., all  
26 during the time that Kirk was building his legal career while working 10 to 12 hour days at his Las Vegas  
27  
28

1 office. Kirk's claim that Vivian has ever abandoned or neglected any of the parties' children is delusional  
2 and unsupported by the vast scope of evidence she presented, and continues to present, in this case.

3 History cannot be re-written, but Kirk still attempts to convince Brooke and Rylee that Vivian  
4 abandoned them, and that he raised them. One of his disputes with the children that led to his Motion was  
5 their refusal to adopt his false claim that he raised them. The issue of Vivian's involvement, that goes to  
6 the core of the children's motivation to be with Vivian, can be resolved by a simple interview of Brooke  
7 and Rylee.  
8

9  
10 **B. There is No Evidence Supporting Kirk's Claim that Vivian has a "History of  
Callously Manipulating" of the Parties' Children.**

11 In support of his core argument underlying his present motion, Kirk claims, "In this case, where  
12 the mother has a well documented history of callously manipulating the children, this [teenage discretion]  
13 provision was destined to fail." (Motion, filed October 1, 2013, page 3, line 14). For this false allegation,  
14 he cites the affidavits of Tahnee and Whitney that he initially prepared in March 2011, and filed with his  
15 initial Motion September 14, 2011. This argument exposes one of the most telling falsehoods underlying  
16 Kirk's repeated claims in this case and his present motion. Neither Tahnee or Whitney mentions *anything*  
17 about their childhood with Vivian. Attached as **Exhibit "E"** hereto are summaries of those affidavits.  
18 Neither discusses any events that occurred before 2005. The affidavits are short on fact, and long on  
19 opinion. The facts they do reference in large part were designed to support the various elements of Kirk's  
20 NPD claim, such as Vivian's spending habits, having cosmetic surgery, number and type of Vivian's  
21 underwear (this was, strangely, part of Tahnee's affidavit), and any number of irrelevant or misstated  
22 claims that were rebutted by Vivian in her affidavits, the affidavits of others, and her filings. Most  
23 important, nothing in their affidavits supports Kirk's reliance on them as "a well documented history of  
24 callously manipulating the children."  
25  
26  
27  
28



1 The best evidence of the adult children's feelings about Vivian growing up was contained in a  
2 letter Tahnee wrote to Vivian after an incident in which Tahnee yelled "F—k you" at Vivian (in the  
3 presence of Brooke and the then infant Rylee) and Vivian slapped her. In a letter of apology /  
4 reconciliation that Tahnee wrote to Vivian, she stated:

6 Although I believe you were totally wrong in what you did yesterday. I'm also willing to  
7 confess that I was wrong too. Can't we both just admit that we were wrong, or is it my  
8 fault as always? I know that you think that I disrespect you and don't appreciate what you  
9 do for me, but I think, deep down, you know that's not true. If you do believe it to be true,  
10 then I think you don't know me as well as you might have thought. Perhaps I just haven't  
11 gone about showing it as much as I should. You deserve better. I realize now your life  
must be awful. You go about your day taking care of all of your children as if it were your  
only responsibility. You never even think twice about doing something for yourself.  
Every waking hour is spent tending to our wants and needs. I know this, Mom.

12 I'm aware of your sacrifices, and that's exactly why I used it against you. You hurt me  
13 where it hurts the most. My entire life I've been trying to live up to your expectations.  
14 I've always wanted to please you and make you proud of me. I honestly held your  
15 opinion in the *highest* regard. In the past few months, however, I felt our approval of me  
dwindling away. I failed you and myself. I can't stress enough how much my last  
semester of high school became an absolute embarrassment for me.

16 [Emphasis in original]. Vivian submits that this spontaneous, heart-felt letter best evidences how Tahnee  
17 and the older children felt about Vivian before Kirk manipulated and shaped their memories as part of this  
18 divorce action.

20 **C. The Children's Desire to Spend Time with Vivian is Consistent with their Close**  
21 **Bond with Vivian, and their Developmental Stage.**

22 Contrary to Kirk's claims, Brooke and Rylee's desire to spend time with Vivian is a natural  
23 consequence of the close bond each has with Vivian, and their developmental stage. These pubescent and  
24 teenage females have issues, concerns, fears and desires that they understandably do not want to discuss  
25 with their father (periods, brassieres, dating, make-up, etc.) Kirk does not understand those boundaries,  
26 nor does he respect the girls' privacy. Examples abound.

1 When Brooke first experienced her period earlier this year, she was suffering cramps and nausea.  
2 This occurred at a time she was also suffering from other illness. Vivian scheduled a doctor's  
3 appointment, and advised Kirk of the appointment. Brooke advised Vivian of extremely personal  
4 questions she, Brooke, had for the doctor about her body's functions. Kirk came to the appointment, and  
5 refused to leave the examination room when the nurse indicated that only one parent could be present.  
6 Vivian took Kirk aside and advised him that Brooke had something personal to discuss with the doctor,  
7 and that she too would leave the room if Kirk would leave. Kirk announced that he was Brooke's father,  
8 and he was entitled to be present in the examination room. The doctor ultimately acceded to Kirk's  
9 demands and allowed both parties to be present. As a result, Brooke was too embarrassed to ask the  
10 doctors the questions she wanted to ask.  
11

12  
13 When Brooke had a special "hip-hop" dance presentation that involved somewhat suggestive  
14 dance moves, Brooke did not want Kirk to attend for fear that he would disapprove.<sup>5</sup> When Brooke asked  
15 him not to attend, he immediately suggested, and suggests in his present motion, that this was caused by  
16 Vivian. Again, Kirk is oblivious to the needs and fears of a 14 year old girl. (The merits of a father's  
17 involvement are not debated--the point is only the inability to understand Brooke's feelings and his  
18 reactive suspicion Vivian was behind the request.)  
19

20  
21 Kirk also fails to recognize and understand Brooke's desire to be with Vivian during activities she  
22 has almost exclusively engaged in with Vivian in the past. His Motion cites only two instances of  
23 Brooke's exercise of the teenage discretion provision in the nearly three months since she has turned 14.  
24 The first was on August 24, 2013 when Brooke wanted to be with Vivian when shopping for dance clothes  
25 and shoes on a Saturday she was scheduled to be in Kirk's care. Vivian did not, as Kirk suggests at page 6  
26 of his Motion, "convince" Brooke that she should go with Vivian to buy dance shoes – this had been their  
27

28 <sup>5</sup> This is not different from when Tahnee did not want him to attend the swimsuit portion of her beauty pageants. He did not, to Vivian's knowledge, blame Vivian for that.

1 practice for the entire time Brooke and Rylee have been in dance. Brooke told Vivian that she wanted  
2 Vivian to take her shopping. This did not come as a surprise; Vivian cannot remember a single instance  
3 where Kirk bought dance clothes or shoes for the children while Vivian and Kirk were together.  
4

5 Kirk admits that he argued with the girls when they told him that they could not remember him  
6 buying dance shoes or clothes for them in the past. Motion, page 7.<sup>6</sup> Because Kirk's involvement in  
7 dance has been limited to driving the children, he does not understand that the children do not equate the  
8 purchasing of leotards at Target with the purchase of dance clothes and shoes, which they purchase from a  
9 specialty store. Kirk has attempted to create a new reality whereby he was involved in the purchase of  
10 dance clothes for the children – he was not, and he was not justified in chiding Brooke for spending time  
11 shopping with Vivian.  
12

13 Further, Kirk presents Brooke's desire to be at Vivian's home to dress and do make-up with her  
14 friends for their first Homecoming Dance as an act of alienation by Vivian. It is telling that Kirk does not  
15 understand Brooke's desire to be with someone who is skilled and experienced in applying make-up, and  
16 who taught *her* how to apply make-up. Also, Kirk leaves out important facts. Brooke and her friends  
17 planned to go from one mother's home to another when preparing for the dance. Brooke and one of the  
18 friend's mother's told Vivian about the plan. The plan involved the girls traveling to three different  
19 homes for different events (hair and make-up at Vivian's home, other events at two other homes).  
20  
21

22 Moreover, Brooke is a very feminine girl who has discussed her interest in being a make-up artist.  
23 Kirk's response to her is that she is too intelligent to be a make-up artist, and should consider law or  
24 medicine. While a 14 year old may change her idea about a career many times, dismissing her stated  
25

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26 <sup>6</sup> In his emails attached to his Motion as Exhibit "1," he states (in an email to Vivian dated August 24, 2013 at 5:00 p.m.) that  
27 he had purchased a pair of ballet shoes for Brooke "at the store in Boulder City before they closed" (he could not identify the  
28 name of the store or when it closed). The store to which he referred is Danceworks, that closed in **2007**. Vivian has no  
recollection of Kirk ever purchasing any shoes at that store. In comparison, Vivian regularly purchased dance supplies and  
clothing there from the time the parties' adult daughters Tahnee and Whitney were involved in dance, to the time of its closure.

1 desire as frivolous puts an end to communication. Vivian has not done this, and will love and support  
2 Brooke if she eventually chooses to be a make-up artist, surgeon, or a circus clown. Vivian understands  
3 that Brooke is now in a different developmental stage in her life, and criticism and behavioral demands  
4 must give way to patience and encouragement. Kirk does not share that view.  
5

6 In August, 2013, Vivian travelled with the children first to a Disney Cruise, then to Disneyworld,  
7 and then to Huntsville, Alabama to their annual trip to sewing camp. Kirk planned to travel with the  
8 children upon their return to an amusement park near Salt Lake City, Utah, for eight days. Brooke (who  
9 was then experiencing cramps) was tired, and wanted to rest at the hotel the first day of the trip. Brooke's  
10 statement of Kirk's actions was set forth in an email that Brooke sent from her iPad to Vivian on that date:  
11

12 Dad took my phone away and he is being so mean to me. There is no other way to contact  
13 you except email. I'm sorry Rylee is next to me in one bed watching her iPad and dad  
14 comes over sits at my feet and asks "Why don't I want to do anything?" I said I want to  
15 stay in the hotel room because apparently we're staying here for another 8 days. He rips  
16 my phone out of my hands takes off the charger and headphones and he asks me why i'm  
17 listening to people who are telling me that he is a bad person (he is referring to you) I tell  
18 him there isn't and he says its not good to lie. Then he states that I am lying about being  
19 hurt and having cramps and that I am being spoiled and mean and selfish. Then he starts  
20 going on about he raised me since I was 7 and how he took me to school. Then he asked  
21 why I don't love him and I said he doesnt respect privacy, he barges in, doesn't support  
22 me in anything I do, Then he asks what he doesn't support me in, and I say dance and he  
23 says he drives me to and from and he pays tuition. Then, I say that he doesn't support me  
24 in Makeup Artistry and then he says that he's bought me makeup and that what else can  
25 he do to support me. And then I say that he always says he'd rather me be a lawyer or a  
26 doctor and then he says i'm too smart to become a makeup artist etc. Then Rylee's show  
27 is done and she closes her iPad because dad stated earlier that she MUST stop after that  
28 episode. So she turns it off and dad not respecting Rylee starts saying how if he died  
today I wouldn't shed a tear and how I don't want to be with him anymore and why I hate  
him. Then he starts calling me selfish and how I don't want to do anything with the  
family and I say we aren't a family. Then I start to ignore him while he starts blaming  
everything on "the person that is telling me all about the bad stuff isn't doing the right  
thing and how its affecting our relationship. He walks back to his bed and says that he is  
sorry to Rylee and not saying how he is sorry. Then I turn over to rylee and wrap my arm  
around her and turns away from me. Then I ask dad for my phone because I want to talk  
to you and he says no and then I say he is not letting me talk to you. Thats all that  
happened. I miss you mommy. I want to come home and be with you and Rylee without  
her thinking I'm a horrible person. I hate Utah and I hate dad. I love you.

1 **Exhibit “F”** attached. Brooke’s email outlines several of Kirk’s behaviors that are part of a larger pattern  
2 that has damaged his relationship with Brooke.

3 1) *Kirk’s Disparagement of Vivian:* Nothing is more divisive to children than one parent  
4 speaking poorly about the other parent whom they love. Brooke describes Kirk’s thinly veiled assertion  
5 that Vivian is telling her that Kirk “is a bad person” and asks why she is “listening” to Vivian. When she  
6 denies that Vivian has said that (Vivian has not disparaged Kirk to the children), Kirk suggests that she is  
7 lying.<sup>7</sup>

8  
9 Vivian is particularly concerned about this issue. Before and during this case, Kirk stated to  
10 others, including the parties’ adult children and Vivian’s real estate lawyer (Mr. Woodbury), that Vivian  
11 was both a drug addict and suffered from mental illness. In an act of enormous insensitivity, he solicited  
12 the adult daughters to provide affidavits in his efforts to limit Vivian to supervised visitation. As  
13 evidenced by his recent filings, he continues to assert that Vivian suffers from mental disorder. In his  
14 present motion, he again asserts DSM-IV findings without an expert report or opinion. Kirk will never  
15 fairly present Vivian to Brooke or Rylee, or refrain from directly, or indirectly suggesting that she suffers  
16 from some disorder. It is difficult to imagine that if Kirk believes Vivian is mentally ill, he does not say  
17 so around the house. We already see this in his thinly veiled reference to her as someone who has led the  
18 girls astray, and who they should not trust.

19  
20 Moreover, Kirk’s filings in this case, including his present motion, evidence his repeated efforts to  
21 both directly and indirectly convince the children, both adult and minor, that Vivian does not care about  
22 them, and that she is “crazy.” Kirk continues to try to plant seeds with the younger children to lose  
23 confidence in Vivian, and to think poorly of her. He disguises his statements as being “supportive” and  
24  
25  
26

27 <sup>7</sup> Kirk’s assertion that the children are lying adds them to a long list of anyone who has taken a position contrary to Kirk’s.  
28 Littered throughout Kirk’s filings are claims that Vivian, her friends, neighbors, coaches, counselors, experts, and attorneys are  
“perjurers”, “liars” and “co-conspirators.” He specifically told Brooke that she was lying when she explained to Kirk that  
(contrary to his repeated assertion in this case), Vivian was not in the children’s bed when Rylee fell out of bed and hurt herself.  
See, Affidavit of Vivian, filed October 27, 2013, page 77, paragraph 209.

1 either does not see it, or does not think anyone else will see it, as harmful or abusive. There are numerous  
2 examples of this in Kirk's filings, including the present motion. The following are just a few examples  
3 from Kirk's initial affidavit filed in this case (attached to his September 14, 2011 Motion).  
4

5 ¶68 "I told Brooke Mom is going through a rough time right now."

6 ¶97 Conversation with Brooke reminding her of all the times Vivian was going to be gone,  
7 discussing his "concerns" with what Vivian has done in the past.

8 ¶116 "Brooke told me tonight that Vivian talked to her about she and Rylee going to  
9 Ireland this summer. . . I told Brooke that she could go for a week or two if I went as well."

10 ¶151 "Later when I was consoling her I asked Brooke how she thought Rylee was dealing  
11 with all of this..."

12 ¶156 "I believe Brooke knows that until very recently I would have quickly dismissed  
13 anything at all said that negatively reflected on Vivian. At some point, it is more important  
14 that your children have an environment where they feel comfortable speaking openly about  
15 things that bother them, than to continue to wrongly protect the image of someone that  
16 continues to do harm to your children."

17 ¶166 "I told Brooke that just like she, Rylee and I had done all year, that we would do the  
18 laundry tomorrow."

19 It appears he planted these same seeds with the older children that he is now using to influence  
20 them.

21 ¶28 "I would talk to each of the children separately in an effort to solve the then pending  
22 problem."

23 ¶41 "I told Tahnee how bizarre it is for a mother to say such things to and about her own  
24 children, let alone even think such things. Tahnee and I both agreed how this highlights  
25 just how incredibly insecure Vivian has become and that Vivian feels she is in competition  
26 with her own children and feel threatened by them."

27 ¶50 "I told [Tahnee] that in her mother's condition, if we got a divorce and Vivian had  
28 partial custody, I would be fearful for Brooke and Rylee."

¶53 "I told Tahnee that I had done all I could concerning Vivian, and all I could do was be  
the best father I could and that all of us needed to do our best in looking out for one  
another."

¶56 “I told Tahnee that Vivian does not really think Chloe is a better dancer than her. Vivian is simply incredibly insecure and needs to tell others that they are not so hot. I told Tahnee about when Vivian last year told me that nobody wants to be with me.”

¶69 “I telephoned Whitney and expressed concern about this to Whitney saying you are going to be on national television with someone who is not dealing with a full deck right now and it could prove very embarrassing.”

¶75 “I told Tahnee that Vivian’s need for attention is frightening.”

¶106 “That night Tahnee, Joseph, and I talked about some of the issues with Vivian, including the incident at Brooke’s ball game with Bill B. and her meeting a man on the airplane, giving him a ride to his hotel and having drinks with him in a bar, then discovering he was Cam W.’s boss. We also talked about her lack of attention to Brooke and Rylee.”

In her affidavit filed with her initial motion, Vivian addressed Kirk’s history of alienation of the children. *See* Affidavit of Vivian Harrison, attached to Opposition filed October 27, 2013, paragraphs 78 through 90. (That excerpt is attached hereto as **Exhibit “G”** hereto). In sum, Kirk undermined Vivian’s authority, did not support her in disputes with the children, perpetuated falsehoods to them, and openly disparaged her to the children. His actions toward the adult children are now repeated with Brooke and Rylee.

Kirk’s behaviors designed to disparage Vivian in the eyes of the children (including the adult children) have taken many forms. Kirk’s repeated claim that Vivian “poisoned” Rylee has been a central theme throughout his case. Even after Dr. Dewan indicated that he was more concerned with Rylee’s weight as a factor in her early onset of puberty than he was with any alleged exposure to testosterone cream, Kirk continued to raise alarms with Rylee and all the other children (and anyone who would hear his complaint) that because of Vivian her growth would be stunted, she would suffer ill effects of an implant, etc. In her Opposition to Kirk’s Motion, Vivian provided sound medical data that evidenced in recent years more children were entering early pubescent development, and that the trigger was identified as everything from excess weight, to the use of anti-bacterial soaps. Nevertheless, Kirk rode his

bandwagon that Vivian “poisoned” Rylee to the point that Dr. Dewan wrote a letter stating that he did not make any finding that Rylee’s puberty was caused by exposure to testosterone. *See* Letter of Dr. Dewan dated July 6, 2013, attached hereto as **Exhibit “H”**. In his most recent statement, dated October 14, 2013, and attached hereto as **Exhibit “I,”** Dr. Dewan confirms that he projects that Rylee will reach her normal height of approximately five-foot ten.

Even the way Kirk reacted to this news was manipulative. The alternative that Dr. Dewan proposed was that Rylee would be from 5’4” to 5’7”, normal heights by any standard. When Dr. Dewan advised the parties of his findings regarding Rylee’s height, Kirk acted as if he had just won the lottery. Rylee barely reacted, other than a puzzled look on her face. Kirk seems unable to comprehend that the message he was giving to a young girl who is naturally concerned with other’s perception of her body is that she is okay when she is 5’10”, but less than okay if she is shorter. This is particularly important in light of the height of her adult sisters (5’11” and 5’8).

2) *Kirk’s Constant Assertion that Children are Lying:* No person – coach, teacher, friend’s parent – who knows the girls will suggest they are dishonest sneaks or manipulators as Kirk suggests in his motion. The evidence will show they are honest, intelligent and forthright girls. But, Kirk suggests Brooke is lying about things he states Vivian said about him, claims that Brooke is lying about her cramps, advises both Brooke and Rylee that they are lying when they do not agree that he has purchased dance clothing and shoes for them, and with his proposition that he raised them “since [Brooke] was 7.” Kirk’s assertion that the children are lying places significant unnecessary pressure on them, and appears to the children as disapproval and a lack of caring. The emotional conflict caused by Kirk demanding that they re-write their history together is debilitating. It is this kind of behavior by Kirk that Vivian sought to address through a therapist and PC, but Kirk has undermined that process. Brooke is now suffering under Kirk’s constant barrage of criticism and disapproval.



1           3)       *Kirk's Use of Guilt to Manipulate the Children:* Brooke states that in her email that Kirk,  
2 after he suggested she was lying, turned to Rylee and stated, "if he died today [Brooke] wouldn't shed a  
3 tear and how [Brooke doesn't] want to be with him anymore and why [Brooke hates] him." Any  
4 experience as a parent or sibling permits us to understand how incredibly manipulative and damaging this  
5 type of statement is to a child, and to that child's relationship with her sibling. Rylee reacted in a way that  
6 can be expected; she turned away from Brooke when Brooke tried to hug her. Kirk manipulated Rylee  
7 into believing that Brooke was uncaring, and insensitive.  
8

9           Indeed, one of the core forms of manipulation that Kirk has used to discourage Brooke from  
10 spending time with Vivian, or living with Vivian as she desires, is that she would be "abandoning" her  
11 sister. Kirk repeatedly tells her, and has solicited the parties' adult daughters to advise her, that she is  
12 being selfish and uncaring toward her sister by wanting to engage in activities away from her. The irony  
13 in this is that because Brooke and Rylee attend different schools (Brooke is in high school, Rylee in  
14 elementary school), are in different dance programs, and engage in different activities, they spend little  
15 time together under the current schedule. This is not unusual – siblings of different ages, particularly  
16 when the older sibling becomes a teenager, have different interests. In approximately a year Brooke will  
17 be driving. She will soon be dating, and have more interest in her peers than her parents or siblings.  
18 Again, this is part of the natural developmental stage that Brooke is in. Kirk's insistence that she must  
19 feel guilty about seeking her own independence is damaging to her.  
20  
21  
22

23           Kirk also outlines in his motion how he uses name-calling to prevent Brooke from spending time  
24 with Vivian. Kirk states that Brooke takes too much time to retrieve items left at Vivian's home. Kirk  
25 then greets Brooke on her return to the car with allegations that she is rude, inconsiderate and selfish.  
26 (Motion, page 8). When she reasonably suggests that he leave her there (the parties' homes are minutes  
27 apart) and return, or have Vivian drive her back, he refuses. This situation is caused by the constant back  
28

1 and forth from the parties' homes caused by the current schedule, but more important, Kirk should not be  
2 attempting to manipulate Brooke in this manner.

3 The above are only samples of various events, words and actions that has led to Brooke's now  
4 adamant desire to live with Vivian. Kirk is responsible for the breakdown in his relationship with Brooke,  
5 not Vivian. When negotiating the parenting plan, Brooke insisted that did not want to live with Vivian.  
6 Vivian could have sought primary custody, but believed that resolution, therapy and a Parenting  
7 Coordinator was the best way to allow Kirk to address his problems through the process, and was in the  
8 best interest of the children. Remarkably, Kirk has tactically undermined that process, and now seeks to  
9 destroy it.  
10  
11

### 12 III.

#### 13 THE COURT SHOULD DENY KIRK'S MOTION TO MODIFY, AND CONFIRM THE 14 PARTIES' TEENAGE DISCRETION PROVISION TO BE CONSISTENT WITH NEVADA LAW

15 A district court retains jurisdiction throughout a child's minority "[a]t any time to modify or vacate  
16 its order" pertaining to custody. NRS 125.510(1). Either party, or the Court, may seek to modify or  
17 terminate joint custody of a child if it is shown the modification is in the best interest of the minor child.  
18 NRS 125.510(2).  
19

20 The standards for a change of custody apply to a request to modify visitation. *Wallace v. Wallace*,  
21 112 Nev. 1015, 1019, 922 P.2d 541, 543 (1996)("A court decision regarding visitation is a custody  
22 determination.") *See also, Rennels v. Rennels*, 127 Nev. Adv.Op. 49, 257 P.3d 396 (2011)(once initial  
23 visitation order entered, standard for parent to modify grandmother's visitation is the *Ellis*<sup>8</sup> standard).  
24

25 A district court must give deference to the agreements entered by the parties when presented a  
26 motion to modify custody. In *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009), the Court said:  
27  
28

---

<sup>8</sup> *Ellis v. Carucci*, 123 Nev. 145, 161 P.3d 239 (2007)

1 We conclude that the terms of the parties' custody agreement will control except  
2 when the parties move the court to modify the custody arrangement. In custody  
3 modification cases, the court must use the terms and definitions provided under  
Nevada law.

4 Parties are free to contract, and the courts will enforce their contracts if they are not  
5 unconscionable, illegal, or in violation of public policy. Therefore, parties are free to  
6 agree to child custody arrangements and those agreements are enforceable if they are  
7 not unconscionable, illegal, or in violation of public policy. However, when  
8 modifying child custody, the district courts must apply Nevada child custody law,  
9 including Therefore, once parties move the court to modify an existing child custody  
10 agreement, the court must use the terms and definitions provided under Nevada law,  
and the parties' definitions no longer control. In this case, Ms. Rivero moved the  
district court to modify the decree. Therefore, the district court properly disregarded  
the parties' definition of joint physical custody.

11 Kirk seems to argue that the Court should consider terms of the parties' agreement when a party  
12 seeks to enforce it, but that the Court may modify the agreement freely provided such modification meets  
13 the statutory or case law standards for modification. (Motion, page 13, lines 19-28). This ignores the  
14 plain language of the *Rivero* decision. Under *Rivero*, a district should give *deference* to a parenting  
15 agreement *except* where the parties have used "terms and definitions" that are contrary to Nevada law. In  
16 *Rivero*, 125 Nev. 410, 2 the court ignored the definition of physical custody in the parties agreement  
17 because it was contrary to the law's new definition in the *Rivero* case.

18 Here the parties have not placed any new terms or definitions into their agreement. Instead, their  
19 experienced counsel negotiated, and the parties agreed upon, a provision designed to meet the needs of the  
20 children. The Court should give deference to that agreement.

21 The deference to parents' custody agreements arises from the fundamental notion parents act in the  
22 best interests of their children. *Troxel v. Granville*, 530 U.S. 57, 68, 120 S.Ct. 2054 (2009) . Nevada law  
23 adopts this notion in NRS 125.490 by its presumption, affecting the burden of proof, "that joint custody  
24 would be in the best interest of a minor child if the parents have agreed to an award of joint custody[.]"  
25  
26  
27  
28

1 Kirk suggests even if the deference to parents' custody agreements outlined in *Rivero* applies here,  
2 the "teenage discretion" provision in the parties' agreement violates public policy. He cites NRS 125.460:

3 The legislature declares that it is the policy of this state:

4  
5 1. To ensure that minor children have frequent associations and a continuing  
6 relationship with both parents after the parents have become separated or have  
7 dissolved their marriage; and,

8 2. To encourage such parents to share the rights and responsibilities of child rearing.

9 Kirk argues that giving a child discretion undermines the policy of "frequent associations and a  
10 continuing relationship" for that child--a denigration of the statute (NRS 125.480) that a mature child's  
11 opinion *must* be heard. Where the parties have joint physical custody, the district Court *must* render  
12 findings under the factors in NRS 125.480 when modifying a custody order. As referenced above, those  
13 factors include "the wishes of the child if the child is of sufficient age and capacity to form an intelligent  
14 preference as to his or her custody" and the "physical, developmental and emotional needs of the child."  
15 The analysis of those issues cannot be accomplished unless the Court recognizes the age of a child, and  
16 the effect of a child's desire to spend more time with one parent on the child's emotional well being. The  
17 Legislature commands the spontaneous choices of an intelligent child must be given weight, and the scale  
18 on which that weight is measured is her emotional and developmental well-being.

19  
20 The recognition of the importance of giving teenage children a voice in their custody is universal.  
21 Virtually every state's law recognizes a teenager's discretion as a factor in custody matters.<sup>9</sup>

22  
23 Granting a voice to teenagers in the desires of a teenage child has strong support in studies and  
24 guides addressing the custody of teenage children. In 2008, the American Bar Association published the  
25

26  
27  
28 <sup>9</sup> Attached is an analysis of factors under each states law published in the *Family Law Quarterly*, Volume 46, Number 4, Winter  
2013, pages 525-527. The analysis demonstrates that every state except Massachusetts recognize the "child's wishes" as a  
factor in determining custody.

1 second edition of, "A Judge's Guide: Making Child-Centered Decisions in Custody Cases."<sup>10</sup> That  
2 guideline constitutes a comprehensive overview of literature underlying issues surrounding the judicial  
3 administration and review of child custody cases. The guide is structured by separate analyses of the  
4 developmental ages of children. One of the developmental periods in the guide is adolescents between the  
5 ages of 14 and 18. That section addresses the importance of permitting the adolescent to be part of the  
6 process of determining custody.  
7

8 The parties' teenage discretion provision is a model for provisions of its kind. It permits the child  
9 certain discretion that promotes a healthy sense of independence without modifying custody, protects the  
10 child by providing a third party that can assess whether the child is exercising that discretion for good  
11 reason, and provides an alternative dispute mechanism, through discussion of a PC, for the child. The  
12 provision is not unconstitutional, is consistent with Nevada law and nearly all other states, and promotes,  
13 not undermines, each parent's frequent associations with children.  
14  
15

#### 16 IV.

#### 17 **THE COURT SHOULD DIRECT AN INTERVIEW OF THE MINOR CHILDREN, AND** 18 **RESERVE A DATE FOR EVIDENTIARY HEARING ON THE ISSUE OF CUSTODY**

19 As the basis of his motion, Kirk has quoted the children without corroboration, and has suggested  
20 that the children should have no voice in their custodial care. Kirk has described and admitted the  
21 breakdown in his relationship with Brooke. Brooke has repeatedly stated her preference to live with  
22 Vivian, and her disputes with her father are degenerating and escalating. Kirk has undermined the process  
23 defined by the parties to shore up his relationship.  
24

25 The children are of sufficient age and maturity to form and intelligent preference as to their  
26 custody. They are model children. They receive exceptionally good grades in school, and no coach,  
27

28 <sup>10</sup> The guideline is a joint project of the ABA Child Custody and Adoption Pro Bono Project and the ABA Center on Children and the Law. Relevant excerpts from the guide are attached hereto as Exhibit "J". The Guide is found at [http://apps.americanbar.org/legalservices/probono/childcustody/judges\\_guide.pdf](http://apps.americanbar.org/legalservices/probono/childcustody/judges_guide.pdf) and is 299 pages.

1 teacher, counselor, instructor, minister or other person who comes in contact with the girls would state  
2 they are other than “good kids and model citizens.” Both children are engaged in dance, and Rylee is  
3 involved in sports.

4  
5 The children have an extremely strong bond with Vivian – *in part* due to gender, and in part from  
6 her history of being the one parent who, throughout all their lives, gave them the type of care they wanted.  
7 Now, the activities they want to share with or in which they want to be overseen-by Vivian are the essence  
8 of their developmental stages of puberty and adolescence: A doctor's appointment addressing first period,  
9 the hip-hop dance demonstration, the purchase of dance clothing, advanced dance classes, the preparation  
10 (make up) for first Homecoming dance. Time with Vivian avoids placing the children in a position where  
11 they are pressured, and feel guilty or embarrassed.

12  
13 Sadly, Kirk now undermines Vivian's general role as a parent, and her special role as the female  
14 parent, at this time of the girls' lives:

15  
16 A. He purposely uses guilt as a method of punishing Brooke's need for an independent  
17 choice;

18  
19 B. He solicited phone calls from adult children to Brooke to guilt her into staying in Kirk's  
20 care, and embarrassed her in front of the adult children;

21  
22 C. He refuses to allow, or undermines, additional contact or time with Vivian.

23  
24 D. He suggests to Rylee her sister is abandoning her, a false claim the serves no purpose  
25 but to cause anguish in Brooke and Rylee;

26  
27 E. He interferes with the children's contact with Vivian; and,

28  
29 F. He suggested repeatedly to Brooke that Vivian is doing something wrong.

30  
31 The parties' parenting agreement provides the children an independent third party to discuss their  
32 thoughts, emotions and desires regarding any change, and to deal with the behavior of both parents in this

1 high-conflict divorce. But, Kirk tactically undermined that goal when he repeatedly refused to allow the  
2 children to be interviewed, avoided the publication of the results of that interview, and failed for fourteen  
3 months to name a therapist.

4  
5 Kirk knows the children will tell the therapist they want to live with their mother because that is  
6 where they feel they will be most comfortable and happy. As in any totalitarian regime, a third party to  
7 whom the truth can be told is a threat--no free press is allowed. If there is a neutral third party to whom  
8 the children can speak, then Kirk's behavior will be addressed and his control eroded. And, as in such  
9 regimes, the creation of an external threat is necessary to justify strict controls. In this case the false  
10 external threat Kirk created is, sadly, the girl's mother.

11  
12 Is the fact the girls want to spend more time with Vivian coincidence or conspiracy? Are there  
13 facts, e.g., age, gender, history of care and demeanor, which *in themselves* reasonably make the girls want  
14 to spent time with one parent more than the other, or is there a scheme by Vivian to alienate the girls from  
15 Kirk due to her perception of parenting as "competition" as Kirk contends? Vivian asks the Court FMC  
16 determine if the girls' wishes are genuine or artificial, spontaneous or coached, and start them on the road  
17 to peace in their family.

18  
19 Vivian moves first for an interview of Brooke and Rylee to ferret out Kirk's factual assertions  
20 underlying his motion. Brooke has continuously and adamantly stated she wants to reside primarily with  
21 Vivian, and Kirk has defeated his own goals because he failed to give the therapist/coordinator system to  
22 which he agreed any chance for dialogue, counseling and compromise with his daughters. Vivian asserts  
23 that the facts set forth herein constitute adequate cause for hearing on the custody of the children.<sup>11</sup>  
24  
25 Vivian requests that the Court find adequate cause for hearing, and review the status or necessity of an  
26  
27

28 <sup>11</sup> In *Rooney v. Rooney*, 109 Nev. 540; 853 P.2d 123 (1993) the court held that a district court may deny a motion to modify custody where the moving party failed to show "adequate cause." Adequate cause exists where the facts alleged in the affidavits are relevant to the grounds for modification, and the evidence is not merely cumulative or impeaching.

1 evidentiary hearing on custody after the return of the children's interviews through the Family Mediation  
2 Center.

3  
4 **V.**

5 **KIRK HAS AGAIN UNNECESSARILY MULTIPLIED THE PROCEEDINGS IN THIS CASE**

6 Though styled as a motion to modify the "teenage discretion" provision only, Kirk raised issues  
7 and sought relief that have nothing to do with the underlying motion. That has been his consistent  
8 behavior throughout this litigation.

9  
10 At page 14 of his Motiom, Kirk lists alleged wrongs committed by Vivian that he claims are  
11 violations of Court orders or failure to "do the right thing by her own children." He does not appear to be  
12 seeking any specific relief, but appears to address these issues as part of his contention that Vivian has no  
13 regard for the rights or needs of the children. Vivian responds, in brief:

14 a. Kirk's contention that Vivian "took" days from him is false. Vivian's calendaring of  
15 dates was consistent with the Stipulated Parenting Plan;

16  
17 b. Whitney owes money to Vivian for credit card use, not the alternative;

18 c. Vivian does not have Tahnee or Whitney's original birth certificates, and those  
19 certificates can be easily procured from the Dept. of Health and Human Services.

20 d. Vivian has not wrongfully withheld memorabilia owned by Tahnee or Whitney, and  
21 this allegation has nothing to do with the present motion;

22  
23 d. Nothing in the agreement regarding property allowed Kirk to clean out the bedroom  
24 furniture in the children's rooms. The agreement was the Kirk would leave all property other than  
25 designated. It is questionable this property belongs to the daughters, and the Court lacks jurisdiction to  
26 address any dispute regarding the property of the adult children (like UGMA accounts);  
27  
28



1 e. The exchange of information from school would fall under the joint legal custody  
2 provisions, and arguably Kirk would be entitled to a copy of the GATE Book. Vivian has not withheld  
3 any copy Kirk ordered. She is attempting to find out what happened to the books Kirk indicates he  
4 ordered;  
5

6 f. There is no violation of any Court order associated with any litigation in which Vivian is  
7 involved. Whatever litigation Vivian has initiated through separate, experienced and respected counsel  
8 cannot reasonably be seen to effect the children. This is yet another example of Kirk using irrelevant  
9 claims to disparage Vivian.  
10

11 g. If the old Stairmaster was Kirk's by oral agreement at a hearing, he entitled to it. Vivian  
12 hopes to exchange that property with the mass of items he wrongfully removed from the home at the time  
13 he vacated. Again, this has nothing to do with the present motion.  
14

15 What is relevant to the present motion is that Kirk continues to attempt to alienate the adult  
16 daughters by promoting this fantasy that Vivian has committed some wrong against them. Kirk's  
17 willingness to engage in this type of behavior bodes poorly for his divisive actions affecting the  
18 relationship of Brooke and Rylee.  
19

## 20 VI.

## 21 CONCLUSION

22 Kirk's Motion is how he must now manage conflict in his home--he thwarted the therapist and PC.  
23 He takes no responsibility for the conflict; he blames Vivian. No law and a few tortured facts, *if any*,  
24 support Kirk's Motion. After the way that he conducted himself in this action, his claim that Vivian sees  
25 this case as a "competition," is his sad testimony he cannot see the effect his own behavior, and an  
26 admission he may lack any reasonable sum of self-awareness. He, not Vivian, leveled vile personal  
27 claims against the other parent, repeated the claims to the adult children, and then recruited them in a war  
28

1 against their mother. He, not Vivian, sought supervised visitation. He attacked every individual who had  
2 the felt need and decency to support Vivian and the children in defense of his all-out assault.

3 What was Vivian's course? During a year of litigation she steadily and consistently sought the  
4 same negotiated resolution: joint physical custody. She put her concerns regarding Kirk aside, and  
5 developed a system of "teenage discretion" that would allow him an opportunity to work with the girls.  
6 She gave him access to the girls, a therapist, and a PC for a year before Brooke turned 14, hoping to avoid  
7 conflict and permit the girls and their dad to mend and improve their relationship.

8  
9 Kirk's response? Tactics, manipulation, litigation, rancor and bitterness.

10  
11 Vivian now must request the *Court* address Kirk's poor relationship with Brooke, and the damage  
12 he causes when he demeans and manipulates Brooke and Rylee to eliminate Brooke's voice for the  
13 increased independence she must have as part of her natural development.

14  
15 Kirk turned his back on peace in the family; instead, he fomented conflict. Now, to resolve the  
16 conflict Vivian must request the Court:

- 17 1. Deny Kirk's motion in its entirety;  
18 2. Direct an interview of the children through the Family Mediation Center;  
19 3. Find adequate cause for hearing on the issue of custody;  
20 4. Award attorney's fees to Vivian under EDCR 7.60, and the factors set forth in *Brunzell*.

21  
22 Dated this 17 day of October, 2013

23 RADFORD J. SMITH, CHARTERED

24  
25 RADFORD J. SMITH, ESQ.

26 Nevada State Bar No. 2791

27 Attorney for Defendant  
28

**CERTIFICATE OF MAILING**

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 deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid. I served the foregoing document described as:

**"DEFENDANT'S AMENDED OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER RESOLVING PARENT-CHILD ISSUES [TO DELETE "TEENAGE DISCRETION" PROVISION] AND OTHER EQUITABLE RELIEF;**

**DEFENDANT'S COUNTERMOTIONS TO RESOLVE PARENT/CHILD ISSUES, TO CONTINUE HEARING ON CUSTODY ISSUES, FOR AN INTERVIEW OF THE MINOR CHILDREN, AND FOR ATTORNEY'S FEES AND SANCTIONS"**

on this 17 day of October, 2013, 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;

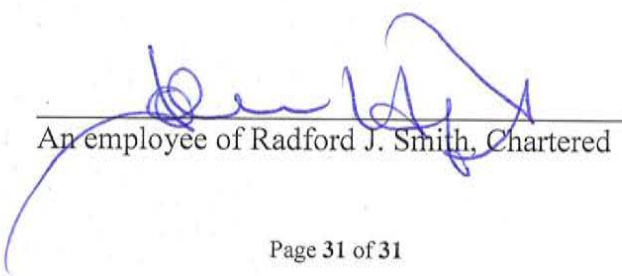
☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☒ 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:

Tom J. Standish, Esq.  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
Attorney for Plaintiff

Edward L. Kainen, Esq.  
10091 Park Run Dr., Suite 110  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

  
An employee of Radford J. Smith, Chartered

# EXHIBIT “A”

February 4, 2012

**VIA FACSIMILE**

Edward Kainen, Esq.

*Re: Harrison v. Harrison*

Dear Ed:

I find it remarkable that you have time to write a long, detailed letter, but you cannot provide responses to basic discovery that you promised me weeks ago. You have not offered any explanation as to why you have not responded to the discovery. I can only assume that you do not want to provide the information because it could be damaging to your client's position.

Further, I requested in my letter of February 2 that you provide me a copy of the phone records your client received yesterday. Those records were requested as part of our discovery. Please let me know whether your client is willing to provide those records.

Moreover, you have not responded to my letter of January 27 seeking your explanation regarding your intent to reveal Vivian's confidential medical records to lay witnesses, including Ms. Roberts. If I do not hear from you, I will be forced to seek a protective order. I cannot understand why you refuse to address this matter. Your only explanation to me at this point is that the use of the records is some sort of "set up." That does not provide adequate explanation for revealing confidential information.

In addition, I have not received a copy of the records from Marvyn Gawryn that you received on the date of his scheduled deposition. Since I do not have the records, it is difficult for me to comment on your claims, other than I think your theory that Gawryn coached her regarding tests is nonsense. It seems to me that the person in the best position to address your allegations would be Mr. Gawryn, so I do not understand why you cancelled his deposition. Before you make allegations about his interactions with Vivian, you should give him the opportunity to address those allegations.

I wanted to confirm that your deposition of Dr. Margolis is a COR deposition. I presume that you do not intend to have her appear for the deposition. I note that the deposition is set at a time that I could not be present, but again I am assuming that your notice is intended to seek records, not take the deposition of Dr. Margolis. I trust you will contact my office first before setting depositions that I have to attend, and I will give you the same courtesy.

In regard to the allegations contained in the letter, I note again that Vivian made special efforts to preserve your client's phone number, which, of course, is contrary to your client's contention that she intended to cancel his number. Please explain to me why she would go to the trouble of contacting me to write a letter to you telling you how your client could preserve his number if she intended to cancel it.

Edward Kainen, Esq.

February 4, 2012

Page 2

In regard to your allegations regarding the production of billing statements, at the mediation with Mr. Jimmerson both Gary and I provided Jim with redacted billing statements and it is our understanding that those were provided to you. In any event, I am willing to exchange redacted statements with you if you are willing to provide all of Kirk's redacted statements.

I disagree with your statement that the Court did not expect you to provide billings, and in any event you already agreed to provide them to me by January 23 (approximately two weeks after they were due under the document requests served on your office). In our case, I believe the Court indicated that I could provide the information this week, but that he wanted the brief filed by close of business on Friday. Again, if you would like to exchange those documents, let me know.

In regard to Kirk's allegations regarding Vivian's behavior, your recitation of allegations in the letter, with the corresponding threat to show the letter to the judge, suggests to me that you have prepared the letter for that purpose - to show it to the judge. Such a submission would be a violation of our rules. It appears that Kirk is simply looking for a way to get more allegations before the Court. Vivian does not agree with your client's recitation of the events, and indicates to me that he has mistated the facts. In any event, we can all agree that either party showing disrespect to the other in front of any of the children, either your or old, is damaging to this family. I wholeheartedly disagree with your assessment of Kirk's statements and actions outlined on pages 45 through 47 of Vivian's Opposition and Countermotion. I do not believe the quotes were taken out of context, and I believe they demonstrated Kirk's willingness to belittle and marginalize Vivian to the children.

Vivian indicates that both Kirk and Vivian were present when the current video system was involved, and that she has done nothing with the equipment since it was installed. She was not in charge of the system, and she hoped and believed that the system had caught the events of October 14 on video.

In regard to your request that we now have a fifth psychologist or psychiatrist get involved in this matter, it is absolutely unnecessary and will not resolve anything. We have tried in good faith to demonstrate to your client that Vivian is not suffering from any psychological disorder, and some of the best minds in the world have agreed. We have hired what we believe are the finest experts in the this area to address Kirk's claim, and we gave them all of Kirk's allegations so that he could understand that they were considering his positions. So you are clear, I am sending under separate cover the letters verifying that all of the pleadings and all of Vivian's medical records were provided to Dr. Applebaum and Dr. Ronningstam. The doctors reviewed the pleadings and the records and found that Vivian had no personality disorder of any kind. Let me suggest to you the obvious - the reason they did not find one is because none exists.

I am at a loss to understand why you do not proceed with an analysis by Dr. Roitman. I am curious whether you have provided him the pleadings that have been filed in this case, or the medical records, and I have no idea why you have not had Dr. Roitman interview Vivian.

The argument challenging our experts reports appears to be based upon your claim that the information provided to them by Vivian was inaccurate. I would be in a better position to know

Edward Kainen, Esq.  
February 4, 2012

Page 3

how to respond to your requests if you would provide me an outline of that information contained in their reports that Kirk believes is false or incorrect.

In regard to your claim that Vivian has taken the children to the Atkinson's home for some nefarious reason, please allow for the possibility that the children simply want to spend time with her, and that your client has made it increasingly uncomfortable for her to be in the home. He has locked doors, gotten into her email, kept a running diary

Kirk's allegations all speak to the care of Brooke and Rylee, and address facts that the girls themselves can clear up. I suggest we have them interviewed immediately by Dr. Paglini so the results of that interview are available for the Court on the 10th. This might be the best way to resolve some of the outstanding issues.

Sincerely,

SMITH & TAYLOR

Radford J. Smith, Esq.

RJS:

cc. Vivian Harrison (via email)  
Mary Anne Decaria, Esq.  
Thomas Standish, Esq.



# Send Result Report

MFP

TASKalfa 500ci

Firmware Version 2H7\_2F00.012.012 2011.07.14

06/01/2012 15:47  
[2H7\_1000.023.001] [2H7\_1100.002.003] [2H7\_7000.012.012]

Job No.: 030960

Total Time: 0'00'52"

Page: 003

## Complete

Document: doc20120601154639

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### FACSIMILE TRANSMITTAL SHEET

TO:

Thomas Standish, Esq.

FROM:

Jolene

For Radford J. Smith, Esq.

COMPANY:

Jolley, Urga, Wirth, Woodbury &

DATE:

JUNE 1, 2012

No.	Date and Time	Destination	Times	Type	Result	Resolution/ECM
001	06/01/12 15:47	6997555	0'00'52"	FAX	OK	200x100 Normal/On



# EXHIBIT “B”

**RADFORD J. SMITH, CHARTERED**

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**FACSIMILE TRANSMITTAL SHEET**

TO:	FROM:
Thomas Standish, Esq.	Jolene For Radford J. Smith, Esq.
COMPANY:	DATE:
Jolley, Urga, Wirth, Woodbury & Standish	JUNE 1, 2012
PHONE NUMBER:	FAX NUMBER:
699-7500	699-7555
RE:	CASE NUMBER:
Harrison v. Harrison	D-11-443611-D
TOTAL NO. OF PAGES INCLUDING COVER:	
3	

☐ URGENT    ☒ FOR REVIEW    ☐ PLEASE COMMENT    ☐ PLEASE REPLY    ☐ PLEASE RECYCLE

**DOCUMENT(S) ATTACHED: CORRESPONDENCE FROM RADFORD J. SMITH, ESQ., DATED TODAY 6/1/12**

June 1, 2012

VIA FACSIMILE

Thomas Standish, Esq.

*Re: Harrison v. Harrison*

Dear Tom:

Thank you for your letter of May 31, 2012. I have had an opportunity to review the letter with Vivian. As I understand Kirk's position, he is requesting three modifications to the proposed MSA I forwarded to you on Friday, May 25, 2012:

- 1) He seeks to eliminate the "teenage discretion" language set forth in paragraph 6 of the draft parenting plan;
- 2) He seeks an additional 10 day period of care during the summer vacation months; and,
- 3) He seeks to change his time to have the girls in his care from Monday and Tuesday to Wednesday and Thursday of each week.

Let me address each of those requests individually:

- 1) *Teenage Discretion*: As we have discussed over the last several weeks, part of Vivian's reluctance to enter into a final agreement without the input from Dr. Paglini was based upon what appears to be Brooke's deteriorating relationship with Kirk. Brooke has regularly indicated to Vivian that she desires spend more time with Vivian. Vivian has compromised in large part based upon the desire of the other members of the family to see this matter close. She still has significant concerns about Kirk's relationship with and care of Brooke, but she has listened to the advice that the resolution of the matter would lead to an improvement of that relationship.

What Vivian seeks to avoid by the language of paragraph 6 is the very thing that Kirk fears. At a certain point all Courts begin to place substantial weight on the desire of a teenage child regarding her care – we cannot affect that factor by any agreement. Paragraph 6 contains language designed to avoid litigation regarding this issue if it arises. Based upon what has occurred in litigation to date, this is an extremely important goal.


Moreover, the concerns raised in your letter will be addressed through the system that the agreement puts in place - counseling and a parenting coordinator. Your client will have a year to address the problems in his relationship with Brooke. The provision does not place the responsibility of choosing on Brooke, it simply gives each child discretion after 14 to spend more time with one parent or the other, a request that will likely be granted to them in any event by the Court. Again, the provision is designed to avoid litigation.

- 2) *Summer vacation:* The girls have attended sewing camp with Vivian in the past. Brooke has gone to the camp for four years since she was eight years old, and Rylee attended last year at eight years old. It is an activity both girls enjoy, and sewing is considered a life skill. In order for the children to go to this camp, Vivian must accompany them, and she must enroll in the program. The camp is filled with days of instruction and sewing. Kirk is welcome to attend the camp. If the children do not want to attend the camp in the future, this issue is moot. Vivian does not feel it is in the best interest of the children at this time to expand the summer visitation periods, particularly in light of Brooke's current difficulty in her relationship with Kirk.
- 3) *Days of the Week:* Vivian too desires to have the children on Wednesday and Thursday of each week. She permitted Kirk to choose between an alternating week schedule and a five/two - two/five schedule, and she feels she should be able to choose which weekdays she has the children. Moreover, it is not our experience that mediations occur more often on Monday and Tuesday, and because there are so few there does not appear to be a substantial need to change the proposed plan. Vivian would be willing to work with Kirk to arrange exchanges in those instances that Kirk has a mediation that is going to last into the evening after the children are out of school.

Please call with questions.

Sincerely,

SMITH & TAYLOR



Radford J. Smith, Esq.

RJS:

cc: Gary Silverman, Esq.  
Vivian Harrison

# EXHIBIT “C”

## VIVIAN'S ACTIVITIES WITH THE CHILDREN SINCE THE ENTRY OF THE PARENTING PLAN

Activities – (signed up scheduled & purchased equipment & provided necessary supplies)

Rylee and Brooke:

- Intensive Dance classes (ballet, Pointe, jazz, Character, Tap, Lyrical, Irish, Hip Hop, Musical theatre, Choreography) – private lessons as needed
- Piano Lessons – Rylee (scheduled during Vivian's visitation days)
- Voice Lessons – Rylee (scheduled during Vivian's visitation days)

Rylee only:

- Activity Days LDS Church (weekly) – Mondays (for Rylee's age group)
- Gymnastics – Rylee (scheduled during Vivian's visitation days)
- Sports
  - o Basketball
  - o Softball

## MEDICAL

Make all Doctor appointments and try to schedule during Vivian's days

- Dr. Dewan Pediatric endocrinologist – every 3 months (5 since January)
- Dr. Malliner optometrist – every year (Brooke contracts)
- Lab draws – Rylee every 6 months
- Dr. Noorda orthodontist – 5 appointments since February
- Dr. Bybee dentist – every 6 months (3 since January)
- Dr. Gaal – Otolaryngology – Brooke – 1 apt
- Dr. McKnight – (7 appointments since November 2012 allergist)
- Dr. Smith GP – as needed<sup>1</sup>
- Dr. Jonathan Camp (2 apts – pediatric orthopedic surgeon)
- Dr. Rosemary Hyun (Pediatrician – 1 apt)
- Dr. Handler (dermatologist) – Rylee
- Dr. Christine Covetti (dermatologist) – Brooke
- Yearly flu shots
- Brooke-Contact lenses

## SCHOOL

- Brooke signed up for Summer BYU Health Class for High School Credit
- Rylee- Nevada Citizenship – 3 countries, diagrams and projects

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<sup>1</sup> Kirk's first appointment with Dr. Smith was a few days prior to filing the current Opposition and Counter-motion.

- Great American Recital – Vivian and Rylee practiced daily for 2 months during summer (the Great American Recital includes – Reciting from memory, Gettysburg Address, Star Spangled Banner, List of Presidents first and Last names in order, US States & Capitals in alphabetical order, Preamble of the US Constitution, write pledge of allegiance.)
  - o Because Vivian and Rylee practiced the above throughout the summer, Rylee was able to recite from memory all of the above in the 1<sup>st</sup> day of the school.
- Monthly book reports and 4 projects associated with that report (teacher ask Rylee if she could use hers as sample)
- Brooke –assisted in at least 6 different school projects last school year – provided Math Tutor (the projects included writing essays, preparing reports, etc.)
- Attended ALL Open Houses alone (girls were not in attendance with their Dad) and Parent teacher Conferences
- Bought backpacks & majority of back to school supplies

#### MISC

- Homecoming dress & shoes
- 8<sup>th</sup> Grade Graduation Dress & Shoes
- All hair appointments
- Nail appointments (holiday & special events – at least 7 times per year)
- Help Brooke & Rylee with hair and make-up ALL dance recitals, music & voice recitals, homecoming, graduation, etc.
- Set up Photography Session for head shots for Dance Resume and provided props (6 hour shoot at residence)
- Helped girls complete mandatory dance resume for Dance School
- Broadway Season Ticket Holders – Smith Center
- Family Disney Cruise & Disney World Vacation
- Beach Spring Brea
- Ski Trip planned Winter Break
- Week sewing Camp
- Taught Brooke to ride a bike
- Surfing

#### VOLUNTEER

- Rylee Classroom Parent – every other week
- Volunteer at School every week
- Parent Advisory Committee
- Field Trip Chaperone
- Dance Recital & Meeting
- Assisted at softball practice when needed

# EXHIBIT “D”



### LIST OF THINGS VIVIAN HELPED THE CHILDREN WITH

- She taught all of the children to read, and she has read extensively with and to all of the children. All of the children have reading awards for number of pages or minutes read during a specific school year. Before the children could read independently, Vivian read all of those pages with the children;
- The children have received mountains of awards based on academics. She was the parent who helped the children with the vast bulk of their homework, but she certainly agrees the children worked very hard at their schoolwork. Kirk may not understand, however, that children do not always run naturally toward schoolwork after school, and there were many times where Vivian had to push all five children to study and complete their assignments and projects;
- Vivian supplemented the children's education by tutoring them during the summers utilizing the Abeka program;
- All of the children have taken swimming lessons. Some started with the "Mommy and Me" program at six months old, but all of them took Red Cross swimming lessons or private swim lessons. (Vivian's mother did not know how to swim, and Vivian was afraid of the children drowning);
- All five children have played soccer, and Vivian coached Joseph's soccer team;
- All five children have played on softball/baseball teams;
- The four oldest children have all played organized basketball;
- The older three children were "every sport, every season" (golf, basketball, volleyball, swim, baseball / softball), and all of them lettered in sports in high school;
- All the children have taken dance lessons (Joseph was the first boy in his dance school);
- Vivian sat through almost all of the full practices of all of the children. Even when they were in high school, Vivian sat through many of the practices, sometimes as the only parent in the stands (with Brooke in a baby seat);
- The older children were in karate when they were five, and Tahnee and Whitney achieved their junior black belts. Vivian believes that Joseph may have also, or was very close to it;
- All five children have taken piano lessons, while Brooke and Rylee have also taken violin, guitar and drums;
- The older children have received art instruction through the Parks and Recreation Department;

- Vivian took the children on many vacations to Disneyland alone (at least once per year and sometimes twice). Kirk and Vivian once took a vacation without the children to Paris, but Vivian asked Kirk if they could come back early because she couldn't stand to be away from the children and was worried about them. That is the only time she can ever recall being away from the older girls or Joseph during their childhood;
- Joseph played baseball for approximately six years when he was younger.
- All the children have taken golf lessons, and Joseph is pursuing a career in professional golf.
- All the children have been good students. Some have had different struggles and different strengths. Tahnee and Whitney are graduates of the prestigious and difficult International Baccalaureate program at Green Valley High School. Joseph struggled a little, but he was an excellent math student and an incredible golfer. Brooke and Rylee are both excellent students.
- There were days that Vivian was in the car driving the children to places 5 or 6 hours. The parties used to joke that Brooke grew up in a car seat.
- Tahnee and Whitney were both in the Miss Teen Nevada pageant and others. Tahnee was Miss Teen Nevada.

*See Vivian's Opposition to Kirk's Motion for Joint Legal and Primary Physical Custody, et al. filed on October 27, 2011, pages 22-24*

# EXHIBIT “E”

**Paragraph  
Number**

**Tahnee's Affidavit**

- 1 Daughter of Kirk and Vivian
- 2 Affidavit is based upon my personal knowledge
- 3 Graduated from college end of fall 2008, lived at home since January 2011. Prior to that lived at home each summer, Thanksgiving, Christmas and Spring Break
- 4 Summer of 2005, Vivian took Brooke and Rylee somewhere for several weeks
- 5 After Summer of 2005 Vivian started to act differently
- 6 2006, Kirk retires, Vivian started to withdraw
- 7 June 2008 - car ride - Vivian started belittling Whitney's intelligence and criticizing her weight
- 8 January 30, 2009 - Vivian wanted to invite some other girl for a dinner with Harrisons and another family. Kirk said it won't be appropriate, Vivian said she was leaving him
- 9 February 27, 2009 - Vivian threw coffee mug at Kirk
- 10 March 12, 2009 - Vivian said Kirk did not cook enough. Tahnee says that's not true
- 11 March 16, 2009 - Joseph's birthday party
- 12 When Kindles first came out, Vivian got one and became more isolated
- 13 August 29, 2009 - Tahnee saw Brooke on internet at an Ashley Tisdale fan chat room
- 14 September 2009 - Vivian told Tahnee she wanted to spend three to four months in Europe
- 15 September 12, 2009 - Vivian invited five or six 16 year old girls over to watch a movie in the home theater
- 16 Vivian's fixation with the show "Tudors" (around October 7, 2009)
- 17 October 12, 2009 - Jonathon Rhys-Meyers
- 18 October 13, 2009 - Justin Timberlake
- 19 October 16, 2009 - about how Vivian talks in front of Brooke and Rylee about divorcing Kirk, Tahnee mentions how she believes Vivian has deteriorated in the past one year due to her Phentermine use,
- 20 October 20, 2009 - Kirk is trying to build an apartment at the ranch for Brooke and Rylee
- 21 November 13, 2009 - Vivian googled Jonathan Rhys-Meyers and expressed displeasure regarding his girlfriend
- 22 In New York - Whitney's fiancée's mother stayed in the same hotel room
- 23 December 4, 2009 - psychic
- 24 December 13, 2009 - Vivian got a procedure done on her face
- 25 December 13, 2009 - during dinner with Kirk, Tahnee mentions that Jonathan Rhys-Meyers is involved in organization in Ireland and the organization does philanthropic work in India

26 December 23, 2009 - Vivian spent \$875 on jacket and \$500 each on two pairs of jeans  
27 December 25, 2009 - Vivian bought a pair of books for \$800  
28 December 31, 2009 - Vivian got upset because Kirk took Brooke and Rylee to see the movie "Avatar"  
29 February 3, 2010 - Vivian buys Christian Louboutin shoes and a dress \$1,395  
30 Vivian goes to a basketball game in high heels and a leather coat  
31 March 1, 2010 - Vivian talked about having fat injected into her butt, Tahnee talks about reading books regarding narcissistic mothers  
32 March 8, 2009 - Vivian started sleeping with Brooke and Rylee again  
33 April 5, 2010 - Salt Lake City, Utah to attend a Muse concert  
34 April 16, 2010 - Driving home from Salt Lake, stopped at Mexican restaurant, Vivian gets upset with Witney  
35 August 25, 2010 - While Kirk is recovering from a bicycle accident, Vivian was on phone with the psychic and could not take Brooke to her orthodontist appointment, later she was busy on facebook  
36 October 3, 2010 - Vivian's relationship status on facebook is "single"  
37 March 19, 2011 - Vivian removed Tahnee from her facebook  
38 Tahnee says Vivian is self-absorbed, has uncontrolled fits of rage, etc.  
39 Tahnee says that Kirk takes good care of Brooke and Rylee on a daily basis  
49 Kirk should have primary custody

**Paragraph  
Number**

**Whitney's Affidavit**

- 1 Daughter of Kirk and Vivian
- 2 Affidavit is based upon my personal knowledge  
Graduated from college in spring 2009, lived at home after graduation until September 2010, spent summer during the college at home  
3 and come home for Thanksgiving and Christmas
- 4 2005 - Vivian abruptly took Brooke and Rylee somewhere for several weeks
- 5 during this time, Vivian started acting differently
- 6 After Kirk retired in 2006, Vivian started withdrawing from other members
- 7 June 2008 - Car incident - belittling Whitney's intelligence, attacked Tahnee  
Summer and Fall of 2008 - in Australia, Kirk's roommate and Kirk came down. When Whitney called Vivian, she said Kirk did not tell her  
8 "where the money is" and "to make sure the sharks can do their job"
- 9 July 31, 2009 - Drove Kirk's car to St. George to see a play - Vivian read Kindle
- 10 Middle of September 2009 - Vivian read all the time
- 11 October 2009 - Kirk spent 4 days at Ranch, Brooke and Rylee did not eat dinner until 10:00 p.m.
- 12 October 16, 2009 Tahnee and Whitney's discussion with Kirk re: Vivian talking about divorcing him, her adversarial behavior etc.
- 13 Summer of 2009 - Vivian said she's going to Europe
- 14 Summer of 2009 - Vivian's fascination with Jonathan Rhys-Myers
- 15 November 2009 - Whitney's fiancée comes for Thanksgiving Dinner  
October/November 2009 - Vivian starts having numerous treatments on her face, and started spending more and more time in her office  
16 reading
- 17 December 13, 2010 - Dinner with Kirk and Tahnee - Vivian wants to go to India because of Jonathan Rhys Meyers
- 18 Vivian sleeps with Brooke and Rylee
- 19 December 2009 - Vivian buys a pair of books \$800
- 20 January 6, 2010 - Kirk said Vivian wanted Whitney to change her wedding date due to Vivian's elective plastic surgery
- 21 January 24, 2010 - Rylee's 7th Birthday - Vivian did not help in preparing for the party
- 22 Vivian went to California to have plastic surgery
- 23 April 5, 2010 - Salt Lake City, Utah Muse concert
- 24 April 2009 - Vivian told Whitney that she is going to divorce Kirk
- 25 March 2011 - Vivian said Whitney has gained weight
- 26 Vivian most of her time in home office with door closed
- 27 Kirk should be granted total custody

# **EXHIBIT “F”**

Sent from my iPhone

Begin forwarded message:

**From:** [emmabharrison@aol.com](mailto:emmabharrison@aol.com)  
**Date:** August 5, 2013, 2:08:53 PM PDT  
**To:** [vivianlharrison@aol.com](mailto:vivianlharrison@aol.com)  
**Subject:** Dad

Dear mom,

Dad took my phone away and he is being so mean to me. There is no other way to contact you except email. I'm sorry 🙁 Rylee is next to me in one bed watching her iPad and dad comes over sits at my feet and asks "Why don't I want to do anything?" I said I want to stay in the hotel room because apparently we're staying here for another 8 days. He rips my phone out of my hands takes off the charger and headphones and he asks me why i'm listening to people who are telling me that he is a bad person (he is referring to you) I tell him there isn't and he says its not good to lie. Then he states that I am lying about being hurt and having cramps and that I am being spoiled and mean and selfish. Then he starts going on about he raised me since I was 7 and how he took me to school. Then he asked why I don't love him and I said he doesn't respect privacy, he barges in, doesn't support me in anything I do, Then he asks what he doesn't support me in, and I say dance and he says he drives me to and from and he pays tuition. Then, I say that he doesn't support me in Makeup Artistry and then he says that he's bought me makeup and that what else can he do to support me. And then I say that he always says he'd rather me be a lawyer or a doctor and then he says i'm too smart to become a makeup artist etc. Then Rylee's show is done and she closes her iPad because dad stated earlier that she MUST stop after that episode. So she turns it off and dad not respecting Rylee starts saying how if he died today I wouldn't shed a tear and how I don't want to be with him anymore and why I hate him. Then he starts calling me selfish and how I don't want to do anything with the family and I say we aren't a family. Then I start to ignore him while he starts blaming everything on "the person that is telling me all about the bad stuff isn't doing the right thing and how its affecting our relationship. He walks back to his bed and says that he is sorry to Rylee and not saying how he is sorry. Then I turn over to rylee and wrap my arm around her and turns away from me. Then I ask dad for my phone because I want to talk to you and he says no and then I say he is not letting me talk to you. Thats all that happened. I miss you mommy. I want to come home and be with you and Rylee without her thinking I'm a horrible person. I hate Utah and I hate dad. I love you.

Love,

Brookie 🙁 🙁



# EXHIBIT “G”

**Harrison v. Harrison**

**Excerpt from the Affidavit of Vivian Harrison, Filed October 27, 2011**

78. Kirk claims that I have taken credit for the accomplishments of the children. Frankly, is absurd and ridiculous. I'm not sure from his explanation how he thinks that I took such credit. I certainly never said, "I earned that trophy", or "I'm Miss Teen Nevada", or "I hit that home run," "I won that State Championship," or "That Jr. Black Belt is mine", or "I took that math exam," etc. Did I see to it that they were signed up, had the proper equipment, and went to practice on a consistent basis? Yes, but their achievements are their own. I have been proud of my children's accomplishments like all parents, and if Kirk and others have heard me speak about my children's accomplishments, it's because in that area there is a lot I can talk about.

79. There have been times when I have discussed my role in the children's accomplishments with them. Our daughter Tahnee has a temper, and when angry can make very hurtful comments. For example, she has said, "I'm smarter than you," "have more talent than you", "am more athletic than you", "I went to a better college than you," "I'm going to be more successful than you," "You do nothing, you don't even work", "Its dad's money", etc. (all themes that I believe have been kept alive by Kirk since they are mentioned throughout his motion). I had conversations with Tahnee when she was in high school, after she said something along the lines of the foregoing quotes, reiterating the fact to Tahnee that she was able to achieve so much was because I supported her efforts. Tahnee would then allege I was trying to take credit. The problem wasn't that I wanted to take credit, the problem was that Tahnee was of the belief that she did not need to show any gratitude, and even worse, she could taunt me by telling me that I had no role in her achievements. Do I think she was grateful? Yes, I do. Do I

think she said things in the heat of arguments that suggested she wasn't grateful? Yes, I do. Rather than assuring her that I played any role in her success, it is clear (indeed, he even admits it) that Kirk instead fostered the notion, and continues to foster the notion, that I only did anything for Tahnee (or any of the other children for that matter) because I wanted to take credit for it.

80. One of the consistent problems in our marriage has been Kirk's lack of respect for me when dealing with the children. There are numerous times in his affidavits that he demonstrates this. When I would attempt to discipline the children by loss of privileges, he often undermined it. Kirk has on many occasions referred to me as a "freeloader" and he told me in front of the children "you don't work." He has even convinced the older children that I don't deserve "his money," a theme the two oldest girls have seemed to latched onto based upon their continual reference to things I buy (of course neither of them has ever suggested to me that I've spent too much on them). So the Court can see that Kirk's suggestion that I only buy things for myself is plain wrong, I have attached as Exhibit A-3 a list of purchases I have made on behalf of the children in the period from 2005 to 2011.

81. There are other themes besides the "your freeloading mother is spending too much of my money" and "she has stolen credit for all your achievements" mantra that he has used to try to alienate the children. Kirk's most recent invention is that I have favored Tahnee while growing up. I have never "favored" any child and I love them all immeasurably. Each child had his or her own individual needs and talents and interests, which I did my best to address. Whitney spent more time with her friends, because Whitney's personality is very gregarious and social. She loves to be around people; she is very social and has lots of friends. Tahnee's personality is quite different. She is much more introverted and enjoys spending time

alone. Tahnee loves to stay at home and read, draw and work on the computer. Being around people is exhausting for Tahnee and she has described herself as having social anxiety. I supported Whitney's decision to participate in extra-curricular activities and attend the LDS church. I supported all of the children in everything they did. Sibling rivalry and relationships are always complicated, and I did my best to help all of them.

82. Kirk makes much of the notion that Whitney, at age 13, expressed that she wanted to live with friends (she never actually did live with anyone else). Whitney had good friends who were LDS, and she wanted to go to church regularly. She looked at LDS families and compared them to Kirk and me, and she thought we fell short of her ideal. Again, she was 13 years old. Whitney remained in our home, and was very involved in church activities, student body office, and other leadership positions at school. Rather than allowing this to just die, Kirk brings this issue up over and over again. At no time do I recall ever expressing to Whitney that she should move out of our house.

83. Kirk's repetition of problems that occurred while the children were in high school is on full display in his motion. He repeats again the incident where I smacked Tahnee and told her to get out of the house. Kirk, of course, has selectively used or distorted facts. First, he claims Tahnee was sixteen. In reality she was almost 18, and in her senior year of high school. After arguing for a significant period in which Tahnee continued to belittle my parenting of our younger children, she punctuated her argument with a "F\_\_k you," and I smacked her mouth. I am not proud of that fact, but it was a single incident. Contrary to Kirk's contention, that is the only time I ever recall smacking Tahnee in the mouth. I fully understand teenagers need to become independent and thus separate themselves from their parents. I also understand that this struggle for independence may lead to disagreements. I do not believe, however, that a

teenager's desire to gain independence grants them license to be rude, defiant and ignore their responsibilities

84. Both Kirk and Tahnee have failed to tell the whole story underlying that incident, and by doing so, have misrepresented it. Tahnee and I began having difficulties when she started high school. Our family was forced out of our Boulder City home because of a lawsuit Kirk was in with our neighbor, and we were renting a home in Green Valley. Tahnee and Whitney transferred to Green Valley High School and were accepted into the International Baccalaureate Program. Both girls made the golf team and Whitney also made the basketball team and served as an officer in the student government. During Tahnee's junior year she inexplicably appeared to be shutting down and exhibiting signs of depression. She became more isolated, quit her dance and piano classes, refused to practice golf, study for her preparatory ACT Kaplan practice exams and received multiple failing notices. *See Exhibit A-4, attached hereto.* She had also begun to talk back and became openly defiant in front of Brooke who then was only three years old. I took Tahnee to Sue Beglinger, a family counselor, and then to a psychiatrist, Dr. Elizabeth Tully to prescribe medication. I was seriously concerned about Tahnee's failing notices, and I wanted to help her overcome her problem. Kirk's only input to this process was to criticize me for trying to "control" Tahnee. I was extremely thankful when the psychiatrist provided a medical note that allowed Tahnee additional time to turn in all late assignments, and Tahnee was eventually able to pull up her grades. Nevertheless, this was a very stressful time for the family.

85. We finally moved into a new home in Boulder City, and our fifth child Rylee was born in January 2003. My conflicts with Tahnee became more frequent and started to escalate. I asked Kirk to assist me in parenting the older children for months, but Kirk replied that I had "messed up the kids", and now I wanted him to "fix it." Instead of Kirk becoming supportive, he

began to undermine my authority by belittling me openly in front of the children. He started saying things like, “You know how your Mom is” and, “just walk away and wait until I get home.” After a while, whenever I asked Tahnee to do anything she did not want to do she said, “No, I’ll talk to Dad.”

86. The day that I asked her to leave, we had been arguing for hours. When I went into a different room with the little girls, then three and a baby, she would follow and say more. The conversation became heated. I was tired, and I was angry that she continued to come after me even with the little girls there. I said things that I shouldn’t have – the worst of which was mentioning the problems she had undergone earlier that school year. I know that hurt Tahnee, and she felt like I was abandoning her by telling her to leave. I simply wanted to stop the arguments, and I did not truly think she would be gone for any length of time. It was wrong, and I regret it, but what truly made it an incident that continues to be brought up over and over again is the way Kirk reacted.

87. Tahnee did leave the house that day, but I knew where she would go, her friend Heather’s house. Tahnee had a place to go and was not in any danger or living on the street. I was hoping for two things, 1) Kirk would realize the severity of the situation and step up and help parent; and, 2) Tahnee would realize how good she had it and make a commitment to change and participate with her family in a positive nature. Instead, Kirk retrieved Tahnee from Heather’s (exactly where I suspected she would go) and brought her home. In front of the children he said “this house belongs to the children” and that it was going to “always be their home no matter what they say or do.” In other words, the children need not show me any respect, were free to do whatever they wanted or did not want to do at the home, and there was not going to be any consequence. Kirk expresses his view in his motion that the children’s only

“fault” was to want some independence from me, or to dare to question a decision I made concerning them.

88. I note that in his motion he presents his theme that I could not accept the independence of the children in a way that makes no sense. Strangely, while saying on the one hand that I was too involved in the older children’s lives (and thus could not accept their independence), he also states that after giving birth to Rylee and having a toddler, Brooke, I became more focused on the two youngest children, while I became less tolerant of the oldest three children’s attempts to be more independent. (Kirk’s aff. p. 7) That statement is contradictory and illogical. It stands to reason that if I was more focused on the younger children that I would be less focused on the older three and any of their attempts to be more independent would be aided by my focus on the younger children.

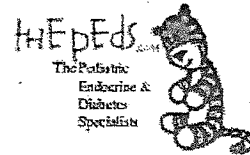
89. Kirk, however, was wrong about what was going on. The person that best expressed what happened that day was Tahnee. In a letter that she wrote, she outlined how she felt about the incident. A true and correct copy of that letter is attached hereto as Exhibit A-5. For me, the incident is over, and I love Tahnee and always will. She should, and I believe does, know that I will be there for her whenever she needs me for as long as I live.

90. While Kirk is quick to blame me for every ill that has ever occurred in our family, he fails to mention any of his own confrontations with Whitney and Tahnee. When they were defiant with him the story had a different ending. He chased Tahnee down the street yelling. My recollection is that he couldn’t catch her and came back empty handed, and it was a while later when Tahnee mustered enough courage to come home. He also chased Whitney with a hairbrush in our home and caught her upstairs and spanked her with the brush in hand. He also chased Tahnee while playing golf at the golf course and she fell down in a hazard and cut her leg. He

grabbed her and brought her back to the golf cart. All of these instances occurred during the same timeframe, and during all the above instances Kirk used profanity. Kirk did these things only on a few occasions when the girls were defiant with him, and they stopped being defiant. With me, however, that never happened. I couldn't threaten them with physical punishment. Tahnee is six feet tall and Whitney is five foot eight and they both are junior black belts. The girls were bigger, stronger, and faster than me. At five foot three and often with a toddler and infant in my arms, I posed no real threat to them. With Kirks constant undermining and non-supportive nature, I could not discipline them in anyway.



# EXHIBIT “H”



6 July 2013

To Whom It May Concern:

I am writing this letter in regards to Rylee Harrison. She was first seen by us in April 2011 after mother had become suspicious that the testosterone medication that she had been prescribed by her physician might be causing changes in her daughter. She had been applying the cream in the areas recommended by the FDA and the drug manufacturer. She sought out medical opinion, and it was suspected that the medication that she was using might have been giving some secondary transference to her child and causing changes in her body. At the time of the prescription, there was no warning to the consumer or physician that such a transference of testosterone cream to fomites and then other household members could occur. Now such a black box warning does exist, but in 2011 it did not.

Upon learning that the cream may be the cause for her daughters development of pubic hair, she stopped the cream and switched to injections. This is safe, and would allow continued co-bedding with the children in a safe manner.

It was discussed that the testosterone exposure may of advanced her bone age, and when she went into puberty, we may consider a surgical implant of Supprelin to suppress puberty and maximize her height. The need for the implant is totally voluntary, and in no way is required for her to have a healthy life. The implant secretes a hormone that her body normally would make, and in itself has no side effects that could harm her.

Estimation of height is exactly that. An estimate. The closer you get to the final adult height, which typically is at age 14-15 in a female, the more accurate the estimation. Estimations done at age 2 are not very accurate, and there are general formulas and ways to estimate final adult height, but many factors in the course of ones life can come into play and alter this- things such as subclinical ovarian cysts that advance bone age. Our estimation, based upon the fathers height and the mothers height that the midparental height, or genetic expectation was to be 68 inches in height. This differs from the pediatricians estimation of 6 feet tall, but is considered to be more accurate. We felt that Rylee was on track to having a final adult height of 64 inches. This was based upon an advanced bone age that she had done. This is still with 2 standard deviations from the midparental height, and still is

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considered to be within the normal range for her genetic potential, just on the lower end of of it. Many children can have advanced bone age without exposure to testosterone. Ovarian cysts can advance it, obesity can advance it, and there are factors that we don't understand. To say that Rylee's predicted height and advanced bone age is solely secondary to the testosterone exposure would be wrong. It did contribute, there is no doubt, but to be solely responsible we cannot say.

Rylee's mother has been to every single appointment. She has called into the office, followed up on lab results, xray results, and has always asked very appropriate and intelligent questions. She has never missed an appointment, missed a lab draw, and has researched on her own to educate herself on options that she may have. Upon learning that the cream could be harming the family, she immediately stopped, and switched to a non contaminating formulation.

I am of the opinion that Rylee's mother has shown nothing but genuine interest in Rylee's health as any mother would. She appears to be the main caregiver and liason for her health.

As Rylee's stature is going right now, she is in the lower range of normal for her genetic potential. Use of the implant is a consideration, but not an absolute, and may even possibly not be needed. Depends how things play out. Her weight can contribute to advanced bone age, and it is not uncommon for preadolescent females to have ovarian cysts that wax and wane and effect the bone age. To say that the testosterone cream and exposure are solely responsible would be very wrong. Mother became suspicious and initiated the workups that led to the diagnosis. She was vigilant, and correct in her suspicions. We feel the mother has been very involved in Rylee's health beyond the testosterone, and only has Rylee's best intentions at heart.

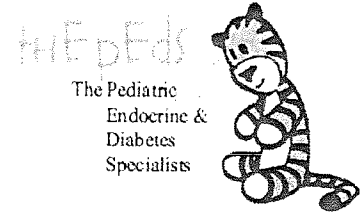
Respectfully,

Ashresh Dewan, MD  
Endocrinology

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# EXHIBIT “I”

14 October 2013



DECLARATION EXECUTED IN THE STATE OF NEVADA (NRS 53.045)

1. My name is Dr. Asheesh Dewan.
2. I am an adult.
3. I make this declaration of my personal knowledge unless stated otherwise.
4. I am a physician licensed in the State of Nevada. I specialize in pediatric endocrinology. Rylee Harrison has been my patient since April 2011, when her parents brought her to me for possible precocious puberty.
5. Since that time I have seen Rylee on regularly scheduled appointments. Most recently, I examined her on October 7, 2013, after she had drawn blood samples and a bone age x-ray to determine her growth pattern.
6. I reviewed the results of her tests with her parents during that appointment. At that time I informed them of my conclusions:

A. Rylee, who will be age 11 in January has entered puberty which is normal for her age. Rylee is currently 63.22" inches tall. Rylee's bone age x-ray matches her current chronological age of 11 and displays bone age and growth patterns which are normal for her age and genetic potential. The Mid parental height growth potential is estimated at 68 inches given her parents adult height. Rylee does not have advanced bone age and no medical intervention of any kind is warranted.

B. Given her current height and bone age Rylee is estimated to be at the high end of her genetic potential with an predicted adult height of around 5'10" tall.

C. In my opinion, she is healthy and doing well; she does not need further blood draws or tests.

D. I would like to examine her again in six months, only to monitor her weight.

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

Executed on this date 14-October 2013, in Las Vegas

Asheesh Dewan, MD  
Endocrinology

# EXHIBIT “J”

Chart 2: Custody Criteria\*

STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Alabama</b>							
ALA. CODE § 30-3-131	X	X <sup>1</sup>	X	X <sup>2</sup>	X	X	
ALA. CODE § 30-3-152							
<b>Alaska</b>							
ALASKA STAT. § 25-20-060	X	X	X		X	X	X
ALASKA STAT. § 25-24-150							
<b>Arizona</b>							
ARIZ. REV. STAT. § 25-321	X	X	X	X	X	X	X
ARIZ. REV. STAT. § 25-403							
<b>Arkansas</b>							
ARK. CODE ANN. § 9-13-101		X	X			X	X
<b>California</b>							
CAL. FAM. CODE § 3010	X	X	X	X <sup>2</sup>	X	X	X
CAL. FAM. CODE § 3011							
CAL. FAM. CODE § 3020							
CAL. FAM. CODE § 3027							
CAL. FAM. CODE § 3027.5							
CAL. FAM. CODE § 3028							
CAL. FAM. CODE § 3030.5							
CAL. FAM. CODE § 3031							
CAL. FAM. CODE § 3040							
CAL. FAM. CODE § 3041							
CAL. FAM. CODE § 3041.5							
CAL. FAM. CODE § 3042							
CAL. FAM. CODE § 3044							
CAL. FAM. CODE § 3046							
CAL. FAM. CODE § 3047							
CAL. FAM. CODE § 3048							
CAL. FAM. CODE § 3064							
CAL. FAM. CODE § 3080							
CAL. FAM. CODE § 3081							
CAL. FAM. CODE § 3085							
CAL. FAM. CODE § 3120							
CAL. FAM. CODE § 3150							
CAL. FAM. CODE § 6323							
<b>Colorado</b>							
COLO. REV. STAT. § 14-10-124	X	X	X <sup>3</sup>		X	X	X
<b>Connecticut</b>							
CONN. GEN. STAT. § 46B-54	X	X	X	X <sup>2</sup>	X	X	X
CONN. GEN. STAT. § 46B-56							
<b>Delaware</b>							
DEL. CODE ANN. TIT. 13 § 721	X	X	X		X	X	X
DEL. CODE ANN. TIT. 13 § 722							
<b>District of Columbia</b>							
D.C. CODE § 16-914	X	X	X	X <sup>4</sup>	X	X	X
<b>Florida</b>							
FLA. STAT. § 61.13	X	X	X		X	X	X
FLA. STAT. § 61.401							
<b>Georgia</b>							
GA. CODE ANN. § 19-9-3	X	X	X			X	X
<b>Hawaii</b>							
HAW. REV. STAT. § 571-46	X	X	X			X	X
<b>Idaho</b>							
IDaho CODE ANN. § 32-704	X	X	X	X		X	X
IDaho CODE ANN. § 32-717							
IDaho CODE ANN. § 32-717B							
<b>Illinois</b>							
750 ILL. COMP. STAT. 5/601	X	X	X		X	X	X
750 ILL. COMP. STAT. 5/602							
750 ILL. COMP. STAT. 5/602.1							

STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Indiana</b>							
IND. CODE § 31-17-2-8	X	X	X			X	X
IND. CODE § 31-17-2-15							
IND. CODE § 31-17-6-1							
<b>Iowa</b>							
IOWA CODE § 598.12	X	X	X		X	X	X
IOWA CODE § 598.41							
<b>Kansas</b>							
KAN. STAT. ANN. § 23-3219	X	X	X		X	X	X
KAN. STAT. ANN. § 23-3203							
KAN. STAT. ANN. § 23-3206							
<b>Kentucky</b>							
KY. REV. STAT. ANN. § 403.270	X	X	X			X	
<b>Louisiana</b>							
LA. CIV. CODE ANN. ART. 131	X	X	X	X		X	X
LA. CIV. CODE ANN. ART. 132							
LA. CIV. CODE ANN. ART. 134							
LA. REV. STAT. ANN. 9:345							
LA. REV. STAT. ANN. 9:364							
<b>Maine</b>							
ME. REV. STAT. TIT. 19-A § 1507	X	X	X <sup>3</sup>		X	X	X
ME. REV. STAT. TIT. 19-A § 1653							
<b>Maryland</b>							
MD. CODE ANN. FAM. LAW § 9-101.1		X <sup>6</sup>	X			X	X
MD. CODE ANN. FAM. LAW § 1-202							
MD. CODE ANN. FAM. LAW § 5-203							
<b>Massachusetts</b>							
MASS. GEN. LAWS CH. 208 § 28			X			X	X
MASS. GEN. LAWS CH. 208 § 31							
MASS. GEN. LAWS CH. 208 § 31A							
MASS. GEN. LAWS CH. 209C § 10							
MASS. GEN. LAWS CH. 215 § 56A							
<b>Michigan</b>							
MICH. COMP. LAWS § 722.23	X	X	X		X	X	X
MICH. COMP. LAWS § 722.24							
MICH. COMP. LAWS § 722.26A							
<b>Minnesota</b>							
MINN. STAT. § 518.17	X	X	X	X <sup>2</sup>	X	X	X
MINN. STAT. § 518.165							
<b>Mississippi</b>							
MISS. CODE ANN. § 93-5-23		X <sup>7</sup>	X	X <sup>2</sup>		X	X
MISS. CODE ANN. § 93-5-24							
<b>Missouri</b>							
MO. REV. STAT. § 452.375	X	X	X <sup>8</sup>		X	X	X
MO. REV. STAT. § 452.385							
MO. REV. STAT. § 452.410							
MO. REV. STAT. § 452.423							
<b>Montana</b> <sup>9</sup>							
MONT. CODE ANN. § 40-4-205	X	X	X			X	X
MONT. CODE ANN. § 40-4-212							

Chart 2: Custody Criteria\* (continued)

STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Nebraska</b> NEB. REV. STAT. § 42-358 NEB. REV. STAT. § 42-364 NEB. REV. STAT. § 43-2923	X	X	X			X	X
<b>Nevada</b> NEV. REV. STAT. § 125.480	X	X <sup>9,5</sup>	X	X	X	X	
<b>New Hampshire</b> N.H. REV. STAT. ANN. § 461-A:6	X <sup>3</sup>	X	X		X	X	X
<b>New Jersey</b> N.J. STAT. ANN. § 9:2-4	X	X	X		X	X	X
<b>New Mexico</b> N.M. STAT. ANN. § 40-4-8 N.M. STAT. ANN. § 40-4-9 N.M. STAT. ANN. § 40-4-9.1	X	X	X	X	X	X	X
<b>New York</b> N.Y. DOM. REL. LAW § 240		X <sup>10</sup>				X	X
<b>North Carolina</b> N.C. GEN. STAT. § 50-13.1 N.C. GEN. STAT. § 50-13.2		X <sup>11</sup>	X			X	
<b>North Dakota</b> N.D. CENT. CODE § 14-09.06.2 N.D. CENT. CODE § 14-09.06.4	X	X	X		X	X	X
<b>Ohio</b> OHIO REV. CODE ANN. § 3109.04	X <sup>3</sup>	X	X <sup>12</sup>		X	X	X
<b>Oklahoma</b> OKLA. STAT. TIT. 43 § 109 OKLA. STAT. TIT. 43 § 112		X	X <sup>12</sup>		X	X	X
<b>Oregon</b> OR. REV. STAT. § 107.137	X	X <sup>13</sup>	X <sup>14</sup>		X	X	
<b>Pennsylvania</b> 23 PA. CONS. STAT. ANN. § 5328 23 PA. CONS. STAT. ANN. § 5334	X	X	X		X	X	X
<b>Rhode Island</b> R.I. GEN. LAWS § 15-5-16 R.I. GEN. LAWS § 15-5-16.2		X <sup>15</sup>	X		X <sup>15</sup>	X	X
<b>South Carolina</b> S.C. CODE ANN. § 63-3-530 S.C. CODE ANN. § 63-3-810 S.C. CODE ANN. § 63-15-30 S.C. CODE ANN. § 63-15-40		X	X			X	X
<b>South Dakota</b> S.D. CODIFIED LAWS § 25-4-45		X <sup>16</sup>	X			X	X
<b>Tennessee</b> TENN. CODE ANN. § 36-4-132 TENN. CODE ANN. § 36-6-101 TENN. CODE ANN. § 36-6-106	X	X	X	X <sup>12</sup>	X	X	X
<b>Texas</b> TEX. FAM. CODE ANN. § 11.002 TEX. FAM. CODE ANN. § 153		X <sup>18</sup>	X <sup>19</sup>	X		X	X
<b>Utah</b> UTAH CODE ANN. § 30-3-10 UTAH CODE ANN. § 30-3-10.02 UTAH CODE ANN. § 30-3-10.10 UTAH CODE ANN. § 30-3-11.2	X	X	X		X	X	X

STATE	Statutory Factors**	Child's Wishes	Joint Custody Authorized	Presumption in Favor of Joint Custody	Cooperative Parent	Domestic Violence***	Attorney or GAL****
<b>Vermont</b> VT. STAT. ANN. TIT. 15 § 594; 665; 665A	X	X <sup>20</sup>	X		X	X	X
<b>Virginia</b> VA. CODE ANN. § 20-124.2; 20-124.3	X	X	X		X	X	X <sup>21</sup>
<b>Washington</b> WASH. REV. CODE § 26.09.013 WASH. REV. CODE § 26.09.187 WASH. REV. CODE § 26.09.220	X	X	X		X	X	X
<b>West Virginia</b> W. VA. CODE § 48-6-206 W. VA. CODE § 48-9-209 W. VA. CODE § 48-9-302	X	X	X		X	X	X
<b>Wisconsin</b> WIS. STAT. § 767.41 WIS. STAT. § 767.407	X	X	X	X	X	X	X
<b>Wyoming</b> WYO. STAT. ANN. § 20-2-201	X	X <sup>22</sup>	X		X	X	

\* The chart looks at child custody determinations during a divorce or separation. The statutes cited do not necessarily affect child custody decisions in other situations.

\*\* Although there is a statutory list of factors, the court may in its discretion consider other factors under the particular circumstances of the case.

\*\*\* The jurisdiction has enacted a statute permitting the consideration of domestic violence in conjunction with child custody. The statutes vary from making domestic violence a factor in custody determinations, to imposing presumptions against custody in batterers or imposing special procedural considerations in cases involving domestic violence.

\*\*\*\* This column indicates whether a state has statutory authority for appointment of a guardian *ad litem* or attorney for a child specifically in child custody cases.

1. By case law. *See, e.g., Naudt v. Haddock*, 882 So. 2d 364 (Ala. Civ. App. 2003).

2. There is a presumption that joint custody is in the best interest of the child if both parents request joint custody.

3. Does not use the term "child custody," but instead uses the terminology, such as "parental responsibilities and rights," "legal custodian," or other similar terminology.

4. Fla. Stat. § 61.13(2)(c)(2)—"The court shall order the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child."

5. Domestic violence is not addressed in the statute but has been considered by courts as a factor in case law.

6. By case law. *See, e.g., Hild v. Hild*, 157 A.2d 442 (Md. 1960); *Wagner v. Wagner*, 674 A.2d 1 (Md. Ct. Spec. App. 1996); *Montgomery Cnty. Dep't of Soc. Services v. Sanders*, 381 A.2d 1154 (Md. Ct. Spec. App. 1977).

7. Factors considered in custody decisions are listed in case law. *See Albright v. Albright*, 437 So. 2d 1003, 1005 (Miss. 1983).

8. Public policy encourages participation of both parents in decisions and statute directs that "the court shall determine the custody arrangement which will best assure both parents participate in such decisions . . . so long as it is in the best interests of the child." This statute, however, does not create a presumption in favor of joint custody. *In re Marriage of Kroeger-Eberhart v. Eberhart*, 254 S.W.3d 38, 2007 Mo. App. LEXIS 1661 (Mo. Ct. App. 2007).

9. In Montana, the words "custody," "joint," "primary parent," or "visitation" are not used when referring to child custody. Parents are considered to have identical rights as to the child, but their parenting times may differ.

9.5. Nevada will consider a child's wishes, among other factors, if the child is of sufficient age and capacity to form an intelligent preference as to custody.

10. By case law. *See Gant v. Higgins*, 203 A.D.2d 23 (N.Y. App. Div. 1994).

11. By case law. *See, e.g., Harris v. Harris*, 115 N.C. 587 (1894); *Brooks v. Brooks*, 184 S.E.2d 417 (N.C. Ct. App. 1971).

12. Uses the term "shared parenting."

13. By case law. *See In re Marriage of Tuttle*, 660 P.2d 196 (Or. Ct. App. 1983).

14. The court may only order joint custody if both agree to joint custody. The court may not order joint custody over the objection of either parent.

15. By case law. *See, e.g., Africano v. Castelli*, 837 A.2d 721 (R.I. 2003); *Pettinato v. Pettinato*, 582 A.2d 909 (R.I. 1990).

16. *See Price v. Price*, 611 N.W.2d 425 (S.D. 2000).

17. It is presumed that joint custody is in the best interest of a minor child where the parents have agreed to joint custody or agree to joint custody in open court.

18. By case law. *See Vazquez v. Vazquez*, 292 S.W.3d 80 (Tex. App. 2007).

19. Texas uses the language "sole or joint managing conservator" rather than "sole or joint custody."

20. By case law. The court is not required or forbidden to consider the preference of the child. *See Cameron v. Cameron*, 398 A.2d 294 (Vt. 1979).

21. Discussed further in *Verrocchio v. Verrocchio*, 429 S.E.2d 482 (Va. Ct. App. 1993).

22. By case law. *See JRS v. GMS*, 90 P.3d 718 (Wyo. 2004).



0001

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.: D-11-443611-D

DEPT NO.: Q

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

Party Filing Motion/Opposition: ☐ Plaintiff/Petitioner ☒ Defendant/Respondent  
DEFENDANT'S AMENDED OPPOSITION TO PLAINTIFF'S MOTION TO MODIFY ORDER  
RESOLVING PARENT CHILD ISSUES [TO DELETE "TEENAGE DISCRETION" PROVISION]  
AND OTHER EQUITABLE RELIEF;  
DEFENDANT'S COUNTERMOTIONS TO RESOLVE PARENT/CHILD ISSUES, TO CONTINUE  
HEARING ON CUSTODY ISSUES, FOR AN INTERVIEW OF THE MINOR CHILDREN, AND  
ATTORNEY'S FEES AND SANCTIONS

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

**NOTICE:**

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

**Mark correct answer with an "X"**

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

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

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

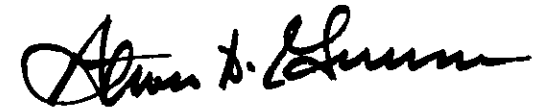
Dated this 17<sup>th</sup> day of October, 2013

Jolene Hoeft

Printed Name of Preparer

Signature of Preparer





CLERK OF THE COURT

**RPLY**

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DISTRICT COURT

CLARK COUNTY, NEVADA

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant

CASE NO.: D-11-443611

DEPT NO.: Q

Date of Hearing: 10/30/13

Time of Hearing: 10:00 a.m.

**PLAINTIFF'S REPLY BRIEF**  
**IN SUPPORT OF PLAINTIFF'S COUNTERMOTIONS**  
**FOR REASONABLE DISCOVERY AND EVIDENTIARY HEARING,**  
**EQUITABLE RELIEF, ATTORNEYS' FEES AND SANCTIONS,**  
**AND DECLARATORY RELIEF**

COMES NOW, Plaintiff Kirk Ross Harrison by and through his attorneys,, Thomas J. Standish,  
Esq., of the law firm of Jolley, Urga, Wirth, Woodbury & Standish, and Edward L Kainen, Esq., of the

...

...

...

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**UNNECESSARY  
PAGES OMITTED**

## **EXHIBIT 29**

# **Harrison v. Harrison**

**Videotaped Deposition of Norton A. Roitman, MD**

**April 27, 2012**



500 South Rancho Drive, Suite 8A  
Las Vegas, Nevada 89106  
Telephone **702.474.6255**  
Facsimile 702.474.6257

**[www.westernreportingservices.com](http://www.westernreportingservices.com)**

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1 A. Yes.  
2 Q. Not by Mr. Harrison?  
3 A. We may have had a conversation. I don't have  
4 a distinct affirmative recollection of that one way or  
5 the other.  
6 Q. When did you first learn how you -- how he had  
7 obtained your name?  
8 A. When he met with me -- or maybe it was the  
9 preliminary phone call -- he told me he received my  
10 name from two people that -- that I was -- he thought  
11 I was credible.  
12 Q. And did he tell you who those people were?  
13 A. I thought it was Jim Jimmerson and Gar  
14 (phonetic) Jamison.  
15 Q. You have a distinct recollection of that  
16 today?  
17 A. I just don't know whether it was Mr. Harrison  
18 who told me that or another person who came to me for  
19 consultation. But I -- I'm pretty sure Jamison is --  
20 was -- I'm almost positive Jamison referred me.  
21 Whether Jimmerson did or not, I'm not exactly sure.  
22 Q. Okay. You have no recollection of speaking to  
23 Mr. Harrison before this first January 15th two-hour  
24 conversation?  
25 A. No, but I couldn't refute it either. I just

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1 explanation for the purpose of -- once he knew what  
2 was wrong, he would be able to help out and do  
3 something about it.  
4 The -- I asked him early on -- because it's  
5 important -- whether he -- if the problems were so  
6 great he thought that they would be separating. And  
7 he indicated that he was dedicated to the marriage, at  
8 least for the sake of the children, and would very  
9 much like to have a good relationship back with his  
10 wife as well.  
11 He's loquacious. And so a lot of -- of what  
12 he talked about were almost like at some emotional  
13 distance, describing events and circumstances,  
14 sometimes with worry, sometimes with slight degrees of  
15 anger. He had foundations for the things that he  
16 discussed with me, reasons and examples. So -- as  
17 opposed to a spouse that comes to me bereft and  
18 disorganized and not knowing what to do, he struck me  
19 more as a problem solver.  
20 Am I giving a speech?  
21 Q. No. I asked you to list what it is he told  
22 you, and you're doing that.  
23 A. Okay. Now, the -- I was trying to organize  
24 the task that he was asking me for during this session  
25 in my mind, because oftentimes when people come for

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1 don't have a distinct memory one way or the other.  
2 Q. We're going to come back to this. Has  
3 Mr. Standish or Mr. Harrison or Mr. Kainen told you  
4 that you're going to be asked to testify -- you will  
5 testify at trial in this case?  
6 A. It's possible, is what I've been told.  
7 Q. It's possible?  
8 A. Yeah.  
9 Q. They haven't said definitively one way or the  
10 other?  
11 A. No. I don't have any time arranged. I don't  
12 have a request.  
13 Q. Let's talk about your initial consultation  
14 with Mr. Harrison.  
15 What time of the day?  
16 A. I'll try to look it up if it's on my schedule.  
17 1:00, 1:00 p.m.  
18 Q. Okay. And it was a two-hour consultation?  
19 A. Yes. Uh-huh.  
20 Q. What did Mr. Harrison tell you?  
21 A. Well, I'm left with impressions rather than  
22 details. He was really concerned about the changes  
23 his wife has undergone. He gave me many examples.  
24 And he was worried about the impact these changes  
25 would have on his children. He was seeking an

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1 consultations, it's not to review materials, but it's  
2 to just talk one on one. And most of the time it's  
3 about a person's own issues and problems, not about  
4 someone else. But I would -- I thought that the  
5 agenda that he had and the method that he had for me  
6 to use, which was to look over the material, was  
7 reasonable and that it was within my scope and my  
8 experience. And so I took upon myself the agreement  
9 to read through it. I thought it would take about 10  
10 hours to do so.  
11 I asked if he wanted me to give him a written  
12 report when it was finished, which -- not that I  
13 recommended it, but it's always an option. And he  
14 said he just wanted to talk about it.  
15 Q. Okay. So, he spent two hours with you?  
16 A. Uh-huh.  
17 Q. Talking the entire time?  
18 A. Yes.  
19 Q. Okay. And then he gave you a 38-page document  
20 to read?  
21 A. Yes.  
22 Q. Did -- did you read the document?  
23 A. Thoroughly, yes.  
24 Q. Thoroughly. All right. And when you read the  
25 document, was there any discrepancies between what you

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_/

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 4**

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***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***



## CHRONO INDEX

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

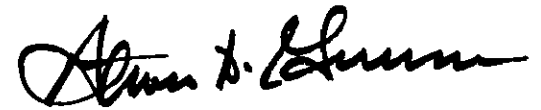
29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675





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DISTRICT COURT  
CLARK COUNTY, NEVADA

17 KIRK ROSS HARRISON,  
18 Plaintiff,

18 vs.

19 VIVIAN MARIE LEE HARRISON,  
20 Defendant

CASE NO.: D-11-443611  
DEPT NO.: Q

Date of Hearing:  
Time of Hearing:

23 **REPLY TO DEFENDANT'S OPPOSITION TO PLAINTIFFS MOTION FOR JOINT**  
24 **LEGAL CUSTODY AND PERMANENT PHYSICAL CUSTODY AND FOR EXCLUSIVE**  
25 **POSSESSION OF RESIDENCE**

25 AND

26 **OPPOSITION TO DEFENDANT'S COUNTERMOTIONS FOR EXCLUSIVE POSSESSION**  
27 **OF MARITAL RESIDENCE, FOR PRIMARY PHYSICAL CUSTODY OF MINOR**  
28 **CHILDREN; FOR DIVISION OF FUNDS FOR TEMPORARY SUPPORT, AND FOR**  
**ATTORNEY'S FEES**

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1 COMES NOW, Kirk Ross Harrison, by and through his attorneys, Thomas J. Standish, Esq.,  
2 and Jennifer Poynter-Willis, Esq., of the law firm of Jolley, Urga, Wirth, Woodbury & Standish, and  
3 Edward L. Kainen, Esq., of the Kainen Law Group, and hereby files his Reply in support of  
4 Plaintiff's Motion For Joint Legal Custody and Permanent Physical Custody and For Exclusive  
5 Possession Of Residence and his Opposition to Defendant's Counter-motions For Exclusive  
6 Possession of Marital Residence, For Primary Physical Custody of Minor Children; For Division Of  
7 Funds For Temporary Support, and For Attorney's Fees.

8 DATED this 4<sup>th</sup> day of January, 2012.

9 KAINEN LAW GROUP, PLC

10 /s/ *Edward L. Kainen*

11 By: \_\_\_\_\_

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

The overriding issue before this Court is what custody arrangement is in the best interest of Brooke and Rylee – both emotionally and physically. Kirk is seeking primary custody because it is clearly in Brooke and Rylee’s best interest. Kirk is not seeking primary custody because he is out to get Vivian.

Obviously unable to address the horrendous facts before this Court concerning Vivian’s behavior and continuing harm to Brooke and Rylee, Vivian has chosen instead to launch a baseless unethical attack against Kirk and fabricate a fictional scenario in the Harrison home that has never existed for Brooke and Rylee. Vivian’s position is not grounded in fact, but rather baseless accusations aimed at taking this Court’s attention away from the important issues before it.<sup>1</sup>

Many cases that come before the family courts are what might be described as “he said – she said” matters. There are no other adults living in the home, there are few, if any, contemporaneous records to corroborate what actually occurred, and there has been no physical harm to any of the minor children. In such cases, it is extremely difficult for the court to determine who is telling the truth. This is not one of those cases.

Tahnee, the Harrison’s 26 year old daughter, was **living at home from December of 2008 until January of 2011** – a period in excess of two years – courageously provided an affidavit because she cares about Brooke and Rylee. (Tahnee ¶3) Similarly, Whitney, the Harrison’s 25 year old daughter, who is now attending physician’s assistant school in North Carolina, was **living at home from the end of spring semester in 2009 until September of 2010** and then again during **March of 2011** – a period of 17 to 18 months – also courageously provided an affidavit because she too cares about Brooke and Rylee. (Whitney ¶3) Kirk, Tahnee and Whitney all sincerely wish Vivian was capable of being a loving, caring, responsible, and consistent parent for Brooke and Rylee. The sad truth is Vivian is not and may never be.

---

<sup>1</sup> A review of Vivian’s Opposition exposes Vivian’s strategy – try to make Kirk “the bad guy,” and lie, lie, and lie again.



1 The Opposition makes much to do about Vivian's role as a mother and in the community.  
2 Frankly, if Vivian was the mother she was prior to 2000, Kirk would not be seeking primary  
3 custody, although there were still significant issues then. Vivian's need to control her children and  
4 make all their decisions, rather than rearing them to be confident independent individuals, continues  
5 to significantly plague Tahnee and Joseph. The only reason Vivian stopped sleeping with Joseph  
6 every night when he was 10 in 1999 is because Brooke was born.

7 Vivian didn't start hitting— not just “slapping” as she falsely claims – her children in the face  
8 and about the head until 2000. Prior to 2000, Vivian didn't throw Tahnee to the floor and kick her  
9 repeatedly in the abdomen. Vivian hadn't gone months without sitting down in the Harrison home  
10 and having a meal with her small children. Vivian's obsessive compulsive behavior was more  
11 under control and she didn't become so obsessed with things, that she did them to the exclusion of  
12 her own children. Vivian didn't burst into fits of rage and start screaming obscenities in front of her  
13 minor children. Prior to 2000, the vast majority of Vivian's conversations with her children didn't  
14 involve someone's physical appearance and Vivian didn't have a practice of telling her children  
15 what was wrong with them physically, i.e., your jaw is too weak, your ears are too pointed, you are  
16 too fat, etc. Prior to 2000, Vivian was not so callous about the best interests of her minor children  
17 that she recklessly and unnecessarily caused them physical harm again and again. Prior to 2000,  
18 Vivian didn't have five major plastic surgeries in less than a year, have procedures on her skin week  
19 after week, and have doctors' appointments every other day for a month.<sup>2</sup>

20 Prior to 2000, Vivian didn't irrationally pursue Jonathan Rhys Meyers, her “soul mate,”  
21 wasn't on Google Alert to monitor her “soul mate's” every move, didn't enlist the services of  
22 telephone clairvoyant at three hundred dollars per hour, didn't tell people she was a “master soul”  
23 because of all the times she had been reincarnated, and didn't spend the vast majority of every day  
24 behind a closed door shunning her family, including her minor children.

25 ...

---

26  
27 <sup>2</sup> To describe all of this as a “mommy makeover” is akin to describing an aircraft carrier, as a  
28 row boat. Vivian has serious problems. Disingenuous attempts to minimize those problems help no  
one, including Vivian.

1 Prior to 2000, Vivian didn't irrationally pursue Sergio Becerra, who lives in Ireland, and in  
2 furtherance of that pursuit, enlist a personal trainer, enlist a tarot card reader, drive by herself to a  
3 David Gray concert in San Diego and drive back home through the night, just so she and Sergio  
4 could both be "emotionally" moved by David Gray, didn't buy an entire new wardrobe that included  
5 numerous sequined dresses and expensive shoes to impress Sergio, and didn't go to Ireland for the  
6 sole purpose of pursuing Sergio Becerra.

7 Prior to 2000, Vivian, didn't tell people that Tahnee would try to kill her or smother her to  
8 death with a pillow. Prior to 2000, Vivian did not punch Kirk in the face in front of Rylee, self-  
9 inflict an injury to her finger and wipe blood on her face, lie to Rylee in an effort to convince her  
10 that Kirk had actually hit Vivian, and lie to the police claiming Kirk had hit her. Prior to 2000,  
11 Vivian was not so delusional that she saw triple when she drove a car and had to pull over to the side  
12 of the road until she no longer saw triple. Prior to 2000, Vivian wasn't so psychologically troubled.  
13 And to the best of Kirk's knowledge, prior to 2000, Vivian was not abusing controlled substances.

14 Apparently, it is not enough that the children and Kirk have had to live with someone so  
15 unstable, volatile, aggressive, assaultive, callous, emotionally abusive, physically abusive, deceitful,  
16 and harmful as Vivian has become. It is, apparently, not enough that the children and Kirk have had  
17 to live with someone who has been taking Phentermine, Bontril, Didrex, and Diethylpropion since  
18 June of 2004 – over seven (7) years! All are controlled substances and all, but Diethylpropion, in  
19 the same pharmaceutical family as amphetamines ("Speed"). All drugs that work on the central  
20 nervous system and so powerful each is only supposed to be taken for a few weeks. Apparently, it is  
21 not enough that Kirk had to cause to be filed a motion for primary physical custody to protect  
22 Brooke and Rylee from further emotional and physical harm. None of this was enough. According  
23 to Vivian's counsel, Kirk had to be made "the bad guy."<sup>3</sup> Kirk had to be unethically defamed and  
24

---

25 <sup>3</sup> Kirk met Rad Smith, Esq. for the first time at the hearing on Defendant's Emergency  
26 Motion For Preliminary Distribution of Community Property Funds To Complete Executory  
27 Contract on October 25, 2011. Mr. Smith, Jordan Peel, Tom Standish, Ed Kainen and Kirk were  
28 standing in the hallway between the courtroom and the Judge's chambers. Rad Smith turned to Kirk  
and volunteered what is, apparently, his view of his responsibility in the case and said "**It's my job  
to make you the bad guy.**"

1 falsely accused of manufacturing, creating and inventing a case. Kirk had to be unethically defamed  
2 and falsely accused of developing a “theory” and of choosing a “diagnosis.” And now, people like  
3 Michele Walker and Heather Atkinson, who have taken financial advantage of Vivian at every  
4 opportunity, have submitted statements making one false statement about Kirk after another. The  
5 adult Harrison children and Kirk have all been disgusted by the conduct of Michele Walker and the  
6 way she has financially capitalized upon Vivian’s instability and need to buy “friendship.” The  
7 adult Harrison children and Kirk all liked Heather and Jesse Atkinson. All of them believed Jesse  
8 and Heather to be nice people. Kirk had a problem with Vivian paying for their daughter’s private  
9 dance lessons, but thought they were otherwise nice people. Kirk and Joseph used to play golf with  
10 Jesse. Jesse has a good sense of humor and is fun to be around. However, when they learned that  
11 Jesse and Heather Atkinson were pursuing \$382,000.00 from Vivian, in the middle of the divorce, to  
12 buy them a new home they cannot afford, the Harrison adult children and Kirk were shocked. Kirk,  
13 in an effort to protect Vivian, caused his attorneys to file an opposition to prevent the loan for all of  
14 the reasons set forth in that opposition. Jesse Atkinson, as though he was entitled to this loan, filed  
15 an affidavit stating that Kirk doesn’t like him merely because he is friendly with Vivian. Kirk’s  
16 problem with Jesse, isn’t because he is friendly with Vivian, it is because he is blatantly taking  
17 advantage of Vivian. It is ironic that those people whom the adult Harrison children and Kirk would  
18 like to protect Vivian from, are the very people filing affidavits designed to continue the physical  
19 and emotional harm upon Brooke and Rylee.

20       However, as Nyla Roberts recently told Kirk, people who do not live in your home do not  
21 know what is going on in your home. In reinforcing this point, Nyla told Kirk there was a period of  
22 time when she thought she and her husband, Dennis, would be filing for divorce before Kirk and  
23 Vivian. Kirk admitted he was not aware of that being the case. Here, Michele Walker and Heather  
24 Atkinson do not know what has been going on in the Harrison home, because they don’t live there  
25 and have never lived there. However, Tahnee Harrison lived there. Whitney Harrison lived there.  
26 They know what has been happening and they both want Kirk to have primary custody of their little  
27 sisters because it is in Brooke and Rylee’s best interest. They both felt so strongly about it, they  
28 . . .

1 were willing to jeopardize their relationship with their mother – not something they wanted to do.

2 With all of her problems, and they are significant, Vivian is still their mother.

3 This, unquestionably, is not a “he said – she said” case. That is not what this case is about.  
4 It is about what custody arrangement is in the best interest of Brooke and Rylee. The affidavits of  
5 Kirk, Tahnee and Whitney are all detailed, consistent and factually correct. The testimony of each is  
6 corroborative of the others. Their testimony is further corroborated by the contemporaneous records  
7 that Kirk maintained. It is evident who is telling the truth. Brooke’s statement sums up what has  
8 occurred in the Harrison home better than any other, “It’s not as tough on Rylee because **she has**  
9 **really never had a mom.**” (Kirk ¶151) (emphasis added) Finally, the sad and totally unnecessary  
10 significant physical harm that has been caused to Rylee by Vivian cannot be denied.

11 **II. ARGUMENT**

12 **A. Vivian’s False Accusation That Kirk “Manufactured,” “Created,” and “Invented” The**  
13 **Fact That Vivian Has A Narcissistic Personality Disorder Is A Disgustingly Baseless**  
14 **And Totally Frivolous Fabrication**

15 Vivian’s deviant behavior has caused significant problems for everyone in the Harrison  
16 family, including Vivian, for a number of years. For several years, Kirk kept hoping and  
17 erroneously assuming that Vivian’s condition was temporary and would improve. (Kirk ¶261)  
18 However, Vivian’s condition not only did not improve, it became worse and worse over time.  
19 Vivian refused to get counseling. (Kirk ¶263) Finally, desperate to solve a horrendous problem for  
20 his family, Kirk determined he needed to seek the advice of the best psychiatrist he could find.  
21 Kirk was seeking help to save his family. Kirk felt it was critical that the psychiatrist be given as  
22 much information as possible about Vivian. Since Vivian refused to speak with anyone, Kirk was  
23 relegated to the only thing he felt he could do. Kirk began to prepare an exhaustive summary of  
24 everything he knew about Vivian, including her childhood. As Kirk was preparing this summary, he  
25 included as much detail as possible about her then current behavior, including what he personally  
26 observed and what his adult children told him. (Kirk ¶263) The contemporaneous record kept by  
27 Kirk of what occurred in the Harrison home was in an effort to identify the cause or causes of  
28 Vivian’s behavior and, if possible, to get Vivian help.

...

1 By the middle of December of 2009 Kirk had completed the summary. Kirk did not know  
2 any psychiatrists and did even know the names of any psychiatrists. Kirk wanted to identify the best  
3 psychiatrist, who had an expertise in a family context. Kirk contacted the two people he knew who  
4 he thought would most likely be able to identify the best psychiatrist to help his family. Kirk first  
5 called his friend Gard Jameson, who is a leader in the child advocacy effort in Southern Nevada.  
6 Mr. Jameson referred Kirk to only Dr. Norton Roitman. Kirk then telephoned family law attorney,  
7 Jim Jimmerson, Esq. to obtain a referral for whom he believed to be the best psychiatrist. Mr.  
8 Jimmerson also identified Dr. Norton Roitman as the best psychiatrist. (Kirk ¶265)

9 On or about, Monday, January 4, 2010, Kirk hand-delivered to Dr. Roitman the extensive  
10 summary he had prepared. A true and correct copy of this January 4, 2010 summary is attached  
11 hereto as Exhibit “9.” At the time Kirk submitted this letter to Dr. Roitman, he had no intention of  
12 anyone ever seeing this letter other than the psychiatrist to whom it was given. (Kirk ¶263)

13 What is indisputably clear from this letter to Dr. Roitman is that Kirk was trying to solve an  
14 extremely difficult problem for his family. Kirk was not out to get Vivian. Contrary to what Vivian  
15 now alleges as fact, Kirk was trying to get help for Vivian and his children. Excerpts from this letter  
16 reveal the truth. Near the end of the letter, there is a section entitled, “GOALS/SOLUTIONS.” It is  
17 telling what Kirk identified to Dr. Roitman as his first and most important goal:

18 (1) Vivian

19 First and foremost, we must figure a way for Vivian to feel good  
20 about herself. She must gain a real understanding about how wonderful  
21 her life really is. To do this I believe she must address and understand  
22 the ills of her childhood and how they have been negatively affecting her.  
If we can get Vivian genuinely happy – not just momentarily  
superficially happy – but genuinely happy, then 99% of our marriage and  
family’s problems are solved.

23 (Exhibit 9, p. 35)

24 The letter from Kirk to Dr. Roitman ends with a series of questions. These questions reveal  
25 Kirk as a father and husband who is genuinely concerned about each member of his family,  
26 including Vivian, and who is doing everything he can to get answers and to solve the problems that  
27 are causing his family to suffer:

28 . . .

QUESTIONS

What is the best course of action for Brooke and Rylee?

Any ideas as to how to get Vivian into therapy?

Are Vivian's problems fixable?

Vivian's behavior is so much like the behavior of her mother and her sister Cindy. Is it possible that it is genetic? Is it possible it is caused by a chemical imbalance?

Are all of Vivian's issues, i.e., the overwhelming need to be the center of attention, the need to criticize others, insecurities, the lack of a sense of propriety, etc. caused by her environment, and thus, hopefully, subject to correction, or do people have genetic behavioral limitations that cause this type of behavior that are not amenable to correction?

Is Vivian bipolar, suffering from severe depression, or something else? Are the courses of treatment the same or different?

Although I doubt she will go, is it possible that if Vivian goes to India to do good work (irrespective of her selfish motive) for several months that will help her mentally? What if she goes to Europe for a couple of months and goes to museums?

Is it possible this type of behavior is in the future of any of my children? If so, is there anything that can be done about it now to prevent or minimize it?

Do you believe Vivian's condition will continue to deteriorate?

Should I be concerned about Vivian becoming more violent with time [Wisdom of the Enneagram p. 296 & 308]

Is it possible for our marriage to be saved?

Tahnee wants to leave the house to get away from Vivian. Is that best for Brooke & Rylee? Is that best for Tahnee? It would be a significant additional expense during a tough economic time, but if it is in everyone's best interest I would certainly do it.

(Exhibit 9, p. 37 & 38)

Kirk closed the letter to Dr. Roitman with the following:

Finally, I realize I am asking for a preliminary diagnosis without you having the benefit of interviewing Vivian. I fully understand that whatever advice you give to me is qualified and limited by that fact. However, I must have some advice and guidance as to how to deal with this situation. **I do not know what to do.**

(Exhibit 9, p. 38) (emphasis supplied).

1 On or about Friday, January 15, 2010, eleven days after Kirk hand-delivered the letter to Dr.  
2 Roitman, and after Dr. Roitman had reviewed and analyzed the letter, Kirk sat down with Dr.  
3 Roitman to discuss the letter. At that time, Dr. Roitman advised Kirk that he thought Vivian was  
4 pathologically narcissistic (narcissistic personality disorder) and advised Kirk to read articles by Dr.  
5 Otto Kernberg, a leading authority on pathological narcissism. Dr. Roitman also discussed  
6 borderline personality and Cluster B with Kirk. This is confirmed by Kirk's cryptic notes on the last  
7 page of the letter: "Otto Kernberg Cluster B Borderline personality pathologically narcissistic"

8 This letter unequivocally establishes that the over-lawyered, unethical, and fabricated assault  
9 upon Kirk in Vivian's Opposition is totally baseless.

10 Incredulously, Vivian represented to this Court, **as fact**, the following:

11 **B. The Manufactured Allegation and Theories**  
12 **Underlying Kirk's Motion**

13 Kirk apparently understood that he would have a difficult time  
14 "winning" custody of the girls . . . so **he invented a case.**

15 After consulting with counsel, approximately three years ago  
16 he found a book that described Narcissistic Personality Disorder," and  
17 that **"did the Trick."**

18 (Vivian Opp. p. 8, l. 1-7) (emphasis supplied).

19 None of the foregoing is true.<sup>4</sup> Kirk did not "manufactur[e]" or "inven[t] a case" or choose a  
20 "diagnosis" or develop a "theory" as Vivian recklessly claims as fact.<sup>5</sup> NPD is not "Kirk's chosen  
21 . . .  
22 . . .  
23 . . .

---

24 <sup>4</sup> After speaking with Tom Standish and Jim Jimmerson during the summer of 2005 when  
25 Vivian took Brooke and Rylee from him for six weeks, Kirk did not speak to a family law lawyer  
26 until December 13, 2009 when he spoke with Jim Jimmerson and the purpose of that call was simply  
27 to get a referral for a psychiatrist and to ask if there was any way to get Vivian into therapy. Kirk's  
28 focus was to save his family and his marriage.

<sup>5</sup> To take this position, Vivian also has to pretend the Affidavits of Tahnee and Whitney do  
not exist. They do.

1 diagnosis” or “Kirk’s theory” as Vivian falsely represents to this Court. (Vivian Opp. P. 8. L. 7-10)  
2 There is absolutely no factual basis for Vivian to make such disparaging and defamatory  
3 statements.<sup>6</sup>

4 This is not only a baseless defamatory attack upon Kirk, but Dr. Roitman as well. Dr.  
5 Roitman is recognized as one of the top, if not the top, psychiatrist in the State of Nevada. The  
6 undeniable implication of Vivian’s factual assertions that Kirk “manufactured,” “invented,”  
7 “chose,” and “developed” that Vivian has a Narcissistic Personality Disorder is that Vivian is  
8 pretending that Dr. Roitman’s professional psychiatric analysis and the opinions of Dr. Roitman  
9 contained therein do not exist. As the Court is aware Dr. Roitman’s psychiatric analysis does exist  
10 and is set forth as Exhibit 6 to Plaintiff’s Motion. This is truly bizarre and preposterous!

11 The premise of Vivian’s Opposition is shown for what it is – a spurious defamatory attack  
12 designed to falsely create a personality contest before this Court. In Kirk’s letter to Dr. Roitman,  
13 dated January 4, 2010, there is no reference whatsoever to a Narcissistic Personality Disorder,  
14 because Kirk was unfamiliar with both the disorder and the term. A review of the questions at the  
15 end of the letter, confirms this fact. Kirk didn’t know what the causes of Vivian’s problems were –  
16 that is why he sought the advice of an expert!

17 No one is out to get Vivian. Tahnee and Whitney provided extensive affidavits which detail  
18 the facts upon which, in large part, the motion is based. All of these facts are corroborated by Kirk’s  
19 extensive affidavit and contemporaneous records. Contrary to Vivian’s outrageous assertion, Dr.

---

21 <sup>6</sup> Indeed, it is Vivian’s counsel who have manufactured a scenario that never existed and  
22 presented it to this Court as fact and they have represented baseless assertions as established facts to  
23 this Court in their zeal to make Kirk, in their own words, “the bad guy.” This Court should not  
24 permit such truly outrageous and flagrant misconduct to go unpunished. Officers of the Court are  
25 the guardians of the truth for the Court, not the purveyors of baseless accusations. Rule 11 sanctions  
26 must be imposed to protect the integrity of the judicial system. This is not the first time a motion  
27 has been filed that has been 48 pages with exhibits attached. However, it may be the first time  
28 opposing counsel has referred to a 48 page motion as being a 354 page motion (“354 pages of Kirk’s  
Motion”) and charged what is believed to be in excess of \$83,000.00 in fees simply to prepare an  
opposition, which is appalling by any reasonable standard. Kirk respectfully submits, that the size  
of opposing counsel’s bill, despite being on supposedly a billable hour basis, is more a function of  
opposing counsel’s belief as to the size of the community estate, than the hours of actual work  
performed.



1 Roitman's opinions, including that Vivian has a narcissistic personality disorder, are based upon the  
2 **facts** set forth in Tahnee, Whitney and Kirk's affidavits. None of Dr. Roitman's opinions were  
3 "manufactured," "invented," or "chosen" by Kirk. NPD is not "Kirk's chosen diagnosis" as Vivian  
4 so frivolously claims. (Vivian Opp., p. 8, lines7) Kirk bought books **after** his meeting with Dr.  
5 Roitman in January of 2010 in an effort to solve a problem for his family. These books were not just  
6 about narcissistic personality disorder. Kirk bought books about borderline personality disorder.  
7 Kirk also bought books such as, "The Emotionally Absent Mother – A Guide To Self-Healing And  
8 Getting The Love You Missed" by Jasmin Lee Cori (2010) and "Children of the Self-Absorbed" by Nina  
9 W. Brown (2<sup>nd</sup> ed. 2008). Faced with the harm Kirk was seeing being done to his children, Kirk did what a  
10 loving and caring father should have been doing, he was trying everything he could to solve the problem and  
11 to help his children – and his wife.

12 Unfortunately, as the Court is aware from Kirk's moving papers, Vivian's condition  
13 continued to deteriorate after January of 2010 causing more harm to Brooke and Rylee. Dr.  
14 Roitman, with the benefit of the detailed and extensive affidavits of Kirk, Tahnee and Whitney,  
15 ultimately found on June 9, 2011 that Vivian has a Narcissistic Personality Disorder, which is  
16 essentially not treatable.

17 It is tragic and horrible what Vivian's grandparents obviously did to their own daughter –  
18 Vivian's mother. It is tragic and horrible what Vivian's mother did to Vivian and her sisters --. the  
19 suicides, the drug and alcohol addictions and abuse, the rampant obsessive compulsive behaviors,  
20 the severe depressions, the constant suffering from anxiety, the extremely dysfunctional family  
21 dynamics, the manipulation of children, the abuse and neglect of children, stays at Child Haven,  
22 stays at Nike House, running away, and dropping out of school. All of this must stop at Vivian's  
23 generation. Vivian's callous manipulation of and lies to Brooke and Rylee must stop! No more  
24 instilling fear and insecurity each night. No more emotional and physical abandonment each time  
25 the next obsessive compulsive behavior rears its ugly head. Brooke and Rylee do not have to suffer

26 ...

27 ...

28 ...

1 from the same disorder Vivian suffers from for the rest of their lives.<sup>7</sup> Brooke and Rylee do not  
2 have to suffer from depression the rest of their lives. Brooke and Rylee do not have to live with  
3 constant anxiety the rest of their lives. Kirk urges the Court to do what is unquestionably in Brooke  
4 and Rylee's best interest.

5       Kirk and all of the Harrison adult children are truly saddened by seeing the deterioration in  
6 Vivian's condition over the last several years. It is tragic to see someone become so paranoid she  
7 believes her own daughter will try to smother her with a pillow and kill her. So delusional, she  
8 believes a 32 year old actor, who she had never met, is her soul mate. So delusional and paranoid,  
9 she is fearful her soul mate will see her on a television show before she has lost her weight, when he  
10 doesn't even know who she is! So insecure, she criticizes every member of her family. So  
11 obsessive compulsive she excludes her family from her daily life month after month after month. So  
12 obsessed she doesn't know or even care whether her young children have done their homework or  
13 have eaten dinner. So insecure, she feels she has to buy loyalty from her "friends." No one more  
14 than the Harrison adult children and Kirk wish Vivian could be cured and made a happy person.  
15 However, the tragic reality is that Vivian's condition isn't just harmful to Vivian, it is exceedingly  
16 emotionally and physically damaging to her children. Vivian doesn't want help and, tragically, she  
17 may not be amenable to help. Vivian will likely suffer from her disorder, her obsessive compulsive  
18 behavior, her depression, and her seemingly constant anxiety the rest of her life. This Court has the  
19 discretion to save Brooke and Rylee from the same fate. The Court is respectfully urged to act in  
20 Brooke and Rylee's best interest and prevent them from suffering from the same disorder, the same  
21 obsessive compulsive behavior, depression, and seemingly constant anxiety the rest of their lives.

22 ...

23 ...

24 ...

25 ...

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27       <sup>7</sup> NPD "stems from a 'disturbance in the parent-child relationship.'" "The cold and  
28 exploitive mothers treat their children as physical objects and ignore their children's separation-  
individuation needs. . ." (P. 10 of Dr. Roitman's Psychiatric Analysis, Exhibit 6 to Motion)

**B. Vivian's Callous Behavior Has Physically Harmed Rylee Time And Time Again – It Has to Stop!**

**1. When Vivian's Obstetrician Refused To Induce Labor Because It Was Not In The Baby's Best Interest, Vivian Was Furious, Induced Her Own Premature Labor, And Unnecessarily Caused Rylee To Experience A Very Traumatic Birth**

Vivian has exhibited a callous disregard for Rylee's well being again and again. The reason for this is that because of her disorder, Vivian views her children as mere objects.

As noted in the Motion, after her obstetrician refused to induce labor saying it was not in the best interest of the baby, Vivian drank a bottle of castor oil to induce labor resulting in an unnecessary and alarmingly traumatic birth for Rylee. (Kirk ¶31) It was not just a tablespoon for constipation as Vivian now falsely claims. In her effort to prematurely induce labor, Vivian also took the herb Blue Cohosh. Kirk was able to locate the bottle of Blue Cohosh. There is an unequivocal warning on the side of the bottle: **"CAUTION: Do NOT use if you are pregnant or may become pregnant while taking this herb."** Is Vivian now going to claim she took the Blue Cohosh for constipation as well? Vivian's lack of candor with the Court is shocking, but very consistent. Vivian was very upset with her obstetrician for refusing to induce labor, and told Kirk so. Vivian was going to show her, so she induced labor herself. There is evidence that children who are traumatized at birth are more vulnerable to psychological problems.<sup>8</sup> Studies have found that infants that suffer a traumatic birth are more likely to commit suicide.<sup>9</sup>

...

...

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<sup>8</sup> Elizabeth V. Gemmette, *Anxiety Associated With Birth Trauma* Psychological Reports. Vol. 50(3, Pt 1), 942 (June, 1982) Nandor Fodor, *The Search for the Beloved: A Clinical Investigation of the Trauma of Birth and Pre-Natal Conditioning* (1944)

<sup>9</sup> Bertil Jacobson, *Obstetric Care and Proneness of Offspring to Suicide As Adults: Case-Control Study*, BMJ1998: 317: 1346; Bertil Jacobson, *Perinatal Origin of Adult Self-destructive Behavior*, Acta Psychiatry, Scand. 1987; 76:364-371; Lee Salk, *Relationship of Maternal and Perinatal Conditions To Eventual Adolescent Suicide*, The Lancet, Vol. 347No. 9002 p. 630 (March 16, 1985)

2. Vivian Took Phentermine, Didrex, and Diethylpropion For At Least Eighteen (18) Months While She Was Nursing Rylee

Vivian lies to the Court when she swears that Kirk requested Vivian to provide a complete history of her Phentermine use **beginning in 2006**. (Vivian's Opposition, p. 42, l. 25-27) This makes no sense whatsoever. If Kirk wanted a complete history of Vivian's Phentermine use, which he did, why would he only want it to begin in 2006? It is totally nonsensical.<sup>10</sup> Kirk did request a complete history of Vivian's Phentermine use and Vivian provided him with what is attached hereto as Exhibit "10". At the time, Vivian represented this to be the totality of her Phentermine use.

Vivian continued to lie to the Court as well as to when she started taking Phentermine, claiming she did not start until 2005 (Vivian Opp., p. 41, l. 22).

The pattern of lies concerning Vivian's Phentermine use continued when she met with Dr. Thienhaus. In his second report, he memorialized that Vivian told him she started taking Phentermine in 2004 and that she has used "**Phentermine and related medications** (most recently Bontril) since then, **although not continuously**." Dr. Thienhaus quoted Vivian as saying she would only take Phentermine [and related medications] for "**about four or five months**" and then discontinue the drug. (Exh. A-10 to Vivian's Opposition).

Vivian's own answers to Dr. Life's questionnaire reveal the truth about Vivian's Phentermine use:

12. Please list all medication including dosage and frequency (prescription and/or over-the-counter) you currently take and the condition for which it is taken.

Citalopram	Anxiety	40mg	1x
<b>Phentermine</b>	Weight	37.5mg	1x

14. Please describe any current usage of recreational drugs.  
**Phentermine**

(Exhibit 21, p. 5) (Emphasis supplied)

Documents produced after the filing of Vivian's Opposition, by Vivian's physicians and the pharmacies she utilized, finally revealed the truth. Vivian began taking Phentermine in June of

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<sup>10</sup> As set forth in ¶43 of Kirk's Affidavit, "I am starting to be very concerned that Vivian was taking Phentermine while pregnant with Rylee and/or when she was nursing Rylee, and this might also have something to do with Rylee's current health issues."

2004. Contrary to her assertions to Dr. Thienhaus, Vivian took Phentermine and related medications continuously for periods far in excess of “four or five months.” The related medications included, not only Bontril, but Didrex and Diethylpropion as well. All of these drugs are Schedule III or Schedule IV controlled substances, and just like Phentermine, are only to be taken only for a few weeks and are all, except for Diethylpropion, considered part of the same pharmacologic family as amphetamines (“Speed”). Attached hereto as Exhibit “11” is Vivian’s history of taking these drugs that is known to date.

Based upon what is known to date, Vivian took Phentermine and related drugs for over seven years. During that approximately 87 month period, Vivian took those drugs at least 63 of those months.<sup>11</sup> Drugs the FDA warns are to be taken for just a few weeks, Vivian has taken for at least five years and three months or one thousand eight hundred ninety days (1,890) [63 x 30]!

The fact that Vivian began taking Phentermine in June of 2004, is significant for many reasons, not the least of which is that Vivian was still nursing Rylee during all of 2004, all of 2005, all of 2006, and part of 2007! Rylee was born on January 24, 2003 and Vivian admits she nursed Rylee until she was 4 years old. In Paragraph 205 of her sworn statement, Vivian swears:

205. So the Court understands the context of this claim, I nursed all of the children for at least two years, and I **nursed Rylee until she was four.**

(Emphasis supplied).

Therefore, Vivian nursed Rylee until at least January 24, 2007.

The FDA warning label for Phentermine specifically provides: “Because of the **potential for serious adverse reactions in nursing infants**, a decision should be made whether to **discontinue nursing** or to discontinue the drug, taking into account the importance of the drug to the mother.”

(Emphasis supplied.) The choice was clear for Vivian – either nurse Rylee or take Phentermine – not both, which is exactly what she did.

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<sup>11</sup> Three of the pharmacies still have not responded to the subpoenas. As can be seen from Exhibit “11” documents obtained from Vivian’s physicians confirm Vivian was taking these drugs during additional months as well.

1 It has also been determined that Vivian was also taking Didrex in 2004 and 2005 as well.  
2 The FDA label for Didrex specifically provides: “**Nursing Mothers** Amphetamines are excreted in  
3 human milk. Mothers taking amphetamines should be advised to refrain from nursing.” Despite  
4 this unambiguous warning, Vivian took the drugs and continued to nurse Rylee.

5 It has also been confirmed that Vivian took Diethylpropion in 2005. The FDA label for  
6 Diethylpropion specifically provides: **Nursing Mothers** Since diethylpropion hydrochloride and/or  
7 its metabolites have been shown to be excreted in human milk, caution should be exercised when  
8 diethylpropion hydrochloride is administered to a nursing woman.” No caution on Vivian’s part.  
9 Rylee’s best interests were of no concern to Vivian. Again, Kirk respectfully submits Vivian lacks  
10 the sensitivity a nursing mother would normally have for their child because she views her children  
11 as mere objects.

12 As a consequence of Vivian’s Narcissistic Personality Disorder, Vivian views Rylee as a  
13 mere object, so Vivian had no problem whatsoever taking Speed every day for at least eighteen (18)  
14 months while she was nursing Rylee.

15 **3. Vivian Took Citalopram (Celexa) For At Least Sixteen (16) Months**  
16 **While She Was Nursing Rylee**

17 Citalopram (Celexa) is approved to treat the symptoms of major depression. Citalopram is  
18 excreted in human milk. The manufacturer recommends that a decision should be made to  
19 discontinue nursing or discontinue the drug taking into account the importance of the drug to the  
20 mother. Note the decision is disjunctive – either nurse or take Citalopram – not both. The drug  
21 labeling according to Daily Med is consistent, noting that “citalopram is excreted in human breast  
22 milk” and providing, “The decision whether to continue or discontinue either nursing or Clexa  
23 therapy should take into account the risks of citalopram exposure for the infant and the benefits of  
24 Celexa treatment for the mother.”<sup>12</sup>

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25  
26 <sup>12</sup> Daily Med is a website operated by the U.S. National Library of Medicine (NLM) to  
27 publish up-to-date and accurate drug labels (also called a “package insert”) to health care providers  
28 and the general public. The contents of DailyMed is provided and updated by the U.S. Food and  
Drug Administration (FDA).

Vivian took Citalopram (Celexa) for at least sixteen (16) months while nursing Rylee. Attached hereto as Exhibit "12" are the documents produced by the Costco Pharmacy in Henderson. The Court will note Vivian began taking Citalopram on July 19, 2005 and continued to take it until very recently. The last prescription was filled on September 8, 2011. The sixteen months was calculated by simply adding the Citalopram prescriptions beginning on July 19, 2005 and continuing through January of 2007.

Again, as a consequence of Vivian's Narcissistic Personality Disorder, Vivian views Rylee as a mere object, so Vivian had no problem whatsoever taking Citalopram every day for at least sixteen (16) months or 480 days while she was nursing Rylee.

**4. As A Direct Consequence of Vivian's Callous Disregard For Rylee, Rylee Will Never Be As Tall As She Was Supposed To Be And Will Have Devices Surgically Implanted In Her Arm That Will Secrete A Man-Made Hormone Into Her Body For Two To Four Years!**

Rylee Harrison is 8 years old. Rylee has blonde hair, a great smile and a wonderful personality. Rylee is a good and loyal friend. Her favorite place to go is Lagoon and she is upset she and her friends cannot go to Lagoon for her birthday, which is on January 24<sup>th</sup> – Lagoon is closed for the winter.

Despite just being 8 years old; as a direct consequence of Vivian poisoning Rylee with testosterone, Rylee's breasts have already started to develop, which has been noticed by others. Rylee will **NEVER** be as tall as she was supposed to be. Within the next year or two, a device will be surgically implanted in Rylee's arm that will be left in her arm for a year. After a year, that device will be surgically removed from her arm and a new device will be surgically implanted. This removal and surgical implantation of a new device will take place annually until Rylee is 12 or 13 years old. These devices will secrete a man-made hormone (Supprelin LA) into Rylee's body in an effort to put a "pause" on puberty. There is a warning with this man-made hormone: "**Serious and life-threatening** allergic reactions have occurred with GnRH agonist medicines (the type of medicine in Supprelin LA)." (Emphasis supplied.) Without the surgical implantation of these devices into Rylee's arm and the secretion of this man-made hormone into Rylee's body for several years, Rylee will prematurely start puberty, likely having a period when just 10 years old and her

1 maximum height will be 5' 5." Her pediatrician previously estimated Rylee would be six feet (6')  
2 tall. Rylee's older adult sisters are 5' 11 1/4" and 5' 8 1/2". Dr. Dewan just had Brooke's hand x-  
3 rayed and on December 15, 2011, advised that Brooke will be six feet (6') tall. With all the risk and  
4 pain Rylee will have to endure during the next several years, maybe, she will attain a maximum  
5 height of 5' 6" or 5' 7" tall.

6 Rylee's treating physician, Dr. Dewan, concluded that Rylee's condition was caused by  
7 exposure to the testosterone that Vivian was applying nightly to her forearms just before Vivian got  
8 in bed to sleep with Rylee in her arms. Dr. Dewan's physician notes provide, "the elevated  
9 testosterone was from mom's cream. . ." Dr. Dewan's notes are attached hereto as Exhibit "13" and,  
10 by this reference, incorporated herein.

11 For years, prior to this horrible damage to Rylee occurring, Kirk, as well as, Tahnee and  
12 Whitney, tried to get Vivian to stop sleeping with Brooke and Rylee. They were gravely concerned  
13 about the psychological damage being done to Brooke and Rylee. On March 21, 2010, Kirk even  
14 wrote an extensive memorandum to Vivian pleading with her to stop sleeping with Brooke and  
15 Rylee. (Exh A to Kirk's first Affidavit – Exh. 1 to Motion) All to no avail. Vivian simply didn't  
16 care what was best for Brooke and Rylee. It was only what Vivian wanted that was important to  
17 Vivian.

18 Vivian claims there was never a box label or package insert with any of the testosterone she  
19 received, warning her to not expose her children. However, Vivian cannot deny that she knew by  
20 putting the testosterone on her own forearms it would be absorbed into her skin. Vivian cannot deny  
21 the purpose for which she took the testosterone, so she was well aware of its effects. Vivian cannot  
22 deny she applied the testosterone to her forearms right before going to bed with Rylee and Brooke.  
23 Vivian cannot deny the glaring common sense that if it is absorbed through her own skin **it would**  
24 **be absorbed through Rylee's skin!** This never should have happened, and but for Vivian's total  
25 disregard for what was best for Brooke and Rylee, it never would have happened. Under the  
26 circumstances, Vivian cannot deny that she reasonably knew or should have known the testosterone  
27 would be absorbed through Rylee's skin. Dr. Life's prescriptions for testosterone cream to Vivian  
28 are as follows:



1	10/27/09	Testosterone Vanishing Cream – topi click	30	J Life
2	1/26/10	Testosterone Vanishing Cream – topi click	30	J Life
3	3/18/10	Testosterone Vanishing Cream – topi click	30	J Life
4	5/25/10	Testosterone Vanishing Cream – topi click	30	J Life
5	6/1/30	Testosterone Vanishing Cream – topi click	30	J Life
6	6/3/10	Testosterone Vanishing Cream – topi click	30	J Life
7	8/30/10	Testosterone Vanishing Cream – topi click	30	J Life
8	10/25/10	Testosterone Vanishing Cream – topi click	30	J Life

9 It is Kirk’s understanding that Vivian was still applying testosterone cream to her forearms  
10 as late as February or March of 2011. At this point it is unknown whether Dr. Life provided Vivian  
11 with additional testosterone cream, which he did not document, or Vivian obtained testosterone  
12 cream from another physician and not from Cenegenics.

13 **5. After The Testosterone Poisoning, Rylee Was Harmed Yet Again As A**  
14 **Consequence Of Vivian’s Continued Sleeping In The Same Bed As**  
15 **Brooke And Rylee**

16 Incredulously, despite knowing she had poisoned Rylee with testosterone and the harm she  
17 had done to Rylee, Vivian continued to sleep with Brooke and Rylee. Vivian weighs over 190  
18 pounds. The three of them sleep in the same queen size bed. Vivian knew Brooke had fallen out of  
19 the bed three times when Vivian slept on one side and Brooke on the other with Rylee in the middle.  
20 Vivian knew that Rylee had fallen out of the bed after Vivian started sleeping in the middle with  
21 Brooke and Rylee on each side. Despite this knowledge, Vivian got in bed with Rylee and Brooke  
22 with Rylee sleeping on the side of the bed that was lined with glass chandeliers causing Rylee to fall  
23 on one of the chandeliers in her sleep.<sup>13</sup> This fall resulted in Rylee being soaked in her own blood,  
24 necessitated an emergency room visit for Rylee and Kirk, and seven stitches in Rylee’s arm,  
25 permanent scaring for Rylee, and finding Vivian sound asleep upon their return. This has to stop.

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26 <sup>13</sup> Kirk is not aware of Brooke or Rylee ever falling out of bed when Vivian wasn’t in the bed  
27 at the time. Vivian’s head was right next to the wall and her snoring was keeping Kirk from going  
28 to sleep. There is no doubt in Kirk’s mind whatsoever, that Vivian was sleeping in the middle of the  
bed when Rylee fell.

1 Brooke, trying to be the little mother to Rylee, now lines the floor on the side of the bed where  
2 Rylee sleeps with pillows.

3                   6.       **Contrary To Vivian's Sworn Denials, Vivian Continues To Sleep In The**  
4                               **Same Bed And In The Same Bedroom As Brooke And Rylee To This Day**

5       Despite her claims to the contrary, Vivian still gets in bed with Brooke and Rylee every  
6 night. Vivian closes the door each night. However, Kirk has seen Vivian asleep in the bed with  
7 Rylee, when Brooke stays up later to do homework. Kirk has seen Vivian still in bed asleep with  
8 Brooke and Rylee sometimes when Kirk checks on them before he goes to bed. Kirk has seen  
9 Vivian still in bed asleep with Brooke and Rylee sometimes when he checks on them very early in  
10 the morning. Vivian does not leave the bedroom until the early morning hours when she wakes up.  
11 Vivian either falls asleep in the bed with Brooke and Rylee, or she is in bed with them and then gets  
12 up and sleeps on the couch in their bedroom. Either way, she continues to make them afraid of  
13 sleeping without her.

14       Vivian's statement that she hasn't slept with Brooke and Rylee since May is simply a blatant  
15 lie. (Vivian Opp., p. 32, l. 23-25; p. 47, l. 18) Vivian was late getting back from the Atkinsons the  
16 night of Wednesday, December 7, 2011, and Rylee was too frightened to go upstairs by herself and  
17 wanted Kirk to lie down with she and Brooke. Vivian has instilled this fear in Rylee. Brooke and  
18 Rylee are mere objects to Vivian. Vivian continues to callously disregard the harm her continued  
19 sleeping with Brooke and Rylee is causing. "**Persistent anxiety is a frequent outcome**" from  
20 parents continued sleeping with older children. (Roitman Exhibit 6 at 18) (emphasis supplied)  
21 Vivian can only see what Vivian wants.

22       What occurred the evening of Thursday, December 8, 2011, is illustrative of the problems.  
23 Rylee will be nine years old on January 24, 2012. On this night, Vivian had already gone to bed in  
24 Brooke's room and it was 9:00 p.m. Brooke has a late dance class on Thursday nights and Kirk was  
25 not going to pick her up until 9:30 p.m. Rylee had finished her homework and Kirk told her to go to  
26 bed. Rylee was too scared to walk up the stairs to Brooke's bedroom by herself and insisted that  
27 Kirk walk with her. Rylee's unwillingness to go up the stairs to Brooke's bedroom by herself,  
28 despite knowing that Vivian is already in the bedroom, has happened on several other occasions. If

1 Rylee is this frightened when the lights are on and Kirk is there, one can only imagine the fear and  
2 horror she has had for years, when she wakes up in the middle of the night, finds Vivian missing, the  
3 door open, and a distant light coming from the bottom of the staircase. This callous manipulation by  
4 Vivian of Brooke and Rylee must stop.

5 After everything that has happened, Vivian continues to sleep with Brooke and Rylee. No  
6 rational loving parent would do this to their own children. Vivian has read the Motion. Vivian  
7 knows the fear and insecurity she has instilled in Brooke and Rylee, and yet, continues to do so.  
8 Vivian has been advised by everyone in this case to stop sleeping with Brooke and Rylee, but she  
9 continues to do so. Vivian knows that but for her sleeping with Brooke and Rylee, she would not  
10 have poisoned Rylee with testosterone and the horrific consequences of that poisoning, yet Vivian  
11 continues to sleep with Brooke and Rylee. Vivian can see the scar on Rylee's arm that Rylee will  
12 have the rest of her life as a consequence of Vivian sleeping with Brooke and Rylee, yet, she  
13 continues to do so.

14 This is yet another example of when the best interest of Brooke and Rylee conflict with what  
15 Vivian selfishly wants for Vivian, Brooke and Rylee will lose every time.

16 **C. Vivian's Relentless Pursuit of Sergio Becerra During 2011 Is Yet Another**  
17 **Example Of How Vivian's Obsessive Compulsive Behavior Is To The Exclusion**  
**Of Brooke And Rylee**

18 Brooke and Rylee need to be in a safe environment where they receive consistent loving  
19 parenting every day. Time and time again, Vivian has demonstrated she is unable to provide such an  
20 environment. Vivian has shown, time after time, she is unable to parent on a consistent basis.  
21 Vivian becomes absolutely consumed by her obsessive compulsive behaviors and when this occurs,  
22 Vivian has no time or thought for Brooke and Rylee. On or about November 16, 2010, Kirk noted  
23 that since November 3, 2010, (less than a two week period) Vivian had been more involved with  
24 Brooke and Rylee than she had been for several years. Kirk then noted, "There is no doubt in my  
25 mind that this effort by Vivian is temporary and she will abandon them yet again when she pursues a  
26 man, becomes consumed on the internet, or travels to Ireland for an extended period." (Kirk ¶164)  
27 Predictably, that is precisely what occurred.

28 . . .

1                   **1. Vivian's Relentless Pursuit of Sergio Is All Consuming For Vivian**

2           Beginning in late November 2010, Vivian started to prepare for her pursuit of Sergio  
3 Becerra, when she hired a personal trainer. (Kirk ¶167) As early as late December of 2010, Whitney  
4 told Kirk she believed Vivian was having an affair with a man other than David Walsh. (Kirk ¶174)  
5 Between late December of 2010 and when she left for Ireland on March 14, 2011, Vivian was  
6 consumed by her obsession with Sergio Becerra.<sup>14</sup> One of the photographs from Vivian's first trip to  
7 Ireland was of Vivian and Sergio Becerra. (Exhibit 4 to Motion) Between January 17, 2011 and  
8 January 19, 2011, Vivian was in Santa Monica, California having cosmetic surgery below her eyes,  
9 eye lids, liposuction of tummy and back areas, and filling in a "gouge" on her left hip or buttock.

10           The trainer, Rod, came to the Harrison home and worked with Vivian on a regular basis until  
11 Vivian left for Ireland on March 14, 2011. (Kirk ¶186) Vivian was doing yoga every day. Vivian  
12 was doing cardio exercises every day. We also now know that Vivian was taking 37.5 mg of  
13 Phentermine each day during this time period. Vivian was also injecting herself with HGC during  
14 this time period. (Kirk ¶180) Vivian had her second colonic appointment on Saturday, February 5,  
15 2011. (Kirk ¶192)

16           The latest expensive wardrobe Vivian bought in February of 2011 was part of Vivian's  
17 obsessive pursuit of Sergio Becerra. (Kirk ¶205 & ¶206)

18           In preparation of her trip, during February of 2011, Vivian had 11 different appointments  
19 with 8 different doctors. (Kirk ¶200) These appointments were part of Vivian's pursuit of Sergio  
20 Becerra.

21           Attached hereto are three emails to Vivian from Annmarie Goldstein at tarot of  
22 faith@yahoo.com. These emails are collectively Exhibit "14." The subject of the first email, dated  
23 January 17, 2011, is "your forecast chart." The subject of the second email, dated January 19, 2011,  
24 is "your compatibility with S." The subject of the third email, dated January 20, 2011, is "sergio  
25 ...  
26 \_\_\_\_\_

27           <sup>14</sup> Page 19, line 8 of the Motion should be changed from "continue her pursuit of Jonathan  
28 Rhys Meyers (star of Showtime's *The Tudors*)" to "pursue Sergio Becerra." Similarly, page 28, line  
8 of the Motion should be changed from "Jonathan Rhys Meyers" to "Sergio Becerra."

1 personal chart-who he is-“ Vivian highlighted phrases on the third email, including “motivated by  
2 feeling and emotion.”

3 Vivian had a planned 17 day trip to Ireland beginning March 14, 2011. (Kirk ¶206) Vivian  
4 told Brooke she was going on this trip to attend the Hope Ball in Dublin and she was leaving early  
5 because she wanted to spend time with her friends in Ireland and wanted to be in Ireland for St.  
6 Patrick’s Day. (Kirk ¶184)

7 On March 9, 2011, just a few days before her departure to Ireland, Vivian drove by herself to  
8 San Diego to attend a David Gray concert. Vivian showed up at the Harrison home at about 6:30  
9 a.m. the next morning. Vivian said she had to pull over to the side of the road three different times  
10 because she was falling asleep during the drive back. Vivian said she had four front row seats (three  
11 of which were empty) and her seat was the best in the place. (Kirk ¶208) Even for Vivian, this  
12 behavior seemed very strange.

## 13 2. Vivian’s Letter To Sergio Is Filled With “Feelings And Emotions”

14 Kirk has never seen any of Vivian’s emails. However, Kirk has seen a letter from Vivian to  
15 Sergio Becerra. This letter reveals Vivian’s motivation to go to Ireland twice in the Spring of 2011  
16 and pretty much destroys this whole “doing it for the children” theme that Vivian spews throughout  
17 her statement. A true and correct copy of this letter is attached hereto as Exhibit “15.”<sup>15</sup> The first  
18 paragraph of the letter pretty much sums up what was really going on:

19 **Sergio,**  
20 Don’t understand why I am compelled to share my thoughts and  
21 analyze your personality. I swear I don’t do this with any of my  
22 friends. **You** on the other hand, **keep me awake at night.** I am so in  
23 your head. **Have some theories as to why I might be so obsessed,** but  
24 it’s not going to help us solve the following question.

25 (Emphasis supplied).

26 The next several paragraphs shed some light on why Vivian drove to San Diego and back on  
27 the eve of her trip to Ireland just to see a David Gray concert. Vivian confirms in the second  
28

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<sup>15</sup> Also included in Exhibit 15 is the draft language referenced in the last paragraph of the letter to Sergio.

1 sentence of the third paragraph of this letter that Sergio had previously told Vivian that he was “able  
2 to relate to his [David Gray] lyrics on a very deep emotional level.” This letter was likely emailed  
3 shortly before Vivian left for Ireland, as she wrote, “Last night you asked me “why do I like David  
4 Gray so much?”

5 The Court may recall the last email to Vivian from the tarot card reader described Sergio as  
6 being “**motivated by feeling and emotion** rather than intellectuality.” (Exhibit 14) Kirk submits the  
7 thrust of this letter is a rather obvious attempt to appeal to Sergio’s feeling and emotion. The  
8 sequence of events is telling. The tarot card reader tells Vivian that Sergio is motivated by feeling  
9 and emotion. Sergio tells Vivian, that he relates to David Gray’s lyrics on a very deep emotional  
10 level. Vivian drives to San Diego and back by herself to see a David Gray concert on the very eve  
11 of her trip to Ireland. Vivian then writes a letter to Sergio, which not so subtly, attempts to appeal to  
12 Sergio being motivated by feeling and emotion, and attempts to use their purported common love of  
13 David Gray as the vehicle for Sergio to become emotional about and have feelings for Vivian. The  
14 fourth paragraph is highly illustrative of this point:

15 DG takes his insightful carefully written poetic lyrics and then sets  
16 them to beautiful music that will “**move**” you melodically. The music  
17 is what touches me and allows me to “**feel**” and experience the pain of  
18 broken relationships even though I haven’t actually had those  
19 experiences.<sup>16</sup> The **feelings** I get while listening to his music are not  
20 as profound and deep as the **feelings** you experience since you have  
21 actually lived through, **felt**, and suffered, those experiences in reality.

22 (Emphasis supplied).

23 In writing the second sentence of the fifth paragraph of the letter to Sergio, Vivian must have  
24 had the last email from the tarot card reader in front of her with the language “feeling and emotion.”  
25 The sentence provides, “He has the ability to put **feelings and emotions**, the same **feelings and**  
26 **emotions** you’ve experienced during your relationships, into words.” (Emphasis supplied.)

27 The man Vivian is referring to in the third paragraph is almost certainly Jonathan Rhys  
28 Meyers:

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16 Vivian’s longtime planned divorce from Kirk apparently doesn’t qualify in Vivian’s mind  
as a “pain of broken relationships.”

1 There was a time **I had a relationship with a man** where this was  
2 almost not the case. However, I was very lucky in that he was a very  
3 special person who had his heart broken more than once and put me  
4 ahead of himself and saw and understood my feelings. He unselfishly,  
5 very caringly with love and compassion held my heart and helped me  
work through my feelings so as not to hurt me. Coincidentally, **I think**  
**you may know who I'm referring to.** I'm very lucky to have such a  
special person in my life.

6 (Emphasis supplied).

7 Vivian is trying to give Sergio the impression that Vivian actually had a relationship with  
8 Jonathan Rhys Meyers. Apparently, Vivian had previously told Sergio that she had a relationship  
9 with Jonathan Rhys Meyers. Hence the reference, "I think you may know who I'm referring to."  
10 From the photograph of Sergio with Vivian, he appears to be in his late twenties or early thirties.  
11 (Exhibit 4 to Motion) Here, Vivian is letting Sergio know that the relationship with Meyers is over  
12 – "had a relationship," but at the same time trying to impress Sergio that Jonathan Rhys Meyers is  
13 still in her life, "I'm very lucky to have such a special person in my life."

14 In the draft language, which is also included in Exhibit 15, Vivian confirms the obvious  
15 when she writes that Sergio attracted her.

16 **3. Vivian Was Oblivious To Rylee's Needs During Her Obsessive Pursuit of**  
17 **Sergio Becerra**

18 Vivian's total disregard for Rylee's well being during her pursuit of Sergio Becerra is yet  
19 another example of why Vivian is unable to provide a safe environment for Brooke and Rylee and  
20 why Vivian does not parent Brooke and Rylee on a consistent basis.

21 When Nyla Roberts became aware that Rylee was developing prematurely she advised  
22 Vivian that Rylee should be taken to see a pediatric endocrinologist. Nyla even told Vivian she had  
23 seen an episode of "House" and thought Vivian's application of testosterone was infecting Rylee.  
24 (Nyla ¶35) Despite knowing that Rylee needed to have her testosterone levels checked, Vivian did  
25 nothing. During that time period, February of 2011, Vivian had time to make a medical appointment  
26 for **herself** an average of every other day for the entire month of February. (Kirk ¶200) Vivian did  
27 not take the time to make just one appointment for Rylee. During that February/early March time  
28 period, Vivian took the time to drive by herself to San Diego to see a David Gray concert. However,

1 Vivian could not take the time to make just one appointment for Rylee. During that time period,  
2 Vivian had the time to craft a long letter to Sergio Becerra that was full of “feelings and emotion.”  
3 But Vivian could not take the time to make just the one appointment for Rylee. During that time  
4 period, Vivian had time to buy an entire new wardrobe for herself. (Kirk ¶206) But again, Vivian’s  
5 could not be bothered to make just one appointment for Rylee. Kirk respectfully submits that this is  
6 highly illustrative of one of the major problems with Vivian -- Vivian’s pursuit of obsessive and  
7 compulsive behaviors is to the **exclusion** of Brooke and Rylee.

8 Nyla Roberts, to her credit, was so concerned about Rylee that on March 14, 2011 she also  
9 advised Kirk that she was worried about Rylee developing prematurely and that he should make an  
10 appointment with a pediatric endocrinologist. At the time, Nyla told Kirk she was telling him  
11 because she knew Kirk would act on it. Nyla said that she had told Vivian, but knew Vivian  
12 probably would not do anything. (Kirk ¶221) Nyla was right on both counts. Vivian did absolutely  
13 nothing. Kirk, as Nyla predicted, acted on it. Rylee had been suffering from allergies and had  
14 recently developed a cough and sore throat, so Kirk had made an appointment with Dr. Walter  
15 Schroeder, an ear, nose and throat specialist on March 30, 2011. During that appointment, Kirk  
16 obtained a referral from Dr. Schoeder for a pediatric endocrinologist.<sup>17</sup> Dr. Schroeder referred Kirk  
17 to Dr. Asheesh Dewan.<sup>18</sup>

18 Vivian told everyone, including Brooke, she was going to spend 17 days in Ireland. Despite  
19 just having flown to Ireland on March 14, 2011, Vivian suddenly returned just a few days later on  
20 March 18, 2011. Based on known facts, it is reasonable to conclude that Sergio explained to Vivian  
21 that it was not in the cards after all. Vivian flew back to Ireland on March 23, 2011 and returned on  
22 March 30, 2011. Most likely trying to recover from Sergio’s rejection, during the period between  
23 March 18, 2011 and March 23, 2011, Vivian stayed at the Atkinsons and spent almost no time with  
24 Brooke and Rylee.

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25  
26 <sup>17</sup> A true and correct copy of the “Referral” is attached hereto as Exhibit “16” Kirk thought  
27 he had made the appointment while at Dr. Schoeder’s office – he was in error.

28 <sup>18</sup> Nyla Roberts is in error when she claims Vivian made the appointment with the pediatric  
endocrinologist based upon Nyla’s recommendation. (Nyla ¶38)



Whitney was married on April 2, 2011. A few days after the wedding, on April 7, 2011, Autumn O'Tool of Dr. Schroeder's office spoke with Vivian and Vivian confirmed that she would call Dr. Dewan's office to schedule an appointment. Vivian had returned from Ireland and her pursuit of Sergio Becerra was over. Vivian was now willing to make a phone call on Rylee's behalf.

On April 13, 2011, Kirk picked up Rylee from school early and took her to see Dr. Dewan. Vivian took a separate car and met Kirk and Rylee at Dr. Dewan's office. (Kirk ¶221) After the appointment with Dr. Dewan on April 13, 2011, Kirk again followed through for Rylee and on April 15, 2011, Kirk took Rylee to Lab Corp in Henderson at 6:30 a.m. to have blood drawn for Dr. Dewan.

**D. Vivian Continues To Deny Her Delusional Infatuation With And Pursuit Of Jonathan Rhys Meyers**

Tahnee and Whitney's sworn testimony contains numerous facts evidencing Vivian's delusional infatuation with and pursuit of Jonathan Rhys Meyers – her soul mate; if he flirts with you I will kill him; Google Alert; write a song I can give to Jonathan; afraid Jonathan will see me on television; afraid Jonathan will see me at the Justin Timberlake event; etc. Jonathan Rhys Meyers image was on the computer screen in the home office month after month after month – not 45 days as Vivian falsely claims. (Whitney ¶14) Yet, Vivian belittles Kirk for even suggesting a correlation between her extensive traveling and Jonathan Rhys Meyers. Consistently, Vivian also swears to this Court:

According to the website IMBD, Mr. Meyers has appeared in 37 major motion pictures and made for TV movies. I have watched 3 of his 37 movies, but I have **never even watched** his most popular movie, "**Bend it Like Beckham**", which *Kirk* purchased and has had in our video library for years. A **truly obsessed person** would have certainly seen **all or most** of his movies."

(Vivian ¶149) (emphasis supplied)

The middle sentence in the foregoing quote is replete with lies. Although Kirk believes there is much more, attached as Exhibit "17" are copies of Amazon invoices to Vivian for the purchase of movies. Jonathan Rhys Meyers is in every movie Vivian purchased. Kirk respectfully requests the ...

1 Court to compare Vivian's sworn statement above with the following list from those invoices to  
2 Vivian:

- 3 1. The Tudors: The Complete Third Season (Jonathan Rhys Meyers)
- 4 2. Samson and Delilah (Jonathan Rhys Meyers)
- 5 3. Alexander, Revisited – The Final Cut (Jonathan Rhys Meyers)
- 6 4. Ride with the Devil (Jonathan Rhys Meyers)
- 7 5. Bend It Like Beckham (Jonathan Rhys Meyers)
- 8 6. Titus (Jonathan Rhys Meyers)
- 9 7. B. Monkey (Jonathan Rhys Meyers)
- 10 8. The Tesseract (Jonathan Rhys Meyers)
- 11 9. The Maker (Jonathan Rhys Meyers)
- 12 10. The Magnificent Ambersons (Jonathan Rhys Meyers)
- 13 11. Killer Tongue (Jonathan Rhys Meyers)
- 14 12. Tangled (Jonathan Rhys Meyers)
- 15 13. Tribe (Jonathan Rhys Meyers)
- 16 14. Gormenghast (Jonathan Rhys Meyers)
- 17 15. Elvis: The Mini - Series (Jonathan Rhys Meyers)
- 18 16. The Governess (Jonathan Rhys Meyers)
- 19 17. Telling Lies In America (Jonathan Rhys Meyers)
- 20 18. The Loss of Sexual Innocence (Jonathan Rhys Meyers)

21 In addition to the foregoing, Kirk is aware that Vivian went to see the movie, "From Paris  
22 with Love" with Jonathan Rhys Meyers when it was in movie theaters. Kirk is also aware that  
23 Vivian watched the movie "August Rush" with Jonathan Rhys Meyers when it was on television.  
24 That is a total of 20 movies. There were 38 episodes of the Tudors. There is no question Vivian  
25 watched every episode. By Vivian's own definition, above, Vivian was obsessed with Jonathan  
26 Rhys Meyers. Moreover, Whitney has testified, "My Mother would go in the home office close the  
27 door and watch episode after episode of the Tudors and watch every other film he [Jonathan Rhys  
28 Meyers] ever made." (Whitney ¶14) "My mother spends most of her waking hours by herself in the  
home office with the door closed. When you go in there she is usually on the internet shopping,  
reading, or watching a dvd with Jonathan Rhys Meyers." (Whitney ¶26) The Court is reminded that  
Vivian took an oath and swore to this Court that she just watched 3 of Jonathan Rhys Meyers  
movies! Vivian's sworn statements, when you know the truth, are shocking, but again, she  
consistently lies.

...

...

...

Kirk submits that its Vivian's grandiosity component of her NPD that causes her to think the Court and everyone involved with this process is stupid and incapable of seeing the glaring falsity of her positions.<sup>19</sup>

**E. Vivian's Sworn Statements That All Of Her Trips To Asia And Ireland Were For Philanthropic Purposes On Behalf Of The Hope Foundation Is An Absolute Ruse**

It is indeed incredulous that Vivian lies to this Court, just as she lied to her family, about the purpose of her trips and what she did during those trips. The only reason Vivian contacted the Hope Foundation was because after monitoring Jonathan Rhys Meyer's every move on the internet, she discovered he was the Ambassador for The Hope Foundation and the foundation did work in India for street children. If Vivian's motive was truly to help people in need, she didn't need to leave Southern Nevada.

**1. Vivian's Extended Multiple Trips to Ireland And Asia Were Not For Philanthropic Purposes**

**(a) What Vivian Was Telling Her Family And Others Just A Few Months and Weeks Before Her First Trip To India Reveals The Truth**

While in New York City, Vivian told Mrs. Birmingham, Ms. Walker, and Tahnee that she was going to spend 3 to 4 months in Europe during the summer – as long as she could – and visit museums – making it very clear that Brooke and Rylee were staying home and going to the ranch with Kirk. (Tahnee ¶23) At one point, according to Vivian, Nyla Roberts was going to go part of the time and Kim Bailey was going to go part of the time. Vivian told Brooke that Vivian was leaving her behind, because Rylee, who was 7 at the time, would not be able to keep up when they walked through the museums. (Kirk ¶66 & ¶79) No philanthropic purpose here.

...

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<sup>19</sup> It is her attorneys misguided belief that if their client is willing to swear to it in an affidavit, then they have license to make the representation to the Court as fact. Rule 11 and the Rules of Professional Conduct require far more of Officers of the Court. As Officers of the Court, they cannot turn a blind eye to the truth, but must make a reasonable inquiry, and cannot make affirmative representations of fact to the Court they have reason to know to be false.

1 Vivian next told her family, including Brooke, that she was moving to Los Angeles to work  
2 on a Phd. at UCLA. (Kirk ¶66 & ¶79) No philanthropic purpose here.

3 Within just a few weeks, or even days, Vivian learns that Jonathan Rhys Meyers is the  
4 Ambassador for the Hope Foundation, Vivian contacts the organization, and goes on a VIP trip to  
5 India. Vivian tells Brooke she is going to India for the summer to teach people to sew. Vivian gives  
6 Brooke a book about Mother Teresa and tells her Vivian is going to be like her. (Tahnee ¶26)  
7 (Whitney ¶17) (Kirk ¶79) However, the VIP trip was just that – a tour for VIPs. Vivian did not go  
8 there to work or to help anybody. It was a VIP Tour – nothing more. She bought a whole bunch of  
9 stuff there as well in Dubai during her return. (Kirk ¶101 & 108) No philanthropic work here.

10 However, while in India, Vivian learned her “soul mate” never went to India. Scratch the  
11 teaching people to sew story. Vivian decided she needed to go to Ireland. It is not coincidental that  
12 when Vivian learned that Whitney’s fiancé, Sean, had spent some time in Cork, Ireland, she wanted  
13 to speak to him. Jonathan Rhys Meyers is from Cork, Ireland. (Whitney ¶15)

14 **(b) When Vivian Told Her Family She Was Going To Ireland For**  
15 **Training, She Was Lying**

16 Vivian told her family she was going to Ireland to train for the Hope Foundation. (Whitney  
17 ¶20) The photographic record of this trip makes a mockery of this statement. (Exhibit “18”) The  
18 Court will see a lot of drinking, sightseeing, time with Vivian’s bed mate, Tania Zorilla, and, finally,  
19 Vivian and David Walsh. What the Court will not see is any “training.” Vivian is obviously just as  
20 willing to lie to this Court as she was to her family. Vivian then, presumably, attended the Hope  
21 Dublin Ball.

22 Vivian’s credit card statements from this time period are also corroborative of what was  
23 really going on in Ireland, and it was certainly not training. (Exhibit “19”) Note the charges are for  
24 restaurants, bars, rental car, and travel. Also note the charges are in different cities in Ireland,  
25 including Cork. Vivian also obtained a number of credit cards in her name only without Kirk’s  
26 knowledge. Thus far, Vivian has refused to produce the itemized charges on those credit cards for  
27 this time period.

28 . . .

Vivian takes offense to Kirk's quoting Vivian's reference to Ms. Zorilla as her "bed mate" and his description of Vivian snuggling her on skype in front of Brooke and Rylee when Vivian finally saw fit to finally call Brooke and Rylee.<sup>20</sup> (Vivian ¶56) The Court is requested to take a good look at the photographs Ms. Zorilla took of Vivian. (Exhibit 18) One is of Vivian sitting on the toilet. One is of Vivian's chest. Another is of Vivian's crotch with some sort of lace hanging out of the zipper. The Court is also requested to take a good look at the photographs of Vivian and David Walsh. (Exhibit 18) The Court can draw its own conclusion as to the relationship between Vivian and David Walsh. This is especially true when Vivian's subsequent behavior with Mr. Walsh is known. No philanthropic work here.

**(c) There Is No Evidence Vivian Did Any Work For The Hope Foundation During Her Next Trip To Ireland Between June 14, 2010 and August 19, 2010, But There Is Evidence Of Vivian's Relationship With David Walsh**

Vivian's next trip to Ireland was from June 14, 2010 to August 19, 2010. By July 5, 2010, Vivian tells Kirk that she is going to spend the weekend with "David" in a GT Rally, but assures Kirk he is married. (Kirk ¶134) Each time Vivian does call, Kirk asks her what work she is doing. The only answer each time is that she is trying to fix the Hope USA formation papers prepared by Les Sully, Esq. These papers are but a few pages and Kirk is confident there was no need to fix them. (Motion p. 26, l. 7-10) Although confident Vivian has the ability to make something up after the fact, Kirk has yet to hear of anything Vivian actually did, in terms of actual work, for the Hope Foundation.

Vivian then compelled Tahnee to fly with Brooke and Rylee to Ireland on August 1, 2010 and return August 4, 2010. As soon as Tahnee went to the airport to return, Vivian, Brooke and Rylee got on a train to Cork, some 160 miles away. David Walsh picked them up from the train station and they stayed at his home until he drove them back to Dublin on August 6, 2010. Kirk suspects that Vivian had previously spent a lot of time with David Walsh at his home in Cork. Then

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<sup>20</sup> Kirk is not "insanely jealous" as Vivian alleges – he is simply disgusted at Vivian's behavior.

1 as soon as Kirk leaves Ireland, David Walsh drives the approximately 160 miles from Cork to  
2 Dublin and spends the day and night with Vivian, Brooke and Rylee. (Motion p. 27, l. 25-28; p. 28,  
3 l. 1-3) No philanthropic work here.

4 **(d) Vivian Does No Work For The Hope Foundation During Her Next**  
5 **Trip Which Is To Ireland, Nepal, India, And Then Back To**  
6 **Ireland**

7 Vivian's next big trip is from September 9, 2010 to October 28, 2010. Vivian doesn't even  
8 pretend to be training or working for the Hope Foundation during this trip. Vivian first goes to  
9 Ireland to ostensibly spend time with Irish celebrities in preparation of the trip to the Himalayas,  
10 then a trip to Nepal and climb to Mount Everest base camp with David Walsh and Irish celebrities,  
11 then a trip to India and then back to Ireland with David Walsh. The trip to the Himalayas was a fund  
12 raiser for the Hope Foundation. The apparent marketing strategy was that people in Ireland would  
13 donate money to the Hope Foundation because certain celebrities were participating. So what was  
14 the purpose for Vivian to go? Other than a ruse for Vivian to be with David Walsh, nothing! No  
15 philanthropic work here.

16 Apparently, after Vivian returned to Ireland after the Nepal and India trip, Vivian had enough  
17 of David Walsh, or David Walsh had a enough of Vivian, and Vivian turned her attention to Sergio  
18 Becerra.

19 **(e) Vivian's Last Two Trips To Ireland Were In Hot Pursuit Of**  
20 **Sergio – Not To Do Philanthropy**

21 As noted previously, Vivian's two trips to Ireland during 2011, were in hot pursuit of Sergio  
22 Becerra – they were not to do philanthropy.

23 Representations by Vivian to this Court that she left her small children for all of these  
24 extended periods of time in Ireland and Asia for the betterment of man kind is ridiculous, a lie, an  
25 affront to the intelligence of this Court, and offensive to anyone that knows the truth or cares about  
26 the truth.

27 ...

28 ...

...

**F. Very Recently, On October 14, 2011, The Boulder City Police Found Vivian Struck Kirk In The Face, Self-Inflicted A Minor Wound, And Then Falsely Claimed Kirk Struck Her**

If the Court examines all of the evidence, the inescapable conclusion is that Vivian struck Kirk in the face with her fist in front of Rylee, self-inflicted a small cut on her finger, wiped blood on her face, tried to convince Rylee that Kirk had actually struck Vivian, lied to the police, and now lies to this Court.

**1. Vivian Has A History of Striking Other Members of Her Family, Including Kirk**

As previously set forth in the Motion, Vivian has a history of domestic violence against the Harrison children and Kirk. (*See* Motion, subsection 11 on p. 39) When each of the older children was about 15 years old, Vivian struck them in the head and kicked them out of the house. (Kirk ¶29) In June of 2008, Whitney was trying to get Brooke and Rylee away from Vivian attacking Tahnee and Vivian “grabbed [Whitney] by the hair and struck [Whitney] very hard in the side of [Whitney’s] head.” (Whitney ¶7) In February of 2009, Vivian threw a coffee cup and book at Kirk. (Tahnee ¶9) (Kirk ¶47)

**2. After Investigating the Incident, Separately Interviewing Both Kirk and Vivian, And Taking Written Statements, The Boulder City Police Department Concluded Vivian Hit Kirk In the Face With Her Fist To His Eye, Self-Inflicted An Injury To Her Finger, And Wiped Blood On Her Own Face**

Attached hereto as Exhibit “20” is the CAD Call Information produced in response to a Subpoena Duces Tecum propounded by Kirk. The findings of the Boulder City Police Department are unambiguous: “wife hit male in the face” “hit him with her fist to his eye.” The Boulder City Police found that Vivian self-inflicted an injury:

OFR ADVD FEMALE DID HAVE BLOOD ON HER FACE OFR ADVD HER RIGHT HAND HAD BLOOD AND WHEN HER FACE WAS WIPED THERE WAS NO INJURY. IT APPEARS SELF INFLICTED. OFR 269 STATED MOM CUT HER FINGER IN THE MORNING

Vivian not only committed a crime when she hit Kirk, but also committed a crime when she lied to the Boulder City Police Department. Making a false report of a crime is a crime. NRS 207.280. Lying to this Court about what truly occurred is also a crime – its perjury. NRS 199.145

1                   **3. Kirk's Account Of What Occurred Makes Sense – Vivian's Account Of**  
2                   **What Occurred Makes No Sense**

3           Kirk told the Boulder City Police that Vivian struck him in the face knocking off his glasses.  
4   While Kirk was still trying to retrieve his glasses, Vivian then exclaimed, "You took a swing at me"  
5   or words to that effect. Vivian then said she was recording the incident and drove away.

6           Vivian's fantasy rendition of what occurred is set forth in paragraphs 126 thru 129 of  
7   Vivian's affidavit. Very little of what is written there is true, including the fictitious statements  
8   attributed to Kirk. Vivian claims Kirk struck her with his left non-dominant hand and she was  
9   bleeding above her right eye. First, when Vivian punched Kirk in the face he was trying to walk  
10   around her partially opened driver's side car door while Vivian was standing between the inside of  
11   the door and the car. It would have been physically impossible for Kirk to strike Vivian on the  
12   opposite side of her face with his non-dominant hand. Second, Kirk has not worn a ring in over 25  
13   years. If someone is punched in the face with a bare hand they may have some swelling and later  
14   bruising, but it is highly unlikely they would sustain a cut. Vivian had no swelling, no bruising, and  
15   no cuts. As the Boulder City Police found, after the blood was wiped off Vivian's face, "there was  
16   no injury." In other words, there was no cut on Vivian's face to produce the blood on her face.

17                   **4. What Kirk Did After The Incident And What The Boulder City Police**  
18                   **Did After The Incident Support Kirk's Account Of What Occurred**

19           As soon as the incident occurred, Kirk telephoned 911. Kirk respectfully submits that common  
20   sense dictates that if he had actually struck Vivian, he would not immediately call 911 to insure the  
21   preservation of the evidence. The Boulder City Police advised Kirk that Vivian had claimed he  
22   struck her and of their finding that Vivian had self-inflicted an injury. Kirk advised the Boulder City  
23   Police that there was a home video system and a camera in the garage. He also told them that he is  
24   not technically oriented, that Vivian is the only one who knows how to operate the system, and he  
25   would like to take whatever steps possible to determine if the incident was taped, and if so, to  
26   preserve the tape. As soon as the police left, Kirk telephoned the gentleman that maintains Kirk's  
27   computer, but got his voice mail. Kirk then called Ed Kainen to see if he knew someone that knew  
28   anything about home video systems. Ed called his computer support person and Ed got a voice mail.



1 Kirk then recalled that a gentleman who lives in the adjacent neighborhood, Eric Shamo, who is a  
2 computer expert. Kirk then called Mr. Shamo, told him what had happened, and asked if he could  
3 come over and see if he could preserve any recording of the incident. Mr. Shamo examined the  
4 system and discovered, what Vivian undoubtedly already knew, the video system was not working.

5 Soon thereafter, Kirk caused his counsel to serve a subpoena upon the Boulder City Police  
6 Department concerning the incident.

7 In light of Vivian's history of striking her children in the face and head, and prior assaults  
8 upon Kirk, one might conclude this incident is but icing on an already rather unsavory and all-to-  
9 violent cake. However, aside from lying to the police and this Court, the far more troubling aspect  
10 of this entire episode is Vivian's callous disregard for Brooke and Rylee, and Vivian's blatant  
11 thoughtless attempt to manipulate Rylee. Vivian walked into the Harrison home that morning with  
12 an agenda and a hidden recorder. It did not matter to Vivian that Brooke was trying to study for a  
13 test just before going to school. Vivian didn't care she was inciting a conflict in front of Brooke and  
14 Rylee. It was of no consequence to Vivian, that Rylee was sitting in the car when she hit Kirk in the  
15 face without provocation. In her affidavit, Vivian wrote, "I asked Rylee if she saw her dad hit me  
16 and she responded at first "no" and then she replied "yes"." (Vivian ¶128)(emphasis supplied) This  
17 episode is yet another example of why Vivian should not be allowed to continue to inflict harm upon  
18 Brooke and Rylee.

19 Vivian was oblivious her assault and battery upon Kirk was in front of Rylee. Vivian has no  
20 sensitivity of the negative impact her volatile despicable behavior has upon her children.

21 **G. From February of 2006 until September of 2011, Kirk, For All Practical**  
22 **Purposes, Has Been The Sole Parent To Brooke And Rylee**

23 It cannot be disputed, at least in good faith, that Kirk has been driving Brooke and Rylee to  
24 school, dance lessons and sports activities since February of 2006 until September 6, 2011, when  
25 Vivian sent Kirk an email with a shared driving schedule for both school and dance driving. In the  
26 same schedule, Vivian set forth the evenings she was now going to cook dinner, despite the fact that  
27 Kirk has been preparing most of Brooke and Rylee's dinner meals for years. Until Friday,  
28 November 18, 2011, Kirk prepared all of Brooke and Rylee school day breakfast meals since

1 February of 2006. Not until November 18, 2011, did Vivian feel inclined to alternate the  
2 preparation of breakfast for Brooke and Rylee.

3 **1. For Almost Six Years, Kirk Has Provided The Vast Majority Of Meals**  
4 **For Brooke And Rylee, And Kirk Has Eaten His Meals With Brooke And**  
5 **Rylee – Vivian, On The Other Hand, Has Eaten Out Most Of The Time,**  
6 **Rarely Even Sitting Down For A Meal With Brooke And Rylee**

7 Since February of 2006, Kirk has made Brooke and Rylee a complete hot breakfast each  
8 school day morning and has made sure they have always had a good dinner meal. (Tahnee ¶41)  
9 Vivian will rarely cook a breakfast or lunch meal for Brooke and Rylee. (Kirk ¶22) Until about  
10 three years ago, Vivian would make dinner once every one to two weeks. Since then, it is an  
11 extremely rare occasion for Vivian to cook dinner. Vivian rarely prepares a meal for or eats a meal  
12 with Brooke and Rylee. Vivian would not sit down and eat a meal with Brooke and Rylee for  
13 months at a time. (Whitney ¶26) (Kirk ¶22 & 111)

14 Vivian's sworn statements regarding meals for Brooke and Rylee are predictably  
15 diametrically opposed to the foregoing. Vivian swears to the Court, "He has only regularly started  
16 to cook since 2010 when he started buying Costco food so he could cook for the children during the  
17 time I was away." (Vivian ¶111) Vivian also swore to the Court, "To this day, I do not enjoy eating  
18 fast-food." (Vivian ¶19) Unfortunately for Vivian, her sworn statements are not only diametrically  
19 opposed to the truth, but Vivian's prior written statements as well. Vivian lies so often, she can't  
20 keep track of who she told what.

21 Vivian completed a questionnaire for Dr. Life on or about October 26, 2009. (Exhibit 21)  
22 On page 23 of the Life Questionnaire, in response to question 18, Vivian wrote that she eats out "10-  
23 14" times per week. Moreover, in total contradiction to what she now swears to the Court, in  
24 response to question 9 on page 24, Vivian represented that she eats "Fast Food" "5-6 times" each  
25 week. On page 35, in response to question 31, Vivian represented she frequently skips meals.  
26 Again, contrary to what she is now swearing to the Court, Vivian, in response to question 39, which  
27 asked, "What foods do you especially like?" Vivian answered, "processed – convenience." If the  
28 Court reviews all of these answers, the inescapable conclusion is that Vivian is not making meals for  
Brooke and Rylee and Vivian is not sitting down with Brooke and Rylee in the Harrison home and

1 eating meals. Vivian almost never eats breakfast. Vivian only eats, at most, a couple of times a day  
2 – that is 14 meals per week at the most. Vivian says she eats out 10-14 meals per week and roughly  
3 one-half of those meals are “Fast Food.” The inescapable conclusion is that Vivian is not eating at  
4 home with Brooke and Rylee. Brooke and Rylee are eating a hot breakfast at home every school  
5 day morning and Kirk is preparing them dinner or bringing home dinner each night.

6 **2. For Almost Six Years, Kirk Has Taken Brooke And Rylee To School**

7 Since February of 2006, Kirk has taken Brooke to school and has been taking Rylee to  
8 school since she started Tiny Tots in the fall of 2006. (Tahnee ¶41) *See* Affidavit of Laurie Larson,  
9 which is attached hereto as Exhibit “22.” Until late June of 2011, Laurie Larson lived across the  
10 street from the Harrisons. She has a son the same age as Rylee and has been driving her son to  
11 school at the same time as Kirk since the fall of 2006. Mrs. Larson recounts in her affidavit each  
12 year since 2006 her driving her children to school and what she witnessed. Mrs. Larson sums up  
13 what she saw during that entire time period:

14 11. During all of these school years, I cannot recall ever  
15 seeing Vivian drive either Rylee or Brooke to or from school.<sup>21</sup>

16 David Krumm’s affidavit, which is attached hereto as Exhibit “23,” is also corroborative of  
17 who has been driving Brooke and Rylee to school:

18 9. During all of the years I have been driving my daughters  
19 to and from school and to and from their dance classes, it has been  
20 Kirk that has mostly been seen driving Brooke and Rylee to school  
21 each day. Until Brooke started in the sixth grade at Garrett Middle  
22 School, Michelle Walker would pick up Anna, Rylee and Brooke at  
23 school each afternoon. After Brooke started going to Garrett, Michelle  
24 Walker continued to pick up Anna and Rylee each day, but Kirk would  
25 pick up Brooke and take her home each day.<sup>22</sup>

22 ...

23 ...

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25 <sup>21</sup> The Court is urged to keep this testimony in mind when reviewing the testimony of  
26 Michele Walker and Heather Atkinson. The falsity of Michele Walker and Heather Atkinsons  
27 claims will be obvious.

28 <sup>22</sup> When Kirk was in a mediation or working at the ranch, which was predominantly one day  
trips up and back the same day, Whitney or Tahnee would drive Brooke and Rylee to school.

1 Finally, Karen Balke, who was a crossing guard at the corner of Adams Boulevard and B  
2 Street, also provided an affidavit. Ms. Balke is unequivocal as to who she witnessed driving Brooke  
3 and Rylee to school each day:

4 5. Beginning in the Spring of 2006 and for the 2006/2007  
5 and 2007/2008 school years, each school day morning I would see  
6 Kirk driving Brooke to school and driving her home each school day  
7 afternoon. In the morning, he would always turn onto B Avenue.  
8 During the last school year, I remember seeing him park across the  
9 street from Martha P. King and walking Brooke to school each day.  
10 During the school years, 2006/2007 and 2007/2008, each school day  
11 morning, I would also see Kirk driving Rylee to Tiny Tots.

12 6. Beginning in the Spring of 2006 through all the time I was  
13 a crossing guard thereafter, I can remember only one time I saw  
14 Vivian taking the girls to school and on that day she was riding in the  
15 car with Kirk.

16 (Exhibit 24)

17 Vivian's sworn statements in this regard are shown for what they are – lies. Vivian swears  
18 Kirk "has only transported the children consistently anywhere in the last two or three years (after he  
19 consulted with his divorce counsel.)" (Vivian ¶73) Vivian also swears, "I began doing some of the  
20 driving." (Vivian ¶105) Vivian also swears, "if it's my driving day, I drive them to school and pick  
21 up Brooke." (¶108) This last statement is only true since mid-September of 2011! However,  
22 Vivian does not qualify the statement in any regard, but rather, attempts to mislead this Court. This  
23 is a lie.

24 **3. Kirk – Not Vivian – Has Taken Brooke And Rylee To And From Dance  
25 And Sports Activities**

26 Kirk has taken Brooke and Rylee to and from dance and to and from sports activities.  
27 (Tahnee ¶41) David Krumm has three daughters, two of whom are the same age as Brooke and  
28 Rylee – Taylor and Rachel. Brooke and Taylor are close friends as are Rylee and Rachel. Mr.  
Krumm has been driving his daughters to and from school, to and from dance, and to and from  
sports activities for years. There is no doubt in Mr. Krumm's mind as to who has been driving  
Brooke and Rylee to and from dance for all of these years:

12. For several years, Kirk was in a car pool with other  
families for dance classes. During all of the years I have taken my  
daughters to and from dance classes, I frequently saw Kirk Harrison at

the dance studio picking up kids or in the parking lot dropping off kids. During all of this time, I very rarely saw Vivian Harrison, if ever, in the dance studio picking up kids or dropping them off for dance.

(Exhibit 23)

Vivian also lies about driving Brooke and Rylee to and from dance, “I also share driving them to and from dance.” (Vivian ¶108) This statement is only true since mid-September of 2011! However, Vivian does not qualify the statement in any regard, but rather, attempts to mislead this Court. This is a lie.

Vivian’s lack of involvement was also apparent at Brooke and Rylee’s sporting events:

14. Similarly, over the years, it has been Kirk that has been with Brooke and Rylee at their sporting events. I rarely, if ever, saw Vivian at Brooke and Rylee’s sporting events. Vivian’s lack of involvement with Brooke and Rylee has been particularly noticeable as it has been my understanding that for most of this time she did not have a job.

(David Krumm – Exhibit 23)

**4. For All The Years Vivian Couldn’t Be Bothered, Kirk Has Helped Brooke And Rylee With Their Homework, When They Needed Help**

Kirk’s approach to homework is that the resounding message he has given to Brooke and Rylee is that it is their responsibility to do their homework. If they need any help, they need to ask. The exceptions to this approach were when Rylee was younger, she would read to Kirk on a regular basis and practice addition and subtraction on a regular basis. Rylee’s current third grade teacher is excellent in requiring Rylee to write five sentence essays. Initially, Rylee would need help getting started, however, Rylee can now write her essays with very little help other than maybe a minor suggestion about getting started. Kirk has always helped Brooke and Rylee with their homework when they needed help. (Tahnee ¶41)<sup>23</sup> Vivian has rarely helped Brooke and Rylee with their homework. (Tahnee ¶39) (Whitney ¶26) (Kirk ¶111)

...

<sup>23</sup> Statements in Vivian’s opposition, such as, Kirk “is not actively involved with the children’s schooling” are preposterous and just outright lies. (Vivian Opposition, p. 4, l. 5-6.)

1 Since sometime during the middle of September of 2011, Kirk started to notice Vivian  
2 insisting to Brooke and Rylee that she help Brooke and Rylee with their homework. Just like going  
3 to bed at night, Vivian now wants Brooke and Rylee to believe they can't do their homework  
4 without Vivian. Many nights recently, Vivian has told Rylee to come to Brooke's room to do her  
5 homework with Vivian. However, there are times Rylee will, instead, get out her homework and do  
6 it by herself on the kitchen counter. Rylee will occasionally ask Kirk a question, but that is it. Kirk  
7 prays that Rylee will continue to do her homework by herself.

8 **5. Kirk Is The Only Parent Who Has Consistently Spent Quality Time With**  
9 **Brooke And Rylee For Almost Six Years**

10 During the last almost six years, Kirk has consistently done things with Brooke and Rylee.  
11 Kirk has taught them how to ride their bicycles (Brooke still struggles); taken them roller skating;  
12 together with Whitney, has taken them ice skating; taken them to the parks in Boulder City to play  
13 and plays with them when they are there; has taken them on trips to Lagoon, the Hogle Zoo, Park  
14 City, Reno, Wyoming, and California; has taken them to plays at Tuachan; has taken them to the  
15 ranch with and without friends; has taught them how to play various games such as Dominos –  
16 Mexican Train, Yahtzee, Monopoly Jr., Fish, Uno, Old Maid, Battleship, Clue, Sorry, Life,  
17 Operation, and chess, and has played those games with them; has taught them how to sort and do  
18 their laundry, has taught them gun safety and how to shoot a 22 rifle, has taught them how to row a  
19 row boat and how to operate a paddle boat; has taken them on hikes, exploring and arrow head  
20 hunting; has taken fly fishing lessons with Brooke; has taken them to UNLV basketball games with  
21 their friends; has taken them to movies, dinners and window shopping at the mall; has taught them  
22 how to play basketball, golf and tennis; has played ping pong with Brooke, has played catch with  
23 them; has played frisbee with them; has taken them to and from their friends' homes to play; has  
24 taken Brooke and Rylee shopping, including fall shopping for school clothes; (Tahnee ¶41) (David  
25 Krumm ¶7) Kirk talks to Brooke and Rylee and engages them in discussions.

26 Other than three or four sewing trips and trips to Disneyland (usually with Kirk), Vivian  
27 really does nothing with Brooke and Rylee. Until September of 2011, Vivian really did nothing with  
28 Brooke and Rylee on a day to day basis, other than sleep with them. (Tahnee ¶39) (Whitney ¶26)

1 Currently, Vivian takes Brooke and Rylee to the Atkinsons to play and to sleep over night at every  
2 opportunity.

3 **H. Noticeably Absent From The Opposition Is Any Reference To The**  
4 **Uncontroverted Affidavits of Tahnee And Whitney**

5 In an obvious attempt to make this a “he said – she said” case, there are numerous references  
6 in the Opposition to “Kirk’s allegations.” What is glaringly absent from the Opposition, are any  
7 references to the facts contained in the affidavits of Tahnee and Whitney.<sup>24</sup> For example, although  
8 Kirk is attacked in the opposition regarding Vivian’s statements and conduct concerning Jonathan  
9 Rhys Meyers, those statements and conduct by Vivian were in the presence of Tahnee and/or  
10 Whitney – not Kirk. For example, Vivian told Tahnee, “If you meet Jonathan Rhys Meyers and he  
11 flirts with you, I will kill him.” (Tahnee ¶17) Similarly, “On Friday, November 13, 2009, my  
12 mother told me that she put her name on Google Alert for Jonathon Rhys Meyers and that she got a  
13 google alert today that Jonathon went to dinner last night with his girlfriend. My mother expressed  
14 her displeasure upon learning that he had gone to dinner with his girlfriend. It concerned me  
15 because she seemed genuinely upset.” (Tahnee ¶22) Vivian told Michele Walker, Mrs.  
16 Birmingham, and Tahnee that Jonathan Rhys Meyers was her “soul mate.” (Tahnee ¶23) Kirk  
17 respectfully requests the Court to examine the affidavits of Tahnee and Whitney very carefully.  
18 These affidavits set forth specific facts for which Tahnee and Whitney have personal knowledge.<sup>25</sup>  
19 Kirk respectfully submits that one cannot read these affidavits without being alarmed and concerned  
20 about the mental and emotional state of Vivian. The legal sophistry contained in the Opposition  
21 aside, Vivian has serious problems and should not be inflicting damage upon Brooke and Rylee.

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23 <sup>24</sup> Interestingly, there are also very few references to the facts contained in Kirk’s affidavit  
24 either.

25 <sup>25</sup> Vivian attempts to smear Kirk simply because Tahnee and Whitney provided affidavits.  
26 Vivian claims it was somehow inappropriate to get the older siblings involved. Tahnee is 26 years  
27 old and Whitney is 25 years old. They are involved because both of them were living at home for  
28 substantial periods of time and personally witnessed what occurred. Because Tahnee and Whitney  
care for their little sisters and wanted to stop the harm being done to them, they urged Kirk to file for  
divorce and to get custody of Brooke and Rylee.

**I. Vivian Has Perjured Herself Repeatedly in Her Sworn Statement**

In response to Kirk's request, the parties attempted to mediate this dispute a few months ago. Vivian fired her then attorney, Bob Dickerson, and then on July 15, 2011, sent out the following email to the mediator, the attorneys, and Kirk:

Sounds like YOU need to talk to me! Not mad at all relieved! I have my family back and doing what's best for my children and I get to share in there lives 24/7!  
I'm blessed Mr and after witnessing first hand how family law mediators and lawyers operate opened my eyes to how truly jaded and unjust this system is! Ive been ask to keep logs on how bad my husband is and all his failings, mistakes and misgivings in an effort to make him look like an uncaring insensitive father and to discredit him and **appear as a horrible person!**  
**Would never DREAM of doing that to the father of my children.**  
**My children luv him and he is a descent human being and loves his children. He is a good father.** Although we may not see things eye to eye I would never never never do anything to hurt one of the most important persons in my childrens lives for anything!!!!

(Emphasis supplied).

Vivian clearly said to everyone that she would not DREAM of trying to make it appear that Kirk is a horrible person. Vivian said she would not do such a thing because Kirk is "a descent human being and loves his children. He is a good father."

It is understandable that despite all of the factual statements in Kirk, Tahnee, and Whitney's affidavits being true, Vivian would be upset and now be motivated to make it appear Kirk is a horrible person. The problem for Vivian is the facts didn't change – they can't. What changed was Vivian's willingness to smear Kirk with lies and misrepresentations. As distasteful as it is, Vivian had help in this effort.<sup>26</sup> The sworn statements of Vivian's friends improperly attempt to make factual averments as to what was occurring within the Harrison home – not based upon anything they witnessed, for they were not there, but based upon what Vivian supposedly told them. Vivian swears that Tahnee and Whitney were only home during the summers:

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<sup>26</sup> One might wonder how something like this could be perpetrated upon a Court where Officers of the Court are ethically bound by Rule 11 and the Rules of Professional Conduct. It is respectfully submitted that Rad Smith's statement to Kirk that "**It's my job to make you the bad guy**" give some insight as to how this happened.



121. Kirk's general comments that I have not been around for the girls is simply untrue. The two "witnesses" that he provides (our adult daughters) have only been around mainly during summers for the last several years.

(Vivian ¶121)

Like so many statements in Vivian's affidavit, that also is not true. It is telling of just how disconnected Vivian has been with her family the last several years, that she doesn't even know that Tahnee was living at home from living at home continuously from December of 2008 until January of 2011 – a period in excess of two years – and that Whitney was living at home from the end of spring semester in 2009 until September of 2010 and then again during March of 2011 – approximately 17 to 18 months!

In addition to the multitude of lies set forth above, Vivian has lied repeatedly throughout her sworn statement. Kirk will attempt to illustrate, through examples, how Vivian has misrepresented facts to this Court in an effort to make Kirk "the bad guy."

**1. Vivian Lied to Valley Bank, Her Co-Workers and Kirk About Her Age**

Kirk met Vivian when she worked in new accounts for Valley Bank. Vivian opened an account for Kirk and two of his friends, Will Kemp and Steve Jones (Randall's brother) in late July of 1981 – not 1980 as Vivian swears. (Vivian ¶3) At the time Kirk met Vivian, she had been working at Valley Bank for over a year. Prior to working in new accounts, Vivian had been a teller. (Vivian ¶26) Based upon Valley Bank's policy and/or the law at the time which required all bank tellers to be bonded, Vivian could not work as a teller for Valley Bank unless she was at least 21 years of age. Therefore, when Kirk met Vivian, she had to be at least 22 years of age. Vivian lied to Valley Bank, her co-workers and Kirk about her age. Only Vivian knew that she had forged a driver's license, using her older sister's driver's license, when she applied to work for Valley Bank. The forgery of the driver's license and submission of the forged document to Valley Bank was a crime. NRS 483.530 NRS 205.090

When Kirk met Vivian he was 27 years old and was led to believe, just like Valley Bank and her co-workers were led to believe, that she was 22 or 23 years of age. At that time, Vivian was a smoker, wore a lot of make-up, wore mature women's clothing, and looked like she was 22 or 23

1 years old. It wasn't until just three or four weeks before their wedding on November 5, 1982 that  
2 Vivian told Kirk she was just 20 years old. Kirk initially thought Vivian was joking. She wasn't. It  
3 was also just before the wedding that Vivian told Kirk of her prior drug use including doing drugs  
4 with Larry and doing cocaine with Russell. (Kirk ¶10) At the time, Kirk, in love with Vivian,  
5 erroneously viewed these confessions as Vivian feeling the need to "come clean" with Kirk, and  
6 Kirk, who has never used or abused any illegal substance, though devastated by the confessions,  
7 rationalized it as evidence that Vivian felt it important that they started their married life together on  
8 a completely honest basis. In retrospect, Kirk suspects Vivian was doing what she would later  
9 describe as "covering all the bases." Vivian probably told Kirk about her correct age, because it  
10 would come out when they applied for the wedding license. Similarly, Vivian probably told Kirk of  
11 her prior drug use out of fear that he might hear about it from someone else.

## 12 **2. Vivian Was Much More "Worldly" Than Kirk When They Met**

13 Vivian attempts to portray Kirk as taking advantage of a young girl. Not true. Kirk had one  
14 date in high school. Kirk attended the University of Utah for five academic years and one summer.  
15 During that time period he obtained an undergraduate degree in business and a Masters in Business  
16 Administration. He had one date his freshman year of college and did not go on a date his second  
17 year. Although he started dating his junior year of college, he only dated LDS girls. Kirk then went  
18 to law school at Brigham Young University for three years. Kirk only dated LDS girls while in law  
19 school. When Kirk graduated from law school he was 25 years old, had abided by the honor code at  
20 BYU, and was still a virgin. Kirk had never even gone steady with a girl at the time he met Vivian.

21 Kirk had never gone on a date with a girl that smoked before. The bottle of wine Vivian  
22 references was the first bottle of wine Kirk ever purchased. (Vivian ¶27) Vivian had told Kirk to  
23 buy the bottle of wine and told him what wine to buy – Pouilly Fuisse.

## 24 **3. Vivian Continues to Lie About Her Age**

25 Vivian still lies about her age. Prior to Kirk finally determining the extent of Vivian's  
26 prescription drug abuse, Vivian would occasionally ask Kirk to pick up prescriptions for her when  
27 he shopped at the Henderson Costco. The people working at the Pharmacy required Kirk to present  
28 a copy of Vivian's driver's license to pick up controlled substances for her. On several different

1 occasions, Kirk was informed that, according to their records, Vivian was born on August 16, 1967,  
2 whereas her driver's license indicated she was born on August 16, 1962. More than once they  
3 informed Kirk that Vivian needed to talk to them about changing the records. Each time Kirk, in  
4 turn, told Vivian she needed to change the records. To the best of Kirk's knowledge, Vivian has  
5 never had the records changed.

6 More recently, Kirk was reviewing the records produced by some of Vivian's physicians in  
7 response to subpoenas. Sure enough, Dr. Warren Smith's records identify Vivian with a birth date  
8 as August 16, 1967. Dr. Smith is one of the physicians who has prescribed Phenermine to Vivian.  
9 Kirk suspects the reason Vivian uses a different birth date is the same reason she uses four or five  
10 different pharmacies to fill prescriptions for controlled substances. Although there may be more,  
11 Kirk is aware of at least six (6) different physicians who have prescribed Phentermine to Vivian. If  
12 the Nevada State Pharmacy Board, a physician, or a pharmacy wants to check the extent of Vivian's  
13 prescription drug use, perhaps Vivian, born on August 16, 1967, is not included in the response to  
14 the query for Vivian, born on August 16, 1962. Documents recently produced by the State  
15 Pharmacy Board show Vivian with three different birthdays – 1961, 1962 and 1967.

16 **J. Kirk Has Tried To Prevent The Financial Ruination Of His Family**

17 Kirk grew up in Caliente, Nevada – population: 936. Kirk's family's home was 800 square  
18 feet. However, his parents built an addition before Kirk was born. When Kirk was born the house  
19 was 1,120 square feet. Kirk is the last of four children.

20 Kirk's dad was a butcher. They also sold groceries in their family store. The store was  
21 smaller than a 7-11 and there was another grocery store in town that was twice the size. When Kirk  
22 was eight years old, he started working 20 hours a week in the store during the summers and after  
23 school and on Saturdays. Kirk continued to work in the store until the summer after he turned 18.  
24 Kirk worked for the BLM fighting forest fires for four summers while he was in college. With the  
25 hazard duty pay and the overtime, Kirk made a lot of money during those summers. When Kirk  
26 would get on large fires, he would sometimes work 18 hour shifts. One week Kirk worked 118  
27 hours. Kirk believes he made over \$3,500.00 each of those summers. Except for a few years when  
28 ...

1 Kirk's dad had less help in the store and had the Nevada Girl's School account when he made more,  
2 Kirk's dad made about \$8,000 to \$9,000 a year.

3 Kirk graduated from J. Rueben Clark Law School in the spring of 1979. Kirk knew his dad  
4 didn't make that much money, so Kirk was overwhelmed when his dad handed him a check for  
5 \$10,000.00 for a down payment on a new house. Kirk bought a new 1,500 square foot home just off  
6 Decatur and the 95 in October of 1979 for \$71,600.00. When Kirk's dad first saw his new home his  
7 dad told Kirk he was very worried Kirk was going to have to file for bankruptcy. He was nearly  
8 right. Kirk's take home pay every two weeks was \$533.00. Kirk's monthly house payment, at 11%  
9 (10 ½ interest plus ½ % for mortgage insurance), was \$655.00. Kirk didn't get a raise he had been  
10 promised and Kirk was in financial trouble. Kirk recalls a number of nights lying in bed with a cold  
11 sweat worrying about losing his home. Kirk's normal dinner meal for about seven or eight months  
12 was Campbell's soup or a couple of hot dogs. One of the hardest things Kirk has ever had to do was  
13 ask his dad for a loan of \$1,500.00 so Kirk could make his house payments. Kirk learned to live  
14 within his means and to avoid debt whenever possible.

15 **1. Vivian Already Had Excessive Credit Card Debt When Kirk And Vivian**  
16 **Were First Married**

17 At or near the time Vivian and Kirk got married, Vivian confessed to Kirk that she had  
18 substantial credit card bills. Kirk sat down with Vivian and reviewed the bills. Given the amount of  
19 money Vivian was making, she would not have been able to pay off the credit card bills for a  
20 considerable length of time. Kirk agreed to pay off all of her credit card bills if Vivian agreed to tear  
21 up all but one of her credit cards. She agreed and Kirk paid off all of her then credit card bills.

22 Vivian took Kirk's checkbook and bank statement every month after they were married and  
23 balanced his checkbook. Vivian continued to do this each month for several years until she didn't  
24 want to do it anymore and then refused to do it any longer. After Vivian obtained her degree in  
25 accounting, she prepared their joint tax return each year. However, starting about five years ago  
26 Vivian started complaining vociferously to Kirk she no longer wanted to do it. Finally, Kirk  
27 retained a CPA firm to prepare the joint return for calendar year 2010.

28 ...

**2. Vivian Demonstrated Her Compulsive Need To Spend A Significant Amount Of Money Early In the Marriage**

Vivian's compulsive spending has been a burden on the Harrison family for a long time. Vivian and Kirk were married on November 5, 1982. As of March of 1987, Kirk was making about \$5,000.00 a month. Although he was 33 years old, other than funding IRAs for Kirk and Vivian, and the 401(k) plan at Kirk's work, up to that point, the family did not have any real savings in the bank and Kirk had an outstanding loan. On March 27, 1987, Kirk got a bonus check of \$81,585.00! Kirk paid off the loan from the firm's profit sharing plan in the amount of \$10,187.50. Kirk also sat down with Vivian and on April 1, 1987, gave her a check in the amount of \$7,500.00 and wrote on the "For" line of the check: "investment & savings." Kirk explained to Vivian the money was not to be spent, but rather to be saved. Kirk told her if something were to happen to him, he wanted her to have money readily available. At that point in time, Kirk had to work about a month and a half to earn that much money. About two months later, Kirk asked Vivian what she did with the money. Vivian refused to talk about it other than to say it was gone – all gone!

**3. Whenever Vivian Obtains Access To Money, She Compulsively Spends It**

Kirk is very proud of his family's heritage. A primary part of that heritage is the Harrison family ranch in Pinto, Utah. An appreciation of the importance of the family ranch can only be gained by an understanding of what Kirk's family went through to get to that ranch and the history of the Harrison family at the ranch. Kirk's great great grandparents, Richard and Mary Ann (Whitaker) Harrison immigrated from Liverpool, England on September 17, 1842 and arrived in Nauvoo, Illinois on April 13, 1843. A mob burned their home in Nauvoo and they fled, arriving in Salt Lake City, Utah on October 28, 1849. They left Salt Lake City on December 7, 1850 and together with the other members of their party settled the first settlement in Southern Utah on January 13, 1851 in Parowan. Then in November of 1851, their family and ten other families settled Cedar City. They then settled in Pinto, Utah in 1860. They settled this land by clearing the land and building rip-gut fences, which pre-dated the invention and use of barbed wire. These rip-gut fences followed the terrain, enclosed water sources, and irrigable land. Under the laws applicable to this area, they were not allowed to obtain a patent to their land based upon a metes and bound

1 description, but were relegated to making a patent application based upon forty acre square parcels.  
2 Kirk's great grandparents, John and Ellen (Eldridge) Harrison, obtained the first patent in the Pinto  
3 Valley on July 3, 1890. Kirk spent most of his weekends as a youth with his dad working at their  
4 ranch. Kirk's dad died at their ranch in October of 1990. The very next spring, the Forest Service  
5 permittee began threatening to tear down their fences on the basis there was a significant variance  
6 between the location of these rip-gut fences and the legal description in the patents. On Memorial  
7 Day weekend of 1994, while taking a walk with his two oldest daughters, Kirk discovered the Forest  
8 Service had torn down their fences and constructed a new fence cutting off all access to the creek in  
9 their largest meadow. Absent a resolution with the Forest Service, a new fence would likely have  
10 gone through the log cabin his great great grandparents built in 1861. Kirk spent the next 17 years  
11 fighting to save his family's ranch. Kirk ultimately entered into an agreement with the Forest  
12 Service wherein he agreed to pay fair market value for the land necessary to save his family's ranch  
13 – approximately 66.21 acres.

14 Through their respective counsel, Vivian and Kirk entered into a Separate Property  
15 Agreement whereby each received \$190,000.00 as his/her sole and separate property. This Separate  
16 Property Agreement was entered into on May 23, 2011 and Vivian and Kirk each received  
17 \$190,000.00 on June 6, 2011. Kirk utilized the money he received to consummate the transaction  
18 with the Forest Service.

19 What Vivian did with the \$190,000.00 she received is in stark contrast and is illustrative of  
20 the problem.

21 On Thursday evening, June 30, 2011, Vivian told Kirk that she was going to buy a  
22 condominium in Boulder City and rent it to her sister, Raylene, despite the fact Vivian has not talked  
23 to her sister for years at a time and had chosen not to invite her sister to Kirk & Vivian's daughter's  
24 wedding in April just two months earlier.<sup>27</sup> On July 5, 2011, Vivian came and sat next to Kirk and  
25 showed him a condominium for One Hundred Twenty-Four Thousand Dollars (\$124,000.00) on the  
26

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27 <sup>27</sup> Vivian told Dr. Duffy on 2/27/07 she only talks to Raylene once a year. (Exh. A-6 to  
28 Vivian's Sworn Statement)

1 computer screen of her lap top saying she was going to buy it for her sister, Raylene, to live. Kirk  
2 cautioned her against it. Kirk asked, “What will you do if she fails to make the payments?” Kirk  
3 advised her to talk to her then attorney, Bob Dickerson, about it before she did anything. Shortly  
4 before noon on Monday, August 1, 2011, Vivian told Kirk she needed to close on the condominium  
5 she was purchasing as early as the following Friday and needed money. Kirk asked Vivian why she  
6 didn’t simply use part of the \$190,000.00 she had recently received. Vivian responded that she only  
7 had about \$30,000.00 left! In less than two months, Vivian had blown One Hundred Sixty  
8 Thousand Dollars (\$160,000.000)! During this same two month period, Kirk had deposited  
9 \$3,000.00 into her checking account twice. During this same two month period, Vivian also charged  
10 a total of Thirty Thousand Four Hundred Thirteen Dollars and Fifty Cents – \$30,413.50 [9,789.04 +  
11 (35,624.46 - 5,000.00 - 10,000.00)] on her American Express Card. As shown, this figure is net of  
12 the \$15,000.00 she spent on attorneys’ fees during the same time period. During this same two  
13 month period, Vivian charged a total of \$9,584.05 [(5,925.28 - 318.90 - 140.40) + (4,658.35 - 324.19  
14 - 216.09)] on the joint Nordstrom Visa credit card. Unfortunately, this level of wasteful monthly  
15 spending on these two credit cards is consistent with other months. During this approximate two  
16 month period, Vivian went through roughly Two Hundred Five Thousand Nine Hundred Ninety-  
17 Seven Dollars and Fifty-five Cents – \$205,997.55 [\$160,000.00 + 6,000.00 + 30,413.50 + 9,584.05]

18       The outrageousness of Vivian’s spending excesses is better appreciated when put in context  
19 – none of this money went to pay any of the family’s regular bills. Kirk has always paid the  
20 family’s regular bills, including the mortgage on the home (when they had a mortgage), car  
21 payments (when they had a car payment), all utility bills, bills for telephone, cable, home security,  
22 swimming pool service, landscaping service, pest control, cell phones, all vehicle, home, health, and  
23 liability insurance, all real property taxes, all income taxes, all college tuition bills for their children,  
24 and monthly expenses for their older children while in school. Kirk has always done 99% of the  
25 grocery shopping. During the last six years, Kirk has purchased a lot of Brooke (12 yrs old) and  
26 Rylee’s (8 yrs old) clothes, if not most of the clothes they actually wear.

27 ...

28 ...

1 During the parties mediation, Kirk was informed for the first time that Vivian had run up  
2 over Fifty-Five Thousand Dollars (\$55,000.00) in credit card debt largely on other separate credit  
3 cards she had failed to mention even existed.

4 **L. Vivian Has Lied To This Court Just Like She Has Lied To Her Family And Just**  
5 **About Everyone Else**

6 **1. Vivian Swears That Kirk' Claim He Retired Because Of A Concern**  
7 **About Vivian's Mental State And Her Ability To Take Care Of Brooke**  
8 **And Rylee Is A Falsehood**

9 Vivian swears, "He claims that he did so because he was worried about my mental state and  
10 my ability to care for the children. That is just a flat out falsehood." (Vivian ¶94) Lets look at what  
11 we now know.<sup>28</sup> Vivian had gone to see Paula Squitieri, a psychologist, on three occasions, during  
12 the summer of 2005, for depression. Dr. Squitieri found that Vivian had difficulty concentrating  
13 and suffered from a "depressive disorder."<sup>29</sup> (Dr. Squitieri's notes from 7/1/05) (Exhibit 25) She  
14 referred Vivian to Sean Duffy, M.D., a psychiatrist. Dr. Duffy's notes indicate that Vivian was  
15 suffering from insomnia and Dr. Squitieri believed Vivian may have been suffering from post  
16 partum depression. Vivian told Dr. Duffy that she was "feeling very tense, irritable, and reactive to  
17 her family dynamics manifesting as frequent arguments **and anger on her part.**" Dr. Duffy also  
18 noted there was "considerable ambivalence about her relationship with her husband and her older  
19 children." (Exhibit 26) Dr. Duffy diagnosed Vivian as suffering from depression and general  
20 anxiety. Dr. Duffy opined that "the onus of the treatment is in therapy. . ." Dr. Duffy advised  
21 Vivian not to take stimulants for weight loss and prescribed Celexa for her, "with the understanding  
22 that she shall continue to see Dr. Paula Squitieri for therapy." Vivian assured Dr. Duffy, "she plans  
23 on continued individual counseling with Dr. Paula Squittieri." So what did Vivian do. She took the  
24 stimulants and the Celexa, and did not see Paula Squittieri after 7/26/05 until November 3, 2011.

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25 <sup>28</sup> Kirk subpoenaed records from both Dr. Squitieri and Dr. Duffy.

26 <sup>29</sup> Vivian indicated on a form for Dr. Squitieri on July 1, 2005 that she was taking  
27 Phentermine at that time. This confirms that despite all of the document productions from the  
28 various Phentermine and related drug providers, there are still prescriptions Vivian obtained that  
have not yet been identified.



1 When Vivian met with Dr. Squiteri on 7/26/05 , she told Dr. Squitieri that Dr. Duffy had prescribed  
2 “Celexa for depression & also diet pills.” So despite Dr. Duffy advising Vivian that the onus of the  
3 treatment was therapy, and Vivian’s promise to continue therapy, she didn’t. Surprisingly, Dr.  
4 Duffy’s notes indicate on 9/19/05, that despite his prescribing 60 mg of Celexa, he says its ok if  
5 Vivian also takes Phentermine – though it would cause increased irritability. Dr. Duffy thereafter  
6 meets with Vivian to renew the Celexa prescription on, basically an annual basis, 1/19/06, 2/27/07,  
7 5/12/08, 6/12/09, 5/25/10, 3/1/11, and 10/11/11. (Exhibit 26)

8 Kirk knew something was wrong and, at the time, hoped it was temporary and fixable.  
9 Ironically, based upon discussions with his friends, Kirk also felt Vivian’s depression and aberrant  
10 behavior might have been caused by post partum depression. Kirk was not planning on divorcing  
11 Vivian. The execution of the will is totally consistent with Kirk walking away from his career to  
12 take care of Brooke and Rylee. However, as we now know, Vivian’s condition was not temporary  
13 and not fixable and she continued to deteriorate year after year.

14 **2. Most, If Not All, Of The Quotes Attributed To Kirk In Vivian’s Sworn**  
15 **Statement Were Never Said By Kirk**

16 Kirk never said most of the quotations Vivian attributes to him. Many of the statements  
17 Vivian has fabricated are patently bizarre. For example, Kirk has never referred to Vivian as a  
18 “freeloader” to their children. (Vivian ¶80) And Kirk certainly did not say, “your freeloading  
19 mother is spending too much of my money” and “she has stolen credit for all your achievements”  
20 (Vivian ¶81) It was the older children that would complain to Kirk about Vivian trying to take credit  
21 for their achievements.

22 Vivian absolutely lies when she swears, “In front of the children he said “this house belongs  
23 to the children” and that it was going to “always be their home no matter what they say or do.”  
24 (Vivian ¶87) Kirk never said what he was quoted as saying. Vivian’s view of the world is she has  
25 the absolute right to control every aspect of each of her children’s lives and when those children get  
26 older and resist that control, she has the absolute right to punch them in the face and discard them  
27 like the day’s trash. The point Kirk made with Vivian – not in front of the children – is that even  
28 when you have problems with your children, they continue to be your children and continue to be

1 part of your family. Although the point was lost on Vivian, Kirk said you do not punch your  
2 children in the head and then kick them out of the only home they have ever known, simply because  
3 they misbehaved.

### 4                   **3. Vivian's Sworn Statement Contains Lie After Lie**

5           **Vivian was not an Assistant Professor** Vivian swears to the Court, "I was previously  
6 employed as an accountant and assistant professor." (Vivian ¶6) Vivian, as an Instructor, taught  
7 one semester at the community college and was paid \$1,500.00. As in many other instances, Vivian  
8 is undone by her own prior written statements. In response to a question in Dr. Life's questionnaire  
9 regarding Occupation, Vivian wrote, "Retired Accountant – Instructor." (Exhibit 21, p. 2)

10           **Kirk Did Not Travel Extensively Throughout The Marriage** Vivian swears to the Court,  
11 that throughout their marriage, "Kirk worked and traveled most of the time. . ." (Vivian ¶29) Vivian  
12 continues with this lie, "Kirk continued to travel extensively on cases and work long hours, and he  
13 was away from home much of the time." (Vivian ¶30) The truth is that 95% of the traveling Kirk did  
14 for work during his entire career was over by the end of 1984, which was before the birth of their  
15 first child, Tahnee, on April 18, 1985. Kirk has been devoted to his family. Since the end of 1984,  
16 Kirk has essentially been in the office working or with his family. As a general proposition, if any  
17 of the children had a game, recital or similar activity during a week day at 5:00 p.m. or after, or  
18 during the weekend, Kirk was there.

19           **Vivian Has Never Paid the Family Expenses** Vivian swears to the Court that Kirk barely  
20 gave Vivian enough money to pay for family expenses and when she asked for more, she had to do  
21 sexual favors or massages. (Vivian ¶33) This is a lie. The premise of this representation is that  
22 Vivian paid the family's expenses. She never did. Kirk has always paid the family's expenses. *See*  
23 Section J, 3, 2<sup>nd</sup> to last paragraph, above.

24           **Vivian and Kirk Did Stop Having Sexual Relations About Four Years Ago** Vivian  
25 apparently felt compelled to make sure the Court is aware that, "Kirk and I stopped having any  
26 sexual relations about four years ago." (Vivian ¶33) However, a little more than two years ago, on  
27 October 26, 2009, Vivian completed a questionnaire for Dr. Life. On page 18, Vivian was asked  
28 . . .

1 what form of birth control she uses. There were several choices including “None.” Vivian circled,  
2 “Condoms.” (Exhibit 21)

3 **Vivian Was Never Kicked Out Of The Master Bedroom** Vivian claims Kirk demanded  
4 she move out of the master bedroom. (Vivian ¶99) This is a lie. Vivian slept with Joseph until he  
5 was 10 years old, when Brooke was born. Vivian has been sleeping with Brooke and Rylee ever  
6 since. All of Vivian’s clothes are still in the master bedroom. Nothing has changed in over 17  
7 years. Undoubtedly, the Court is well aware that Kirk is adamantly opposed to Vivian sleeping with  
8 the children. It defies common sense for Vivian to now swear that Kirk told her to leave their  
9 bedroom and go sleep with the children. Like much of Vivian’s sworn statement, this is utter  
10 nonsense.

11 **Vivian Secreted Brooke and Rylee Away From Him For Many Weeks Including During**  
12 **Brooke’s Birthday** Vivian claims she did not take Brooke and Rylee and leave for six weeks  
13 during the summer of 2005, and swears: “Contrary to Kirk’s gross exaggeration, I was gone for 16  
14 days, not six weeks, and contrary to Kirk’s misrepresentation, he did see Brooke on her birthday  
15 during that time. I spoke to Kirk each day that I was out of the house.” Each one of these  
16 statements is a lie. Paragraph 32 of Kirk’s affidavit provides in part:

17 During the summer of 2005, Vivian abruptly took Brooke and Rylee  
18 and the three of them lived in a hotel at Lake Las Vegas. She kept  
19 where they were staying secret from me. I didn’t see Brooke and  
Rylee for about six weeks, including June 26, 2005, Brooke’s  
birthday.

20 *See also*, (Tahnee ¶4) (Whitney ¶4) Vivian has refused to produce the detailed charges from her  
21 secret credit cards she had during this time period. Based upon what is known to date, it is Kirk’s  
22 understanding that Vivian, Brooke and Rylee stayed at a hotel at Lake Las Vegas for about a month.  
23 Kirk learned later that Vivian had gone to see a Glenn Frey concert at Lake Las Vegas. Vivian,  
24 Brooke and Rylee also stayed at the Marriott Courtyard on Green Valley Parkway in Henderson for  
25 about 16 days during this approximate six week period. The only hotel receipt Kirk has been able to  
26 locate during this time period is for the Marriott on Green Valley Parkway from June 23, 2005 until  
27 June 25, 2005. However, the psychologist Vivian was seeing during the summer of 2005, Dr. Paula  
28 Squitieri, noted during her session with Vivian on July 6, 2005, that Vivian was “Staying in

1 hotel/separated.” Then on July 12, 2005, Dr. Squitieri noted, “Back in home 2 days.” (Exhibit 21)  
2 All of this confirms that Kirk **did not** see Brooke on her birthday.

3 **Kirk Didn’t Ride A Bike In 2006 And Rarely Played Golf** Vivian claims that in 2006,  
4 Kirk complained that driving Brooke and Rylee interfered with his playing golf and taking extended  
5 bike rides. (Vivian ¶105) Kirk did not begin cycling until August of 2009. Kirk was seriously  
6 injured (four broken ribs and a punctured lung) in a cycling accident on August 22, 2010 and has  
7 only ridden twice since. During the year that Kirk did cycle, it was after he took the girls to school  
8 in the mornings. Kirk rarely plays golf. For example, he has only played once in the last year and  
9 that was with Joseph. One summer for about two months, when Brooke and Rylee were not in  
10 school, Kirk played golf on Thursday mornings with Cam Walker and other friends at sunrise. They  
11 usually only played nine holes and Kirk was home by about 8:30 a.m. Other than that, Kirk rarely  
12 plays. Karen Balke, the school crossing guard during 2006, confirms Kirk did all of the school  
13 driving. (Exhibit 24) In this instance, like so many others in her sworn statement, Vivian is just  
14 making stuff up.

15 **Kirk Didn’t Walk Away From His Career To Lie On The Couch** Vivian’s version of  
16 what Kirk did when he stopped practicing law has no correlation to the truth whatsoever. (Vivian  
17 ¶95 thru 102) Vivian has the cause and effect completely backwards. Kirk retired in February of  
18 2006 because Vivian had lost interest in the family and was indifferent to not only the older  
19 children, but Brooke and Rylee as well. Vivian was depressed, abusing prescription drugs, suffering  
20 from severe insomnia, and was volatile and angry in her dealings with everyone in the family. On  
21 July 19, 2005, Dr. Duffy found, “there is considerable ambivalence about her relationship with her  
22 husband and her older children.” As noted earlier, Vivian told Dr. Duffy that she was “feeling very  
23 tense, irritable, and reactive to her family dynamics manifesting as frequent arguments **and anger**  
24 **on her part.**” Yet, if you read Paragraphs 95 thru 102, Vivian is representing to the Court, referring  
25 to after February of 2006, “it was about that time that our relationship began to really deteriorate.”  
26 (Vivian ¶99) Vivian claims all Kirk was doing was lying on the couch watching television or being  
27 critical of her. We now know this is what Vivian later told Nyla Roberts, but we also know none of  
28 this is true. Kirk immersed himself in the love and care of Brooke and Rylee on a daily basis.

**Vivian Misrepresents Her Involvement With Brooke And Rylee** Vivian's asserted involvement with the three older children when they were much younger as set forth in Paragraph 74 of her Sworn Statement is generally true. It is not true for Brooke and Rylee. Brooke and Rylee have participated in sports and dance as described, but Vivian was not involved. After Vivian started regularly taking Speed in June of 2004, about the same time Brooke had her fifth birthday, Vivian has not been the person she describes. For purposes of this divorce, Vivian started acting like a parent again during the middle of September of 2011. However, there is no indication whatsoever that Vivian can sustain such behavior. On the contrary, the next obsessive compulsive behavior will cause Vivian to yet again emotionally and physically abandon Brooke and Rylee and exclude them from her daily life. Vivian has recently told Kirk that she is starting to see someone. Vivian left the house Tuesday afternoon, December 27, 2011, and did not return until about 9 p.m. Thursday evening, December 29, 2011. She left all dressed up with a suitcase. Vivian refused to tell anyone in the family where she was going or with whom she was going.

**Community Service** Vivian asserts Kirk has not "done much community service or charity work." (Vivian Opp., p. 4, l. 4-5) Vivian wrote, "As far as I'm aware, Kirk does very little if any community service, and in the absence of my involvement, donates very little money compared to our wealth." (Vivian ¶51) A person should always do more, but the following is some of what Kirk has done while having a full time law practice: Aqua-Vision Board of Trustees – civic group concerned about the lack of water and the conservation of water in Southern Nevada; Southern Nevada YMCA Board of Directors; Las Vegas Southwest Rotary Club – community service organization – member for about 23 years – served on Board of Directors, chaired various committees – multiple community service projects, including Happy Feet program (provide new shoes to children in at risk elementary schools); support the Young Women's Development Center; support Child Haven; support Opportunity Village, Boy Scouts, Christmas in April (personally helped paint an elderly woman's home), funded trips to Mexico to build cisterns in a small village where people were drinking water from puddles in the muddy roads, funded medical missions to a village in Mexico where physicians and nurses from Southern Nevada went to provide free medical services; Rotary International lead the effort for the world wide eradication of polio; obtained Paul

1 Harris Fellows for Kirk, Vivian, Tahnee and Whitney for additional charitable giving; donated  
2 annually to the Arthritis Foundation; donates annually to J. Reuben Clark Law School, donating  
3 additional money for the establishment of endowed chairs in the names of Rex E. Lee and Terry  
4 Crapo; supported Volunteers In Medicine in Southern Nevada in 2010, its first year and in 2011;  
5 Leadership Las Vegas 1989; member Nevada Supreme Court Jury Commission; lecturer Nevada  
6 State Bar Convention; lecturer – Orin Hatch Lecture Series at J. Reuben Clark Law School, BYU;  
7 taught the law portion of the Associated General Contractors training course for two different  
8 semesters; member Clark County Bar Association Committee on Professionalism.

9 **Vivian's Description Of Visiting Her Father In Seattle Omits A Critical Fact** In Vivian's  
10 effort to make Kirk "the bad guy," Vivian's recitation of traveling to Seattle with the children omits  
11 a critical fact. (Vivian ¶35) Kirk was there with Vivian and the children in Seattle with her father.

12 **Purchase of House For Vivian's Mother** Vivian's version of what occurred in connection  
13 with buying a house for her mother to live, is like much of her sworn statement, a lie. (Vivian ¶37)  
14 When Vivian first told Kirk she wanted to buy a house for her mother, he was very surprised.  
15 Vivian and Kirk discussed many of the things about her mother that Vivian had told Kirk over the  
16 years, including: (1) the fact that her mother never visited her the entire time she was living in Nike  
17 house;<sup>30</sup> (2) Vivian's belief her mother worked swing shift so she would have to see her children that  
18 much less (Vivian ¶19); (3) how her mother had dragged her by the hair across an asphalt parking in  
19 the middle of the summer; (4) that her mother calling "juvy" to come get her own children; (5) that  
20 her mother had told Vivian that if she didn't have Vivian, Raylene and Butch she could remarry and  
21 be happy; (6) that Vivian had invited her mother to every one of their children's birthday parties and  
22 each time she told Vivian she could not miss bingo (Vivian would not do the parties for the older  
23 children for months after their actual birthdays and offered to schedule the birthday parties around  
24 her mother's bingo – her mother still refused), and; (7) how Vivian's mother made no effort  
25 whatsoever to spend time with Tahnee, Whitney, or Joseph. Kirk and Vivian also talked of Kirk's

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26  
27 <sup>30</sup> This is one of the rare true facts that Vivian has admitted. ( Vivian ¶21) Vivian's mother  
28 did not go see her own 13 year old daughter who was in Nike House for 6 to 9 months! Kirk  
respectfully submits this is the "cold-hearted" mother referenced in Dr. Roitman's report.

1 personal experience with Vivian 's mother when Kirk pled to her on Vivian's 15 or 16 year old  
2 brother's behalf and the coldness of her response. Despite Vivian's agreement with all of the  
3 foregoing and agreement that her mother was not deserving at all, Vivian still wanted to buy a house  
4 for her mother to live. After their discussion, Kirk told Vivian if it was still something she felt like  
5 she had to do, he would support her.

6 Vivian then went out with her mother and selected a very small home or condominium  
7 located in eastern Henderson located just south of Boulder Highway for about \$79,000.00. Kirk  
8 went to see the development, did some investigation, and learned it was located in a flood plain.  
9 Kirk told Vivian it was in a flood plain and refused to purchase the house. Vivian was upset with  
10 Kirk claiming he had agreed to buy a house and was now "trying to kill the deal."

11 Kirk recalled a close friend, Hank Falstad, talking about a Del Webb development in  
12 Henderson. He ultimately bought a home in Del Webb Summerlin, but had been very impressed  
13 with Del Webb Desert Willow in Henderson. Kirk telephoned Hank and he highly recommended  
14 Del Webb Desert Willow. Kirk left work early one afternoon and drove through the development on  
15 the way home from work. Kirk related to Vivian what he had learned and took Vivian to the  
16 development. Vivian and Kirk looked at the community center facilities and walked through the  
17 models. Vivian and Kirk reviewed the site plan in the sales office. Kirk wanted to pick a location  
18 on the least busy street available. Vivian and Kirk selected what they thought would be the best  
19 model for her mother and what they thought were the two or three best locations the model was  
20 available. They then drove the streets in the development specifically looking at the two or three  
21 best locations. Shortly thereafter, Vivian took her mother to the development and finalized the  
22 selection. Kirk believes they paid between \$125,000.00 and \$130,000.00 for the home, which was  
23 over 50% more than the home Vivian had proposed they purchase for her mother. As the Court can  
24 readily see from Paragraph 37 of Vivian's Sworn Statement, no good deed goes unpunished. Vivian  
25 attempts to vilify Kirk for this as well.

26 **Family Ranch And Sisters** Vivian swears to the Court, "When Kirk's father died, he left  
27 Kirk and his three sisters land in Utah that is now our "family" ranch. Kirk wanted the land for  
28 himself, so he began putting pressure on his sisters." (Vivian ¶42) This is a lie as well. Kirk's

1 sisters are Kaye, Jo Lyn, and Janie. Attached hereto as Exhibit "27" is the Affidavit of Janie  
2 Harrison Ferguson, one of Kirk's sisters. Janie, Kaye, and Kirk all strongly felt the joint ownership  
3 had been totally unworkable and had caused a lot of hard feelings, primarily between Kaye and Jo  
4 Lyn. The truth is that Janie approached Kirk several times to buy her interest and Kirk refused. Kirk  
5 finally agreed to buy Janie's interest on the condition he was first able to reach an agreement (oral)  
6 with their sister Kaye to divide the tenant in common property whereby the joint property would be  
7 divided, Kirk would pay to divide the property, build a fence, drill a well, bring in power, construct  
8 roads, etc. as well as pay money to Kaye and Jo Lyn. The goal was for Kaye, Kirk and Jo Lyn to  
9 each have their own separate property at the ranch. Unfortunately, after buying Janie's interest,  
10 Kaye then almost doubled the price of what she had previously agreed with Kirk. After more than  
11 three years of trying to negotiate an amicable division of the tenant in common property, Kirk filed a  
12 partition action requesting the Court to divide it. However, Jo Lyn preferred to sell her interest,  
13 rather than have the property partitioned by the court and Kirk bought her interest. Several months  
14 later, Kaye's attorney made a written offer to Kirk to buy Kaye's interest as well. Kirk accepted and  
15 paid Kaye's offer despite having to pay Kaye almost twice as much as he paid Janie, and far more  
16 than the property has ever been worth.

17 **M. The Opinion of Prof. Ole J. Thienhaus – Garbage In – Garbage Out**

18 Prof. Thienhaus's opinions are only as good as what Vivian told him, because his opinions  
19 are only based upon a one-and-a-half hour meeting with Vivian on August 13, 2011 and a 50 minute  
20 meeting with Vivian on September 24, 2011.

21 In therapy sessions, the patient is generally motivated to tell the truth and disclose symptoms  
22 and concerns because they are motivated to be released from their suffering. The patient generally  
23 feels it is necessary to reveal their irrationalities and dysfunctions to enable the therapist to help  
24 them. That is not what happened here. Vivian went to Prof. Thienhaus, not for psychiatric help, but  
25 for an opinion to be used in court that she does not have a personality disorder. It is generally  
26 accepted in forensic matters that the subjects may not disclose their vulnerabilities because it is their  
27 intent to prevail in their legal interest rather than alert the examiner to their foibles. A direct  
28 examination of the subject is not sufficient to draw conclusions about their diagnosis.



1 It is also relevant how Vivian's attorneys presented Vivian to Prof. Thienhaus. Prof.  
2 Thienhaus initially meets with Vivian and renders an opinion solely based upon one brief interview.  
3 At that point, the lawyers now have Prof. Thienhaus committed in writing, as evidenced by his  
4 August 13, 2011 letter, that there is nothing wrong with Vivian. Once that letter is in their pocket,  
5 the lawyers then give Prof. Thienhaus, Dr. Roitman's written opinion, together with Kirk, Tahnee,  
6 and Whitney's affidavits. At that point, Prof. Thienhaus was already committed. This is the only  
7 plausible explanation as to why Prof. Thienhaus, inexplicably, ignores the sworn affidavits of the  
8 Harrisons adult children – Tahnee and Whitney.

9 In terms of breadth of material evidencing Vivian's behavior and conduct over time, the  
10 amount of detailed material in Tahnee, Whitney and Kirk's affidavits dwarfs what Prof. Thienhaus  
11 could have possibly gleaned from his two brief sessions with Vivian, where she was clearly  
12 motivated to lie.

13 Vivian did lie to Prof. Thienhaus. In reaching his opinions, it was significant to him that  
14 Vivian, according to Vivian, did not suffer from insomnia ("no . . . extended times of needing less  
15 sleep") ("no neurovegetative signs such as insomnia"). Prof. Thienhaus was without the benefit of  
16 all of Vivian's medical records that have been subsequently produced. Vivian has been suffering  
17 from insomnia for years. In his psychiatric evaluation of Vivian on July 19, 2005, Dr. Sean Duffy  
18 wrote, "Symptomatically, what results in the referral this time from the psychologist she [has] met  
19 with three times, is that Vivian is having trouble with disrupted sleep at night. She tends to wake up  
20 and not able to go back to sleep." (Exhibit 26) On September 15, 2005, Dr. Duffy noted, "Still  
21 trouble sleeping with waking up at 1-3 am, takes a while to get back to sleep, then up at 5 am."  
22 (Exhibit 26) On or about October 26, 2009, Vivian completed a questionnaire for Dr. Jeffry Life,  
23 wherein she noted, on page 14, that she suffered from "Insomnia." (Exhibit 21) Also in the  
24 production of documents from TrimCare, one of Vivian's Phentermine and related drug providers,  
25 there is a memorandum, dated April 18, 2008, referencing Vivian's insomnia. (Exhibit 11)

26 Based upon what Vivian told him, Prof. Thienhaus concluded Vivian "does not experience  
27 sustained times of depressed mood. . . " In contrast, Dr. Duffy's diagnosis of Vivian was AXIS I:  
28 29622 – Major depression disorder, single episode, and moderate. 300.02 – Generalized anxiety

disorder. V61.1 – Partner relational problem.” Moreover, despite taking a drug each day for many years that “effectively alleviates symptoms of depression,” Vivian still exhibits symptoms of depression. On October 26, 2009, Vivian went to see Dr. Jeffry Life for the first time. As part of the initial process with Dr. Life, Vivian completed several forms. One of the documents she completed was the BDI-II or Beck Depression Inventory. (Exhibit 28) This is one of the most widely used instruments for measuring the severity of depression. At the time Vivian completed this form she had been taking daily doses of 40 mg of Citalopram since July of 2005. This is highly relevant, as Prof. Thienhaus noted, “Indeed, citalopram is approved by the FDA for the treatment of major depressive disorder and of generalized anxiety disorder. However, the effect of citalopram . . . is symptom reversal rather cure of a disease. **Citalopram effectively alleviates symptoms of depression and symptoms of anxiety.** . . .” Despite taking 40 mg of citalopram every day for over 4 years, Vivian represented, among other things, the following to Dr. Life on the BDI-II form: “I feel sad much of the time.” “I don’t enjoy things as much as I used to.” “I cry more than I used to.” “I feel more restless or wound up than usual.” **“I have lost most of my interest in other people or things.”** “I don’t have enough energy to do very much.” “I sleep a lot less than usual.” “I am more irritable than usual.” “I can’t concentrate as well as usual.”<sup>31</sup> (Exhibit 28) In addition, there is another questionnaire Vivian completed for Dr. Life in late October wherein she answered, “I often feel very tense.” “I have difficulty controlling my emotions.” “I often lose track of what I want to say.” “I often feel lonely even when I am with other people.” “There are times when I feel very low.” (Exhibit 28) Vivian, obviously, lied to Prof. Thienhaus for him to erroneously conclude she “does not experience sustained times of depressed mood.”

Vivian told Prof. Thienhaus she was married when she was just 18 years old – she was 20.

Vivian told Prof. Thienhaus she would only take Phentermine for only 4 or 5 months at a time. This isn’t true either. First, the documents produced from Vivian’s known physicians reveal Vivian took Phentermine, which is only supposed to be taken a maximum of a few weeks – for

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<sup>31</sup> It might be interesting to compare these responses of Vivian in the context of seeing a physician for help vs Vivian’s responses in the context of preparing for a contested divorce case when she was examined for “objective psychological testing” referenced in Prof. Thienhaus’s letter.

1 periods far in excess of 4 or 5 months. More importantly, Vivian did not tell Prof. Thienhaus, that  
2 for much of the time she was not taking Phentermine, she was taking Bontril, Didrex and/or  
3 Diethylpropion, which are all controlled substances very similar to Phentermine which act upon the  
4 central nervous system and are also only to be taken for just a few weeks. Prof. Thienhaus was also  
5 without the benefit of Vivian's completed questionnaire for Dr. Life where she was asked to identify  
6 all of the "recreational drugs" she was taking and she wrote "Phentermine." This was after she  
7 identified, on the same page, "Phentermine" as a prescribed drug she was taking. (Exhibit 21) Prof.  
8 Thienhaus erroneously concluded there were "extended intervals between episodes of [Phentermine  
9 and related drug] use." (Exhibit A-10, 3<sup>rd</sup> page)

10 Vivian told Prof. Thienhaus, "In 1999, she started working for the Nevada Gaming Control  
11 Board for two years, then took a job with Arthur Anderson, but quit soon because "it was too hard  
12 on the kids." Brooke was born on June 26, 1999. Vivian did work for the Nevada Gaming Control  
13 Board, but it was in 1995 and 1996 – not in 1999! Vivian's employment with Arthur Anderson did  
14 not last very long because they were having Vivian assist with casino audits at 2:00 a.m. in the  
15 morning. Vivian quit because it was too hard on Vivian, not because it was hard on the kids. This  
16 also took place long before 1999 – not after.

17 Vivian hasn't got her own psychiatric treatment history correct either. The attorney, Bob  
18 Dickerson, referred Vivian to Paula Squitieri, Ph.D. As noted above, after seeing Vivian on three  
19 occasions, Ms. Squitieri, referred Vivian to psychiatrist, Sean Duffy, M.D.

20 Vivian's descriptions of her physical attacks on her own children are way off the mark as  
21 well. Vivian didn't just slap her children, she hit them with her fist, she drove the heel of her right  
22 hand into their heads with as much force as she could muster, she got Tahnee on the floor and kicked  
23 her repeatedly in the abdomen. Most of this violence occurred when these children were just 15 and  
24 16 years old, while they were still in high school. Unfortunately, Vivian's acts of violence are not  
25 ancient history either. Vivian drove her right heel of her hand up into the side of Whitney's head in  
26 June of 2008 when Whitney was trying to get Brooke and Rylee away from Vivian's assault upon  
27 Tahnee. Vivian threw the coffee cup and book at Kirk's head in February of 2009. And, then on  
28 October 14, 2011, Vivian hit Kirk in the face knocking off his glasses.

1 Prof. Thienhaus writes, “Likewise, there is no history of mood changes consistent with a  
2 manic episode, such as increased risk-taking behavior, loss of behavioral control and extended times  
3 of needing less sleep.” Prof. Thienhaus, obviously, has not lived with Vivian. Things so trivial and  
4 insignificant to most people will set Vivian off. In the context of increased risk-taking behavior,  
5 Prof. Thienhaus has not witnessed Vivian’s multiple purchases of real estate in the worst real estate  
6 market in the country, which is still declining. Years ago, Vivian wouldn’t climb much more than a  
7 set of stairs from the first floor to the second floor. Last year she climbed mountains in Ireland and  
8 some distance up Mt. Everest. Prof. Thienhaus would not write there is no history of loss of  
9 behavioral control, if he had been on the wrong end of Vivian’s fist, the heel of her hand, or a flying  
10 coffee cup, as Vivian’s family has been.

11 To his credit, Prof. Thienhaus does qualify his opinion relative to the Diagnostic and Statistical  
12 Manual of Mental Disorders as being based upon, “Ms. Harrison’s description of her symptoms.” In  
13 stark contrast, Dr. Roitman had the benefit of 244 pages of sworn testimony, including affidavits  
14 from Vivian’s two adult daughters.<sup>32</sup> Under such circumstances, it seems ironic that Prof. Thienhaus  
15 would criticize Dr. Roitman for the lack of bases for his opinion.

16 Distilled, Prof. Thienhaus’s opinion is that Vivian told me she didn’t have the symptoms so  
17 she doesn’t have the disorder. Dr. Roitman, having the benefit of detailed and factual corroborated  
18 descriptions of Vivian’s true behavior and conduct over a period of time, rendered a considered and  
19 extensive opinion based on facts. There is a huge difference between detailed accounts of behavior,  
20 conduct and events over time where there are eye witnesses, and Vivian’s self-serving minimization  
21 and misstatement of conditions. Kirk respectfully requests the Court to read Dr. Roitman’s  
22 thoughtful and considered opinion. Dr. Roitman states his preference that he be given the  
23 opportunity to personally examine Vivian. Dr. Roitman qualified his opinion based upon the factual  
24 validity of the statements made in the affidavits. However, not having the opportunity to examine  
25

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26 <sup>32</sup> Dr. Roitman was also aware that much of what is in Kirk’s affidavit was also in the letter  
27 Kirk provided Dr. Roitman on January 4, 2010. As previously noted, that letter was provided to Dr.  
28 Roitman “first and foremost” to help Vivian. Therefore, Dr. Roitman could, understandably, rely  
upon the statements contained therein.

1 Vivian, does not diminish the integrity or validity of Dr. Roitman's opinions. True facts determine  
2 valid expert opinions. Any expert who only relies upon the lies which he is told, cannot render a  
3 valid expert opinion – garbage in results in garbage out.

4 Interestingly, if the Court examines Prof. Thienhaus's first letter closely, the Court will see  
5 he states he doesn't have a sufficient basis – one 1.5 hr interview – upon which to base a diagnosis,  
6 "Based on my clinical examination and on the history obtained from Ms. Harrison, **I do not see any**  
7 **data to base a psychiatric diagnosis on.**" (Emphasis supplied) Yet, when you read his second  
8 letter after only meeting Vivian for one more time for 50 minutes and being provided Kirk, Tahnee,  
9 Whitney's affidavits and Dr. Roitman's opinion, he then refers to his initial letter opinion as if it was  
10 well grounded. Also, he discount's Kirk's affidavit as being biased, but then bases his entire opinion  
11 upon his brief interviews with Vivian, who apparently, according to Prof. Thienhaus, is not biased.  
12 This makes no sense. Prof. Thienhaus also offers no excuse for totally discounting Tahnee and  
13 Whitney's sworn testimony.

14 **1. Prof. Thienhaus' Own Opinion Dispels The Notion There Was**  
15 **Anything Improper About Dr. Roitman's Opinion**

16 Vivian attempts to lead this Court to erroneously conclude that simply because Dr. Roitman  
17 was not afforded the opportunity to personally examine Vivian that somehow his opinion is  
18 inherently flawed. This simply is not true. Prof. Thienhaus, quoting The American Association for  
19 Psychiatry and the Law (AAPL) professional ethical guidelines, wrote:

20 . . . For certain evaluations (such as record reviews for malpractice  
21 cases), a personal examination is not required. In all other forensic  
22 evaluations, if, after appropriate effort, **it is not feasible to conduct a**  
23 **personal examination, an opinion may nonetheless be rendered on**  
24 **the basis of other information.** Under these circumstances, it is the  
responsibility of psychiatrists to make earnest efforts to ensure that their  
statements, opinions and any reports or testimony based on those  
opinions, **clearly state that there was no personal examination and**  
**note any resulting limitations to their opinions.**

25 (A-10 to Vivian's Opposition, 2<sup>nd</sup> to last page) (emphasis supplied)

26 This is precisely what Dr. Roitman did. The Court is also urged to be mindful that Dr. Roitman  
27 was given the January 4, 2010 letter from Kirk wherein Kirk was seeking advice, not for purposes of  
28 divorce, but to help Vivian and his family.

**N. Vivian Has A Practice Of Trying To Buy Loyalty From People**

On Thursday afternoon, June 9, 2011, the Harrison's daughter, Whitney, told Kirk that she earlier heard Michele and Chloe Walker thank Vivian for money. Apparently, according to Vivian, enough money to pay for Chloe Walker's fall semester, spring semester, and possibly, the next fall semester, at a private college. On June 13, 2011, Vivian gave Michele Walker a check for \$2,500.00. And then on June 23, 2011, Vivian gave Chloe, her daughter, and BYU a check for \$7,500.00. Vivian has exhibited a pattern of attempting to buy loyalty from people in the past, however, the dollars involved have recently drastically increased.

Sometime around June 22 or June 23, 2011, Vivian told Kirk she was taking a cruise of the Mediterranean with Michele Walker, Chloe Walker and Michele Walker's mother, from August 14, 2011 through August 27, 2011. On June 24, 2011, Vivian gave Michele Walker a check in the amount of \$11,927.48 for her Mediterranean Cruise. Then on June 30, 2011, Vivian gave Michele Walker a check in the amount of \$4,232.50 for her round trip flight to Europe. Vivian previously said she also paid for Chloe Walker's Mediterranean cruise and round-trip airfare to Europe. Both Cam and Michelle Walker are very aware there is something wrong with Vivian, but are more than willing to take money from Vivian whenever they can get it.

When Joseph and Kirk were leaving the Harrison home on Tuesday evening, August 8, 2011, Michele Walker was leaving with an arm full of outfits Vivian had given her. As she walked by Kirk, Michele told Kirk she needed clothes for the cruise. Joseph said that when Kirk was gone the prior weekend with Brooke and Rylee, that Vivian gave Michele two and one-half large bags containing Brooke and Rylee's clothes for Anna. Joseph commented that it is sad Vivian does not have any true friends, but just people like Michele Walker who take advantage of her.

Vivian recently bought the Harrison's son Joseph a new car he didn't need. He had a 2005 Toyota 4runner that was a wonderful car. Prior to this purchase, the message Kirk had given to Joseph is that he would get a new car upon graduation from college just like his two older sisters – the car had to be earned through diligent work in school. Joseph still has a year or two before he graduates.

Sometime during June of 2011, Vivian signed each of the Harrison's older three children to be distributors for NuSkin at a cost of over \$1,000.00 each without first discussing it with any of them.

1 Kirk believes Vivian probably also signed Michele Walker and Heather Atkinson to be distributors for  
2 NuSkin at over \$1,000.00 each with Vivian paying the tab.

3 Just recently, during the middle of November, 2011, Vivian decided she needed a new Iphone  
4 4. Vivian then gave Brooke, who is 12 years old, the Iphone 4 she already had. In turn, Rylee, who is  
5 just 8 years old, received the Droid that Brooke had been using. Again, Vivian's goal is to buy loyalty.  
6 The fact that a Droid cell phone may not be a good thing for Rylee to have at 8 years old was irrelevant  
7 to Vivian.

8 As the Court is aware, Vivian just bought a home for \$382,000.00 for Heather and Jesse  
9 Atkinson to live.

10 This misguided behavior of Vivian in trying to buy loyalty is absolutely consistent with her  
11 Narcissistic Personality Disorder ("NPD"). NPD individuals often shower others with gifts or favors.  
12 "But the ultimate goal is always for some kind of return. The giving may be to foster a certain image  
13 or an overall feeling of indebtedness in you, such as an IOU note to be called in at some other time."  
14 Eleanor D. Payson, *The Wizard of Oz and Other Narcissists* (2009) at 10.

15 The combination of Vivian's obsessive compulsive behavior, her "need to be the center of  
16 attention" and her practice of trying to buy loyalty from people, is a recipe for financial ruination.

17 **1. There Is Clear Evidence Of A Conspiracy Among Vivian, Michele Walker,**  
18 **and Heather Atkinson To Commit A Fraud Upon This Court By**  
19 **Fabricating A Scenario That Never Existed – Each Of These Co-**  
**Conspirators Has Knowingly Perjured Themselves In Furtherance Of This**  
**Conspiracy**

20 Vivian swears, "I note that Kirk continually allowed the children to spend evenings and nights  
21 at my friend's homes when I travelled in 2010." (Vivian ¶109) This statement is pure fiction with no  
22 factual basis whatsoever. If the Court examines the affidavits of Heather Atkinson (Exhibit F ¶15),  
23 Michele Walker (Exhibit B, ¶27, ¶55), and Vivian, it will see evidence of a not too subtle conspiracy  
24 among three people who have no respect whatsoever for this Court or the oath they each took. **The**  
25 **truth is that Kirk did nothing differently when Vivian was gone on her extended trips, because**  
26 **Vivian did nothing for Brooke and Rylee when she was home.** There was no need for Kirk to rely  
27 upon Michele Walker or Heather Atkinson. Michele Walker and Heather Atkinson, undoubtedly, were  
28 not shown the affidavits of Tahnee and Whitney prior to signing their own affidavits. Kirk did not

1 “continually” leave Brooke and Rylee to spend evenings and nights at Vivian’s friends homes while  
2 Vivian was traveling. Kirk emphatically did not “rely heavily” on Michele Walker.

3 **O. Vivian’s Friends’ Sworn Statements Are Replete With Statements of Alleged Facts**  
4 **To Which They Patently Have No Personal Knowledge, And In The Case of**  
5 **Heather Atkinson And Michele Walker, They Perjured Themselves**

6 It cannot be disputed, at least in good faith, that Kirk has been driving Brooke and Rylee to  
7 school, dance lessons and sports activities since February of 2006 until September 6, 2011, when Vivian  
8 sent Kirk an email with a shared driving schedule for both school and dance driving. In the same  
9 schedule, Vivian set forth the evenings she was now going to cook dinner, despite the fact that Kirk has  
10 been preparing most of Brooke and Rylee’s dinner meals for years. Until Friday, November 18, 2011,  
11 Kirk prepared all of Brooke and Rylee school day breakfast meals since February of 2006. Finally,  
12 Vivian cannot overcome the fact that only the members of her family know what has been going on in  
13 their home.

13 **1. The Affidavit Of Lizbeth Castelan Is An Indication Of How Far Vivian Is**  
14 **Willing To Go To Lie To And Mislead This Court**

15 The submission of the Affidavit of Lizbeth Castelan to this Court is illustrative of the fraud  
16 Vivian is willing to make upon this Court.

17 Liz speaks very limited English. Until about the first of October of this year, Liz brought  
18 another person with her each week, who spoke no English at all. Her husband is a painter and,  
19 obviously, construction work is way off in Southern Nevada and has been for a long time. It is Kirk’s  
20 impression that Liz and her family are living pretty much hand to mouth.

21 Until mid-September of 2011, Kirk made Brooke and Rylee breakfast every school day morning  
22 and Kirk drove them to school every morning. Kirk leaves the house to take Brooke to school at about  
23 7:30 a.m. each morning. Kirk leaves the house to take Rylee to school each morning at 8:05 a.m. each  
24 morning. Liz comes to the Harrison home once a week from approximately 9:00 a.m. to 11:30 a.m.  
25 each Wednesday. Liz doesn’t arrive until sometime between 8:50 a.m. and 9:10 a.m. – well after  
26 Brooke and Rylee are already in school – and is usually gone by 11:40 a.m. at the latest. She is in the  
27 Harrison home about 2 ½ hours – not 4 ½ hours.

28 ...



1 Despite the fact Brooke and Rylee are already in school by the time Liz arrives at the Harrison  
2 home each Wednesday, Vivian had Liz swear, “ As a mother she is very attentive to her children’s  
3 needs, making sure they are dressed well in clean clothes, making sure they are well-fed, and that they  
4 get to school on time.” (Exhibit G, ¶10) This is so outrageous! **Brooke and Rylee are in school**  
5 **before Liz ever gets to the Harrison home!** Liz has no basis whatsoever to make this sworn statement.

6 For nine months of the year, Brooke and Rylee are not home when Liz is there – they are in  
7 school. For the three summer months of 2010, Vivian wasn’t home for much of the time. Given her  
8 limited command of the English language, it is highly doubtful that Liz is aware of what her affidavit  
9 provides.

10 Contrary to her affidavit, Liz has seen Kirk cleaning numerous times when she has been here,  
11 usually in the kitchen and sometimes doing laundry. As the Court is aware, Kirk makes a hot breakfast  
12 for Brooke and Rylee every school day morning and Kirk is often times cleaning the kitchen when Liz  
13 arrives on Wednesday morning. (Exhibit G, ¶2)

14 As set forth above, Liz has had extremely limited time to witness the relationship “between Mr.  
15 And Mrs. Harrison and their five children.” (Exhibit G, ¶3)

16 Kirk spends almost no time in the home office, as that is where Vivian has resided for several  
17 years. Until very recently, even when Liz was here, Vivian would hold up in the home office with the  
18 door closed. (Exhibit G, ¶4)

19 Liz has seen Vivian separating herself behind the closed door to the office for years. However,  
20 as noted above, Brooke and Rylee were at school for most of the time Liz was in the Harrison home.  
21 Liz has no personal knowledge to assert, “She is very involved and active within the home and with the  
22 children.” (Exhibit G, ¶5)

23 How can someone who speaks very little English and rarely sees children except on occasion  
24 during the summer, opine that those children are “well adjusted”? (Exhibit G, ¶6)

25 Liz doesn’t have a clue as to what kind of mother Vivian is. The next sentence is telling of what  
26 is going on here: “She is **always thinking** about the children and their needs, or she is directly involved  
27 with them.” Liz simply signed what someone put in front of her. Liz is not a mind reader in either  
28 . . .

1 English or Spanish. Similarly, the statement, “The children are very bonded with her.” Liz simply does  
2 not have the personal knowledge to make such a statement. (Exhibit G, ¶7)

3 The submission by Vivian of this affidavit speaks volumes as to how disconnected Vivian has  
4 been as to what has actually been going on in the Harrison home. From behind the closed home office  
5 door, Vivian was not even aware that Brooke and Rylee were already in school by the time Liz arrived  
6 each Wednesday. Kirk respectfully submits this Court must sanction the submission of a fraudulent  
7 document such as this to the Court.

8 **2. Heather Atkinson Now Lives In A \$382,000 House Which Vivian Purchased**  
9 **And Has Demonstrated Her Willingness To Lie As Part Of Her Payment**

10 This sworn statement is, for lack of a better word a “hit” piece. Heather has no personal  
11 knowledge of the most critical statements she makes about Kirk. Heather makes other statements  
12 critical of Kirk that are simply lies. Much like the affidavit of Liz Castelan, this document has no place  
13 in a court of law.

14 Heather’s bias and prejudice is obvious. Vivian has paid for Heather Atkinson’s daughter’s  
15 private dance lessons as well as her dance classes. Heather claims this was done “when times were  
16 hard.” (Exhibit F, ¶11) More recently, Vivian paid \$382,000 for a house where the Atkinsons now live.  
17 It is a house the Atkinsons cannot afford (Vivian had to give them the earnest money when they made  
18 an offer on the house) and a house the Atkinsons could not qualify to buy. A house, that no lender, in  
19 his right mind, would loan money to Jesse and Heather Atkinson to buy. Incredulously, the deal for the  
20 house was initially structured so the Atkinsons would have been the sole owners of the property,  
21 relegating Vivian to a lien holder status, despite paying the entire purchase price. Kirk is confident  
22 discovery will reveal other expenditures by Vivian for the Atkinsons as well.

23 Jesse Atkinson, Heather’s husband, plays more golf than anyone Kirk has ever known who has  
24 a job. Since the first time Kirk met the Atkinsons, they have had more expensive toys than just about  
25 anyone Kirk has known – a big boat, a large RV, a custom built expensive dune buggy, a Harley  
26 Davidson motorcycle, an SUV, a high performance Cadillac, etc. There has never been a time since  
27 Kirk has known them, that the Atkinsons could not afford to pay for Kayla’s dance classes and private  
28 dance lessons. The statement that, “One year Vivian helped us pay for dance classes for Kayla **when**

1 **times were hard. . .**“ is nonsense. If times were so hard, why not sell one of the toys or play less golf.  
2 At the time Vivian was paying for their daughter’s dance classes and private dance lessons, the  
3 Atkinsons were taking trips seemingly every weekend to BMX races for their son, Kyler, or to the sand  
4 dunes. The Atkinsons had the money, they just preferred that Vivian paid the money for their daughter.  
5 Kirk is in favor of helping the poor and people in need. The Atkinson are not poor and not people in  
6 need. They simply took advantage of Vivian. If there isn’t something wrong with Vivian, then the  
7 Atkinsons, undoubtedly, have other “Vivians” that are picking up the tab for other expenses for their  
8 children. If there isn’t anything wrong with Vivian, then perhaps the Atkinsons have another home paid  
9 for by a different friend. The point is Vivian is the only one doing this for them and the reason it has  
10 happened is because there is something wrong with Vivian and it is wrong for the Atkinsons to take  
11 advantage of her. Jesse Atkinson has told Kirk, Tahnee, Whitney and Joseph on different occasions that  
12 he knows Vivian is crazy.

13 Heather has absolutely no personal knowledge whatsoever, but nevertheless swears, “Kirk has  
14 now requested that he be part of the car pool with the other parents (the parents rotate picking and  
15 dropping off the children). He has forgotten children at school on the days he is to retrieve them, and  
16 some parents have now refused to car pool with him. I am not a part of the car pool, but on more than  
17 none occasion I have had to give children a ride home after he forgot to pick them up.” Kirk has not  
18 requested to be part of a car pool. Kirk has **never** forgotten children at school.  
19 No parent to Kirk’s knowledge has ever refused to car pool with him because he has forgotten children  
20 at school. These are all baseless lies. The Walkers, Baileys, and Roberts no longer wanted to car pool  
21 with the Harrisons because of the involvement of the police as a consequence of Vivian punching Kirk  
22 in the face with her fist.

23 The only person Kirk has ever car pooled with for school is Michele Walker. The only children  
24 Kirk has ever picked up from school are his own – Brooke and Rylee until Rylee started kindergarten,  
25 and then Brooke, after Brooke started going to junior high school. Kirk has never forgotten to pick up  
26 Brooke or Rylee.

27 It is interesting that Heather Atkinson, who Kirk has never car pooled with offers sworn  
28 testimony alleging something about car pooling which Kirk has never heard about. Yet, Nyla Roberts,

1 Michele Walker<sup>33</sup>, and Kim Bailey, whom Kirk has been car pooling **for dance** for years offer no such  
2 testimony. The reason is simple. Until the recent incident when Vivian hit Kirk in the face and the  
3 police were involved, Kirk had been driving their children (and they had been driving Kirk's children)  
4 for years. If there had been a problem, as alleged by Heather Atkinson, Kirk wouldn't have been trusted  
5 to drive their children. That is not to say, with the dance schedules, that probably all of the drivers have  
6 not made some form of mistake here and there. Recently, Michelle Walker did not pick up Brooke from  
7 dance for three weeks in a row. When Kirk talked to her about it, she said she didn't have the newest  
8 schedule. Also recently, Kurt Bailey did not pick up Brooke from home a couple of times. These things  
9 happen and are part of the process. Kirk doesn't think ill of Kurt Bailey because he didn't pick up  
10 Brooke a couple of times. And Kirk may not have a very high opinion of Michele Walker, but it is not  
11 because she didn't pick up Brooke from the dance studio for three weeks in a row.

12 It is ironic that Heather offers testimony about school car pooling. According to Vivian, Heather  
13 "has some real issues." In Paragraph 7, the reason the reference to school is in the past tense, is because  
14 Heather could not get up early enough in the morning to get her children to school and they were  
15 chronically tardy. Her children had to be taken out of school simply because their mother was unable  
16 to get them to school on time.

17 The Court will note that noticeably absent from the description of Vivian's so-called on-going  
18 activities with Brooke and Rylee is anything past 2008!

19 In response to Paragraph 12, it is true the Harrisons have gone on a number of trips to  
20 Disneyland with the Atkinsons. It is also true that on one of the trips, Jesse and Kirk played golf on one  
21 of the days, but Kirk went to Disneyland with his children on the other days. The rest of this paragraph  
22 consists of blatant lies. Kirk has never stayed in the hotel when his family went to the park. Kirk did  
23 not go on the Indiana Jones ride on one occasion because his back was hurting. That is it. Heather is  
24 the last person to know who was at Disneyland on any of these trips, as she was never able to get out  
25 of bed until almost noon on any of the trips. As a consequence, the Harrisons would go to the park when  
26

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27 <sup>33</sup> Michele now falsely claims Kirk forgot to pick up Brooke from school during Vivian's  
28 trips.

1 it opened and would be joined sometime later in the day by the Atkinsons. Other times they wouldn't  
2 see the Atkinsons at all. During the trips to Disneyland, Kirk will spend the entire day with Brooke and  
3 Rylee. Vivian, on the other hand, will go on one or two rides, typically Indiana Jones and Peter Pan,  
4 then disappear for the majority of the day. Vivian would then rejoin the family for lunch, dinner and  
5 to watch any parades or shows.

6 In response to Paragraph 14, Kirk was at the park with them. Kirk was given Rylee's costume  
7 on a hanger with a dark colored bag over it that was open at the bottom. When they removed the bag  
8 at Disneyland it was discovered the bottom of the costume had fallen from the bag. Kirk suggests the  
9 missing part of the costume is more a function of someone failing to attach the bottom to the hanger,  
10 than Kirk simply carrying the bag to the car.

11 This declaration is another instance of Vivian's lack of respect for this Court. Heather Atkinson  
12 obviously has no integrity and her oath meant nothing to her. Liz Castelan probably had no idea what  
13 she was signing. Heather Atkinson knew exactly what she was signing and she knew it was a lie.  
14 However, her loyalty to her benefactor trumped any inclination she might have otherwise had to tell the  
15 truth.

16 **3. Michele Walker's Sworn Testimony Has Been Bought And Paid For As Well**

17 Michele Walker claims Vivian paid her \$15,000.00 (it was actually \$16,159.98) for Michele's  
18 Mediterranean cruise to pay Michelle for taking care of Brooke and Rylee while Vivian was gone on  
19 her extended trips. As the Court will see that is a lie. Vivian paid the \$16,159.98 for the same reason  
20 she paid \$10,000.00 for Michele's daughters college – to buy loyalty. Vivian also paid for a pageant  
21 Michele's daughter entered. Kirk believes Vivian also bought Michele's daughter an expensive purse  
22 as well as expensive boots. Michele probably still has the arm full of dresses she took from Vivian,  
23 because she needed something to wear for the cruise.

24 Michele Walker's taking of all of this money and gifts – well in excess of \$30,000.00 is  
25 indefensible. If there isn't something wrong and highly unusual here, then Michele must have other  
26 friends who give her extravagant gifts and take her on expensive trips around the world. Her daughter  
27 must have other "scholarships" from other friends. Michele Walker knows full well there is something  
28 wrong with Vivian. (Kirk ¶258) Vivian's expenditures were apparently well spent has Michele Walker

1 sold out – sold out her integrity – she claims to have executed her statement under penalty of perjury  
2 and then knowingly lied.<sup>34</sup>

3 The notion that when Vivian was gone on her extended trips chasing Jonathan Rhys Meyers,  
4 David Walsh, and Sergio Becerra, that Kirk “spent a great deal of time using others to care for [Brooke  
5 and Rylee]” is an absolute ruse. (Vivian ¶65) It never happened!

6 Though just as deceitful, Michele’s lies are much more subtle. For example, Michele swears,  
7 “We had a car pool, in which Vivian and Kirk would take the children to school, and I would pick them  
8 up in the afternoon.” (Exhibit B, ¶14) (emphasis supplied) Compare this to the Affidavits of Laurie  
9 Larson and Karen Balke. Michele Walker knows full well, because Kirk picked Anna up each morning,  
10 that Vivian did not take the children to school. If Kirk could not take the girls to school, then Tahnee  
11 and Whitney would. Until mid-September of 2011, it was the rarest of circumstances for Vivian to drive  
12 the girls to school and Michele knows it. Yet, she purposefully attempts to lead the Court to believe  
13 otherwise.

14 As stated before, **the truth is that Kirk did nothing differently when Vivian was gone on her**  
15 **extended trips, because Vivian did nothing for Brooke and Rylee when she was home.** There was  
16 no need for Kirk to rely upon Michele Walker or Heather Atkinson.

17 Vivian was not helping Brooke and Rylee with her homework when at home. (Tahnee ¶39)  
18 (Whitney ¶26) (“My Mother normally doesn’t help Brooke and Rylee with their homework.”) (Kirk  
19 ¶111) Kirk has always helped Brooke and Rylee with their homework when they needed help. (Tahnee  
20 ¶41) Despite the foregoing testimony by people living at home at the time who have personal  
21 knowledge, Michele unbelievably swears, “From what I have seen, Vivian helps [Rylee] with her  
22 homework on a consistent basis, and she always ensures that it is turned in on time.” (Exhibit B, ¶13)  
23 First, Michele does not live in the Harrison home and has absolutely no personal knowledge upon which  
24

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25 <sup>34</sup> The Court should note that except for the Affidavit of Lizbeth Castelan, none of the  
26 “Sworn Statements” “Sworn Declarations” and “Affidavits” submitted by Vivian, including her  
27 own, are notarized, witnessed, or even dated. They each erroneously contain language that states,  
28 “being duly sworn, deposes and says:” They also provide they are being signed “under penalty of  
perjury.”

1 to make this assertion. Second, it is not true. Vivian rarely helped Rylee with her homework and  
2 certainly did nothing to “ensure that it is turned in on time.” In fact, Vivian often went to bed not  
3 knowing or caring if Brooke or Rylee had even done their homework. Michele Walker, just like Vivian  
4 and just like Heather Atkinson, have no allegiance to the truth, and apparently, no respect for this Court.

5 Of course Michele had to assert that Vivian was helping Rylee with her homework on a  
6 consistent basis, otherwise the second prong of the lie – that Michele had to help Rylee with her  
7 homework during Vivian’s absence – is nonsensical. If Vivian didn’t help Rylee with her homework  
8 when Vivian was home, there would be no need for Michele to help Rylee with her homework during  
9 Vivian’s absence. This is what is commonly referred to as the “slippery slope” and Michele is sliding  
10 quickly down it. Statements by Michele, such as the following, are simply bald-faced lies, “As I said  
11 before, I helped Kirk keep track of the children’s schedules and their daily needs.” (Exhibit B, ¶55)

12 Upon reviewing the specific factual assertions in Michelle’s “sworn statement” it soon becomes  
13 readily apparent that her testimony is bought and paid for. A person who comes before the Court must  
14 take the oath more seriously than Michele Walker.

15 The Court will note throughout Michele’s statement, she conveniently cannot recall any facts  
16 that in any way reveal the truth about Vivian. Most notably, the Court will see that Ms. Walker just  
17 can’t recall Vivian saying that Jonathan Rhys-Meyers is her soul mate. Kirk respectfully submits that  
18 if a married friend, who is a mother of five, makes a statement like that, it is something one would  
19 remember. (Exhibit B, ¶17)

20 The Court will also see Michele is happy to state her beliefs, as opposed to known facts, in an  
21 effort to assist her benefactor. For example, “I believe that . . .” (Exhibit B, ¶18 & ¶23) Similarly,  
22 Michele is happy to speculate that Vivian “gets pleasure from doing nice things for others.” (Exhibit B,  
23 ¶19)

24 Kirk never said, “Don’t worry, Michele, this is just the way we communicate.” (Exhibit B, ¶22)

25 Paragraph 27 of Michele’s “sworn statement” is replete with lies. The falsity of these statements  
26 is belied by the fact that Tahnee and Whitney were living at home during this time period, both of whom  
27 took dance classes at the same studio for many years. This is unabashed blatant perjury. This is also  
28 the false basis upon which Ms. Walker claims as justification for Vivian paying \$16,159.98 for her

1 Mediterranean cruise. The first statement, “When Vivian was away, he would rely heavily on me to  
2 help him with the children.” This false statement presumes that Vivian was doing anything for Brooke  
3 and Rylee when she was home. If Kirk didn’t need to rely upon Michele when Vivian was home, why  
4 would he need to rely upon Michele when Vivian was gone? Vivian’s trips were during 2010 and the  
5 Spring of 2011.

6 The Court has before it the uncontroverted affidavits of Tahnee and Whitney, who were living  
7 in the Harrison home, in addition to Kirk’s affidavit. The Court also has before it the Affidavits of  
8 Laurie Larson, David Krumm and Karen Balke.

9 Again, when Vivian was home, Kirk did all the driving for school and all of the driving for  
10 dance, excepting only when he was at the ranch or in a rare mediation. And on those occasions, most  
11 of the time, Tahnee or Whitney drove. Vivian took the position, that if Kirk couldn’t drive, it was  
12 incumbent upon him to find someone else to drive – not Vivian.

13 The only time Michele may have been asked to help by Tahnee was during Vivian’s trip from  
14 September 19, 2010 until October 28, 2010. Whitney left home in September of 2010. (Whitney ¶3)  
15 If Kirk was in a mediation or working at the ranch during this one trip of Vivian’s and Tahnee had a  
16 conflict, then Tahnee may have asked Michele to pick up Brooke and/or to watch Brooke and Rylee  
17 until Tahnee got home from work. However, Michele’s involvement was minuscule compared to what  
18 she now attempts to portray.

19 Vivian was not helping Rylee with homework as confirmed by the testimony of Rylee’s older  
20 sisters, Tahnee and Whitney. Kirk was helping Rylee and he knew what was going on. There were a  
21 couple of occasions when Rylee did not bring home a paper that was necessary for her to do her  
22 homework. When that occurred, Kirk either called Kim Bailey or Michele to obtain a copy. However,  
23 those incidents are just as likely to have occurred when Vivian was at home as when Vivian was away.  
24 Rylee got straight A’s during this entire time period.

25 Michele is apparently ignorant of the fact that both Tahnee and Whitney spent years taking  
26 dance lessons at the same dance studio. Kirk, Tahnee and Whitney knew the routine and the  
27 requirements. Michele’s statement, “I explained how Rylee needed to be dressed for dance class” is  
28 ridiculous based upon what was actually occurring. Kirk, Tahnee, Whitney and Brooke were all



1 involved with this effort. Michele falsely asserts that “Vivian would normally handle” dance schedules,  
2 events, school supplies, how Rylee needed to be dressed for dance, and helping Rylee with school  
3 projects.” This is a blatant lie. Vivian did not normally handle these items, – Kirk did. Vivian was  
4 either self sequestered in the office with the door shut or away from the home for skin treatments,  
5 medical appointments, shopping for herself, or away on a trip.

6 Michele swears, “There were many occasions I would watch Brooke and Rylee after school.”  
7 Except for during just the one trip noted earlier, this also is a lie. There were several times Michele  
8 would watch Rylee and Anna, not Brooke, after school because they frequently played together after  
9 school. There were several times that Kirk watched Rylee and Anna after school for the same reason.

10 The next lie by Michele is, “Several times Kirk forgot to pick up Brooke after school.” There  
11 is no truth to this statement whatsoever. It should be noted this testimony implies that Vivian, when  
12 not gone on one of her trips was picking Brooke up after school – she was not. And impliedly, because  
13 Kirk was not used to picking Brooke up after school, he forgot. None of this is true. Kirk picked  
14 Brooke up after school, regardless whether Vivian was home or away on a trip.

15 *See* Affidavits of Laurie Larson and David Krumm.

16 Michele continues down her path of falsehoods, “I would have to remind him about dance  
17 classes, but he would still forget at times.” Michele never had to remind Kirk about dance classes. *See*  
18 Affidavit of David Krumm. Kirk – not Vivian – drove according to the car pool schedule when Vivian  
19 was home. Kirk drove according to the car pool schedule when Vivian was away. Kirk had the same  
20 schedule Michele did. This false accusation is a bit ironic. As noted earlier, during the  
21 September/October of 2011 time period, Michele failed to pick up Brooke from dance three weeks in  
22 a row. When Kirk telephoned Michele to determine what the problem was, Michele responded that she  
23 had the old dance schedule. It is Kirk’s understanding that Michele got each dance schedule emailed  
24 to her from either Kim Bailey or Nyla Roberts at the same time the Harrisons did

25 The lies from Michele continued, “Brooke called me a few times, asking me to pick her up  
26 because she was unable to reach Kirk.” Again, Kirk is not aware of this ever happening and is confident  
27 he would know if it did happen. After all of the defamatory statements in this paragraph, including  
28 falsely accusing Kirk of forgetting to pick up Brooke from school and dance, Michele then writes,

1 “These were not huge issues. . .” Kirk submits that if he forgot to pick up his daughter from either  
2 school or dance it would be a huge issue to Kirk. Kirk submits the reason it is not a huge issue for  
3 Michele is she knows it didn’t happen.

4 During most of the time period in question, both Tahnee and Whitney were living at home.  
5 After Tahnee left in January of 2011, Joseph was living at home, and Whitney was living at home again  
6 during March of 2011. Kirk **never** forgot to pick up Brooke either from dance or from school. Those  
7 are just outright lies. It is truly shocking just how cavalier Michele is with the truth. In addition  
8 to the foregoing, each day that Kirk was out of town, which was infrequent, he would call each evening  
9 and talk to Brooke and Rylee. He would also talk to Tahnee and/or Whitney about the day asking them,  
10 among other things, if there were any problems, what they had for dinner, if the girls’ homework was  
11 done, etc. Kirk has no recollection from any of these calls, that Tahnee or Whitney ever forgot to pick  
12 up Brooke from school or failed to take Brooke, Rylee to or from dance when it was Kirk’s turn to drive.

13 **4. Nyla Roberts Was Not Willing To Lie For Vivian, But She Was Willing To**  
14 **Testify Concerning Matters For Which She Has No Personal Knowledge**

15 Nyla Roberts has told Whitney that she knows there is something wrong with Vivian. She also  
16 told Whitney that through her relationship with Vivian she is able to temper Vivian’s behavior  
17 somewhat. Nyla is an extremely loyal friend to Vivian. Unfortunately, Nyla’s loyalty to Vivian is blind  
18 and Nyla is in denial regarding much of Vivian’s deviant behavior and the ramifications of that deviant  
19 behavior upon Brooke and Rylee.

20 Vivian erroneously attempts to portray Kirk as the monster of the neighborhood. Laurie Larson,  
21 who used to live across the street and now lives a few houses from the Walkers, obviously doesn’t think  
22 so. Neither does Nyla Roberts. Attached hereto as Exhibit “29” is an email from Nyla to Kirk and  
23 Vivian suggesting that one of them builds a new house across the street from their existing home. Nyla,  
24 obviously, isn’t buying into this monster of the neighborhood notion either. Nyla is unaware of most  
25 of Vivian’s deviant behavior, the damage Vivian has done to Brooke and Rylee and the damage Vivian  
26 continues to do to Brooke and Rylee. Kirk strongly feels that if Nyla was apprised of all of the facts she  
27 would feel much differently about Vivian’s continuing role as a parent.

28 . . .

1 Nyla Roberts obviously has been secretly harboring ill feelings towards Kirk relative to the sale  
2 of their house. Kirk dealt with the Roberts' real estate broker, Gene North. Mr. North told Kirk that the  
3 house had been on the market for over a year without a serious offer. The marketing brochure for the  
4 house provided it had the best RV garage in Southern Nevada. Kirk recalls telling Mr. North that he  
5 never envisioned buying a large recreational vehicle and that his view of what the house was worth was  
6 affected by what had recently occurred on 9/11 and the uncertainty in many people's minds, including  
7 his own, as to what the future would be.

8 It is Kirk's recollection that written offers and counter offers were exchanged through Mr. North  
9 and the parties ultimately agreed to a sales price of \$835,000. At no time did Kirk verbally agree to pay  
10 \$900,000. In light of written offers and counter offers being exchanged through the Roberts' broker,  
11 the assertion of a verbal agreement is nonsensical. Kirk never agreed with the Roberts' broker or  
12 anyone else to purchase the house for \$900,000.00, either orally or in writing. If he had, he would have  
13 paid it. Kirk has no recollection of speaking to either Dennis or Nyla Roberts about price. Kirk and  
14 Vivian paid the Roberts more money for their house than anyone else was willing to pay. When Gene  
15 North informed Kirk the Roberts' wanted to live in the house for several months after the closing, Kirk  
16 asked their agent what was appropriate. Mr. North felt some form of rent should be paid and Kirk  
17 sought and received Mr. North's opinion as to about what the amount of rent should be.

18 Nyla Roberts asserts that Vivian told her that she held up in the office reading in an effort to  
19 teach Kirk a lesson. (Exhibit C, ¶28) Nyla is apparently unaware of Vivian's successive obsessions that  
20 really caused Vivian to be held up in the home office year after year. Vivian did almost nothing with  
21 Brooke and Rylee. Was that to teach Kirk a lesson as well? Did Vivian fail to sit down for a meal with  
22 Brooke and Rylee in their home for months at a time to teach Kirk a lesson as well? This illustrates just  
23 how little of what has really been going on in the Harrison home that Nyla actually knows.

24 Nyla testifies about a number of things she has absolutely no personal knowledge. For example,  
25 in Paragraph 25 she talks about issues in the Harrison home based upon what Vivian told her, not based  
26 upon her personal knowledge. Paragraph 27 is the same. Vivian told Nyla that Kirk commented on  
27 everything and in a critical way. This simply isn't true. It is just what Vivian told Nyla.

28 . . .

1 Nyla misstates her conversation with Kirk. (Exhibit C, ¶37) The conversation was just as Kirk  
2 has described it. (Kirk ¶221) Prior to Kirk's conversation with Nyla, he had no familiarity whatsoever  
3 with a pediatric endocrinologist or what they did. Therefore, but for Nyla's statements to him, Kirk  
4 would not have known to ask Dr. Schroeder for a referral to a pediatric endocrinologist.

5 As noted earlier, Vivian did not make the appointment with the pediatric endocrinologist based  
6 upon Nyla's recommendation. (Exhibit C, ¶38) Kirk had obtained the referral and Vivian simply  
7 responded to the referral.

##### 8 **5. Kim Bailey's Sworn Statement Is Filled With Conclusions**

9 Kim readily admits she has not spent much time with Vivian as she would like. (Exhibit D, ¶2)  
10 Kim works as a Certified Public Accountant. Kim and Vivian have gone on three sewing trips together.  
11 Kim, to her credit, admits she "has no specific recollection of that conversation" referring to her  
12 conversation with Kirk about Vivian's obsession with the Kindle during one of the sewing trips. (Kirk  
13 ¶52)

14 Kim collects and displays a Christmas Village each year in her home. She has two different  
15 villages. One is called Department 56 Snow Village. Based upon seeing Kim's collection and talking  
16 to Kim about it, Kirk got interested in it as well. On several occasions, Kirk has been shopping with  
17 Brooke and Rylee and found Department 56 items on sale, called Kim, and picked up pieces for her.  
18 Kim's husband, Kurt, and Kirk share a love for college basketball. Kirk and Kurt have taken their  
19 children to UNLV basketball games together on several occasions. Kirk has a high regard for both Kurt  
20 and Kim.

21 Kim generally addresses her experiences with Vivian during their trips and, for the most part,  
22 does not pretend to know what is going on in the Harrison home.

23 Kim's "sworn declaration" is neither notarized nor dated. Presumably, Kim signed the document  
24 on or shortly before October 27, 2011. Kim's statement as to seeing Vivian at the dance studio is true  
25 only as of mid-September of 2011. (Exhibit D, ¶15) Although Kirk has seen Kim at the dance studio,  
26 Kurt does the majority of the driving to and from dance for their family in the car pool. Kirk is  
27 confident that Kurt would not agree with Kim's conclusory assessment if Kim intends it to apply prior  
28 to mid-September of 2011. *See* Affidavit of David Krumm.

1 Kim obviously has not a clue what has been going on in the Harrison home during the last six  
2 years, when she writes, “Vivian is a great mother and a fantastic human being.” (Exhibit D, ¶16) This  
3 statement is a conclusion and certainly not supported by the facts.

4 Kirk did call Kim and asked if Vivian requested her to provide an affidavit, he would like to talk  
5 to Kim first, as there were a lot of issues Kirk knew Kim was unaware. Kim declined.

6 Kirk is confident that if Kim were apprised of the true facts, she would not support Vivian  
7 parenting Brooke and Rylee.

#### 8 **6. Annette Meyer’s Affidavit**

9 Ms. Meyer’s “Affidavit” is not notarized and it is not dated. It was undoubtedly signed on or  
10 shortly before October 27, 2011. Kirk does not dispute Vivian’s involvement with Brooke and Rylee  
11 since September of 2011. It appears that Ms. Meyer’s observations of Vivian at the school are during  
12 the fall of 2011.

13 As noted previously, although Vivian, until September of 2011, has not been involved with  
14 Brooke and Rylee’s daily lives, Vivian has made a point to make public appearances. For example, Kirk  
15 has previously noted that Vivian will attend the Parent/Teacher conferences. Vivian would also attend,  
16 as does Kirk, scholastic book fairs, choir and musical presentations, and Santa’s workshop. Vivian  
17 would sign up to work as a parent helper, but until September 2011 would do very little.

18 The chart of prescriptions referenced as being attached is not attached.

#### 19 **III. CONCLUSION**

20 Because of her Narcissistic Personality Disorder, Vivian sees her children as mere objects. The  
21 older children have suffered as a consequence. Tahnee was manipulated and controlled by Vivian to  
22 satisfy Vivian’s own selfish ego and desires. What was best for Tahnee was not a consideration. Vivian  
23 selfishly slept with Joseph until he was ten years old when Brooke was born. Each of the older children  
24 were struck in the head by Vivian when they were only about 15 years old, and thrown out of their own  
25 home like the day’s trash.

26 Vivian’s view of her own children as mere objects has resulted in physical damage to Rylee time  
27 and time again, the ultimate magnitude and severity of which is still unknown – a totally unnecessary  
28 traumatic birth; ingestion by Rylee of Phentermine and other Speed while she was nursing Vivian;

1 ingestion by Rylee of Citalopram (a drug used to treat major depression) while she was nursing Vivian;  
2 testosterone poisoning and the associated stunted growth, pre-mature puberty, future surgical pain and  
3 risk, and future risk from a man-made hormone being secreted into her body for years, and; seven  
4 stitches and a scar for life on her forearm. This pattern of conduct by Vivian should rightfully and  
5 undoubtedly cause grave concern for this Court. Kirk respectfully submits the cause of Vivian's  
6 conduct is her Narcissistic Personality Disorder. However, regardless of the cause of Vivian's conduct,  
7 the pattern is clear and undeniable, and the damage and continuing risk to Brooke and Rylee significant  
8 and unacceptable.

9 Vivian is now manipulating and controlling Brooke and Rylee through her continued sleeping  
10 with them. The fear, horror, and insecurity Vivian intentionally instills in Brooke and Rylee each night  
11 is incomprehensible to a caring parent. The consequences of Vivian's continued sleeping with Brooke  
12 and Rylee are severe. Dr. Roitman explains:

13 There are several issues surrounding Vivian sleeping with her children  
14 that represent a lack of empathy for their psychological needs and how  
15 her needs displace theirs. A parent sleeping with their children in this  
16 culture is disruptive to the separation and individualization of the child.  
17 Boundaries are harder to develop and enforce **and persistent anxiety is  
a frequent outcome.**

18 (Exhibit 6 at 18) (emphasis supplied).

19 No rational loving parent would act in such a way to cause their own children to experience  
20 persistent anxiety for the rest of their lives.

21 Vivian's increasingly obsessive compulsive behavior, in many instances, is to the total exclusion  
22 of Brooke and Rylee and an emotional and physical abandonment of them, including reading Vampire  
23 novels behind a closed door for almost a year, pursuing Jonathan Rhys Meyers from the home office  
24 and then to Asia and Ireland for another year, and pursuing Sergio Becerra for three or four months.  
25 As was seen in Vivian's obsessive pursuit of Sergio Becerra and Vivian's concurrent inability to make  
26 just one telephone call for Rylee, Brooke and Rylee are at significant emotional and physical risk when  
27 Vivian is in an obsessive pursuit.

28 ...

...

1 Brooke and Rylee need a parent who is there for them on a daily basis – a parent who day in and  
2 day out puts their best interests first – they need Kirk. A father, who walked away from his career to  
3 take care of them.

4 Obviously, unable to meet the factual allegations contained in the Motion, Vivian chose instead  
5 to try to make Kirk “the bad guy.” In her failed effort to make Kirk “the bad guy” Vivian lied  
6 repeatedly throughout her “sworn statement.” Vivian also conspired with Heather Atkinson and  
7 Michele Walker, and they too lied throughout their respective “sworn statements.” Vivian, along with  
8 her co-conspirators, attempted to put the focus on Kirk – a strategy that has failed miserably.

9 Vivian’s Opposition mirrors her life. Instead of focusing on what is in the best interests of  
10 Brooke and Rylee, and addressing those issues, Vivian chose instead to focus on Vivian. Vivian spent  
11 a lot of time attempting to have this Court look at what Vivian did, what is now, a long time ago – her  
12 school, her community service, her involvement with the older Harrison children years ago. When  
13 Vivian then attempted to focus on the current Vivian and what she does and why she does it, she lied,  
14 lied, and lied again. As the Court has seen, Vivian has lied repeatedly to the Court. The falsity of  
15 Vivian’s sworn statements is exposed by her own prior written statements, her own prior statements to  
16 physicians, her own letters, her own photographs, her own emails, her own invoices, her own credit card  
17 statements, the records of her physicians, the records of her pharmacies, and the affidavits of people  
18 with personal knowledge who are not being paid for their testimony.

19 Vivian cannot overcome the fact that only the members of her family know what has been going  
20 on in their home. Although the sworn statements of Vivian’s friends are creatively written, these  
21 people have not been living in the Harrison home. Only the members of the Harrison family know.  
22 Kirk’s, Tahnee’s and Whitney’s affidavits are before the Court. Brooke, who though very young, was  
23 well aware of the true reality in the Harrison home, when she said “Rylee has never really had a mom.”

24 As Dr. Norton Roitman’s psychiatric analysis of Vivian explains:

25 Vivian’s choices in parenting reward dysfunction and discourage  
26 personal responsibility and psychological growth. . . . Vivian’s incapacity  
27 for empathy is devastating to a child who needs a parent to accurately  
28 reflect their feelings, understand and accept their emotional pain, and  
help guide them through difficult times. Since, in the world of the  
narcissist, it’s “all about me,” there’s no space left for the child’s self. .  
. . Unfortunately, the only viable option for the health and well-being of

1 children is to visit with their mother only. They should not be controlled  
2 or directed by her. . . . She is too unstable and volatile, and uses the  
3 children for her own psychological needs. The narcissist is an emotional  
4 vampire, seducing others, and then taking what they need most. The kids  
do love her and are attached, but instead of giving back, Vivian feeds off  
them.

5 (Exhibit 6 at 33)

6 Vivian's callous manipulation of and lies to Brooke and Rylee must stop! No more instilling  
7 fear and insecurity each night. No more emotional and physical abandonment each time the next  
8 obsessive compulsive behavior rears its ugly head. Brooke and Rylee do not have to suffer from the  
9 same disorder Vivian suffers from for the rest of their lives. Brooke and Rylee do not have to suffer  
10 from depression the rest of their lives. Brooke and Rylee do not have to live with constant anxiety the  
11 rest of their lives. Kirk respectfully urges the Court to do what is unquestionably in Brooke and Rylee's  
12 best interest and not allow Brooke and Rylee to suffer the same fate as Vivian and her sisters.

13 DATED this 4<sup>th</sup> day of January, 2012.

14 KAINEN LAW GROUP, PLC

15 /s/ Edward L. Kainen  
16 By: \_\_\_\_\_  
17 EDWARD L. KAINEN, ESQ.  
18 Nevada Bar No. 5029  
19 10091 Park Run Drive, Suite 110  
20 Las Vegas, NV 89145  
21 Attorneys for Plaintiff  
22  
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24  
25  
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28



# EXHIBIT 8

**AFFIDAVIT OF KIRK R. HARRISON**  
**filed in Support of Plaintiff's Motion for Primary Custody and Exclusive Possession of**  
**Marital Residence**

STATE OF NEVADA        )  
                                  )       ss.  
COUNTY OF CLARK        )

KIRK R. HARRISON, declares and says:

260. The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

261. When I retired to take care of Brooke and Rylee beginning in February of 2006, I knew there was something wrong with Vivian. I have a number of friends who are older than I. Everyone assured me that Vivian's deteriorating behavior was temporary. All of my very close friends are men, who in retrospect, were well intended, but perhaps not a lot more knowledgeable than I was. I heard the same thing I heard after Brooke was born. Vivian is probably suffering from postpartum depression from Rylee's birth. As evidenced in Dr. Sean Duffy's physician notes, it is interesting to note that Paula Squiterra Ph.D., whom Vivian had seen, had drawn the same conclusion. I was also advised Vivian was probably pre-menopausal. Then I was told Vivian was probably going through the change at an early age. I kept thinking it had something to do with her childhood. At this point, I was clueless as to Vivian's prescription drug abuse. It wasn't until sometime in 2009 that I thought prescription drugs might be part of the problem, and it wasn't until sometime late in 2009 or early 2010 that I started to determine the magnitude of Vivian's prescription drug abuse.

262. Vivian's behavior continued to worsen and she was spending less and less time with the family. She was going from one obsessive compulsive behavior to the next. It seemed

Vivian was excluding Brooke, Rylee and the rest of the family more and more with each successive obsession.

263. I approached Vivian on several occasions for she and I to go to a marriage counselor. Vivian refused each time. Tahnee and, to a lesser extent, Whitney told me I needed to get Vivian to see someone. I told them each time that Vivian refused to see anyone and, to the best of my knowledge, I could not force her to do so. However, Vivian continued to deteriorate and, at some point, I determined I needed to seek the advice of the best psychiatrist I could find to help my family. I started to prepare an exhaustive summary ("Summary") of everything I knew about Vivian, including her childhood, to give to the psychiatrist. As I was preparing this Summary, I included as much detail as possible about her current behavior, including anything my older children told me. At the time I was preparing this Summary it was in the context of trying to identify the cause or causes of Vivian's aberrant behavior and, if possible, trying to help Vivian. Vivian's behavior was causing problems for every member of our family, including Vivian, and I was desperately trying to solve these problems. I had no intention of anyone ever seeing this Summary other than the psychiatrist.

264. When Vivian took Brooke and Rylee from me during the summer of 2005 for several weeks, I believe it was about six weeks, it was an unbelievably difficult time for me. I did not know where they were or when they would return. I had known Tom Standish for a number of years as his office was next to mine for several years in Valley Bank Plaza and he was just one floor away from my office in 2005. I consulted with him during this time period. I felt incredibly helpless and frustrated during this time and I sought a second opinion from Jim Jimmerson. Jim and I had a major construction case against each other early in our careers.

265. By mid-December of 2009, I had almost completed the Summary. However, I did

not know a psychiatrist and did not even know the names of any of the psychiatrists in the state. I wanted to identify the best psychiatrist I could find to help our family. Gard Jameson is a leader of the child advocacy effort in Southern Nevada and a good friend. I telephoned Gard and he only recommended Dr. Norton Roitman. I also called Jim Jimmerson on December 13, 2009. The purpose of my call was to obtain a referral to the best psychiatrist Jim knew and to ask if there was anyway to get Vivian into counseling. Jim also referred me to Dr. Norton Roitman, saying he was absolutely the best. Although not medical doctors, he also referred me to Lou Mortilaro and a Mr. Paglini. Jim said absent a court order there was no way to compel Vivian to get counseling. Jim asked me what was going on. I told him of some of the problems with Vivian and my concern for Brooke and Rylee. I told him that Vivian did almost nothing with or for Brooke and Rylee on a day to day basis.

266. On or about January 4, 2010, I hand-delivered a 38 page letter to Dr. Norton Roitman, which was the Summary I had been preparing referenced above. I met with Dr. Roitman several days later on January 15, 2010 after he had a chance to review the letter. Dr. Roitman discussed what he believed to be the cause of the problem. Although he referenced what he referred to as cluster B and borderline personality, he believed Vivian was pathologically narcissistic and advised me to read articles by the top or one of the top authorities on the subject, Dr. Otto Kernberg. Exhibit "9" is a true and correct copy of this January 4, 2010 to Dr. Roitman.

267. Each of the factual averments contained in Plaintiff's Reply and Plaintiff's Opposition are true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

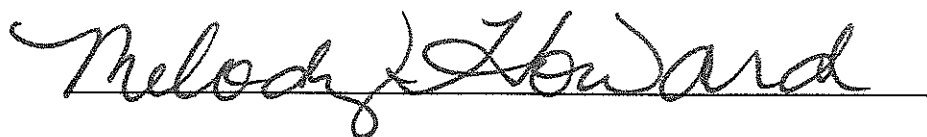
  
Kirk R. Harrison

State of Nevada

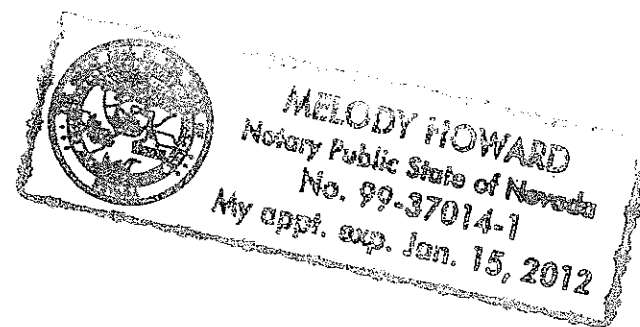
County of Clark

Subscribed and sworn before me

this 4<sup>th</sup> day of January, 2012.



Notary Public



# EXHIBIT 9

Kirk Harrison  
1514 Sunrise Circle  
Boulder City, Nevada 89005

January 4, 2010

Dr. Norton Roitman  
2340 Paseo Del Prado, Bldg D, Suite 307  
Las Vegas, Nevada

Re: Vivian Lee Harrison

Dear Dr. Roitman:

PERSONAL & CONFIDENTIAL

This letter is submitted to you on the condition and with the understanding that it is for your eyes only and will not be copied nor shared with anyone without my prior written approval.

OUR FAMILY

My wife Vivian is 47 [8/16/62] and I am 56 [9/14/53]. We were married on November 5, 1982. We have five children: Tahnee is 24 [4/18/85]; Whitney is 23 [9/26/86]; Joseph is 20 [3/4/89]; Brooke is 10 [6/26/99], and; Rylee is 6 [1/24/03].

Until about 2000 we had a good – not great – marriage. It was about the time Tahnee was 15 years old and not long after Brooke was born that we started having significant problems. Up until that time my wife proudly described her role with our children as the “primary care giver.” As her frustrations in dealing with our three oldest children grew through their adolescent years, her resentment of me increasingly grew.<sup>1</sup> I believe that many of the demons from Vivian’s childhood started to impact her life during this time period. My guess is that the stress of dealing with teenage girls and having a baby caused her to default to the defensive personality she developed as a child to cope with the horrific environment in which she spent her childhood.

This personality alienates everyone around her. Her first response to almost any matter broached with her is to criticize others and be antagonistic. If it is something not subject to criticism, she will minimize its importance. If it is a positive outcome, she will try to take credit for it. If she can’t “get all the attention” in a social setting, she doesn’t want to participate. She must believe she has control and exercise power in almost every relationship.

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<sup>1</sup>Vivian believes that our oldest children do not respect her and the reason they do not respect her is that, according to Vivian, I took their side when Vivian had disputes with them. I believe this is a source of Vivian’s resentment towards me.

She is generally unhappy and has not figured out how to get happy. So long as she continues to blame others – primarily me – for her unhappiness, things will not change. Over the years Vivian has had varied endeavors in an effort to be happy: voice lessons, cooking, sewing, plastic surgeries, and now, an infatuation with a 33 year old actor she has never met, Jonathon Rhys-Meyers, whom she believes is her “soul mate.” Like many, she is a habitual shopper. Vivian suffers from depression. I strongly believe that most of the issues we have in our marriage and the reason she is not happy, is because of what happened during her childhood. Her condition has deteriorated significantly during the last eighteen months to the point that she is almost totally self-absorbed, suffers from delusions, and generally lives in a false reality she alone has created that many times is at odds with the real world.

## VIVIAN’S CHILDHOOD

Vivian was born on August 16, 1962 at Women’s Hospital in Las Vegas, Nevada. She lived with her parents and older sisters near 5<sup>th</sup> Street in North Las Vegas. Her mother had been married at least once before, and her oldest sister, Cindy, was from a prior marriage. Cindy was probably eight or nine years older than Vivian. Vivian’s other sister, Raylene, is about 4 years older than Vivian. About 3 years later, Vivian’s little brother Harold “Butch” was born.

When Vivian was about 4 years old, her father abandoned the family. He made no effort to contact Vivian during her childhood. Vivian was told by her mother that he was dodging child support and alimony. Vivian’s father was a fireman. When she was about 7 years old she was in the car with her mother and saw him with a boot, collecting money for MDA, at a traffic light.<sup>2</sup> She did not see him again until about 1991. He had been diagnosed with terminal liver cancer and requested to see Vivian before he died. We took the kids and flew to Seattle when Joseph was probably about two years old. Vivian learned for the first time that her older sister Raylene had been communicating with him all those years. He probably communicated with Raylene because she was four years older than Vivian and, perhaps, not as loyal to her mother. I don’t know if he had been communicating with Butch during that time period or not.

Vivian’s mother, Radna, remarried a fellow named Crawford. Although I could be wrong, I believe it was at this time the family moved to Littlefield, Arizona, which is just north of Mesquite, Nevada. Vivian attended the second and third grade while living in Littlefield. I believe that the stepfather molested Cindy. Mr. Crawford shot and killed himself. Radna and the children then moved back to North Las Vegas and lived in Dogwood – public assisted housing.

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<sup>2</sup>We were recently in Baltimore for Tahnee’s graduation (5/21/09). At dinner, Vivian told Tahnee, Whitney and Joseph, contrary to what she told me, that her father came to visit her on several occasions after he moved out. Vivian also said, during this dinner, that she thought she was her father’s favorite and that her father’s next wife said so. I believe that it hurt Vivian tremendously to learn after all these years of not even knowing where her father was that he had been communicating with her older sister all this time.



When Vivian was in the sixth grade they moved into a trailer on Radna's parents property off of Lone Mountain Road north of Craig Road in North Las Vegas. Radna worked as a restaurant hostess. I believe she worked at Binion's.<sup>3</sup>

Life was not good for Vivian as a child. Radna worked swing shift so the children were in school during the day and were left to their own devices in the evening. A big night for the children was when they got KFC for dinner that Radna picked up on the way home from her 11:00 p.m. shift. I don't think Radna helped them get ready for school in the morning. Radna wasn't there when they got home from school. Vivian and her siblings basically lived on cereal most of the time. Vivian spent almost every day without any parental presence, love, support or encouragement.

Vivian's childhood environment was one of not only extreme neglect, but of emotional abuse as well. My impression is that Vivian yearned for love and care from people that had neither the capacity nor desire to give it. Radna and her parents, Harold and Honey, were not loving caring people. Vivian and all of her siblings became wards of the court. Playing bingo was much more important than spending time with the children – much more important than attending a grandchild's birthday party. During the middle of a hot summer, Radna did not like Vivian saying she wanted designer jeans and physically drug her across a hot asphalt parking lot.

I strongly believe that parents should consistently act so that their children become confident and self-reliant. This concept was totally foreign to Vivian's mother and grandparents. They were controlling and cold-hearted. For example, the children were told that if someone else was paying for dinner, then the person paying chose what the children were to eat.<sup>4</sup>

After Vivian and I were married, we would go to Vivian's grandparents and Vivian's mother's home on Christmas eve. Vivian, her siblings, and her cousins knew that if they did not attend these functions, they would be the topic of the evening and the comments would not be complimentary. Cindy would be bashed. Camy, a cousin, would be bashed. Patrick, also a cousin and Camy's brother, would be bashed. And when Vivian's uncle Pat was not there, he would be bashed.

Grandparents and mother treated the children as puppets; each starved for love, attention and recognition. Harold promised Vivian that if she got through college that he would pay for her to go to medical school – a more hallow promise was never made. The grandparents and mother constantly deflected the responsibility for their children to others. There was something

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<sup>3</sup>When I first met Vivian, Radna was working as a restaurant hostess at the coffee shop in the Stardust.

<sup>4</sup>Vivian was very alarmed that I offended her grandparents when they invited us for coffee and I ordered something else to drink. She said that it was not good manners to do such a thing and that her grandparents would think less of me.

wrong with the school system – none of the children graduated from regular high school. There was something wrong with the court system – again, all children were taken from them.

Vivian's grandparents and mother's idea of being a responsible parent was to totally control the children and when the children could not be totally controlled they were discarded – kicked out of the house, “juvy” was called, became part of the court system, became someone else's problem. Not long after Vivian and I were together, Radna kicked Butch out of the house. Butch was probably 16 at the time. Vivian asked me to talk with Radna on Butch's behalf to plead with her to let Butch back home. I have never dealt with such a cold-hearted person. Radna was delighted and gushing over the attention she was getting. However, she had no feeling for Butch whatsoever or the adverse ramifications for Butch. It is hard to imagine someone so cold-hearted about one of their own children. It is not an exaggeration that had I told her Butch had been killed in a car accident, she would not have blinked. Vivian's mother wouldn't drive across town for any of our children's birthday parties – probably because she knew she would not be the center of attention – the function was for someone else.

Vivian was taken from her mother when she was about 12 years old for neglect and placed in Nike house where she was introduced to drug abuse.

The consequences of this type of childhood were manifested in the lives of Vivian's siblings. Cindy became a stripper at the Palomino Club, a drug addict, and, Vivian suspected, probably a prostitute. She died of a drug overdose while in her early thirties, which was probably a suicide. Raylene has been married six or seven times and has lived with as many or more men out of wedlock. On or about Tuesday, May 26, 2009, Raylene called Vivian to tell her she was getting another divorce. Butch, who spent a lot of time with his best friends, Shane and Mike, and their family, has fared much better. He has been married and divorced twice, but seems to be fairly stable and a pretty decent guy.

When Vivian got out of Nike house, she moved to Hawaii where she lived with her sister Cindy and Cindy's husband, Joe. Joe played guitar and sang in the Don Ho Show. I think he went by “Cowboy Joe.” Vivian was further exposed to drug abuse during this stay. As a “howly” she was discriminated against in school. Vivian believes that Cindy was bipolar and insufferable to be around.

I think Vivian was about 14 or 15 when she moved back to North Las Vegas. I am not sure where she lived during this time period. I believe it was during this time period, when an older man that worked for Valley Bank paid her and a girl friend to take pictures of them naked or scantily clad. Vivian's best friend growing up was a girl named Diana. Diana's boyfriend was Eddie. Diana broke up with Eddie for a period of time. During this time, Vivian had sex with Eddie. Diana and Eddie were later married. Vivian could not understand why Diana did not want to be close friends with her later in life.

It was about this time that Vivian met Larry. Based on Vivian's description, my image of

Larry is of an unkept, dirty, smoking, drug using, street urchin. Vivian began living with Larry. Somehow the two of them ended up living with a Mormon family in Oklahoma. This was Vivian's first experience living with a real family – where parents genuinely cared about their children. Something there motivated Vivian to do something with her life.

Vivian moved back to North Las Vegas. She moved in with her grandparents – Harold and Honey. She forged a driver's license using Raylene's driver's license. Believing she was 21 at the time, Valley Bank gave her a job. During the next two to three years, she paid her grandparents rent, was making payments on a new Nissan car, went to night school and got her GED, and continued going to night school at the community college where she was working towards an associates degree. Vivian told me of an incident when she thought her grandfather was masturbating behind a kitchen counter while watching her. Vivian was told in late 2008 or early 2009 that her grandfather had shot and killed another man. I believe her uncle Pat and/or her cousin Patrick tried something with her, but do not know what or at what age. During this time she met Russell, who was a cocaine using gambler from New York City. Russell would fly out from New York City and stay at Caesar's Palace. I think he would take Vivian to shows on the strip and then they would go to his room at Caesar's Palace where they would do cocaine and have sex.

In summary, Vivian's prior relationships with men were unmitigated disasters– her father abandoned her; her grandfather and/or uncle probably sexually abused her; her stepfather may have abused her before he killed himself<sup>5</sup>; I suspect something may have happened while living with Cindy in Hawaii, but do not know; she slept with her best friend's boyfriend, Eddie, who now sleeps around on his wife; not sure how old dirty Larry was, and finally; Russell, the cocaine addict. Couple all of this with Radna telling Vivian that men are bad and cannot be trusted, it is understandable why Vivian does not have a rational view of the world.

## OUR MARRIAGE

Vivian's grandparents had a midnight curfew for Vivian when she was living with them. On either our second or third date, she got back a little late. She called me the next morning telling me she had been kicked out of the house. She then moved in with me. We lived together for a little over a year and then got married on November 5, 1982.

When Vivian first moved in I explained to her that my work was incredibly demanding, that I did not have control of my own time, and work had to come first. She indicated she understood. When I say work had to come first, I mean it had to come in front of not only what Vivian wanted, but what I wanted as well. Before I met Vivian there were times when I would work 60 to 70 days straight. I was in an competitive field, and to be successful that was what

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<sup>5</sup>Although Vivian told me that the stepfather molested Cindy, Vivian would have been very young at the time. I don't know whether Vivian knew Cindy was molested because of what she witnessed or if Cindy later told her.

was necessary.

The first year we were together was the happiest year of my life. We loved each other and enjoyed spending every minute we could with one another. I gave her a bicycle and we would ride bikes together. I gave her a set of golf clubs, she took lessons, and we would go to Pahrump and play golf together. She loved spending time at the ranch.

As I look back, the personality traits that most attracted me to Vivian are non-existent today. Vivian appreciated everything that I did for her and never failed to tell me so. She knew that I cared deeply for her and she was fiercely loyal and supportive of me. There was nothing we could not talk about. She seemingly cared about others. She couldn't watch the Fletcher Jones car commercials knowing the puppies were from the pound and unless adopted would be put down. She viewed every new experience as an adventure and was exuberant about everything we did.

She respected me and cared about what I had to say. An example was her education. She was obtaining "banking certificates" by taking certain classes at the community college. Her focus was to obtain all of these certificates. The bank would help pay for those classes. I advised her to forget about the banking certificates and transfer to UNLV as soon as possible. I think she ended up spending one more semester at the community college so she could get her associate degree. She asked what I thought the best major would be at UNLV. We had a very good relationship.

Vivian also had a good relationship with both of my parents; Vivian moved in with me in about September of 1981, we were married on November 5, 1982, and my mom died in May of 1983. Vivian therefore got to know my dad much better. Vivian appreciated the fact that my dad never missed any of our children's birthday parties or a Christmas morning. Vivian and "Pa Harrison" as Vivian would call him, enjoyed a very good relationship. Vivian noted that even though "Pa Harrison" was terminally ill and on oxygen for emphysema, he would still drive over 150 miles each way to attend every birthday party, but she could not get her mother to drive across town or to miss bingo one day to attend even one birthday party.

When Vivian was growing up the one bright spot was going to Disneyland every year. Her mother would drive down very early in the morning and they would spend the day at Disneyland, stay in a hotel that night and drive back the next day. We would go to Disneyland and stay two or three days. Vivian was in heaven.

Vivian told me a lot about her childhood and what she went through, and upon meeting Radna and her grandparents I was concerned about issues in our future. However, I loved Vivian very much, wanted to care for her, and rationalized that she was away from them enough to not be saddled with all of the dysfunctional aspects of her family. When we were having our oldest children, Vivian read a number of books about raising children. One of the books said that 90% of what you can teach your children must be taught before the age of 6 or 7. It occurred to me

then that Vivian's past may come back to hurt us.

Vivian's mother and her grand parents solution for any problem with one of their children was to kick them out of the house. On numerous occasions Vivian has wanted to kick each of our older children out of the house. Many times she has done so – and each time I would plead with her to let them back in our home. She wanted to call the police and “juvy” to come pick up Joseph on several occasions.

Vivian's grandparents and mother were inept in dealing with the challenges and obstacles in their lives. However, they were very adept at blaming others for their problems and failings. Whenever I broach a problem with Vivian in an effort to resolve it, Vivian's first and usually immediate reaction is that I am blaming her. The reality is my focus is on solving problems, not placing blame. Placing blame is counterproductive to solving a problem. It is divisive, causes resentment, and hurts feelings.

Vivian worked with two of our three oldest children each night helping them with homework and reading with them. Whitney always insisted that her homework was hers and would not let Vivian be involved. During the summer, she had the three older children do A Beka, which is a Christian based home school curriculum. Vivian rightfully deserves a lot of the credit for our three older children's scholastic successes. They have done the work, but she spent the time with them, showed them the way, and created an environment and expectation conducive to success in the classroom.

When Vivian moved in with me – she had been kicked out of her grandparents home because she missed a midnight curfew – I explained to her the reality of my career circumstance. I told her that I had to work long stressful hours, that my time at work was dictated by the partners at the firm, judges and clients. I told her that work had to come first. She said that she understood and appreciated the effort and sacrifice that I was making. We lived together for more than a year before we got married. She was thrilled when we got married, and never indicated that my long work hours were somehow an act on my part of abusiveness towards her.

For most of my career I would work from about 8:45 a.m. until 7:00 p.m. to 7:30 p.m. Monday through Thursday and from about 8:45 a.m. until 5:30 p.m. on Friday. If I was preparing for trial or in trial it would be more. In addition, until we moved to Boulder City in 1993, I would go in the office and work an average of 4 to 6 hours about 3 weekends out of 4. After moving to Boulder City, I would work about 1 weekend out of 4. After about 2002 I significantly reduced my weekend work.

For many years, when I would first come home at night I would watch television for an hour or so in an effort to decompress. In hindsight, I regret doing so, but at the time I thought it was necessary. I believe “Men are from Mars Women are from Venus” addresses this issue. Vivian has criticized and continues to criticize me for this.

## SLEEPING ARRANGEMENTS

Until about the beginning of 2009, Vivian would snuggle in the large living room chair watching cartoons with Rylee for hours each day. Vivian has trouble sleeping through the night and will be asleep much of this time. At night time she will get in the same bed with Brooke and Rylee and they will read. Brooke will read and, until about August of 2009, Vivian was teaching Rylee to read. All of this is wonderful. Unfortunately, it doesn't stop there. The problem is that Vivian sleeps in the same bed with our 10 year old and 6 year old daughters.

Every time I have told her that this is contrary to their best interests, she immediately dismisses the point. I have watched a total of three episodes of "Nanny 911". The focus of two of those three shows was how wrong it is for parents to sleep with their children over the age of 2. On one show the mother was heading off to bed with her son, who was about 7 years old. The nanny questioned the mother as to what she was doing. Just like Vivian, the mother said that sleeping with her son was one of her favorite times of the day. The nanny responded by saying, "How can you be so selfish?" In the other episode, involving a different family and a different English nanny, the father had grown up in a home where his mother was absent much of the time. Well intended, the father would sleep with his children. In this episode, the English nanny had the same reaction as the other English nanny, saying you cannot do that to your children – you are creating insecurities in your children. Last night, Wednesday, August 27, 2008, I caught the end of a show called, "Super Nanny." The show involved the Schage family. Same problem with the mom staying with the children until they went to sleep. Entire show was how mom had to force the kids to go to sleep by themselves and sleep by themselves. Its bad enough that Vivian goes to be with them, but Vivian makes it much worse by not being there when they awaken in the morning – creating even more insecurities in our children. Brooke cries at the least little thing now and has emotional problems. I believe this is the consequence of her being ten years old and not developing the independence and confidence to deal with things because she still sleeps with mom or me. There might be other causes of this behavior, although I do not know what.

I believe that all of this started with our son. He had some horrific medical events happen to him as a child. At two he was exposed to e-choli at Carl's Jr. – he was in critical care at Sunrise Hospital for about 11 days and was within minutes of being on dialysis, when his numbers miraculously suddenly improved for the better. At four he was scratched by a neighbor's cat which resulted in a life threatening bacterial pherangeal abscess in his throat that required two emergency surgeries – one of which was at 2:00 a.m. He was in the hospital for another 8 or 9 days for this one. At 10 he was at the County Fair and was hit by a Cushman cart carrying ice to the food vendors. He suffered a double concussion and was flown via the Flight for Life helicopter to UMC. He didn't know where he was from Friday night until Sunday night when he woke up and asked where he was. Understandably, as a consequence of all of this, Vivian would sleep with Joseph many nights. To this day, Joseph must have multiple lights on when he goes to bed at night – he is now 20.

To Vivian's credit when we first started having children, she realized she was not parented as she should have been and read numerous child rearing books. Vivian is well aware that sleeping with our children is not in their best interests nor in our family's best interest. A review of the literature reveals that there is general debate about co-sleeping or the family bed until the child is about two to three years old. However, when the children are older, i.e., five and nine years old, the vast majority of experts in the United States agree that the children need to be in their own beds by themselves.

Finally, as parents we have a responsibility to create an environment that will give our children the best chance of success and happiness in their own marriages and families. If our adult children are sleeping in their children's beds and not with their spouses, that can only cause problems.

It is Friday morning, December 11, 2009. Brooke does not like being awakened in the middle of the night by Vivian and Rylee so she has been sleeping with me for several months. I have been strongly encouraging her to sleep in her own bed. The problem is that Vivian and Rylee are sleeping in her bed, and, to date, Vivian won't leave. It is the worst possible situation for Rylee. Vivian gets up every night during the night and goes downstairs and sleeps on a couch. Every night, Rylee, who is six years old, will wake up, become frightened, and go downstairs looking for her mother. I told Vivian this morning this has to stop. I told her she has to start thinking about what is best for Rylee. I told her we need to get Brooke and Rylee sleeping together and not with their parents. Later, within a few months, Brooke and Rylee should be sleeping in their own rooms. Rylee's room only has a single bed and there is so much stuff on the floor you can't walk in the door.

Today is Monday, January 4, 2010. Last night Vivian told Brooke that starting tonight Brooke will sleep in her own bed by herself. Hallelujah! The problem is that Vivian and Rylee will be sleeping together in Rylee's single bed. The major concern is that Vivian continues to get up and leave in the middle of the night and Rylee, who will be seven later this month, wakes up each night scared because Vivian is not there, gets up and goes down stairs to look for Vivian. Rather than Rylee becoming more secure and confident by sleeping by herself, she is continuing to have these insecurities ingrained in her each scary night.

#### IRRATIONAL NEED TO BE THE CENTER OF ATTENTION

This overriding need to be the center of attention, to be revered by others, to criticize others, and to have power over others, unfortunately are the dominant personality traits of Vivian. Unless dealt with, they are the personality traits that will prevent Vivian and I from ever having the kind of relationship we otherwise would. Unless dealt with these traits will prevent Vivian from having a close relationship with any of our children when they are adults

Whitney brought her first boyfriend, Sean, home to meet the family (2008). I told Vivian that while he was in the house she should sleep in the same bedroom as me. I explained to



Vivian that it would be embarrassing to Whitney for Vivian to be sleeping in another bedroom. Vivian just blew it off saying that nobody cares.

I took Whitney and Sean to the ranch, Zion Park, and Bryce Canyon Park. I told Vivian we ought to have a family barbecue for Sean while he was here and I was going to barbeque ribs. Her response was like why are you telling me as if I care. Joseph invited his girl friend, Evi, as well as her mom and dad. I was barbequing and everyone was pitching in making preparations for the dinner. No one knew where Vivian was. I found her in the craft room sitting on the floor. I asked if she was Ok. No response. I said you ought to come out and say hello to everyone. She became emotional, started crying, flipped me the bird, and said "Fuck You." I said what was that for? She said you know just what you have done to me. She later told her friend, Nyla Roberts, that I was trying to steal all of the attention by doing the barbeque.

Vivian's fights with our oldest children have probably caused the most problems between Vivian and I. She will have a dispute or discipline problem with one of our children. On the merits of the initial problem, if given the opportunity, I would, and have, given Vivian great deference and support her position. Unfortunately however, before I become aware of the issue, Vivian has escalated the dispute to an entirely new level. Instead of waiting until I am home from work or until after Vivian and I have had an opportunity to talk about it, Vivian will erupt in dealing with the child, will strike the child in the head and kick them out of our home. Vivian has built up a tremendous amount of resentment towards me over the years, because under these circumstances, she thinks that I should blindly support her in that position and I do not. I consistently act as peacemaker and get the children back into our home. If anyone in the world should fear the possibility of their children being on the street or becoming involved with the juvenile court system, it should be Vivian. Unfortunately, the environment she grew up in is still a powerful force in her life.

My mother was the most selfless person I have ever known. She was loved, revered, admired and respected by all of her children because each of us knew that are well being, our success, our happiness were all more important to her than her own. She was never in competition with any of us. She was never jealous or resentful of any of our successes. I knew whatever successes I enjoyed during my life gave my mother joy – because she was happy for me – not because she thought or she told anyone else that she was responsible for my success.

#### CONFLICT BETWEEN GOAL OF RAISING INDEPENDENT CHILDREN AND VIVIAN'S NEED FOR CONTROL

Unless Vivian changes, she will probably die alone, perhaps victimized by someone just as her grandfather was victimized by his own "care giver."

Since they have been to college, on at least two occasions, Tahnee and Whitney have been told by Vivian that she never wanted to see them again and they can never come home again. What exactly did they do to deserve that? They did not submit to Vivian in one of her out



of control fits of rage.

Unless Vivian changes, when Brooke is fifteen or sixteen years old, she will hit her in the face – just like she struck Tahnee, Whitney, and Joseph (in the back of the head) in the face. When we were living in Henderson, she struck Joseph in the back of the head. Unless Vivian changes, she will strike Rylee as well. Unless Vivian changes, Brooke and Rylee will not be with her to get struck in the face.

Each of our three oldest children have developed different coping skills in their attempt to deal with Vivian when she starts after them, usually about something that is their responsibility. Joseph simply says, “stop, please stop.” Whitney is better at seeing it coming and tries to get away. Tahnee asks to stop talking about it. All of them are trying to avoid the violent eruption that will ensue.

Even if Vivian has the best of intentions for our children she must be made to understand that her need to control our children’s lives is contrary to their best interests. They need to make their own life decisions, wrong or right – they need to chose what classes to take and to manage their own lives. Merely because we financially support them during college does not give us the right to dictate to them what college classes to take. Vivian adamantly disagrees with this position.

On Thursday, July 31, 2008, Brooke hit Rylee and Rylee began to cry. I was in the next room and I began to question Brooke as to what happened. Vivian came from another room, interrupted me and disciplined the children. I later told her not to do that again. She began screaming that she had been the primary parent for 25 years and I should go back to work. I told her she was not the exclusive parent and that Rylee was only 5 years old. It went back and forth with her screaming in front of Brooke and Rylee. As usual, Vivian’s focus was on what Vivian wanted, Vivian’s control – it had nothing to do with what was best for Brooke and Rylee.

This behavior cannot be passed on to the next generation. It must end now. If Vivian does not change, she will probably live her later years alone and die alone. But for Vivian inexplicably reaching out to her mother, she would have died alone – she kicked each of her children out of her house and ostracized herself from her own children.

Postpartum triggered, stress induced, pre-menopausal, bipolar, average/unhealthy, severe depression, delusional – whatever the condition, whatever the diagnosis, Vivian is missing something inside. Some might say she has lost her soul. She is almost completely self-absorbed. Somehow this has got to be fixed. Intellectually, I believe she must be aware there is a problem, but doesn’t know how to overcome her childhood. That is not to say at this point she even recognizes the correlation between her current problems and her childhood.

Vivian has so much potential as a human being, but her insecurities and unbridled desire to get attention, has smothered her personal growth. Her need for attention causes her to

irrationally compete with me for our children's love and loyalty and also compete with her own children for my love and affection. I believe that a major cause of her depression is her belief that she can not win either competition that she has irrationally created.

#### NEED TO ALWAYS BE RIGHT AND TO NEGATE THE OTHER PERSON'S POINT OF VIEW AND/OR TO MINIMIZE THE IMPORTANCE OF THE OTHER PERSON'S FEELINGS

For as long as I can remember it has been difficult to discuss anything of substance with Vivian. She will state a position and it is irrelevant what you say or how lacking in merit her position is – she will not change her position. Similarly, whenever you broach anything with her, she will respond negatively and insensitively. This behavior has been noted by each of the three oldest children. Tahnee just took the MCAT for the second time this last Friday, September 4, 2009. She didn't think she did very well. When she broached the subject with Vivian, her response was negative and non-supportive. Vivian will never admit when she is wrong. Similarly, she will never apologize for anything she does.

#### NEED TO BLAME OTHERS FOR EVERY PROBLEM AND TO TAKE CREDIT FOR EVERY SUCCESS

Whenever there is a problem of any kind, Vivian's first response is to not address the problem, but to immediately assess blame to someone else, or if it is obvious it was not someone else's fault, then to disavow any responsibility for the problem and to make it clear she should not be blamed. On the other hand, whenever there is a success or the likelihood of a future success she will come up with the most bizarre tenuous interpretations in an effort for her to claim credit for the success. When I practiced law, I generally would not talk about my work because of the attorney-client privilege and because I lived my cases already and talking about them with my wife only caused me to feel more stressed. However, years ago I would share with Vivian general issues concerning some of my cases. On more than one occasion, when I would have a victory in a case, Vivian would say the reason I won the case, was because of a conversation she had with me back whenever. My cases were typically technically complex multi-party disputes that went on for years. More recently, a friend of more than 20 years and I are starting a new alternative energy company. Despite MIT mapping indicating Boulder City as a preferred site, despite my friend's intimate knowledge of the site – through his consulting work – Vivian is adamant that the reason we have selected Boulder City for the first project is because she suggested it. As an aside, I will probably lose my investment.

I believe Vivian's need to blame others for every problem or thing she is not happy with in her life is one of the, if not the largest, source of problems in our marriage. It is also a major source of Vivian's unhappiness. There is almost never a reason to assess blame. If a problem arises, you focus on the problem and attempt to solve it. If someone errs, they usually know it. As I mentioned above, Vivian's family were inept in dealing with problems, and created a very dysfunctional environment by assessing blame to someone else whenever a problem arose.

Though not rationale, Vivian's first reaction to just about every problem is to assess blame to someone else. A consequence of this continual fault assessment is a build up of resentment – especially towards me. Vivian blames me for just about everything in her life that she is not happy about.<sup>6</sup> All of these years I have been frustrated because my relationship with Vivian has not progressed. No wonder. If you blame someone for every perceived ill or slight in your life, resent that person for it, your relationship with that person will not grow – it will deteriorate.

This self-assumed role of being in charge of blame in our family that Vivian has undertaken cannot be good for her. First, she is always focused on a negative. Second, in a twisted way, she probably feels a lot of responsibility in her role to constantly assess blame.

In our family, when something goes wrong, our children have learned various ways in their attempts to deflect Vivian's inevitable charge of blame. We were in a zoo that is part of Disney World. Tahnee and I were watching a gorilla. Brooke came up to me and asked a question for which I did not have the answer. I looked up and saw Vivian on the other side of the room and told Brooke to ask Vivian. When Tahnee and I turned around to leave everyone else in our party had left – or so we thought. When we walked to the next place, which was probably less than 100 feet away I noticed Brooke was not with the rest of the family and asked where she was. Vivian responded she thought she was with me. While I ran back to look for Brooke, Vivian proceeded to blame Tahnee. Brooke was still in the room where we were watching the gorilla, but behind a pony wall playing a computer game.

This need to blame others for problems did not exist in my family when I was a child. It also has never existed in my work experience as it is so counter productive and causes so many problems. The one exception to this is when an attorney doesn't do his or her job and they try to blame someone else for the fall out. What is so different about Vivian and her family is that they feel it is their role to assess blame even when it is evident that the problem was not caused by them.

I also believe that this need to blame and take credit is one of the major reasons Vivian is unable to maintain a friendship.

Although I owe much to my parents for my success, not one time did my parents ever attempt to take credit for my success. They were secure in who they were, were happy for me, and proud of me.

Vivian's mother sat next to me at Vivian's graduation from college – Vivian graduated first in her class, while suffering through nauseous pregnancies, giving birth to our oldest children, and parenting our children. I paid for Vivian's education. Vivian's mother turned to me and took full credit for Vivian's success stating this happened as a result of the way she raised Vivian. I wanted to knock her off her chair. I was still furious when I later related the incident to

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<sup>6</sup>Ironically, because of me, Vivian has so much in life that she should be happy about.

Vivian.

## LACK OF FRIENDS

Vivian's mother had no friends. Her grandfather had no friends. Her grandmother had no friends. Vivian really didn't have any friends. The warning signs were there. Vivian was never taught how to play well with others and she hasn't figured out how to on her own. Her need to be in the spotlight and have control has a lot to do with it. Her need to place blame upon others for every problem and to take credit for every success are also obvious impediments to maintaining a friendship.

Vivian is resentful and jealous of the relationship I have with each of my friends. At every opportunity, she will criticize or demean my friends and make fun of my friendships.

## EVERYTHING IS A NEGATIVE

My dad told me that the financial stress of paying bills was a major source of stress and problems in marriages. He was very proud of the fact that he had all of the bills come to the store, he paid all of the bills, and my mom never even saw the bills. Later when I was on my own I asked my mom about this arrangement. She said she very much appreciated that my dad did pay all of the bills, but did point out that she always paid the house electric bill. Before Vivian and I ever got married, I told her that I wanted to do the same thing. She was very appreciative of the fact that I would take care of all the bills and she would not have to worry about them. Vivian now characterizes my paying the bills as "hogging the money." Similarly, early in our relationship I told Vivian that I would manage the money that I made. I majored in business in college and obtained a MBA before I went to law school. Vivian's response was that it made sense to her. This is now characterized as negatively as possible as well.

If asked, Vivian will tell you that she washes the clothes every Wednesday. In reality, she only washes the clothes once every three to five weeks. When I was working full time this would cause problems as I did not have enough underwear or dress socks to last a month. There were times when I was in the middle of a trial and would be washing underwear and socks at midnight. During much of our marriage I have washed my own underwear and socks for this reason. When I stopped working full time, I thought I would help Vivian with the laundry so on 3 or 4 occasions, I gathered all of the dirty clothes in the house and then sorted, washed, dried and folded all of them. Although Brooke and Rylee are almost 4 years apart, they wear about the same size clothes – at that point I didn't know what clothes belonged to whom. Also I don't know how Vivian organizes her clothes. Vivian's response each time was to criticize me for not "doing all of the laundry" and that she was upset because I created work for her, because she did not have the time to put the clothes away. She said she would rather just do the laundry when it was convenient for her. Since that time, I do all of my own laundry, all the towels, and my son's laundry when he is home. Vivian is now criticizing me for being so selfish in just doing my laundry.

For the last several months of 2008, Vivian has began criticizing me for not working enough. She tells me how hard she works versus how I don't work. On the days she doesn't think I work hard enough she criticizes me telling me about everything she has done or is going to do that day – she taught a class, she took Brooke to the doctor, etc. Of course she has invented certain rules about what work counts – I can work at the ranch from sun up until sun down and, according to her, that doesn't count!

This is the most bizarre situation – totally devoid of reality – I could imagine. Solely as a result of my hard work, Vivian has gotten just about everything she has ever wanted since we have been together – I put her through school (including a masters in accounting), singing lessons in LA with Seth (Michael Jackson's voice coach), personal trainers, multiple plastic surgeries, diet doctors, a week in Santa Monica with a world renown diet/exercise guru – Michael Thurman; every diet meal known to mankind, extended stays at world class spas, a caravan of UPS trucks delivering package after package, sewing lessons all over the country, wardrobe after wardrobe, nice homes, nice cars, nice vacations, including trips to Europe – she spends more money each month than any two or three women we know – and now she is critical of me because I am not working hard enough!

When you know the context of Vivian's criticisms of me not working enough it is even more bizarre. With the rarest of exception, as a consequence of my hard work and personal sacrifice, Vivian has been a stay at home mom. She has not had to work outside the home at all. So how hard does she work at home? She has always done a good job of keeping the house picked up. She has, until I stopped working full time when I assumed much of this task, always done a good job taking the kids to and from school and to their various lessons and activities. And as written previously, she has always done a good job spending time with the children with their homework and reading before bedtime. However for many years, we have had two cleaning ladies come to the house every two weeks to clean the house for an entire day. About two years ago, this was changed to every week. I have always done about 99% of the grocery shopping for the family. Vivian only does the laundry a little more than once a month. During our entire marriage she hasn't averaged cooking much more than one dinner per week. When I was working full time, our kids got cold cereal for breakfast. Vivian is a carbohydrate eater and she is training all of our kids to be the same. During the Spring of 2009, Vivian would spend most of her days sleeping, watching cartoons with Rylee, reading, and on the internet buying a bunch of crap. She started teaching sewing classes, but spends minimal time preparing for those classes. They are primarily hands on draping type classes. She teaches three or four classes each week.

Vivian's perspective of our relative responsibilities as a married couple is off the charts. She has no problem whatsoever in me providing a roof over her head, the clothes she wears, the food she eats, and everything else she has. However, it really bothers her to cook me a meal. For some reason she thinks it is demeaning to her. All the years I worked so hard, Vivian would never cook me dinner. If I happened to come home when she was cooking dinner for the kids, a very rare occasion, I could have some. In Vivian's mind, so long as she cares for the children she is doing everything she should do and it is my job to do everything else.

My work was so intense that I probably ordered lunch in three days a week and went to lunch twice a week. Because of the problems with getting something to eat at home for dinner, my primary meals were the breakfast I would make in the morning and lunch. However, if you ask Vivian, she will tell you I went to these fancy lunches every day where I spent hours just enjoying myself.

We had a fight yesterday, August 23, 2008, because she thought I should do all of the dishes in the kitchen because she had made dinner the night before and I had some. This was despite the fact, the dishes had been building up for a week.

I fully realize how unhealthy it is for me to be even thinking about how much I do versus how much my wife does. But for Vivian's baseless attacks, I wouldn't even think about it.

Vivian has never said "I am sorry" "it was my fault" "I was wrong" Most recently when Whitney was trying to get Brooke and Rylee out of harm's way when she was going after Tahnee, she got rewarded with a punch to the head. It would not even occur to Vivian to say, "Whitney I am sorry I hit you, I was wrong."?

#### VIVIAN IDENTIFIES OUR HOME AND HOME OFFICE AS AN EXTENSION OF HER

Our home is our home; growing up in my family, the children intellectually understood that legally our parents owned the home, but it was always our home – my parents, my sisters, and mine. In conversations with me as well as our children Vivian insists upon referring to our home as her home saying, "my home" my office".<sup>7</sup> What is accomplished by these statements? The negative pregnant of saying "my home" is that it isn't someone else's home. Vivian has told our older children it is her home as opposed to my home. She has also told them that when we if we get a divorce, she will get the home. This selfish, me versus you, tone, attitude, and behavior must stop as to me and our children. We are in this together; our family. All Vivian is doing is unnecessarily creating insecurity and resentment in our family.

I got married with the expectation that my spouse would be my friend, would respect me, support me, and appreciate what I do for her, and I would do the same for her. I did not get married to have a spouse in competition with me, to resent me, to be jealous of me, to not appreciate any of the good things I do, including providing for her.

#### EXTREMELY LOW SELF-ESTEEM

For someone as smart and talented as Vivian, it is hard to believe that she would have such a low self-esteem. Her low self-esteem is not only sad for Vivian – there is no rational reason for her to not be a happy person – but it is so divisive in the family. She feels she is in

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<sup>7</sup>Wisdom of the Enneagram p. 302.

competition with me for our children's affection, in competition with our children for my affection, in competition with me for other's respect, and in competition with our children for other's respect.

#### PRESCRIPTION DIET DRUG USE

Tonight is Thursday, May 28, 2009. I took Tahnee to St. George to take the mcat exam. Vivian called and asked that I pick up her medications at the St. George Costco stating that her doctor is in St. George and it would avoid having to send the medications to the Henderson Costco. This doesn't make sense. Why not just call the prescriptions into the Henderson Costco. I am concerned about Vivian's long term use of prescription drugs to lose weight. She gets something that she injects herself with syringe and needle. Something she initially got through the Green Valley Spa in St. George. She initially said she was only supposed to do that for eight weeks. She has probably been using that for six to eight months. That is referred to as HCG. It is one of the medications I picked up today – Cyanocobalamin Inj 1000 MCG/ML. The other medication I picked up today she has been taking for years – Phentermine 37.5MG Tablet KVK. The prescribing physician for these medications is J. R. Martin. Vivian also is taking Citalopram HBR 40 mg tabletapo. This medication is prescribed by Sean R. Duffy.

#### VIVIAN'S CONDITION HAS DETERIORATED MARKEDLY DURING THE LAST EIGHTEEN MONTHS

About June 14, 2008 Vivian and I had a fight after she told me her version of the fight with Tahnee and Whitney. All three of our oldest children have bitterly complained of how Vivian will color her version of an argument or dispute between the children and her. After many years of trying to deal with these disputes, arguments, "blow-ups" and the like it has become evident there is merit to their point of view. Vivian claimed she only pushed Whitney, but when she showed how she physically struck Whitney with the palm of her hand, it was obvious what happened. Whitney said Vivian struck her in the side of the head when Whitney was trying to get Brooke and Rylee away from the eruption between Vivian and Tahnee – Tahnee, who is 23 years old, was running down the street. I reminded her that she has on more than one occasion struck both Tahnee and Whitney in the face. I said that when Brooke and Rylee get to be 15 or 16 years old, she will strike them as well unless she does something to change. I told her that none of our children is going to be struck in the face again. She said that she wanted a divorce and that I could draw up the papers or she would call a lawyer. She then said she would get half of the ranch (the ranch has been in my family since 1860), to which I responded that she had better call her lawyer because she was not getting half of the ranch. She also said that when I put work first during our marriage that I was being abusive to her. She also criticized me for watching tv when I came home from work.

Both Tahnee and Whitney told me that while they were in the car that Vivian belittled Whitney's intelligence by comparing her to one of Whitney's best friends – Shilpa. They both



said that Vivian had criticized Whitney about her weight. When Whitney's boyfriend, Sean, was here, Vivian told Tahnee she couldn't understand why Sean liked Whitney given how overweight she is. Vivian is considerably more overweight than Whitney. But much more importantly, how bizarre is it for a mother to say such things to and about her own children, let alone even think such things. This highlights just how incredibly insecure Vivian is – she should not feel she is in competition with her own children for anything, nor should she feel threatened by them.

Tonight is July 21, 2008. Vivian and Brooke are at a sewing seminar in Alabama. Vivian called tonight. Her tone was initially positive. She asked me what I was doing. I responded that Rylee and I were at the Yoxen's having dinner. Her tone immediately changed and she did not want to talk to me. This experience is not uncommon. Her insecurities and jealousies have taken control of her personality.

On December 29, 2008, everyone in the family went to Disneyland except Joseph and I. Either earlier that day or the day before, I attempted to be intimate with Vivian – we had not been intimate for three or four weeks. Her response to my attempted intimacy was “nobody wants to spend any time with you.”

It is now February of 2009. I don't think Vivian has a clue how much her distancing herself from Whitney and Joseph has hurt them. Vivian rarely telephones them when they are away to school. Vivian has essentially emotionally disowned Whitney since the incident last summer when Whitney was trying to get Brooke and Rylee away from the fight between Vivian and Tahnee, and Vivian struck Whitney in the back of the head. Almost from birth, Whitney has been very independent. Where Tahnee was very needy and had to have Vivian bless all of her homework, Whitney didn't even want Vivian to see her homework. Ever since they were children, Whitney has borne a disproportionate amount of Vivian's abuse. Many times Tahnee would do things that on a level of 1 to 10 of being bad, would be a 4 or 5 and there would be no redress from Vivian, but the hostility in Vivian would be building with each bad act. Whitney would then do something of a level 1 or 2 magnitude and Vivian would explode on Whitney. Between the ages of about 8 and 14 Whitney used to spend a lot of time at the Ripplinger home. And later, between the ages of about 15 to 18, Whitney used to spend a lot of time at the Merrill home. Whitney was therefore aware of how other families lived. There was a time when she wanted to move in with the Ripplingers. She saw how these families had a dinner meal together on a regular basis and how they interacted with one another. In contrast, our children were relegated to a bowl of cereal on many many occasions. My older children have told me recently that they each used to hoard food because of the lack of consistency in meals. When Whitney was in junior high school, Vivian wanted to send her away to boarding school.

I was lucky enough to go to Australia and spend time with Whitney during her semester break of her semester abroad. I had expressed concern about going out on a dive boat for three days on the Great Barrier Reef and had left messages with Vivian in the event something happened. Whitney was later on the telephone with Vivian. Vivian was in the car with Brooke and Rylee. In front of Brooke and Rylee, Vivian told Whitney, your dad didn't leave the most



important information – “where the money is.” She also told Whitney, also in front of Brooke and Rylee, “be sure and cut your dad before he gets into the water, to make sure the sharks can do their job.”

### The Anna Walker Debacle

John Yoxen, a good friend, is a member of a duck hunting lease in Alamo, Nevada. Last year and this year, John has been good enough to invite me to go duck hunting with him on this lease. Several days before we went, he asked if I would go with him to bring his trailer and atv back from the lease. I told him I would be glad to help.

At about 4:00 p.m. on Friday, January 30, 2009 John and I were driving back from the lease. Vivian called asking when I would be home. I told her about 4:30 p.m. She said good, because she was going to dinner with Michelle Walker and needed me to watch the girls. I told her no problem. Upon hearing this, John asked if the girls and I wanted to go out for dinner with his family. He said it would be great to have a family dinner of the two families – the Harrisons and the Yoxens. I said sure and asked, if he minded if Tahnee went as well. He said no. I telephoned Tahnee to see if she wanted to go to dinner with the Yoxens. She replied that if she could get ready in time she was going to dinner with Vivian and Michelle Walker. When I got home, Vivian tells me for the first time that I am also supposed to watch Anna Walker – the Walker’s 5 year old daughter and Rylee’s best friend. I told her I wished she had told me before, because I had already accepted a dinner invitation for the girls and I to go to dinner with the Yoxens. I then called Michelle Walker and asked if her older children were going to be home that night (the Walker’s older children watch Anna most of the time Cam and Michelle are not home). If they weren’t, I was going to call John Yoxen to see if it was alright to bring another 5 year old to dinner. However, Michelle said her other children were going to be home. I explained that another family had invited our family to dinner and wondered if it would be ok if Michelle’s older kids watched Anna. Michelle said that would be fine.

Later, I received the following e-mail from Tahnee, who was with Vivian and Michele Walker, “the anna thing was a bad idea dad... now mom says shes leaving you...” I sent the following text in reply, “john invited our family to go with his upon hearing mom was going out with someone else. It would have been inappropriate to show up with someone from another family. Mom never told me about anna.” Tahnee then responded, “its between you and mom but I don’t think it should have been that big of a deal... mom is really upset about it though. Its reminding her of when you didnt want to bother john about feeding bella and when you didnt want john to wait so you could drop off brookes stuff this morning...” I then responded, “I took brooke to choir at 7:30. Rylee & anna to school at 8. We were running late. Mom couldn’t make one trip to school? This is an impossible situation!”

The next day, Vivian explodes about this Anna Walker incident from the day before. She tells me she will stay in the house until Brooke and Rylee go away to college, but that we are no longer married. I asked her if there was someone else. She said there wasn’t. I asked her if she

was interested in someone else. She said she wasn't, but would tell me if and when.

We had a fight yesterday, Friday, February 27, 2009. Kim Bailey telephoned Vivian in the morning asking if Kennedy and Kamry could stay at our house after school and if she could take them to dance class. Vivian agreed. Later in the day, I told Vivian I had to drive in to Las Vegas to meet with an accountant. She said I couldn't go because she had to be at a fashion show from 4 p.m. until about 8:30 p.m.. I said if you knew that, why did you agree to watch the Bailey kids? I said, don't you think you should have checked with me first, to see if I was available to watch the kids. She blew up. Saying how she had watched Stephanie Yoxen when I had gone somewhere with the Yoxens. She then threw a coffee mug at me. When I tried to respond, she threw a book at me. Tahnee then walks by saying how mom is right this time as she has watched Stephanie Yoxen. The point I was trying to make is that Vivian was asked beforehand if she could watch Stephanie, and on the few occasions this took place, Vivian was first asked if she wanted to go. Vivian then made reference to her allegation of my refusal to watch Anna Walker.

This incident highlights the unreasonableness in dealing with Vivian. Something that is so trivial, so unimportant, becomes so monumental. Vivian may be the most petty small minded person presently on this planet.

On Saturday, March 7, 2009, the family went to dinner at the new location of the Southwest Diner. At the table were Vivian, Tahnee, Brooke (9 years old), Rylee (6 years old), and their friend, Stephanie Yoxen. I looked across the room and saw my massage therapist, Janet Denning, who Vivian has also gone to for massages. I said there's Janet. Vivian, in front of the children, responded so all could hear, "She probably doesn't recognize you with your clothes on."

Today is Tuesday, March 10, 2009. Each week day morning I take Brooke, Rylee, and Anna Walker to school. Each afternoon Michele Walker, Anna's mom, brings them home from school. I told Vivian this morning I had to run errands in town, including seeing the accountant for Geothermic. Michele called this morning saying Anna had hurt her foot the day before in dance class and Michelle was taking her to the doctor this morning and I did not need to pick her up. At about 1:30 p.m. I get a call from Vivian which I promptly returned. She asked me if I was going to pick the girls up from school. I said no that I was going to be in town for some time. She said that Anna had broken her foot at dance yesterday (Vivian had obviously gotten a call from Michele) and I needed to pick the girls up from school. I said I would not be home in time and she needed to do it. Vivian then said it was not very good planning on my part since I knew Anna was going to the doctor this morning. I said that didn't mean she wasn't going to school (this of course begs the question as to why it would fall upon me to pick up the girls in the first instance). Vivian then said that I simply didn't have the vision she does and hung up.

Though not trained in psychology other than a college entry level course, I believe Vivian is suffering from a psychosis that is rapidly worsening.

Today is Thursday, March 12, 2009. I was at the MWC basketball tournament with Cam Walker and his family when I received a telephone call from Tahnee. She said that Vivian told her I had just cooked two dinners for Brooke and Rylee this week and it is the first time I had cooked dinner in ten years. [the reality is that I cook dinner probably at least two to three times a week because the vast majority of the time I ask Vivian if she has anything planned for dinner and the answer is almost always "No". The difference is that Nyla Roberts happened to come by the two times I cooked dinner this week. [I am beginning to question whether Nyla is a positive influence upon Vivian] Vivian then told Tahnee that she thought I was cooking the dinners because I was planning on filing for divorce and I was trying to set it up so I would get custody of Brooke and Rylee. Tahnee told Vivian that she was paranoid and that I had cooked dinner many times before. Vivian persisted and Tahnee made the mistake of saying she had cooked dinner for Brooke and Rylee as well and that she, Tahnee, and I were simply trying to fill in the gap – implying that Vivian was not doing what she should be doing. Vivian then went crazy telling Tahnee that she never wanted to speak to her again. After Vivian said that, Tahnee responded by telling Vivian that she was psycho and that Dad was right when he said in Vivian's family when they couldn't control their children they simply discarded them and kicked them out of their home. Tahnee said she wanted to move out of the house and said that I needed to do something. She said I should file for divorce. I told her that in her mother's present condition, if we got a divorce and Vivian had partial custody, I would be fearful for Brooke and Rylee.

It is now Monday night, March 16, 2009. I got a birthday cake for Joseph and cooked dinner. Everyone, but Whitney was at the dinner table. Brooke joked she wished she spoke Spanish so she could ask the cleaning lady where she put her Nintendo DS. Vivian said she is sure the cleaning ladies would not take it out of the room. Tahnee commented they had moved stuff from her bedroom to her bathroom. Whereupon Vivian said that this is her house, she will have the cleaning ladies not clean Tahnee's room anymore, and that Tahnee is lucky she does not have to pay rent. After we sang happy birthday to Joseph, Vivian left the room leaving the rest of us to clean the kitchen. Joseph's girlfriend, Evi, had come over by then and I was shooting pool with Joseph and Evi while Rylee was doing her homework. Rylee came in for help a couple of times and I knew she had more to do. Suddenly, Vivian appears and tells the kids to go to bed immediately at 8:45 p.m. – the kids normally don't go to bed until 9:15 to 9:30. I asked Vivian if it is alright if Rylee finishes her homework. Vivian then erupts saying it is time to go to bed, that I should just shoot pool, and finally says the homework was not due tomorrow. I go up to kiss the kids good night and Brooke says she wants to sleep with me. (Brooke says Rylee makes too much noise, and has been sleeping with me much more frequently in recent weeks.) Brooke comes to my room a few minutes later and says Vivian told her that if she didn't sleep with Vivian and Rylee tomorrow night, then Vivian and Rylee would sleep in Rylee's room (which has a single bed) from now on and Brooke would have to sleep in her bed by herself. I immediately went down and asked Vivian what she said. She denied telling Brooke that and said that I was the one that needed counseling. When I told Brooke not to worry because Vivian said she never said that, Brooke looked at me and said she must have misunderstood (both of us knowing she had not). I told Brooke she could sleep with me anytime. Brooke expressed concern that Vivian was going to have a sit down talk with her the next day for which Brooke

expressed concern. I am concerned that if Brooke expresses a preference to sleep with me or gives Vivian the impression she is more loyal to me, then Vivian will start a campaign of retribution against our nine year old – Vivian is truly sick.

Tonight is Wednesday, May 13, 2009. Joseph is playing in the qualifier for the US Open at Dragon Ridge on Tuesday. It is a private club and would not let Joseph play before the official practice round on Monday. I was able to get a tee time for Joseph and I tomorrow. Joseph wanted to stay there for about 7 ½ hours meaning we would not get home until 6:00 or 6:30 p.m. I asked Vivian if she would be home to watch the kids after school. She said she had to go to teach her class at 6:00 p.m. I turned to Tahnee and asked if she would watch the girls for a ½ hour so Joseph could play this practice round. Before she could answer, Vivian started saying that it was really me asking Tahnee for a favor. I said I would not be playing but for Joseph's need to have the practice round. Vivian then said that Joseph could play by himself and I didn't need to play. Tahnee then said she had to agree with Mom because when Mom asks her to do something she thanks her, where I don't think she does anything. Vivian then starts saying it is my job as a parent to watch the kids and I am the one asking Tahnee a favor. [This is so incredibly ironic. It was but a few months ago that Vivian wanted me to kick Tahnee out of the house because Vivian said that every time she asked Tahnee to watch the kids Tahnee thought she was doing a big favor for Vivian and Vivian was "sick of that selfish bitch."] Vivian then says how she always makes a point of thanking Tahnee when she watches the kids. I then said I was surprised because I have never heard Vivian say thank you. Vivian then, in front of our 9 and 6 year olds, and Tahnee and Joseph, says, "You have your head up your ass." Joseph tried to get her to stop. Vivian's zeal to meet her ego, has shattered whatever sense of propriety she ever had.

It is now Tuesday morning, July 28, 2009. Vivian and Brooke, together with Kim Bailey and Kenadee Bailey spent the last nine days at the Martha Pullen School of Art Fashion in Huntsville, Alabama. Vivian flew back yesterday afternoon so she could teach her sewing class last night. I told her I missed her and attempted to give her a hug. She declined. While driving home she reiterated to me that we are no longer married. I asked if she was mad at me. She said she was not. I asked if she hated me. She said she did not. Vivian and I have not been intimate since November of 2008.

I went with Kurt Bailey to pick up Kim, Kenadee and Brooke at the airport later that night (7/27/09). Almost as soon as Kim saw me she starting talking about Vivian and the Kindle. Kim said she could not get Vivian to put the Kindle down. They would go to the sewing classes during the day and Kim would sew at night, but Vivian would read her Kindle. Kim told Vivian they were there to have a shared experience with their daughters, but Vivian insisted upon reading the Kindle, stating she had only read two books that week. Kim said she told Vivian the Kindle was a real problem. Kim told me she thought it was some kind of obsession. I told Kim that most of the time Vivian is home she goes into a bedroom by herself, shuts the door and reads the Kindle. I am worried about Brooke and Rylee. Tahnee and Joseph have started to make comments to Vivian about the need to destroy or lose the Kindle.

Our whole family drove in my car to Cedar City, Utah for the dedication of a bronze honoring my great great grandfather, Richard Harrison. Vivian was sitting behind me and Brooke was in the third seat of the car behind Vivian. When we first started out, I heard Vivian scold Brooke. When we got to our destination, either Tahnee or Whitney said that Brooke had made a comment that Vivian stays in a bedroom with the door shut reading her Kindle 24/7.

During August of 2009 Vivian made two trips with neighbors. The first trip was with Michelle Walker to BYU for a dance event for Chloe. I believe Whitney went with Vivian on this trip. The second trip was to Nyla Robert's ranch in Wyoming. Whitney, Brooke and Rylee went on this trip with Vivian.

Today is Saturday, August 29, 2009. Vivian and Joseph went to San Diego yesterday to get Joseph set up in his dorm room for school at USD. Joseph wanted Brooke, Rylee and I to go as well. Vivian's response was that if I went, she would not go. I told Joseph that his mother has always taken pride in going that first time to a new college to help each of our children get their dorm room ready, and I could come down to see him another time. Earlier today, Tahnee expressed concern that Brooke was on the internet at an Ashley Tisdale chat room. She said mom being in Brooke's bedroom all the time was a real problem and I had to do something about it as she was worried about Brooke and Rylee. I told Tahnee that I had done all I could concerning her mother, and all I could do was be the best father I could and that all of us needed to do our best in looking out for one another. I spoke to Brooke and explained she was not allowed to be in any chat room. Tahnee emphasized the dangers to Brooke. During lunch, Tahnee said she had to talk to me. Out of Brooke's presence, Tahnee said that Whitney told her that mom had told both Michelle Walker and Nyla Roberts that she was filing for divorce. Apparently, Vivian is waiting until after she has plastic surgery on her face to file for divorce – I was unaware she was going to have plastic surgery on her face. Tahnee said I needed to go to a counselor to find a way to get mom into counseling. I told her that Vivian refuses to see a counselor and my going to a counselor would not overcome that problem. Tahnee said I should do something rather than simply wait for Vivian to file for divorce. Vivian's intention to file for divorce is news to me. She told me that she wanted to stay together until Rylee left for college. Later in the day I tried to call Vivian on her cell phone on an unrelated matter. She did not answer. Brooke said dad don't you know mom can see it is your cell phone and she will not answer. You should have called her on the home phone that way she will think it is me trying to call her.

Tonight is Tuesday, September 8, 2009. Joseph telephoned tonight updating me about his classes and the qualifier he played today. I related what he told me to Vivian. I said he is planning to take accounting next summer so you can help him. Her response was, "I'm not going to be here." I said what do you mean you are not going to be here? She said I am going to Europe for as long as I can – 3 or 4 months if I can. I asked who are you going with? She said Whitney and Tahnee want to go, Nyla is going, and Kim Bailey wants to go as well. I said when were you planning on telling me? Vivian said, "I just did." My unspoken reaction was this is OK. I will get all summer with Brooke, Rylee and Joseph.

Tonight is Saturday, September 12, 2009. Vivian told me earlier in the day that Chloe Walker and several of her friends were coming over tonight to watch a movie in our home theatre. Chloe is the 16 year old daughter of Michelle and Cam Walker. Michelle and Nyla Roberts are Vivian's closest friends. Later in the evening, Kim Bailey called asking Vivian and I to go to dinner with Kim and her husband, Kurt. When I asked Vivian she said she couldn't because Chloe and her friends were coming over. I said you don't have to be here because Tahnee will be here. She said she had to be here. Later, Tahnee came downstairs saying how bizarre it was that Vivian was in the home theater with these 5 or 6 16 year olds watching a movie. Tahnee said yesterday that Vivian told Tahnee, "Chloe is such a great dancer I wish she was my daughter." Tahnee was, understandably, very offended. Tahnee said she wished there was some way to stop this toxic behavior. Tahnee recalled when she was younger when Vivian told her how smart a girl was in Tahnee's class. Last summer, Vivian made the hurtful comments to Whitney about not being as smart as Whitney's friend Shilpa. I told Tahnee that Vivian does not really think Chloe is a better dancer than her. Vivian is simply incredibly insecure and needs to tell others that they are not so hot. I told Tahnee about when Vivian last year told me that nobody wants to be with me.

On Saturday, September 19, 2009, Vivian told me she was buying a bunch of gym equipment from Tony, who has trained Vivian and who owned Boulder Fitness. The next morning I told her that we needed to have a bill of sale and do a UCC-1 search to insure no one else has a security interest in the equipment. Vivian did the UCC-1 search and I prepared a Bill of Sale. Upon seeing the Bill of Sale to she and I, Vivian was upset saying the gym equipment was just going to be hers. I asked why? Her response was that it would make it easier. I asked easier for what? She responded when we get a divorce. I said I thought we were staying together until Rylee left for college. She said I told you before we are no longer married. I asked when are you planning to file for divorce? She said she didn't know. When I pressed her, she said she thought she would wait until after the holidays. Later that Sunday morning, Vivian and I were discussing where the gym would go. She wanted to remove the golf net. I responded that Joseph uses the net just about every night. She said, "Joseph doesn't live here anymore." I said he will be home for all of the holidays and all of the summers. Vivian said I have always favored Tahnee, Whitney, and Joseph over her about our home. Vivian has this point of view based solely on the fact that each time she wanted to kick them out of our home, I refused. It has never been an issue as to who is superior in the home between Vivian and our children – it has always been Vivian. It is only when she has tried to exclude them from our home that the issue has arisen.

On Tuesday evening, September 22, 2009, Brooke, Rylee and I were having dinner at the dinner table. Brooke then started to ask me about the change next year. When I told Brooke I didn't know what change she was talking about she became nervous. I asked Brooke what change she was talking about, she was obviously scrambling and then said she was going to take guitar lessons next year. I asked aren't you still taking guitar lessons now. She said she was. I said then what is the change. I believe that Vivian has told Brooke we are getting a divorce next year. What an insensitive ass! Why would you lay that on a 10 year old until you absolutely had



to?

Vivian has a fixation for a show called the Tudors. The star is an actor by the name of Jonathon Rhys Meyers. On Wednesday, October 7, 2009, Tahnee was playing the piano. Vivian came up to her and said if you meet Jonathon Rhys Meyers and he flirts with you, I will kill him. Then on Monday afternoon, October 12, 2009, Vivian asked Tahnee if she thinks Jonathon Rhys Meyers will be at the Justin Timberlake event they will be attending the next evening. Vivian is delusional. She thinks she is going to have plastic surgery, divorce me, and she, at 47 years old, is going to be with this 33 year old actor. Her behavior is getting more and more bizzare. She spends the vast majority of her waking hours reading vampire fantasy novels in Brooke's bedroom or in the home office..

Vivian dresses Brooke and Rylee for school in the mornings. Even when its cold, she puts Rylee in a short sleeved shirt and shorts. I bought new jackets and warm clothing for both Brooke and Rylee during the last few weeks.

Tonight is Tuesday, October 13, 2009. Two weeks ago, I spent four days at the ranch. When I got home there was one small plate in the dishwasher, but all the spoons and bowls were dirty. I asked Whitney what Brooke and Rylee had been eating. She said there were nights when it was 10:00 p.m. and they had not eaten. She said about all they had eaten since I had been gone was cereal. A couple of weeks before that Whitney had complained to Vivian that she was just going into a bedroom closing the door and reading every night. Whitney told Vivian she needed to spend more time with Brooke and Rylee. Vivian got mad at Whitney for suggesting she was a negligent mother. Vivian just called. She just paid \$3,500.00 for a guitar autographed by the Rolling Stones at the auction tonight. They get home. Tahnee said she was so embarrassed she wanted to crawl in a hole. Vivian said I think Tahnee was jealous of me getting all of the attention. Tahnee said when she and Vivian were getting ready for the evening Vivian said, "Do you think we will attract a couple of hot young guys?" Tahnee later told me that Vivian called Justin Timberlake a bum during the auction of the guitar. Vivian has no sense of propriety.

It is Friday, October 16, 2009. Vivian told me today she has had a lot of trouble sleeping at night since Rylee was born. She said she has been reading articles lately and she is sure it is because of hormones. Last week a lady was here drawing blood from Vivian. I don't know the name of the outfit, but it is the one that has the photo of the 70 year old physician that looks like a body builder. Vivian said that if she does the program it will cost \$750 every three months for hormone supplements. At risk of revealing my lack of knowledge about hormones, I don't know if these are hormones are to make you "younger" or to correct a hormonal imbalance – perhaps both. It is Friday evening. I just had a very sobering discussion with Tahnee and Whitney. Whitney said Vivian talks about divorcing me in front of Rylee with Michelle Walker and Nyla Roberts. She also talks about it in front of the Robert's children. She has told them that she has been done with me for a long time. Even going back early in the marriage when I acted more as a father to her than a partner. Tahnee and Whitney both think Brooke and Rylee are much better off with me. They both think a divorce would be in everyone's best interest because of Vivian's

constant adversarial behavior towards everyone. Whitney used the example of Brooke coming to her a couple of nights ago saying she had left her homework over at the Walkers and wanted Whitney to take her to get it. Whitney said why don't you ask mom? Brooke's response was that mom was reading and she will get mad at Brooke for interrupting her. How sad. Tahnee and Whitney both said how much Vivian has deteriorated this last year. Tahnee thinks it might partially be attributable to Vivian's prolonged prescription drug use. Tahnee said that Phentermine is to be only used by the extremely obese and only for a short period of time – a few months. Vivian has been taking it for years. Whitney said that Vivian told her she is going to have a hair removal process done in a very personal location of the body. Whitney said she would not be having that done unless she was planning to have sex with someone. Tahnee suspects Vivian may have already had sex with someone because of her late nights not coming home after her evening classes. Whitney thinks she was probably staying to help students.

I have decided to go see a counselor to see if there is anything that can be done to save the marriage. Perhaps I am in denial, but continue to hope there might be a solution to all of this.

It is Friday evening, October 24, 2009. Just got back from the ranch. Have been there since Monday trying to progress the completion of the apartment. Brooke and Rylee need a place to go that is always happy and positive. I am trying to get it done while Tahnee and Whitney are here so Brooke and Rylee are not alone in our home with Vivian upstairs reading with the door shut. Talked to Tahnee while at the ranch. Tahnee said she again got home late to find it was after 10:00 p.m. and Brooke and Rylee had not had dinner. Brooke, Rylee and I spent all day last Sunday doing things together – practicing fly casting, going to a movie, etc. At the end of the day, Rylee put her arms around me and said, "I just love it when you are home Daddy." When I got home tonight, Rylee grabbed her school book bag and said no one had looked at it and we went through it together. When I walked in the door tonight, Vivian was at the computer. Her face, at the jaw line is all bruised. She has had another procedure. Just weeks ago she had a procedure, where her face was all red and she looked as if she had been burned all over her face. She wouldn't discuss what she just had done. Later this evening, Brooke said that Vivian has been on the computer a lot this week. Vivian has become so self absorbed. I think she is fantasizing that if she makes herself look younger through all of these procedures, she is going to have this incredible romantic – perhaps just raw sex – with a younger man. I don't think Brooke and Rylee are even in her world at this point.

It is 5:15 a.m. on Tuesday morning, October 27, 2009. Vivian spent seven hours yesterday with Dr. Jeffry Life. He is affiliated with Cenegenics?, but he advertises a program to keep you young -- I think advocating the use of growth hormones. His slogan is something about healthy aging. He is in his seventies, was one of the first winners of the EAS Body for Life contest, and advertises using a picture of himself without a shirt. Last night, Vivian took the initiative to review the results of all of her tests with me. Her testosterone level was extremely low. Normal is 50 to 70 and she was at 20. Her Iron level was the lowest Dr. Life had ever seen. Normal is 20 to 380. She has a 4. She is very anemic. Vivian said her legs hurt just walking up the stairs and she gets out of breath at hip hop, putting her hands on her knees, when everyone



else is not tired. She is at risk of becoming diabetic. Even though Vivian is much thinner than she usually is, she has 40% body fat. He gave her another prescription of Phentermine. I asked Vivian if she told Dr. Life how long she has been taking Phentermine. She said, "Why would I do that?" I believe she has been taking Phentermine for over five years. Perhaps, much longer. Dr. Life told her he did not want her to go cold turkey from Phentermine. Dr. Life did not prescribe a growth hormone for Vivian. She showed me everything she is supposed to take. I believe one of the things she is supposed to take is DHEA. She is also going to be taking melatonin to help her sleep. All of this could prove, ultimately, to be good news. More sleep might help her think more clearly and rationally. Increased testosterone will restore a sex drive. However, a restored sex drive combined with her present mental state could prove dangerous. She may be more inclined to try to fulfill her fantasies with someone much more available than Jonathon Rhys Myers. I asked her later where we now stand. She said she doesn't know why she has to repeat herself. [Perhaps she is unaware of all the mixed signals I get.] I pressed her saying that her avoidance game had gotten very old. She said we are still "unmarried." She at least implied that she is not planning to file for divorce after the holidays. I asked her point blank if she has had sex with anyone but me since the day we were married and now. She said she had not. She then said, if I am going to have sex with anyone else, I will tell you first. She interpreted my reaction as laughter. I explained my reaction was one of disbelief of the situation I find myself in after all of these years of marriage – when you are married there shouldn't be sex with anyone other than your spouse. I told Vivian that she has not been right since giving birth to Brooke.

It is now 6:45 a.m. on Saturday, October 31, 2009. Vivian's fantasy of Jonathon Rhys Meyers is seemingly getting worse. Almost daily she is receiving something new – cds of music from the Tudors. Every movie or tv dvd in which he has appeared. Last night, Brooke and I discovered a robe in Vivian and my closet that is a Victorian robe. Although I have never seen any of the episodes, the Tudors is about Henry VIII (Jonathon Rhys Meyers). Vivian has ordered a dress so she could wear it and be Ann Belin – one of Henry VIII's wives that he beheaded. Vivian will shut the door to the office and if you open the door while Vivian is playing the music from the Tudors, she will get upset. Tahnee also thinks all of this is extremely bizarre. Although she has expressed concern about it in the past, when I broached the subject to Tahnee last night, she responded she did not want to talk about it as it was too stressful. A couple of days ago, I asked Vivian if she wanted to do something for our anniversary on November 5, 2009. She responded favorably. For several days she was somewhat normal. Yesterday, she regressed to her angry critical behavior. As strange as it may sound, I think she is fearful of normalcy replacing this fantasy world she is living. She is still up during much of the night and sleeping much of the day. The Phentermine – speed – she has taken for years probably has something to do with her inability to sleep.

It is Monday evening, November 2, 2009. For several months, Vivian has been saying she is going to spend several months this summer in Europe. My belief is that she thinks she is going to be Diane Lane's character in "Under the Tuscan Sun." There is no room for Brooke and Rylee in that romantic setting. Tonight, for the first time in many many months, she sat at the

dinner table with Brooke, Rylee and I. Soon after sitting down, she announced she was only going to go to Europe for a week or two, but was going to work on her Phd. at UCLA this summer. When Brooke asked a question, Vivian said you and Rylee will probably be at the ranch with your dad. Does Jonathon Rhys Meyers live in Los Angeles? Later that night when Brooke and I were alone, Brooke started to cry and said, "When mommy talks about going to Europe and UCLA I feel like I am in the way." She said that when she talked to Vivian about going to Europe, Vivian told her that Rylee would not be able to keep up when she goes to the museums and she can't leave Rylee alone. Brooke said Mrs. Roberts said she doesn't like taking her children to museums. Brooke, still crying, said, "Mommy doesn't spend any time with Rylee and me anymore." Brooke said she wished "mom was like Mrs. Yoxen." "Mrs. Yoxen does lots of stuff with Stephanie. She took Stephanie to the mall and they had lots of fun." She said she asked Vivian to take her to the mall and Vivian's response was "Going to town is pointless."

It is Saturday morning, November 8, 2009. While I was working at the ranch this week, one night when I called home. Brooke was all excited about a school project where she will do work around the house, earn money, and it will go towards a school event. Last night Brooke told me she had asked Vivian several times to help her and Vivian would only say, "later." Brooke said that is what Vivian says almost every time she asks her for anything and she knew Vivian would not help her. I told her not to worry about it and I would help her today. Recently, Vivian told me not to invite any friends for Thanksgiving dinner as she was not sure what she was going to do. Last night, Whitney told me Sean is coming for Thanksgiving. This morning I told Vivian that Sean was coming for Thanksgiving, that the Yoxen's were doing the drive by Turkey Fry, and that Veyo Pies had a deadline to order pies for Thanksgiving and asked what she wanted me to do. Vivian's response was, "Do whatever you want to do." I said I was simply trying to determine if she was making Thanksgiving Dinner, and if so, if she wanted me to get a second turkey to take to the Yoxens or to order pies from Veyo Pies. Vivian then said, "If I am not making Thanksgiving Dinner, what are you going to do? I said, I guess make other arrangements. She said you should make other arrangements. I asked Whitney last night if Brooke and Rylee got dinner every night while I was gone. She said with the exception of the night she cooked, Vivian ordered fast food the other nights, but that Brooke and Rylee did get dinner each night.

It is Saturday evening, November 8, 2009. I had a discussion with Whitney about the preparations we needed to make for Thanksgiving Dinner. Vivian had already told Whitney she wasn't going to make dinner. Said it wasn't fun. Whitney said Vivian is getting very weird. If Tahnee would have won Miss Nevada last night she would have gotten an upscale apartment free for a year. Whitney told Vivian that if Tahnee had won, she had invited Whitney to come live with her. Vivian's response, and Whitney said it was clear Vivian was not joking, said why didn't she ask me to live with her. Whitney said because you have two little children. Vivian did not respond. Whitney also said that when Vivian learned that Sean had spent some time in Cork, Ireland, Vivian wanted to speak to him. Vivian told Whitney she is going to spend a lot of time in Cork, Ireland when she spends the summer in Europe. Jonathon Rhys Meyers is from Cork, Ireland. Brooke complained to me that whenever she does anything, Vivian always says

something negative about it. I told Brooke that mom is going through a tough time right now. Brooke's response was that Vivian has been that way for a long time.

My belief is that Vivian's problems started when she gave birth to Brooke over ten years ago. Perhaps initially triggered by postpartum depression, the stress of a new baby, and/or the stress of dealing with teenage girls. However, she has really spiraled downward since Rylee was born on January 24, 2003. She is suffering from severe depression. I don't know for sure the cause. It was during this time and forward that the consequences of her childhood started to impact her and she started to act more based upon her unhealthy personality than any independent thought. Based upon the "Wisdom of the Enneagram" she is an average/unhealthy Eight, otherwise referred to as "The Challenger." She has been taking "speed" Phentermine for four to five years. This combination has, in my opinion, led to her intellectual and emotional undoing. For many months she spends most of the day and the night in a room by herself with the door shut – 99% of the time she is in Brooke's bedroom or the home office reading her Kindle. Unless it has changed recently, most of what she reads are vampire books. Since she refuses to see a therapist, I haven't got a clue what to do to solve the problem. She doesn't view herself as a wife. She doesn't view herself, more and more of the time, as a mother. At this point she is totally self-absorbed. She does nothing out of compassion or love – only if she wants to do it for herself. She may snuggle Rylee at night, but it is not for Rylee's benefit – the sad reality is that she could care less about Rylee. She simply wants the cuddling feeling for herself.

It is Friday evening, November 13, 2009. Tahnee just told me that Vivian told her today that Vivian had put Vivian's name on Google Alert for Jonathon Rhys Meyers and that she got a google alert today that "Jonathon" went to dinner last night with his girl friend. Vivian expressed her displeasure when she related this to Tahnee. Vivian told me on the telephone today that Whitney had applied to be on a TLC reality show about selecting a wedding dress and had been selected. Vivian said that she and Whitney are flying to New York on Friday and returning Monday to be on the show. Vivian told Tahnee that she was concerned about Jonathon seeing her on the show since she has not yet lost her weight. Tahnee assured her that Jonathon surely did not watch such shows. I telephoned Whitney and expressed my strong disapproval of what she had done without talking to me first. Whitney has told me several times recently about how weird Vivian has been acting. I told her that she knows that Vivian is not herself and it was not right to do this without first talking to me. I later learned that Tahnee is going as well. Michelle Walker and Sean's mother are also going. Whitney is very aware of Vivian's need to be the center of attention and is aware of what happened recently at the Justin Timberlake fundraiser. I expressed concern about this to Whitney saying you are going to be on national television with someone who is not dealing with a full deck right now and it could prove very embarrassing. This could not come at a worse time as I had decided to sit down with Vivian and tell her that she needs to get off the speed and get some help.

Today is Monday, November 16, 2009. Later last Friday night, Tahnee told me that she thinks Vivian is bi-polar/manic depressive. This afternoon it was parent observation day for Brooke's tap dancing class. Vivian scheduled an appointment and did not go. Brooke started to

cry saying mom doesn't do anything with me anymore. Vivian did attend a parent observation class for jazz last week.

It is Wednesday morning, November 18, 2009. My close friend Rondo Fehlberg stayed with us yesterday. He offered for us to meet Marie Osmond. Vivian jumped at the chance. Marie did not respond to Rondo's email. Rondo said we would do it another time. Later he telephoned Vivian and said he and his wife, Neil Dimick and his wife, and Vivian and I would see her at a later time. Vivian later asked me, "Isn't Neil Dimick that wealthy guy?". Vivian said if he and his wife are going to see Marie Osmond then she wasn't interested in going because they would get all of the attention. For several months Vivian has had a photo of Jonathon Rhys Meyers on her computer in the office. Several weeks ago she replaced our family photo on the family computer in the great room/kitchen with a Jonathon Rhys Meyers photo. Last night Brooke commented that she thought it was creepy that Vivian had done that.

It is Monday evening, November 23, 2009. Tahnee, Whitney and Vivian just returned from New York. I had a lengthy discussion with Tahnee and Whitney. Vivian, Mrs. Birmingham (Whitney's fiancée's mother), Michelle Walker, and Tahnee stayed in the same hotel room. Whitney stayed with her friend Shilpa. Tahnee said that Vivian told Mrs. Birmingham, Mrs. Walker and herself that she, Vivian, knows that Jonathon Rhys Meyers (the 33 year old actor she has never seen, but is all over our computer screens) is her soul mate. She also made a point to show Mrs. Birmingham all of her small thong underwear, leopard skins, etc. She also told these women how her older sister, Cindy, was involved with satanic rituals and was a drug addict. She told these woman, with Tahnee present, that she has some major plastic surgery planned for this Spring that I don't know about. She then said she was going to spend the summer in Europe. She also told them she wanted to go to the sex museum in New York. During the entire time she was on this trip, she never telephoned Brooke and Rylee. While she was away, Brooke asked me why she didn't call she and Rylee. I told her it was probably because of the time change and because they were so busy. Tonight, Vivian went to teach a class. I saw her at Costco. She had a short short skirt on with high heeled boots. She was dressed as though she was a high school student. Vivian's mental and emotional state continues to deteriorate at a seemingly accelerated rate.

To the best of my knowledge, Vivian stopped taking Phentermine sometime around Thanksgiving of 2009. Since that time she does not seem to be wound quite as tight.

It is Sunday morning, November 29, 2009. A Betty Poole left a message yesterday morning that Vivian was late for her appointment. I told Vivian and she left for the appointment. Vivian said that Betty Poole was doing a facial skin treatment at her home for Vivian – it is cheaper that way. Vivian later told Whitney she had another chemical facial peel. Vivian's face is all red – it looks like she has been burned. I think she had another chemical peel on her face within the last 4 or 5 weeks from Dr. Michaels. I believe this all to be Vivian's unrealistic effort to make a 47 year old mother of five desirable to her 33 year old actor soul mate. I am concerned that Vivian's lack of judgment puts her at risk from these unnecessary procedures and surgeries.

Whitney's fiancée Sean left this morning. Except for Thanksgiving Day, where Vivian helped prepare the meal, we all ate together, cleaned up, and went to a movie, Vivian has spent the entire time in the office with the door closed reading her Kindle or sleeping. When asked to play games with the family after the movie on Thanksgiving Day, she declined saying she had already spent more time with the family than she wanted..

It is Saturday morning, December 5, 2009. On Wednesday of this week, I walked into the office to find Vivian with about 20 to 30 pair of brightly covered thong underwear. I asked what is this all about. Vivian responded they were gifts. I responded by saying, "Yeah, right." The next day on Thursday, I opened a box from Cabelas which had a winter coat for Rylee. Vivian said what is wrong with you, you have already bought Brooke and Rylee too many coats. I explained that I had bought Brooke a heavy coat for winter at the Cabela's in Lehi for 50% off – about \$35.00. They didn't have one on sale that Rylee liked. I had also bought Brooke and Rylee Northface light jackets at REI in Henderson when Brooke, Rylee and I had seen them on sale for 60% off – about \$22.00. each. But Rylee still did not have a warm winter coat and Cabela's had them on sale on the internet for 50% – about \$40.00. Vivian still has several deliveries of boxes each week of things just for Vivian. Vivian is so self-absorbed she wouldn't understand the irony of her wasting money on 30 pair of thongs for herself, yet the very next day complaining that I am spending \$40.00 so our six year old can have a warm winter coat. Tahnee just asked me to talk to her. She said Vivian is getting really unstable. Yesterday, Vivian told Tahnee that she paid \$300.00 per hour to speak to a lady psychic on the telephone. Vivian asked the lady if Geothermic (my highly risky alternative energy venture) was going to be successful. The lady told Vivian that it was going to be huge and would change the world. Vivian asked the psychic when this was going to happen. The lady said it would be within the next 12 to 24 months. The lady also told Vivian that she is a "Master Soul." This apparently means that if you believe in reincarnation that Vivian is advanced from being reincarnated many times. Vivian also told Tahnee she is getting into philanthropy. She is going to a philanthropic event in California where Jonathan Rhys Meyers organization/foundation will also be present. This must be the trip to Newport Beach on the 12<sup>th</sup> that Vivian said she was taking. Hopefully, she doesn't spend or commit to spend money while there. Her need for attention is frightening. She also told Tahnee she was going to Europe this summer. Tahnee questioned her how she could leave Brooke and Rylee. Vivian initially said that because I said I was taking Brooke and Rylee to the ranch. However, when pressed, Vivian admitted I had not actually said that. Tahnee asked why Vivian doesn't wait until Brooke and Rylee are at least 14 or 15. Vivian responded that she needs the time alone and she will be too old if she waits that long. Tahnee said she thinks Vivian is manic-depressive because Vivian has all these times when she has to buy things.

It is Sunday morning, December 6, 2009. I pressed Vivian as to why she is going to Newport Beach this Saturday, December 12, 2009. She initially did not want to tell me. She finally told me she is going with Betty Poole (Peeler?), the lady that did Vivian's most recent face peel. Vivian said Betty Poole was in her sixties and she and other ladies were driving down there in a car to see another lady who is a face skin anesthetist that works for a dermatologist. According to Vivian this lady will apply a treatment, which is legal in California, but not

Nevada, to their faces, which is supposed to fill in the wrinkles. Vivian assured me she was not going to attend any type of function. I pressed Vivian to remove the creepy screen saver (Jonathon Rhys Meyers as Henry III) from the family computer in the great room/kitchen. She said it is her computer. I said what about the computer in the office. She said that was hers as well. I then asked about the new mac lap top. She said that was hers as well.

Brooke and Rylee were in the Nutcracker. Vivian was gone to California on Saturday, December 12, 2009 to get a cosmetic treatment. Brooke could not find green ribbons for her hair. On the way to the dance studio, Brooke broke down crying saying that everything is her fault. Brooke is going through a phase where she loses things. However, I think the whole situation with Vivian weighs heavily upon Brooke and much of what I was hearing was a consequence of that burden.

It is Sunday morning, December 13, 2009. On Friday, Tahnee asked Vivian why she was going to California yesterday. Vivian said to visit friends. This is contrary to what she told me. Vivian is very lonely having distanced herself from her family. Just had a big blow up in front of Brooke and Rylee. Vivian came down stairs. Her face is swollen and discolored. Vivian spoke about the people that rode in her car. I expressed concern about the cosmetic procedures she is having done -- Two face peels and this in less than 4 or 5 weeks. Vivian said she didn't like talking about it because people were judgmental. I told her no one was being judgmental and simply expressing concern. She then started to rip on Tahnee saying she wasn't concerned, because Tahnee had no problem so long as she was getting something out of it. Tahnee was upstairs and overheard what Vivian said. Tahnee came downstairs and was calmly defending herself. Vivian blew up shouting at Tahnee and at me, saying I was a liar and Tahnee had not expressed concern. I told her that Tahnee had expressed concern. Vivian was then screaming as to what words of concern did Tahnee say. I told her I did not recall the exact words, but Tahnee had expressed concern. Vivian kept attacking me saying I was lying and to say what Tahnee had said. Vivian then turned on Tahnee belittling her in front of Brooke and Rylee, saying things like why do you even live here. Tahnee stayed calm and said nothing. Sunday evening, Tahnee, Whitney and I went to dinner. Vivian had told me she was taking Brooke and Rylee Christmas shopping, including something for me. They went to see Santa. This is one of the rare times Vivian has spent any time with Brooke and Rylee for months. Tahnee and Whitney said that Vivian now plans to go to India for the summer to do philanthropy. They said that Vivian is constantly on the internet looking for stuff about Jonathon Rhys Meyers. He apparently is involved with some organization in Ireland, where he is from, and this organization is doing philanthropic work in India. They said it is just an attempt to get close to Jonathon. First she told Brooke she was going to Europe for the summer to go to museums. Then Brooke's guitar teacher, Billy Henche, and I were talking and he said he graduated from the film program at UCLA. I made a big deal about how prestigious that program is. The next week, Vivian tells Brooke she may go to UCLA for the summer. She explained to Brooke that should wouldn't be as far way while we were at the ranch. Whitney said Vivian will only do things where she thinks she will be given credit. For example, she will spend time after class helping students, but won't help Brooke and Rylee with their homework. She said she is helping Sean pick out a ring for



her. I asked what Sean thinks of Vivian. Whitney said he does not like her.

It is late at night Saturday, December 19, 2009. I have been encouraging Brooke for many months to sleep by herself. Vivian told Brooke that she was going to clean Rylee's room and after the first of the year Brooke could sleep by herself. Independently, Whitney, who clearly has Brooke and Rylee's best interests in mind, has encouraged them to sleep together, rather than with Vivian and I. Vivian went to bed tonight at about 8:30 p.m. When it was time for the girls to go to bed Whitney said they could sleep with her, but after the first of the year they should sleep by themselves together. She correctly described this as baby steps as all of their friends have been sleeping by themselves for years. Rylee told Vivian and Vivian told Whitney that she had overstepped her bounds and Vivian was very mad at her. Vivian wants the kids to sleep with her so they are dependent upon her – as opposed to becoming more independent. I believe she is also doing it so that in the event of divorce, Brooke and Rylee will feel compelled to say they want to live with Vivian for fear of sleeping by themselves at night. As usual for Vivian it is all about Vivian.

It is Wednesday morning, December 23, 2009. A couple of days ago, Tahnee, Whitney, Joseph and I discussed whether Vivian was going to cook Christmas eve dinner. She refused to cook Thanksgiving dinner, but at the last minute helped. Joseph said he would just talk to her. Joseph went into the office and spoke to Vivian. Later Joseph said that Vivian said she would help, but would not cook the dinner as she has in the past. Vivian was pulling out of the driveway this morning. I stopped her and told her I had done all of the grocery shopping for the Christmas eve dinner. She asked how would I know what to buy. I told her that Tahnee and Whitney and I had discussed it. She said how would they know. I said it was my understanding she was not cooking the dinner. She then said, "Who told you that?" Not thinking I said, "I think it was Whitney." Vivian then said, "I never said that." Last night, Joseph said that Vivian had invited the Atkinsons to our Christmas eve dinner. I didn't get enough Christmas ham for that many people. During breakfast this morning, Brooke said she loved the book we got at Borders and did not want to read a book about Mother Teresa. I said why would you read a book about Mother Teresa. Brooke said Vivian told her that Vivian was going to go to India to do what Mother Teresa did and Vivian wanted Brooke to know what Vivian was doing while she was in India. Vivian doesn't have enough compassion to care for her own children. Vivian is getting some kind of beauty treatment almost on a daily basis now. There is no doubt Vivian thinks she is going to India to meet Jonathon Rhys Meyers and they, who are soul mates, will live happily ever after. Received a phone call from Vivian at about 12:30 p.m. today. She started in again about cooking Christmas eve dinner. I told her it was Joseph that talked to her. She said that Joseph and she were just kidding around. I said it doesn't matter what the reality is or what the true facts are, she develops her own reality where she is never wrong, never makes a mistake, never says she is sorry. I told her I have finally learned that it is a waste of time to talk to her because it is futile. She said why would you think I wasn't cooking the dinner? I replied because of what happened on Thanksgiving and the fact that she has generally checked out this year. She then started screaming obscenities at me, saying how she corrects 4 or 5 things I do wrong each week. I asked her if Brooke & Rylee were present. She said she was in "her" office. She then

accused me of cussing in front of the children, saying she has only said "fuck" in front of Brooke and Rylee fifteen (15 ) times. Just got back from seeing movie "Avatar" with Tahnee, Joseph and Joseph's friend, Darius. When I got there, both Tahnee and Joseph were upset. They said Vivian had just bought herself a \$875 jacket and two pairs of jeans that cost \$500 each! They said Vivian bought the jeans because Jonathon Rhys Meyers had worn the same brand. They both wanted me to do something to control Vivian's spending, saying it was out of control. They are right.

It is Christmas morning. During Christmas eve dinner last night overheard Vivian telling our guests Marty & Jennifer Safko about The Hope Foundation and the money she has donated in India. This is the first I heard of money being donated. Checked on-line this morning. Jonathon Rhys Meyers is the Ambassador for The Hope Foundation. Until this year, the only two meals the family could count on Vivian making was Thanksgiving dinner and Christmas eve dinner. She only helped make the Thanksgiving dinner. Whitney and Sean doing most of the work. For the Christmas dinner, Vivian spent a total of 20 minutes making the stuffing. That was it. Didn't help cleaning up. It is Friday evening. Tahnee just told me that Whitney told her that Vivian just bought a pair of boots on line for \$800.00. All this spending is shortly after I told her that she needed to cut back her spending significantly because my income this year will only be about twenty percent of last year's income.

It is Sunday morning, December 27, 2009. Starting probably about a month ago, Vivian stopped holding up in the office and reading her kindle most of each day and started holding up in the office and ordering merchandise on the internet. Based upon what the kids have told me recently about \$500 jeans and \$800 boots, I am gravely concerned about our financial situation. I told Vivian this morning that Brooke has not been able to find her retainer for over a week. Vivian said she told Brooke she was not getting another one. I told Vivian that Whitney had lost 6 of them. She said Brooke needed to learn personal responsibility. I said the problem is that the orthodontist has determined that Brooke's upper teeth need to be spread. Vivian said it was my fault because when I pick Brooke up from other homes, I don't make sure Brooke has her retainer. Vivian hasn't taken responsibility for anything negative since we have been married. A ten year old simply lost her retainer. No fault needed to be assessed.

It is Tuesday morning, December 29, 2009. As with most nights, I made sure Brooke & Rylee brushed their teeth before bed. Rylee returned from where Vivian and she sleeps (Brooke's room) and said Vivian would not let her go to bed until her hair was untangled. So at 11:00 p.m., Tahnee spent 20 minutes brushing the tangles out of Rylee's hair. Why would you do that to a six year old? Rylee could not have solved the late night problem created by Vivian without help. Earlier last evening Vivian had commented she needed to get her anti-depressant medication from Costco.

It is Wednesday evening, December 30, 2009. Saw cardboard boxes in garage. Grabbed some to send Janie's belated Christmas gift. One was from The Hip Chick and the other had an invoice for Botkier Women's Sandee Boot, Whiskey, 38 EU (US Women's 8 m) \$373.87. I am



very concerned about Vivian's spending, and, obviously, where her mind is presently.

It is Thursday afternoon, December 31, 2009. Just had a big blow-up with Vivian where she started screaming in front of Brooke and then, Rylee, Tahnee and Joseph. A week or two ago I made plans to take Brooke and Rylee to a movie and asked Vivian to go with us. She declined saying that she had planned to take them to the same movie. I said why don't you go with us then. She responded, "Because I don't want to." Vivian then said she would take them to a different movie. I took Brooke and Rylee to lunch at Pizza Hut. There we decided to go see Avatar this afternoon. When we got home, I asked Vivian to join us. She initially simply declined. She then blew up saying we had previously agreed that she would take them to the "next" movie. I said that simply wasn't true. She simply said she would take them to a different movie, and never said any particular movie. She then said well that movie is Avatar. I said she never said what movie and we had already made plans for this afternoon and she was welcome to go. She said Tahnee will confirm what she said. I said let's not bring her into this. She then asked Tahnee in front of Joseph and Rylee. Tahnee responded she did not want to get in the middle of this. Vivian started screaming that I was a liar and saying "fuck" in front of Rylee, Tahnee and Joseph. Tahnee said take this in the other room so it is not in front of Rylee. Vivian, in a threatening tone, said to Tahnee "Are you taking me on?" In order to stop the screaming and the apparent imminent violence, I said go ahead. Vivian then got in my face saying, "I'm taking them to Lego Land too without you." Vivian's comments were all in the context of her perceived competition between she and I regarding Brooke and Rylee. Although I have not talked to Tahnee or Joseph, Vivian's unstable and volatile personality was front and center.

## GOALS/SOLUTIONS

### (1) Vivian

First and foremost, we must figure a way for Vivian to feel good about herself. She must gain a real understanding about how wonderful her life really is. To do this I believe she must address and understand the ills of her childhood and how they have been negatively affecting her. If we can get Vivian genuinely happy – not just momentarily superficially happy – but genuinely happy, then 99% of our marriage and our family's problems are solved.

Vivian needs to improve her self-image. Today is Saturday, February 28, 2009. A couple of weeks ago, a friend Tahnee's told her about a personality test. One evening, Tahnee got on line and took the test. She was a 3. Vivian took the test and she was an 8 (I believe Tahnee said Vivian was a very high 8 – scored an 8 for an 8, I believe). Coincidentally, this was the test for the nine personality traits of the Enneagram – which I have been studying in my effort to find a solution to Vivian's problems. I had previously read parts of the book, "The Wisdom of the Enneagram." I had also listened to the cd for 6 – the loyalist, and concluded Vivian was not a 6. I have since listened to the cd for 8 – the challenger. Vivian is most definitely an 8. I have now ordered all 9 cds and ordered several books for Vivian and/or I to read. I am hopeful this endeavor will be fruitful.

Vivian has refused to read any of this material. As addressed in "The Wisdom of the Enneagram" when people are an 8 in the average/unhealthy range it is extremely difficult for them to see the problem. This is akin, perhaps, to trying to help a drunk, who adamantly believes she does not have a drinking problem. In this book, the authors identify seven Warning Signs. Vivian's condition satisfies the first four of these signs. Id. at p. 308.

Vivian is a smart and talented person. Her self-esteem needs to be commensurate with who she is, was, and, more importantly, can be. Her low self-esteem causes her to be jealous of others in the family and interpret negatively just about every thing that is said or done that isn't the most obvious compliment of her. If she can feel better about herself, then maybe she can feel better about others and not feel compelled to tear everyone else down. Similarly, with an improved self-image, she can stop trying to take credit for other family members' successes.

The blaming must stop. Vivian must be made to understand that there is no reason for anyone in the family to be in charge of blaming others for anything. There is no reason to place blame upon other people. Vivian constantly blaming others for anything and everything is the most major cause of stress and divisiveness in our family. If she could be made to see the damage she is doing, she might be motivated to stop. When she constantly blames others, she begins to resent those she blames, the person being blamed resents her finger pointing, and relationships consequently deteriorate. This need to blame really is a root of evil. I believe this need to blame by her grandparents and her mother is probably the primary cause of the defensive personality Vivian developed as a child that is so detrimental to our family now.

## (2) Our marriage

She needs to start trusting in our relationship. I have spoken to Vivian over the years of how our relationship reached a point and stopped, and that I wanted to do whatever we could to have our relationship continue to grow and mature. Unless Vivian changes this will never happen. She has tremendous problems with intimacy, and despite the fact that she has never been given any reason not to trust me, she has a problem with trust. I believe the biggest obstacle to our relationship going any further is her need to be the center of attention and all of the issues that compelling need creates – not the least of which is a resentment of those she perceives who do get the attention. Secondly, I believe the second biggest obstacle is her prior experiences with the men that were in her life and the resounding message she got from her mother that men were bad and could not be trusted.

The following are the thoughts or feelings that Vivian has that make a good marriage impossible: 1. Hate; 2. Disrespect; 3. Jealousy; 4. Resentment; 5. Lack of appreciation; 6. Selfishness. In contrast, the following are the thoughts or feelings necessary for a positive nurturing marriage: 1. Love; 2. Respect; 3. Friendship; 4. Trust; 5. Appreciation; 6. Devotion; 7. Deference; 8. Open communication.

## (3) Our family

Our primary goal must be to have each of our children be happy, healthy, confident, self-reliant, passionate, compassionate, and kind. We must consistently act so that our children become confident, self-reliant and, frankly reach a point early in their lives where they do not need us anymore. Vivian must learn to accept that fact. Sleeping with Brooke and Rylee is not in their best interest. I enjoy sleeping with them every bit as much as Vivian, but it is selfish. Vivian saying things in front of our children that are critical of me not only damages my relationship with my children, but more importantly damages the children.

In order to attain the primary goal we must provide a healthy loving environment for our children free of hostility. Vivian's outbursts of uncontrolled hostility must stop. All of our children need an environment where they know that a parent isn't going to scream vulgarities or strike them in the head.

Vivian needs to make an effort to reconnect with our older children. It is important all of our older children feel our home will always be their home and that both Vivian and I will always be there for them. Vivian needs to know that a family doesn't stop being a family when a child moves away from home and/or you can no longer control your children.

## QUESTIONS

What is the best course of action for Brooke and Rylee?

Any ideas as to how to get Vivian into therapy?

Are Vivian's problems fixable?

Vivian's behavior is so much like the behavior of her mother and her sister Cindy. Is it possible that it is genetic? Is it possible it is caused by a chemical imbalance?

Are all of Vivian's issues, i.e., the overwhelming need to be the center of attention, the need to criticize others, insecurities, the lack of a sense of propriety, etc. caused by her environment, and thus, hopefully, subject to correction, or do people have genetic behavioral limitations that cause this type of behavior that are not amenable to correction?

Is Vivian bipolar, suffering from severe depression, or something else? Are the courses of treatment the same or different?

Although I doubt she will go, is it possible that if Vivian goes to India to do good work (irrespective of her selfish motive) for several months that will help her mentally? What if she goes to Europe for a couple of months and goes to museums?

Is it possible this type of behavior is in the future of any of my children? If so, is there anything

that can be done about it now to prevent or minimize it?

Do you believe Vivian's condition will continue to deteriorate?

Should I be concerned about Vivian becoming more violent with time? [Wisdom of the Enneagram p. 296 & 308]

Is it possible for our marriage to be saved?

Tahnee wants to leave the house to get away from Vivian. Is that best for Brooke & Rylee? Is that best for Tahnee? It would be a significant additional expense during a tough economic time, but if it is in everyone's best interest I would certainly do it.

Finally, I realize I am asking for a preliminary diagnosis without you having the benefit of interviewing Vivian. I fully understand that whatever advice you give to me is qualified and limited by that fact. However, I must have some advice and guidance as to how to deal with this situation. I do not know what to do

Respectfully,

Kirk Harrison

*OTID*  
*cluster B*  
*for some personality*  
*pathology risks to*  
*Kernberg*

# EXHIBIT 10

## Phentermine Rx's

### Unicorn Medical Weight Loss

01-18-06      Start Program

02-15-06

03-16-06

04-16-06

04-26-06

07-27-06

11-15-06

01-24-07

02-21-07

03-22-07

04-19-07

06-07-07

07-03-07

08-29-07

11-28-07

01-03-08

02-22-08

### Trim Care/Galleria Urgent Care

04-18-08

06-11-08

08-18-08

09-10-08

10-15-08

11-20-08

### Dr. J. R. Martin

01-22-09

02-21-09

03-26-09

08-24-09

09-22-09

10-30-09

### Dr. Warren Smith

12-02-10

04-16-11

# EXHIBIT 11

**Vivian L. Harrison**  
**Phentermine, Didrex, Bontril, and Diethylpropion**  
**Prescription History**

1.	Phentermine hydrochloride –			Schedule IV controlled substance
2.	Didrex (benzphetamine hydrochloride) –			Schedule III controlled substance
3.	Bontril (phendimetrazine tartrate) –			Schedule III controlled substance
4.	Diethylpropion hydrochloride –			Schedule IV controlled substance
6/9/04	Phentermine	30mg a.m.	28 tablets	Unicorn
7/7/04	Blue Phentermine	30mg		Unicorn
7/28/04	Phentermine	37.5mg	28 tablets	Unicorn
9/9/04	Phentermine	37.5mg	28 tablets	Unicorn
10/27/04	Phentermine	15mg a.m. 30mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
11/24/04	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
12/15/04	Didrex	50 mg	60 tablets	Unicorn
1/19/05	Didrex	50 mg	60 tablets	Unicorn
2/16/05	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
6/22/05	Diethylpropion	75mg	28 controlled release tablets	Unicorn
7/1/05*				
1/18/06	Phentermine	37.5mg	28 tablets	Unicorn
2/15/06	Phentermine	37.5mg	28 tablets	Unicorn
3/16/06	Phentermine	30mg a.m. 15 mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
4/6/06	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn



4/26/06	Phentermine	30mg 15mg	28 capsules 28 capsules	Unicorn Unicorn
7/27/06	Phentermine	30mg 15mg	28 capsules 28 capsules	Unicorn Unicorn
11/15/06	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
1/24/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
2/21-07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
3/22/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
4/19/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
6/7/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
7/3/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
8/29/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
9/26/07	Bontril	105mg	28 tablets	Unicorn
10/24/07	Bontril	105mg	28 tablets	Unicorn
11/28/07	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
1/30/08	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn
2/28/08	Phentermine	30mg a.m. 15mg p.m.	28 tablets 28 tablets	Unicorn Unicorn

3/24/08	Phentermine	37.5mg	45 tablets		TrimCare
4/18/08**	Phentermine, Topomax and Tenuate				TrimCare
6/11/08	Phentermine	37.5mg			TrimCare
8/18/08	Phentermine	37.5mg	30 tablets		TrimCare
9/10/08	Phentermine	37.5mg	30 tablets		TrimCare
10/15/08	Phentermine	37.5mg	30 tablets		TrimCare
11/20/08	Phentermine	37.5	30 tablets		Galleria
1/22/09	Phentermine	37.5mg	30 tablets	Costco	JR Martin
2/21/09	Phentermine	37.5mg	30 tablets	Costco	JR Martin
3/26/09	Phentermine	37.5mg	30 tablets	Costco	JR Martin
5/07/09	Phentermine	30mg	30 tablets	Costco	JR Martin
5/28/09	Phentermine	37.5mg		St. George Costco	JR Martin
6/17/09	Phentermine	30mg	30 tablets	Costco	Jame Martin
7/29/09	Phentermine	30mg	30 tablets	Costco	Jame Martin
8/24/09	Phentermine	37.5mg	30 tablets	Costco	JR Martin
9/22/09	Phentermine	37.5mg	30 tablets	Costco	JR Martin
10/30/09	Phentermine	37.5mg	30 tablets	Costco	Jeffry Life
11/6/10	Phentermine	30mg	30 tablets	Costco	W Smith
12/2/10	Phentermine	37.5mg	30 tablets	Costco	W Smith
1/15/11	Phentermine	37.5mg	30 tablets	Costco	W Smith
2/15/11	Phentermine	37.5mg	60 tablets	Costco	W Smith

3/15/11	Phentermine		“ ”		
4/16/11	Phentermine	37.5mg	30 tablets	Costco	W Smith
5/12/11	Phentermine	35mg			TrimCare
7/15/11	Bontril	35mg			TrimCare
8/27/11	Bontril	35mg	90 tablets		TrimCare

\*On July 1, 2005, Vivian made the following representation, in writing, to Dr. Paula Squitieri:  
 “Are you taking medication? Yes If yes, please list: Phentermine” This confirms that despite all of the document productions from the various Phentermine and related drug providers, there are still prescriptions Vivian obtained that are missing.

\*\*4/18/08 There is a memorandum, dated 4/18/08 in the TrimCare production. This memorandum provides Vivian is taking Phentermine, Topamax, and Tenuate (diethylpropion) However, the prescription for diethylporpion is not identified in any of the documents produced by TrimCare

Dr. Paula Squitieri  
Licensed Psychologist  
8440 W. Lake Mead Blvd., Suite 206  
Las Vegas, NV 89128  
(702)521-5730

2005

Date: 7-1-05

Client Name: Vivian L Harrison

DOB: 8 16 62

Age: 42

Address: 1514 Sunrise Cir BC NV 89005

Referred by: B Dickerson

Telephone: Home: 2946000 Work: — Emergency: —

Social Security #: 530 74 1447

Occupation: Homemaker

Employer: —

Employer Address: —

Marital Status: ☒ Marries ☐ Divorced ☐ Separated ☐ Widow/Widower

Have you had previous counseling or therapy? ☒ Yes ☐ No

Are you under the care of a doctor? ☐ Yes ☒ No

Are you taking medication? ☒ Yes ☐ No If yes, please list: Phentermine

Spouse's (Parents) Name: Kirk

DOB: 9-14-53

Age: 51

Social Security #: 530 48 2942

Occupation: Attorney

Employer: Harrison Kemp Jones

Employer Address: 3800 HOWARD HUGHES PKWY 15th Fl  
LV 89108?

Patient Name: Vivian Harrison  
Sunset Galleria Office

Date of Service: 04/18/2008

Interim visit. Started on 03/24, seen today by me at the request of the MA who notes the patient was discouraged, she had not lost weight. She has not come in every week, this is the first time she has come in since 03/24. She has only lost 6 pounds. She said at home she basically lost the first week. Her goal weight is 117 to 124 pounds. She is currently at 161 pounds. Today we spent a long time discussing the problems. This regimen keeps her up too late at night and she is taking the Phentermine the second half at 2 p.m. She is also taking Topamax, still hungry, still eating a lot of carbs, doing some exercise but not at a half hour a day which we went over today what the benefits of that were. Basically I am going to put her on B-complex vitamins because she is not on any vitamins. She is going to start Herbal Siesta at night, she is going to stop the Topamax and the Phentermine is going to be one half a.m. and one half noon, Tenuate is going to be at 4 p.m. She will use protein bars in the daytime to help the carbohydrate part of her diet has gone way down after counseling today. I will see her back in a week. I told her it really would be in her best interest to come in every week because that is how I can help her best and I reiterated that of course it was a free visit within two months so she certainly could benefit from the guidance if this does not work. The patient left pleased and hopefully will make some progress this week.

ILG/Dr. Warner/sb



# EXHIBIT 12

NOV 21 2011

CUHIST Revision: 720.17 12 SEP 2011  
 PHARM NABP/DIV/STORE #- 2904678/ 20/ 673

COSTCO PHARMACY #673  
 PHARMACIST'S STATEMENT  
 01/01/2001 THRU 11/16/2011

DATE/TIME - 11/16/2011 3:34pm  
 PAGE- 1

PHARMACY NAME COSTCO PHARMACY #673  
 ADDRESS 791 MARKS STREET  
 CITY, ST ZIP HENDERSON NV 89014  
 TELEPHONE (702) 352-2030

LICENSE # 825  
 FEDERAL TAX ID 91-1223280  
 IRS #

FAMILY NAME HARRISON, KIRK R  
 ADDRESS 1514 SUNRISE CR  
 CITY, ST ZIP BOULDER CITY NV 890050000

TELEPHONE (702) 294-6000  
 FAMILY ACCOUNT # 003976

MEMBER NAME HARRISON, VIVIAN L  
 MEMBER # 02  
 SOCIAL SECURITY #

BIRTHDAY 08/16/1962  
 SEX F  
 RELATION S

RX-#	RFL	NDC-#	DRUG-DESCRIPTION	DOCTOR-NAME	RFL-DATE	RPH/TCH	QUAN	DAY	3PTY#	CUST-\$	PRICE-\$
215034		00173099394	ZOVIRAX 5% OINTMENT	MICHAELS, JA	06/18/2001	BM /PL	15	15	3005	24.74	47.10
221341		00068022630	CLOMID 50MG TABS	TROUT, ROBER	10/23/2001	JD /LC	5	5	1	50.17	50.17
239340		00168020360	CLINDAMYCIN PHOSP 1% LOTI	JAMESON, FLO	09/04/2002	JD /JS	60	30	91612	15.00	35.07
263237		00067602415	DENAVIR 1% CREAM NOV	GATES, DAVID	08/30/2003	RJJ	2	10	91612	28.77	28.77
299687		00024542131	AMBIEN 10MG TABLET SEA	CLEMENT, RIC	09/08/2004	JD /KP	5	5	91612	16.97	16.97
299688		00173057000	ZOPRAN ODT 8MG TABLET GLX	CLEMENT, RIC	09/08/2004	JD /KP	2	2	91612	40.00	59.80
299689		59772727103	CEFADROXIL 500MG CAPSULE	CLEMENT, RIC	09/08/2004	JD /KP	10	5	91612	15.00	15.00
299690		00172426760	ACYCLOVIR 400MG TABLET ZE	CLEMENT, RIC	09/08/2004	JD /KP	14	7	91612	9.27	9.27
299691		00406035705	HYDROCODONE/APAP 5/500 TA	CLEMENT, RIC	09/08/2004	JD /KP	30	3	91612	7.69	7.69
336162		00456402001	CELEXA 20MG TABLET FOR	DUFFY, SEAN	07/19/2005	JD /ST	39	30	1	95.99	95.99
338741		00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	08/11/2005	JD /ST	30	30	91612	77.29	77.29
338741	1	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	09/14/2005	JD /ST	30	30	91612	77.29	77.29
343679		64011013611	NIFEREX-150 FORTE CAPSULE	JAMESON, FLO	09/23/2005	JD /ST	30	30	91612	23.49	23.49
344789		00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	10/03/2005	RB /JD	45	30	1	115.29	115.29
344789	1	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	11/01/2005	JLD	45	30	1	115.29	115.29
344789	2	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	12/02/2005	RB /JD	45	30	1	124.29	124.29
354506		00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	12/16/2005	JD /MAH	45	30	1	124.29	124.29
359883		00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	01/26/2006	JD /MAH	45	30	1	124.29	124.29
343679	1	64011013611	NIFEREX-150 FORTE CAPSULE	JAMESON, FLO	02/27/2006	JSW/MAH	30	30	1	26.19	26.19
359883	1	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	02/27/2006	JSW/MAH	45	30	1	124.29	124.29
359883	2	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	04/03/2006	RB /JD	45	30	1	124.29	124.29
359883	3	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	05/10/2006	RB /JD	45	30	1	125.59	125.59
359883	4	00456404001	CELEXA 40MG TABLET FOR	DUFFY, SEAN	06/12/2006	EML	45	30	1	125.59	125.59
384590		55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	08/01/2006	KD /CS	45	30	1	15.07	15.07
384590	1	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	10/09/2006	KKD	45	30	1	14.87	14.87
384590	2	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	12/13/2006	GA	45	30	1	6.40	6.40
384590	3	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	01/03/2007	JMS	45	30	1	6.40	6.40
417121		55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	03/30/2007	KD /MAH	30	30	1	5.00	5.00
417121	1	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	05/01/2007	GA	30	30	1	5.00	5.00
417121	2	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	06/05/2007	AS /MAH	30	30	1	5.00	5.00
417121	3	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	07/03/2007	ADS	30	30	1	5.00	5.00
417121	4	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	08/20/2007	AS /CS	30	30	1	5.00	5.00
417121	5	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	09/19/2007	GA /AS	30	30	1	5.00	5.00
417121	6	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	11/07/2007	TW /AS	30	30	11111	5.00	5.00
417121	7	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	12/14/2007	TW /AS	30	30	11111	5.69	5.69
417121	8	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	01/17/2008	ADS	30	30	11111	5.69	5.69
417121	9	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	02/19/2008	YL /AS	30	30	11111	5.69	5.69
417121	10	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	02/27/2008	JMS	30	30	11111	5.69	5.69
470266		55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	05/12/2008	JS /MAH	30	30	1	6.10	6.10
470266	1	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	06/16/2008	MB	30	30	1	5.59	5.59
470266	2	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	07/15/2008	AMP	30	30	11111	5.49	5.49
470266	3	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	09/02/2008	MB	30	30	11111	5.49	5.49
470266	4	55111034401	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	10/06/2008	YL /AS	30	30	11111	5.49	5.49
470266	5	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	11/10/2008	AS /MAH	30	30	11111	5.49	5.49
470266	6	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	12/11/2008	AS /KP	30	30	11111	5.49	5.49
470266	7	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	01/07/2009	AS /CS	30	30	11111	5.49	5.49
470266	8	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	02/21/2009	JS /TN	30	30	11211	5.49	5.49
470266	9	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	03/31/2009	AS /MAH	30	30	11111	4.99	4.99
517570		00527130801	PHENTERMINE 30 MG CAPSULE	MARTIN, J. R	05/07/2009	JS /CS	30	30	11111	13.79	13.79
470266	10	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	05/07/2009	AC /KP	30	30	11111	4.99	4.99
522209		60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	06/12/2009	YL /EL	30	30	11111	5.49	5.49
522812		00527130801	PHENTERMINE 30 MG CAPSULE	MARTIN, JAME	06/17/2009	GA /AS	30	30	11111	13.79	13.79
522209	1	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	07/29/2009	GA /AS	30	30	11111	5.49	5.49
522812	1	00527130801	PHENTERMINE 30 MG CAPSULE	MARTIN, JAME	07/29/2009	GA /AS	30	30	11111	13.79	13.79
532731		00173093308	VALTREX 500MG CAPLET GLX	MICHAELS, JA	09/03/2009	AS /CS	30	15	11111	217.45	217.45
532730		00781149668	AZITHROMYCIN 250 MG TABLET	MICHAELS, JA	09/03/2009	AS /CS	6	5	11111	6.54	6.54
522209	2	60505252001	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	09/05/2009	JMS	30	30	11111	5.49	5.49
533800		00168038204	SULFACETAMIDE SODIUM 10%	MICHAELS, JA	09/12/2009	JS /KP	118	10	11111	55.87	55.87
522209	3	65862000701	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	10/08/2009	AS /CS	30	30	11111	5.69	5.69
522209	4	65862000701	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	11/23/2009	AS /MAH	30	30	11111	5.69	5.69
522209	5	65862000701	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	12/18/2009	AS /MB	30	30	11111	5.69	5.69
522209	6	65862000701	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	01/25/2010	GA	30	30	11111	5.69	5.69
532731	1	00173093308	VALTREX 500MG CAPLET GLX	MICHAELS, JA	02/02/2010	AS /CS	30	15	4005	30.00	210.64
554323		00173067501	MALARONE TABLET GLX	SILVERS, MIC	02/02/2010	AS /CS	16	16	4005	30.00	103.28

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PHARM NABP/DIV/STORE #- 2904678/ 20/ 673

COSTCO PHARMACY #673  
PHARMACIST'S STATEMENT  
01/01/2001 THRU 11/16/2011

DATE/TIME - 11/16/2011 3:34pm  
PAGE- 2

PHARMACY NAME COSTCO PHARMACY #673  
ADDRESS 791 MARKS STREET  
CITY, ST ZIP HENDERSON NV 89014  
TELEPHONE (702) 352-2030

LICENSE # 825  
FEDERAL TAX ID 91-1223280  
IRS #

FAMILY NAME HARRISON, KIRK R  
ADDRESS 1514 SUNRISE CR  
CITY, ST ZIP BOULDER CITY NV 890050000

TELEPHONE (702) 294-6000  
FAMILY ACCOUNT # 003976

MEMBER NAME HARRISON, VIVIAN L  
MEMBER # 02  
SOCIAL SECURITY #

BIRTHDAY 08/16/1962  
SEX F  
RELATION S

RX-#	RFL	NDC-#	DRUG-DESCRIPTION	DOCTOR-NAME	RFL-DATE	RPH/TCH	QUAN	DAY	3PTY#	CUST-\$	PRICE-\$
554324		55111012701	CIPROFLOXACIN 500MG TAB R	SILVERS, MIC	02/02/2010	AS /CS	14	7	11111	5.85	5.85
564825		00591565810	CYCLOBENZAPRINE 10MG TABL	GRIFFIN, ANT	04/08/2010	JS /MB	8	4	4005	5.69	5.69
564826		50111033401	METRONIDAZOLE 500MG TABLE	GRIFFIN, ANT	04/08/2010	JS /MB	20	10	4005	5.69	5.69
564827		00781140305	LORAZEPAM 0.5MG TABLET GE	GRIFFIN, ANT	04/08/2010	JS /MB	6	2	4005	6.20	6.20
564828		00555030138	METHYLPREDNISOLONE 4MG TA	GRIFFIN, ANT	04/08/2010	JS /MB	21	6	4005	6.50	6.50
564829		00591034905	HYDROCODONE/APAP 5/500 TA	GRIFFIN, ANT	04/08/2010	JS /MB	40	5	4005	10.00	10.05
564831		68180012202	CEPHALEXIN 500 MG CAPSULE	GRIFFIN, ANT	04/08/2010	JS /MB	21	7	4005	6.99	6.99
522209	7	65862000701	CITALOPRAM HBR 40 MG TABL	DUFFY, SEAN	04/08/2010	GA /AS	30	30	4005	5.69	5.69
522209	8	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	05/04/2010	GA /EL	30	30	4005	6.80	6.80
522209	9	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	06/08/2010	JMS	60	60	1	10.84	10.84
588595		65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	09/14/2010	EL /CS	60	60	1	8.92	8.92
589047		68382026101	ACETAZOLAMIDE ER 500 MG C	SMITH, WARRE	09/16/2010	JS /KP	10	5	4005	10.00	29.72
589048		00378427693	VALACYCLOVIR HCL 1 GR TAB	SMITH, WARRE	09/16/2010	AMP	4	1	4005	18.62	18.62
589045		00085113201	PROVENTIL HFA INHALER UNI	SMITH, WARRE	09/16/2010	JS /KP	7	25	4005	48.27	48.27
589045	1	00085113201	PROVENTIL HFA INHALER UNI	SMITH, WARRE	11/06/2010	JS /MB	7	25	4005	48.27	48.27
588595	1	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	11/06/2010	JS /MB	60	60	1	7.81	7.81
597000		00527130801	PHENTERMINE 30 MG CAPSULE	SMITH, WARRE	11/06/2010	JS /MB	30	30	1	15.49	15.49
588595	2	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	02/15/2011	AS /MAH	60	60	1	7.81	7.81
589048	1	00378427693	VALACYCLOVIR HCL 1 GR TAB	SMITH, WARRE	02/15/2011	AS /MAH	4	1	1	18.62	18.62
613431		10702002501	PHENTERMINE 37.5MG TABLET	SMITH, WARRE	02/15/2011	AS /MAH	60	60	1	19.95	19.95
589048	2	00378427693	VALACYCLOVIR HCL 1 GR TAB	SMITH, WARRE	04/16/2011	JS /KP	4	1	1	18.62	18.62
589045	2	00085113201	PROVENTIL HFA INHALER UNI	SMITH, WARRE	04/16/2011	JS /KP	7	25	4005	50.00	50.00
589048	3	00378427693	VALACYCLOVIR HCL 1 GR TAB	SMITH, WARRE	05/26/2011	AS /KP	4	1	1	18.62	18.62

2553.38 2889.30

I HEREBY CERTIFY THAT THESE DRUGS AND MEDICINES WERE DISPENSED TO THE ABOVE NAMED PERSON(S) BY ORDER OF HIS (OR HER) PERSONAL PHYSICIAN.

PHARMACIST'S SIGNATURE

DATE

11/16/11



CUHIST Revision: 720.17 12 SEP 2011  
PHARM NABP/DIV/STORE #- 2904678/ 20/ 673

COSTCO PHARMACY #673  
PHARMACIST'S STATEMENT  
01/01/2001 THRU 12/05/2011

DATE/TIME - 12/05/2011 12:45pm  
PAGE- 1

PHARMACY NAME COSTCO PHARMACY #673  
ADDRESS 791 MARKS STREET  
CITY, ST ZIP HENDERSON NV 89014  
TELEPHONE (702) 352-2030  
LICENSE # 825  
FEDERAL TAX ID 91-1223280  
IRS #  
FAMILY NAME HARRISON, VIVIAN L  
ADDRESS 1514 SUNRISE CIRCLE  
CITY, ST ZIP BOULDER CITY NV 890050000  
TELEPHONE (702) 294-6000  
FAMILY ACCOUNT # 059987  
MEMBER NAME HARRISON, VIVIAN L  
MEMBER # 01  
BIRTHDAY 08/16/1962  
SEX F  
SOCIAL SECURITY # RELATION H

RX-#	RFL	NDC-#	DRUG-DESCRIPTION	DOCTOR-NAME	RFL-DATE	RPH/TCH	QUAN	DAY	3PTY#	CUST-\$	PRICE-\$
502860		10702002501	PHENTERMINE 37.5MG TABLET	MARTIN, J.R	01/22/2009	AS /KP	30	30	1	13.87	13.87
502860	1	10702002501	PHENTERMINE 37.5MG TABLET	MARTIN, J.R	02/21/2009	JS /TN	30	30	1	13.87	13.87
502860	2	10702002501	PHENTERMINE 37.5MG TABLET	MARTIN, J.R	03/26/2009	GA	30	30	1	13.87	13.87
531255		10702002501	PHENTERMINE 37.5MG TABLET	MARTIN, J.R	08/24/2009	AS /MAH	30	30	1	12.86	12.86
531255	1	10702002501	PHENTERMINE 37.5MG TABLET	MARTIN, J.R	09/22/2009	EML	30	30	1	13.59	13.59
540582		10702002501	PHENTERMINE 37.5MG TABLET	LIFE, JEFFRY	10/30/2009	JS /KP	30	30	1	13.59	13.59
557900		68180018001	CEFADROXIL 500 MG CAPSULE	CLEMENT, RIC	02/24/2010	AS /KP	10	5	1	11.13	11.13
557901		00781523964	ONDANSETRON ODT 8 MG TAB	CLEMENT, RIC	02/24/2010	AS /KP	2	1	1	9.68	9.68
557902		00093007401	ZOLPIDEM TARTRATE 10 MG T	CLEMENT, RIC	02/24/2010	AS /KP	7	7	1	5.69	5.69
557903		00591034905	HYDROCODONE/APAP 5/500 TA	CLEMENT, RIC	02/24/2010	AS /KP	30	3	1	9.86	9.86
559160		00173093308	VALTREX 500MG CAPLET GLX	CLEMENT, RIC	03/04/2010	GA /AS	14	7	4005	30.00	98.97
559162		66530041140	TRETINOIN 0.05% EMOL.CREA	CLEMENT, RIC	03/04/2010	AS /CS	40	20	1	117.75	117.75
559164		16714062201	ZOLPIDEM TARTRATE 10 MG T	CLEMENT, RIC	03/04/2010	GA /AS	7	7	4005	5.69	5.69
559165		00591034905	HYDROCODONE/APAP 5/500 TA	CLEMENT, RIC	03/04/2010	GA /AS	30	3	4005	9.86	9.86
566755		68180018001	CEFADROXIL 500 MG CAPSULE	CLEMENT, RIC	04/20/2010	GA /EL	10	5	4005	10.00	10.00
566757		00781523964	ONDANSETRON ODT 8 MG TAB	CLEMENT, RIC	04/20/2010	EL /MB	2	2	4005	9.68	9.68
566758		16714062201	ZOLPIDEM TARTRATE 10 MG T	CLEMENT, RIC	04/20/2010	EL /MB	7	7	4005	5.99	5.99
566754		00173093308	VALTREX 500MG CAPLET GLX	CLEMENT, RIC	04/20/2010	EL /MB	14	7	4005	30.00	98.97
566759		00591034905	HYDROCODONE/APAP 5/500 TA	CLEMENT, RIC	04/20/2010	EL /MB	30	5	4005	9.86	9.86
573756		00052031510	PREGNYL 10000U VIAL ORG	LIFE, JEFFRY	06/02/2010	AS /MB	2	160	1	115.43	115.43
573757		00409397703	BACTERIOSTATIC WATER VIAL	LIFE, JEFFRY	06/02/2010	AS /MB	60	30	1	6.30	6.30
597328		00781214501	AMPICILLIN TR 500 MG CAPS	JAMESON, FLO	11/09/2010	AS /MAH	40	10	1	10.74	10.74
601106		10702002501	PHENTERMINE 37.5MG TABLET	SMITH, WARRE	12/02/2010	AS /KP	30	30	1	14.41	14.41
601107		00173068220	VENTOLIN HFA 90 MCG INHAL	PINTO, JOHN	12/02/2010	AS /KP	18	16	4005	10.00	34.51
612584		00591034905	HYDROCODONE/APAP 5/500 TA	GRIFFIN, ANT	02/10/2011	AS /KP	40	5	1	10.95	10.95
612627		45802093064	H-CORTISONE/IODOQUINOL CR	MICHAELS, JA	02/10/2011	JS /KP	29	10	1	19.22	19.22
614084		00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	02/18/2011	AS /MB	30	30	4005	30.00	136.16
615365		00046110481	PREMARIN 1.25MG TABLET AY	JAMESON, FLO	02/25/2011	AS /KP	21	21	1	45.37	45.37
615846		65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	03/01/2011	AS /MB	45	30	4005	6.85	6.85
616627		45802098064	HYDROQUINONE 4% CREAM GLA	MICHAELS, JA	03/05/2011	JS /MB	29	20	1	15.99	15.99
616626		00168032346	METRONIDAZOLE 0.75% CREAM	MICHAELS, JA	03/05/2011	JS /MB	45	30	4005	10.00	26.45
615846	1	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	04/09/2011	JS /KP	45	30	4005	6.85	6.85
614084	1	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	04/09/2011	JS /KP	30	30	4005	30.00	136.16
623744		10702002501	PHENTERMINE 37.5MG TABLET	SMITH, WARRE	04/16/2011	JS /KP	30	30	1	14.41	14.41
614084	2	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	05/16/2011	AC /MB	30	30	4005	30.00	136.16
615846	2	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	05/16/2011	AC /MB	45	30	4005	6.85	6.85
614084	3	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	06/13/2011	AS /MB	30	30	4005	30.00	136.16
615846	3	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	06/13/2011	AS /MB	45	30	4005	6.85	6.85
614084	4	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	07/12/2011	GA	30	30	4005	30.00	136.16
615846	4	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	07/12/2011	GA	45	30	4005	6.85	6.85
614084	5	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	08/08/2011	AS /MB	30	30	4005	30.00	136.16
615846	5	65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	08/08/2011	AS /MB	45	30	4005	6.85	6.85
1019844		65162005410	CITALOPRAM HBR 40MG TAB	DUFFY, SEAN	09/08/2011	JMS	45	30	4005	6.85	6.85
1020087		63304050501	ACYCLOVIR 800MG TABLET RA	CROVETI, CHR	09/09/2011	JS /MB	60	30	4005	10.00	25.25
614084	6	00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	09/28/2011	ADS	30	30	4005	30.00	136.16
1032978		00310075590	CRESTOR 5MG TABLET ZEN	LIFE, JEFFRY	11/28/2011	JS /MAH	30	30	4005	30.00	136.16
										917.61	1961.04

I HEREBY CERTIFY THAT THESE DRUGS AND MEDICINES WERE DISPENSED TO THE ABOVE NAMED PERSON(S) BY ORDER OF HIS (OR HER) PERSONAL PHYSICIAN.

PHARMACIST'S SIGNATURE

DATE

12/5/11

# EXHIBIT 13

## Progress Note

**Patient:** Harrison, Rylee  
**DOB:** 01/24/2003 **Age:** 8Y 6M **Sex:** Female  
**Phone:** 702-294-6000  
**Address:** 1514 Sunrise Circle, Boulder City, NV-89005

**Provider:** Asheesh Dewan, M.D.  
**Date:** 08/02/2011

### Subjective:

**CC:**

#### HPI:

##### Insulin Dosing Plan:

She has gained 3.5 lbs. she was exercising but then got hurt so the weight came back . she is not seeing any progression in the hair. her testosterone level of 32 to 6. puberty labs where prepubertal .

#### Family History:

#### Social History:

**Medications:** None

**Allergies:**

### Objective:

**Vitals:** BP 97/63, Pulse 78, Ht 56.67, Wt 97.6, BMI 21.36.

#### Examination:

##### Physical Examination:

General appearance: well developed and nourished, NAD. HEENT and Pharynx TMs pearly bilaterally, pharynx and tonsils normal. Oral cavity: no lesions. Neck and Thyroid: supple, no lymphadenopathy, no goiter. Chest: normal shape and expansion, clear to auscultation. Lungs: clear to auscultation. Heart: regular rate and rhythm, no murmurs. Abdomen: soft, NT/ND, BS present. Extremities: no cyanosis, no clubbing, no edema. Peripheral pulses: normal (2+) bilaterally. Back: no evidence of scoliosis. Neurologic exam: A & O x 4, DTR 2+ bilaterally. Genitalia: Tanner stage 2 pubic with body odor and tanner 2 breast with lipomastia..

### Assessment:

#### Assessment:

1. Gynecomastia - 611.1 (Primary)

### Plan:

#### 1. Gynecomastia

the elevated testosterone was from moms craem, and the levels are falling . we will check a bone age and will see if there is a significant loss in height. we also spoke about the cpeptide levels being 2.1. , This is a patient with exogenous obesity and physical signs of insulin resistance. At this time, I do not feel that the patient has diabetes, but they are at an increased risk of developing it in the future owing to their obesity., We discussed in length strategies in their lifestyle that they could change to better achieve their weight goals. We spent particular attention in finding exercise and dietary strategies that would ensure a higher probability of adoption and success., At this time, we are not going to start any medications, but should the weight and insulin resistance continue to increase, we will consider doing so in the future.

#### Immunizations:

#### Labs:

**Preventive:** Counseling: Diet . Exercise .

**Follow Up:** 4 Months

**Provider:** Asheesh Dewan, M.D.

**Patient:** Harrison, Rylee **DOB:** 01/24/2003 **Date:** 08/02/2011

**Electronically signed by Dr. Asheesh Dewan on 10/03/2011 at 03:51 PM PDT**

**Sign off status:** Pending

# EXHIBIT 14

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

From: Annmarie Goldstein <tarot\_of\_faith@yahoo.com>

To: [vivianlharrison@aol.com](mailto:vivianlharrison@aol.com)

Sent: Mon, Jan 17, 2011 8:03 am

Subject: your forecast chart

**Jupiter sextile Saturn: Prudence and caution 21 February 2011 until 2 March 2011:**

During this time you approach expansion and growth from a very careful and pragmatic point of view. Everything you do, every plan you make is characterized by prudence and caution. You are interested in what could be, but this concern is well balanced by your concern for what is already. You are neither idealistic nor excessively conservative. You do not see duties and obligations as limitations upon your life but as routes to achieving wisdom and maturity. This is a fundamentally correct view, but you must balance your need for freedom with your need to get work done in order to see it that way. That is what you are doing now. You are oriented to work and duty, but you can also see that certain apparent responsibilities are really not validly yours. And you are not willing to take on someone else's share of the work unless you can see real benefit from doing so. In financial terms, you are very thrifty at this time. You can see what the best investments are, and you proceed very carefully while putting your money into them. Therefore these investments are more likely than most to work out well. During this period you will discover how to turn your ideals into reality, partly because you can see which goals and ideals are realistic and which are not. You discard whatever is not realistic, and you work for your goals very patiently, laying a solid groundwork for success. In business this is usually a good time, because your prudence and thrift enable you to separate the real opportunities from the illusory ones and thereby make real gains. You will be inclined to expand your business, but you will do so very cautiously rather than incautiously.

**Jupiter opposition Venus: Lavish tastes 2 March 2011 until 10 March 2011:**

This is usually a very pleasant influence, indicating harmony in relationships and perhaps even a new relationship that will be of great significance in your life. You want love very much, and you are able to give it to those around you. This influence encourages a taste for the lavish and beautiful, and you are not likely to let much stand in the way of what you want. Therefore you must be careful not to waste valuable resources and squander money. If you are cautious, it is possible to make excellent investments at this time, but only if you examine all of the possibilities very carefully. This influence has the negative attribute of carelessness, so you must concentrate on being careful. On the physical level, this influence signifies the danger of gaining weight, because it stimulates your desire for rich, sweet and otherwise fattening foods. It may be necessary to avoid such food for awhile.

**Neptune opposition Uranus: Out of your mind Mid March 2011 until mid January 2013:**

This influence represents an enormous revolution in your consciousness, as you are exposed to aspects of life that you never dreamed possible. These might include any of the following: the occult or metaphysics; astrology; magic;

altered states of consciousness, perhaps through drugs or meditation; or groups whose ideas are extremely idealistic and radical. What is actually happening is that tremendous new understandings are asserting themselves in your life with such force that they seem to upset all your past ways of thinking. However, this is only a problem of perspective. At this time you are in the middle of these changes and cannot see the relationship between your new consciousness and your old. But they are related, which you will come to understand as the immediate impact of this influence begins to pass. This is a period of tremendous psychological insights and change, but not much stability. Therefore keep your situation fluid enough that you can make changes as necessary. Do not try to build permanent structures at this time, because you will have to change them again and again. It should be noted, however, that the primary effects of this influence occur at the psychological level. Possibly you will respond to this influence with confusion, doubt and uncertainty. Let it be, and wait for the situation to settle down. Try to minimize the elements of your life that require you to make long-range commitments, because your changing consciousness will make it difficult to continue such a commitment. If old goals lose their meaning, that is what must be. Be patient, and new goals will enter your life that will better fit your new state of mind. Others may think you have gone out of your mind because of what you do and see at this time, but do not be concerned. This revolution in ideas and consciousness is a fundamental part of your life, and it must be allowed to pursue its own course.

**Jupiter square Ascendant: On the lookout 13 April 2011 until 21 April**

**2011:** This is usually an excellent time for most kinds of relationships, but there are some pitfalls. Basically this influence signifies a desire to grow and advance through contacts with others. Probably you are willing to give as much as you get, although in some people this influence triggers a desire for advantages through others without giving anything in return. In fact as they get ahead, such people act arrogantly toward everyone, even those who helped them. This causes others to reject them, and when they hit hard times there is no one to help them out. But this result is totally unnecessary, and all you have to do to avoid it is to keep a sense of humility and recognize what others have done for you. With this influence you have the potential to become a truly better person, but only if you keep these warnings in mind. Quite frequently this influence brings a seemingly "lucky" chance through a friend or associate. But it is not luck so much as the fact that you are very sharply on the lookout for opportunities that can benefit you. Your sense of timing is very acute, and your sensitivity to others and their needs is greater than usual. That is one reason why it is so bad to ignore others' needs, because you don't even have the excuse of ignorance. Benefits can come to you in either your personal and domestic life or in your work. There may be an opportunity to make money or to make improvements in your home that will make it much more pleasant. Or you may meet people who will help you learn more about the world and expand your view of it in various ways. You have to be willing to let this happen, however, which means you must be receptive. This is another area in which being arrogant brings the risk that you will get nothing of lasting value out of this period.

**Jupiter trine Sun: A sense of humor 2 May 2011 until 11 May 2011:** This is such a pleasant influence that you may be inclined to sit back, enjoy it and do nothing. However, this is really a very important time in your life because you can reach out into new areas of life and have new and rewarding experiences. Your creative potential is enormous at this time, and you can very easily accomplish a great deal that would be difficult at other times. Your inner energies are strong, and you are full of self-confidence and the feeling that you can do anything. This influence usually indicates good health and a feeling of well-being, although you may be inclined to put on weight if you are not careful. You may not feel inclined toward physical activity, but it would be a good idea to get some exercise. Make a particular effort to be outdoors. Hiking is a very beneficial activity at this time. If you are inclined to physical activity, especially athletics, don't take foolish risks through overconfidence. This influence tends to make you overestimate your energies. This is an excellent time for all financial matters. You will feel like making your surroundings appear more elegant, and you may spend quite a lot of money doing so. This is perfectly fine, and you should think positively in all ways, but don't let this concern with material acquisition blind you to some very real possibilities for inner growth. Travel, either physically or mentally, often accompanies this influence. Take this time to broaden your understanding of the world around you. You have a strong interest in ideas that are different from what you normally know and encounter, and you are much more tolerant of different ways of living. Even people's usually irritating traits do not bother you at this time. Also your sense of humor is much greater than usual, and you can appreciate the dance of life in all its glory.

**Jupiter trine Uranus: Split-second action Beginning of June 2011 until mid January 2012:** This influence gives you a strong need to express yourself by doing something that is different from your normal routine. You need to experience a new kind of freedom in your life and to discover dimensions of living that you have not known before. This may take the form of a search for inner truth on the metaphysical or philosophical level, or it may take the more external form of a new activity in your life. You are much more receptive to new ideas during this time, and you should be a bit careful about getting into something solely because it is a novelty. However, for the most part this desire for the new is constructive and will probably be quite good for you. This is an influence that prevents you in a positive way from getting into a rut. Sometimes this influence can denote a sudden opportunity or a piece of good luck that seems to come completely out of the blue and take you by surprise. Often it is a sudden change or an event that gives you a new chance in some way. It could be a sudden windfall or promotion or even a sudden chance encounter that works out to your benefit. If such an event occurs, take advantage of it. This is one of the few times when you shouldn't stop to ponder carefully before acting. Such a decision often requires split-second action. This is also one of the few influences that can be very lucky in gambling. But remember that it will have this effect only if you are reasonably fortunate in such matters anyway. If you are usually unlucky at gambling, this influence will probably not affect you positively. This influence also enables you to grasp new



ideas quickly. You can learn subjects faster now than at other times, and you see very quickly the patterns in anything. On occasion this influence can signify a fortunate discovery or invention.

1/20/2011

your compatibility chart with S

From: Annmarie Goldstein <tarot\_of\_faith@yahoo.com>

To: vivianlharrison@aol.com

Subject: your compatibility chart with S

Date: Wed, Jan 19, 2011 12:53 pm

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**Sun in the Twelfth House** Composite Sun in the twelfth house is a significant position, but it presents challenges that many people find difficult to deal with. It indicates that through this relationship both of you will encounter aspects of your inner selves that you would normally keep hidden from yourselves as well as from others. The most difficult result of this Sun placement is that it may make the relationship self-defeating for both of you, particularly if you are not completely honest with each other. Unless you disclose all secrets, they will cause one or both of you to behave in a way that will undermine not only the relationship but your own self-esteem as well. In any personal relationship, this placement demands that you thoroughly search your innermost selves to understand how previously hidden psychological traits are operating within the relationship. This encounter will make each of you grow as individuals, and the growth it can bring about is more important than your survival as a couple.

**Sun Conjunct Neptune** With Sun conjunct Neptune in the composite chart, there is either a lot of idealism or much self-delusion in this relationship. The challenge you face is to determine which of these is true in your case and to come to terms with this reality. At any rate you will probably feel that the two of you have a highly spiritual union, which may in fact be so. The action of Neptune is very nonphysical, so that a love union under its influence is likely to be platonic rather than physical. The second possibility, that of self-delusion, simply means that the two of you are not confronting each other but instead are projecting visions of what you want on your partner. All these tactics represent insincere or self-delusive efforts to avoid the real people in the relationship - you and your partner.

**Moon in the Third House** The Moon in the third house implies that this relationship is based largely on feelings. When you are together, you think about yourselves more subjectively and are more influenced by your emotions. You communicate with each other primarily through feelings rather than through intellect. But at the same time it may be difficult to discuss things rationally and objectively when you have to. You may talk quite a bit about your collective feelings, which obviously is good in a personal relationship if you keep your sense of perspective and don't overdo it.

**Moon Conjunct Jupiter** The conjunction of the Moon and Jupiter in a composite chart is a very favorable indication for any kind of personal relationship. You feel warm toward each other, and you can express your feelings easily and with enthusiasm. At the same time, you respect each other's emotions. You feel quite protective of your partner and try to keep him or her from being emotionally hurt by others. You have a great deal of respect for each other's freedom and individual rights. When disputes do arise, you will try to deal with them in a very high-minded manner. You will discuss the issues openly and try to resolve them in a way that is fair to both of you.

**Mercury Conjunct Venus** Mercury conjunct Venus is an excellent aspect in a composite chart, for it indicates that you both are able to express affection easily. Another fortunate attribute of this conjunction is that it gives you sensitivity to each other's feelings. This aspect should help smooth out the roughness that occasionally comes up in any relationship, but it may also make

you keep quiet for the sake of preserving harmony when you feel angry. Go ahead and say what you feel, for you will be able to express what must be said in the right way.

**Mercury Conjunct Ascendant** The conjunction of composite Mercury and Ascendant signifies a relationship in which communication and shared ideas are very important. Fortunately, you are not likely to fall into rigid patterns of behavior in this relationship. The two of you will seek as many varied experiences as possible, but you will tend not to go into any of them very deeply. Shallowness is the most negative characteristic of Mercury. Although you may cover a lot of ground in your experiences together, you often only skim the surface. Do not let superficiality deprive the two of you of deep emotional experiences together.

**Venus in the First House** Composite Venus in the first house signifies a relationship that is based on love and affection. The ultimate meaning of Venus is attraction based on the ways in which you are different rather than the ways in which you are similar. You were probably strongly attracted to each other when you first met and as you learn more and more about each other, you remain strongly attracted. The emotions aroused by Venus are quiet in their expression, friendly rather than wildly passionate. This kind of affection will sustain a relationship for a long time. Note: Venus is technically near the end of house 12 and is therefore interpreted in house 1.

**Venus Conjunct Ascendant** The conjunction of composite Venus and Ascendant is a particularly good aspect for any kind of personal relationship, especially a love affair or marriage. It signifies that the two of you are extremely complementary in many respects and that as a couple you are a whole that is stronger than the two parts. Love and emotion are very strong in this relationship. Even a casual relationship will become loving. People around you will be aware of the way you feel about each other, and this fact will improve your relationships with others. In all, this is an excellent indication for any relationship.

1/20/2011

sergio personal chart-who he is-

From: Annmarie Goldstein <tarot\_of\_faith@yahoo.com>

To: vivianlharrison@aol.com

Subject: sergio personal chart-who he is-

Date: Thu, Jan 20, 2011 8:04 am

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**Sun in Aquarius, Moon in Capricorn** This astrological combination points to a very strong personality with the resources for success and possible eminence in the field you choose. To any business or professional undertaking you bring shrewdness, reliability, and perseverance. Your mind has a subtle quality that allows you to grasp and deal with complex issues and important undertakings without being overawed by the burden of responsibilities. Much about you is hidden. You conduct your affairs under a cloak of diplomacy and reserve. But you are thoroughly ambitious and desire to reach great heights. There is, however, one pitfall to be avoided: soberness is a virtue, but you should avoid being too severe. The key to a more harmonious existence lies in avoiding solitude and counteracting your tendency to be overly independent. Express your nature within society and avoid letting your determined and self-sufficient personality inhibit your functioning among friends and associates.

**Ascendant in Libra, Venus in the Fourth House** At the time of your birth the zodiacal sign of Libra was ascending in the horizon. Its ruler Venus is located in the fourth house. This denotes a life in which the native adopts an attitude which is courteous, kind, and affectionate. People with Libra Ascendant are basically motivated by feeling and emotion rather than intellectuality. Your life will demonstrate your keenness of observation, and a tendency to effect comparisons largely of an aesthetic nature. You will not display too much energy in your actions and, therefore, there is a tendency toward following routine and the lines of the least resistance. You are a sympathetic person who seeks the approval of others and is also very adaptable. Your intuition is remarkable and you derive sensual gratification from engaging in social intercourse, by loving all social aspects of life. If you do not control this tendency to be so involved in human relationships, you may become too attached and over dependent. Some restlessness, changeability and lack of persistence is noted in your life. Your main feature is that of constantly favoring the fusing of two things or people together. Unfortunately, this involvement with harmonizing and adjusting people to one another, tends to make the native a little unrealistic and lacking in action. You will be, however, easy going and congenial, socially oriented and preoccupied with adornments, clothing, social conventions, standards, and aesthetics. In love, if you cause the relationship to be a serious one, you will find that the affair is the consequence of your own interest in flattering yourself rather than to satisfy any profound emotion. Professionally, you will be inclined to activities which require a high degree of culture and even artistic knowledge. Venus, the ruler of your life events, is found located in the fourth house. In connection with your own house, Venus tends to make it beautiful, kind, and with a tendency to very harmonious relationships between your parents and yourself. You are very preoccupied with the aesthetic condition of your private dwelling. What should you expect at the end of your life? Venus indicates a peaceful old age, surrounded by comfort, having successfully achieved all your hopes and desires.

**Uranus Conjunct Ascendant** You have a personal chemistry that never fails to stimulate people to be friendly toward you. No one should feel any discomfort with you because you project yourself freely and honestly. You relate easily to all types of people and are friendly to everyone, regardless of their social status. Concerned primarily with the future, you are eager to participate in the development of a higher consciousness, which will be the nucleus for the

greater awareness of man.

**Sun in the Fourth House** The Sun appears in the fourth house at the time of your birth. This is an indication that parental name, family affairs and other domestic matters are of the utmost importance in your life. Sun brings honor, pride, and fame to anything under its influence, and it is indicated that the problem of these influences here is that proper success for you cannot materialize until you are well past your mature years. There appears to exist a very strong attachment to one of your parents. You believe in being the "ruler" in your home, and the sense of privacy is extensively developed in your nature. As life passes you will experience illuminating insights connecting your individuality with certain racial and family elements. Study them. You will then perhaps discover the nature of the spiritual mission which destiny requires of you.

**Moon in the Fourth House** The Moon was found in the fourth house at the time of your birth. Moon here will definitely influence events concerning your mother, places of residence and family matters. Both your childhood and even your older age will be characterized by a love of romance, various journeys, and interesting adventures. The liability of this astrological combination is that it gives you an uncertain position in life and a perpetual striving for material security that seems to be hard to come by. This may be relieved temporarily by your receiving a small inheritance and will be almost overcome by the final years of your life by excellent family care and assistance.

**Venus in the Fourth House** Venus was found in the fourth house at the time of your birth. This is usually a very favorable and fruitful position that grants excellent family relationships within peaceful and beautiful environments. This position indicates many social affairs, feasts, parties, celebrations, and related activities. Near the end of your life you should experience financial gain and an overall economic improvement. A natural lover of country life and nature, you will find many opportunities to gratify these sentiments.

**Saturn in the Eighth House** Saturn was found in the eighth house at the time of birth. Because of the restraining influence of this planet, matters concerning legacies, inheritance, and the financial dealings of your partner or associates could be severely limited and may be frustrated by what seems to be harsh fate. Psychologically you are rather serious in connection with sexual affairs. You approach sex with caution, rationality and planning. Excess reason and thought in this direction may create some frustration in sexual matters.

# EXHIBIT 15

Sergio,

Don't understand why I am compelled to share my thoughts and analyze your personality. I swear I don't do this with any of my friends. You on the other hand, keep me awake at night. I am so in your head. Have some theories as to why I might be so obsessed, but it's not going to help us solve the following question.

Last night you asked me "why do I like David Gray so much?" Well, think of him as a contemporary Blues singer. His work primarily embodies despondent, sad, blue, dark themes. Not gothic dark, but emotionally dark from a relationship standpoint. The Blues deal with those types of emotions as well however, the difference being, DG's lyrics are much more poetic in structure. This gives more room for interpretation by the listener. More people can therefore relate to the lyrics because the meaning of those lyrics can be interpreted in various ways and therefore become applicable to their own life experiences.

What does this have to do with you? Funny you should ask. Since the majority of your relationships with women have been to a large extent not very successful, it is understandable why you find yourself able to relate to his lyrics on a very deep emotional level than say I can. I understand his lyrics from an intellectual level but don't "feel" them from an emotional level to the same extent you do since I've never had a "broken" heart and have never had a horrific dramatic emotional relationship with a man. In fact, I've never been let down by a man. My experiences with men have been few however they have always been trusting, caring and long lasting, very safe and secure. There was a time I had a relationship with a man where this was almost not the case. However, I was very lucky in that he was a very special person who had his heart broken more than once and put me ahead of himself and saw and understood my feelings. He unselfishly, very caringly with love and compassion held my heart and helped me work through my feelings so as not to hurt me. Coincidentally, I think you may know whom I'm referring to. I'm very lucky to have such a special person in my life.

DG takes his insightful carefully written poetic lyrics and then sets them to beautiful music that will "move" you melodically. The music is what touches me and allows me to "feel" and experience the pain of broken relationships even though I haven't actually had those experiences. The feelings I get while listening to his music are not as profound and deep as the feelings you experience since you have actually lived through, felt, and suffered, those experiences in reality.

David Gray is a true musical genius. He has the ability to put feelings and emotions, the same feelings and emotions you've experienced during your relationships, into words. Words you may not have ever been able to adequately express. He draws you in with his melodic music and then captivates you with his lyrics that in turn grabs your heart where he holds it within. Since you didn't and don't have someone, like I did, to hold your heart during that time or the present, David Gray's music is a substitute for that person. It makes you feel better when you listen to his music

because he understands and has put to words what you went through and how you feel about the experiences you have had and haven't completely healed.

When you "find" that special person who will hold your heart unconditionally and with compassion and love, you will be able to heal the wounds from prior relationships. Then, while you will still enjoy DG and his music, it will touch you on a different level, probably one that is not so emotional and intense.

I didn't send you the rest because I need to clean it up and it was getting late. Read this first and if you want, I'll send you the rest.

Luv,

Vivian



Sergio,

Don't understand why I am compelled to share my thoughts and analyze your personality. I swear I don't do this with any of my friends. You on the other hand, keep me awake at night. I am so in your head. Have some theories as to why I might be so obsessed, but it's not going to help us solve the following question.

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David Gray is a true musical genius. He has the ability to put feelings and emotions, the same feelings and emotions you've experienced during your relationships, into words. Words you may not have ever been able to adequately express. He draws you in with his melodic music and then captivates you with his lyrics which in turn grabs your heart where he holds it within. Since you didn't and don't have someone, like I did, to hold your heart during that time, or now, David Gray's music is a substitute for that person. It makes you feel better when you listen to his music because he

understands and has put to words what you went through and how you feel about the experiences you have had and haven't completely healed.

When you "find" that special person who will hold your heart unconditionally and with compassion and love, you will be able to heal the wounds from prior relationships. Then, while you will still enjoy DG and his music, it will touch you on a different level, probably one which is not so emotional and intense.

ADVICE on what to do: This could take a while so I will just give you a quick rundown. First, you need to break your pattern of relationships. Many people find themselves with the same types of relationships with the same type of people over and over again. The reason: It's safe and it's what they know and it reaffirms their understanding of the world (which is usually flawed with a dysfunctional element). If you examine your relationships, you will find a common pattern possibly one such as "rebound". Even knowing this you still fall victim. You set yourself up for failure and heartbreak hoping it will be different this time but all the while knowing deep inside it won't. You are sabotaging your possibility of finding someone who really will love and care for you. You don't even recognize it because that person doesn't have the dysfunctional characteristics you are used to and identify with. Look for someone who has different characteristics and personality traits than those who have come across your path before. Sounds silly but it's very effective, make a list of what traits you feel are important and look for those. Don't go near women who are obviously rebounding. That's an easy catch for you but will ultimately end up negatively since that person has issues they are unable to work through and will poison your relationship by carrying over those issues. I hope this makes sense to you because it's written in English.

Advice on identifying and changing your behavior which leads to pulling in women who are rebounding:

You are going to love this:

1. Stop being fake- you are probably saying, Vivian I'm so real and lay everything out I keep it real....Wrong-----you have personality traits that are rehearsed and what you rely on in social situations, some may refer to them as flirting whatever you call it it's your go to bag of tricks to break the ice with women. You may even have a checklist of acts you go through until you get the given response you want say joke, no response, then shake or twitch eyes or flick tongue something physical. If no response then possibly try to connect on emotional level by saying something that they might identify with and show your deep understanding of issues. You keep going through your bag until you get the response you want. My advice is stop doing that. Just sit back and let the other person take lead and you respond in a manner that has not been rehearsed. Try to find who you are without putting on a "face" of fun and carefree living. You may be surprised at how awkward this is at first but well worth the experience. Just react in a way you wouldn't "normally" react.

2. I could go on and on but this will be my last point. The reason people act in the above manner is because that is how they guard themselves from possibly getting hurt. If you're fake (put on the show) they can't get to the real you know can they? It is a mask to hide and protect yourself. It is comfortable something you know and this is why you hook in the women who are not compativly with you on an emotional level. If you act fake, you get fake people, if you are not trusting, you attract untrustworthy people, if you are insincere, you attract insincere people. You might be asking the question well Vivian, if you're so smart, how come I attracted you. Are you untrustworthy, insincere, fake etc. The answer is no. I saw through your mask right away. In fact at one point, you confiremed it to me. However, if you notice, you pushed me away. Not saying I'm the one for you, but isn't it a little ironic that you would push a person with my personality and character sway almost from the beginning yet accept one with they typicalo self destructive patterns you are used to right away even quicker. Just something for you to ponder and think about. Let me know what you think. And please don't be upset with me. If I'm out to lunch tell me. I could be wrong you know!!!

# EXHIBIT 16

**\*REFERRAL\***

Patient Name: Bylee Harrison Account #: 1821088

Telephone Number: 914-6000

Physician referred to: Dr Ashesh Dewan

Specialty Physician referred to: Rec Endo Eval

Diagnosis: \_\_\_\_\_

Referred By: Walter Schroeder MD

Date: 3/30/11

Patient notified: yes

**Referred Patient To:**

**Insurance:** United Hlth  
Care

Name: Dr Dewan

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: 851-7286

**Additional Information:** Please call pt for appt.  
Thanks

EAR, NOSE & THROAT CONSULTANTS OF NEVADA  
702-792-6700



**EXAMINED**

**ENTC**  
**Patient Summary Report**

**Page:** 2  
**Date:** 12/1/2011  
**Time:** 9:52:39AM

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**Registration Information Notes:**

<b>Date</b>	<b>Author</b>	<b>Note</b>
04/07/2011	Autumn O'Tool	DR SCHROEDER ORDERED PEDIATRIC ENDO EVAL AND ALLERGY TESTING. PT HAD ALLERGY TESTING ON 03/30/2011 AND REF FAXED TO DR DEWAN 851-7286, CONF RECEIVED. SPOKE WITH MOTHER AND SHE IS CALLING THEIR OFFICE TO SCHEDULE. AO
05/17/2011	Autumn O'Tool	DR WWS ORDERED ALLERGY EVAL WITH DR MCKNIGHT, REF AND RECORDS FAXED TO 212-5890. THEY WILL CONTACT PT DIRECTLY.

# EXHIBIT 17

966L

amazon.com

Billing Address  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210

Shipping Address  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

**Returns Are Easy!**  
Visit <http://www.amazon.com/returns> to return any item - including gifts - in unopened or original condition within 30 days for a full refund (other restrictions apply). Please have your order ID ready.

Your order of October 24, 2009 (Order ID 102-5838128-3403458)

Qty	Item	Item Price	Total
1	The Tudors: The Complete Third Season Jonathan Rhys Meyers DVD (** P-1-K43E3 **) B001AQR3LC 097368940741	\$24.99	\$24.99
Subtotal:			\$24.99
Order Total:			\$24.99
Balance due:			\$0.00

This shipment completes your order.

Have feedback on how we packaged your order? Tell us at  
[www.amazon.com/packaging](http://www.amazon.com/packaging).

4/DWHHLWRxR/-2 of 2-//BCP/second/5597596/1211-14:30/1211-03:50/sp114147996/1-1

A1



amazon.com

**Billing Address**  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

**Shipping Address**  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

Your order of December 17, 2009 (Order ID 105-3238082-9493064)

Qty.	Item	Item Price	Total
1	Samson and Delilah (The Bible Collection) Elizabeth Hurley --- DVD (** D-1 **) B0009WFF9K 053939689723	\$15.99	\$15.99
1	Alexander, Revisited - The Final Cut (Two-Disc Special Edition) Anthony Hopkins --- DVD (** D-1 **) B000MGB6NM 085391143512	\$8.49	\$8.49
1	Ride with the Devil Tobey Maguire --- DVD (** D-1 **) 0783241909 025192077425	\$12.49	\$12.49
1	Bend It Like Beckham (Widescreen Edition) All, Imran --- DVD (** D-1 **) B00005JM2Y 024543084266	\$12.99	\$12.99
1	Titus Osheen Jones --- DVD (** D-1 **) B000E6ESKS 024543233640	\$11.49	\$11.49
1	B. Monkey Asia Argento --- DVD (** D-1 **) 6305744564 717951004789	\$9.99	\$9.99

For detailed information about this and other orders, please visit Your Account. You can also print invoices, change your e-mail address and payment settings, alter your communication preferences, and much more - 24 hours a day - at <http://www.amazon.com/your-account>.

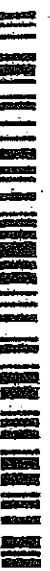
**Returns Are Easy!**

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Thanks for shopping at Amazon.com,  
and please come again!

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**big smile**  
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[www.amazon.com/giftcards](http://www.amazon.com/giftcards)

2/D1FY5hRXR/-9 of 9-//MP/second/4028318/1217-17:30/1217-13:39/wbenn Pack Type : 1A1



amazon.com

**Billing Address**  
Vivian L. Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

**Shipping Address**  
Vivian L. Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

**Returns Are Easy!**

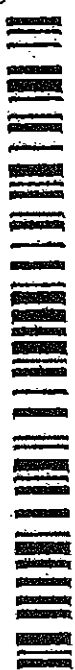
Visit <http://www.amazon.com/returns> to return any item - including gifts - in unopened or original condition within 30 days for a full refund (other restrictions apply). Please have your order ID ready.

Your order of December 16, 2009 (Order ID 102-8464348-7697067)

Qty.	Item	Item Price	To
1	The Tesseract Boonhanakt, Sahajak --- DVD (** P-1-C40E501 **) B00080ZHD2 829567022221	\$13.49	\$13.

**This shipment completes your order.**

Have feedback on how we packaged your order? Tell us at  
[www.amazon.com/packaging](http://www.amazon.com/packaging).



3/DVDR7DnVR/-1 of 1-//IPSS/second/4779257/1216-23:00/1216-15:49

RMS

Subtotal \$13.  
Order Total \$13.  
Balance due \$0.

amazon.com

**Billing Address**  
Vivian L. Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

**Shipping Address**  
Vivian L. Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

Your order of December 17, 2009 (Order ID 105-3238082-9493064)

Qty.	Item	Item Price	Total
1	The Maker Fairuza Balk --- DVD (** A-9 **) B000C8CWIK 096009414696	\$6.99	\$6.99
1	The Magnificent Ambersons Madeleine Stowe --- DVD (** A-9 **) X0001BNDNP ae-1123 (Sold by Vaughnster Entertainment)	\$3.76	\$3.76
1	Killer Tongue Alicia Borrachero --- DVD (** A-9 **) B0001Y4MGS 783722719022	\$9.98	\$9.98

Subtotal	\$20.73
Order Total	\$20.73
Balance due	\$0.00

This shipment completes your order.

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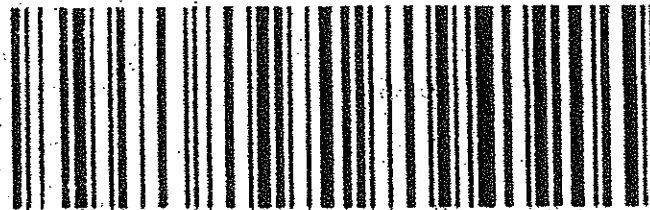
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[www.amazon.com/giftcards](http://www.amazon.com/giftcards)



**Billing Address:**

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1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States



SDnFY1GRqR

**Shipping Address:**

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1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

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Visit <http://www.amazon.com/returns> to return any item -including gifts- in unopened or original condition within 30 days for a full refund (other restrictions apply)

Your order of December 16, 2009 (Order ID:102-8464348-7897067)

Qty	Item	Item Price	Total
IN THIS SHIPMENT			
1	<b>Tangled</b> (** P-4-M41F28 **) B000077VRY : B000077VRY B000077VRY DVD	\$13.49	\$13.49
1	<b>Tribe</b> (** P-2-C52F3 **) B000FO0AD8 : B000FO0AD8 B000FO0AD8 DVD	\$14.98	\$14.98
1	<b>Gormenghast</b> (** P-3-B49D7 **) B000GIXLXE : B000GIXLXE B000GIXLXE DVD	\$25.49	\$25.49
1	<b>Elvis: The Mini - Series</b> (** P-2-M7G9 **) B000RIWAVC : B000RIWAVC B000RIWAVC DVD	\$13.99	\$13.99
Subtotal			\$67.95
Shipment Total			\$67.95
Paid via Amex			\$67.95
Balance Due			\$0.00

We've sent this part of your order to ensure quicker service. The other items will ship separately.

Have feedback on how we packaged your order? Tell us at [www.amazon.com/packaging](http://www.amazon.com/packaging).

9528 (4 of 4)



SDnFY1GRqR

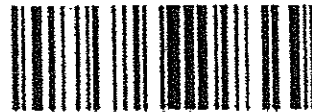
amazon.com  
and you're done.

8/DnFY1GRqR/-4 of 4-//PCP/second/5661669/1216-14:30/1216-06:31/sp114839528/1-1 A1

David Cohen  
PO Box 751772  
Las Vegas, NV 89136  
UNITED STATES  
scifiguy24@aol.com

David Cohen  
PO Box 751772  
Las Vegas, NV 89136  
UNITED STATES

To: Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
UNITED STATES



---

Marketplace:	Amazon
Order Number:	1070719
Ship Method:	Standard
Customer Name:	Vivian L Harrison
Order Date:	12/17/2009
Marketplace Order #:	105-5670817-6686668
Email:	vivianlharrison@aol.com

---

**Items:**

Qty	Item	Locator	Condition	Price
1	The Governess - DVDs SKU: mon0000010937	dvd a UPC: 043396028456	New	\$5.05
<b>Subtotal:</b>				\$5.05
<b>Shipping:</b>				\$2.98
<b>Total:</b>				\$8.03

**Notes:**

**Thanks for your order!**

If you have any questions or concerns regarding this order, please contact us at scifiguy24@aol.com

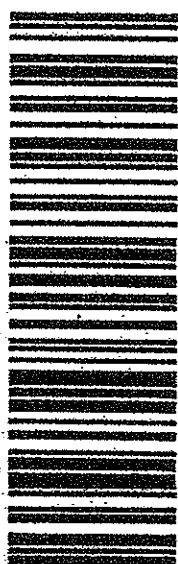
amazon.com.

Amazon.com  
1850 Mercer Rd.  
Lexington, KY 40511

amazon.com.

Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

Billing Address:  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States



DYBL1F5R/-1 of 1-/second/4689292 1PDVD

Shipping Address:  
Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210  
United States

Your order of December 17, 2009 (Order ID 105-3238082-9493064)

Qty.	Item	Item Price	Total
IN THIS SHIPMENT			
1	Telling Lies in America DVD (** E-9 **) X0000J2NGB (Sold by Digital Dog Pound Inc.) ffw-0p-065935134299	\$23.57	\$23.57

Subtotal	\$23.57
Shipment Total	\$23.57
Paid via Mastercard	\$23.57
Balance due	\$0.00

We've sent this part of your order to ensure quicker service. The other items will ship separately.

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Ship To:

**Vivian L Harrison**  
**1514 Sunrise Cir**  
**Boulder City, NV 89005-4210**

**Order ID: 102-7465561-0517862**

Thank you for buying from petedvd on Amazon Marketplace.

**Shipping Address:**

Vivian L Harrison  
1514 Sunrise Cir  
Boulder City, NV 89005-4210

**Order Date:**

Dec 16, 2009

**Shipping Service:**

Standard

**Buyer Name:**

Vivian L Harrison

**Seller Name:**

petedvd

Quantity	Product Details
1	<p><b>The Loss of Sexual Innocence [DVD] (1999) Jullian Sands; Saffron Burrows...</b></p> <p>Merchant SKU: D7-WPCS-FO92 ASIN: 0767837371 Listing ID: 1013ELXBYCJ Order Item ID: 68907940702186 Condition: New Comments: Brand new &amp; sealed DVD from private collection.</p>

Thanks for buying on Amazon Marketplace. To provide feedback for the seller please visit [www.amazon.com/feedback](http://www.amazon.com/feedback). To contact the seller, please visit Amazon.com and click on "Your Account" at the top of any page. In Your Account, go to the "Orders" section and click on the link "Leave seller feedback". Select the order or click on the "View Order" button. Click on the "seller profile" under the appropriate product. On the lower right side of the page under "Seller Help", click on "Contact this seller".

# EXHIBIT 18



**Filed Under  
Separate Cover**

# EXHIBIT 19



**TrueEarnings<sup>SM</sup> Card**  
**Statement of Account**



**\$187.84**  
**Rebate as of 04/07/10**  
**Billing Statement**  
For details, see your Cash Rebate  
Summary in this statement.

Prepared For  
**VIVIAN L HARRISON**

Account Number  
**XXXX-XXXXX4-23006**

Closing Date  
**04/07/10**

Page 1 of 11

Previous Balance \$	Payment Activity \$	New Activity \$ inc. Adjustments and Finance Charges if any	New Balance \$	Minimum Amount Due \$
10,740.17	-10,740.17	+12,488.15	=12,488.15	250.00

**Payment Due Date**  
**05/02/10**  
Please refer to page 2  
for important information  
regarding your account

**Late Payment Warning:** If we do not receive your Minimum Amount Due by the Payment Due Date listed above, you will have to pay a late fee of up to \$39.00.

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges and each month you pay...	You will pay off the balance shown on this statement in about...	And you will pay an estimated total of...
Only the Minimum Amount Due	30 years	\$28,089
\$434	3 years	\$15,637 (Savings = \$12,452)

If you would like information about credit counseling services, call 1-866-391-5446.

Credit Line Summary	Total Credit Line \$	Available Credit Line \$	Cash Advance Limit \$	Available Cash Limit \$
on 04/07/10	39,800.00	27,311.85	4,800.00	4,800.00

To manage your card account online or to pay your bill, please visit us at [americanexpress.com/trueearnings](http://americanexpress.com/trueearnings).  
For general servicing or additional contact information, please see the reverse side of this page or call the  
number on the back of your card.

↓ Please fold on the perforation below, detach and return with your payment. ↓

Continued on Page 3

## New Activity continued

\*\* Foreign Currency conversion rate  
is base rate plus 2.7%. See page 2 for details

Foreign Spending

Amount \$

03/23/10	URBAN DUNDRUM DUNDRUM DUBLN	24.30	33.81
	MEN'S/WOMEN'S CLOTHNG	**European Union Euro	
03/23/10	DELTA ONBOARD ATLANTDELTA ONBOARD		6.00
	DELTA ONBOARD		
	ORD ,REQ REQUESTER NAME		
	IT1 PURCHASE ,UPI 6.0000,QTY1		
	IT2 ,UPI 0.0000,QTY		
	FRT 0.00;HDL 0.00;ITM1		
03/23/10	DELTA ONBOARD ATLANTDELTA ONBOARD		6.00
	DELTA ONBOARD		
	ORD ,REQ REQUESTER NAME		
	IT1 PURCHASE ,UPI 6.0000,QTY1		
	IT2 ,UPI 0.0000,QTY		
	FRT 0.00;HDL 0.00;ITM1		
03/23/10	TESCO SANDYFORD SACAT DUBLIN IRELAND	8.63	12.02
	GOODS/SERVICES	**European Union Euro	
03/24/10	MARTHA PULLEN CO , S2565339588		72.75
	SEWING & FABRIC STORE		
03/24/10	MARTHA PULLEN CO , S2565339588		207.45
	SEWING & FABRIC STORE		
03/24/10	SCI VENDING 1162 542LAS VEGAS		4.00
	8003289006		
	Description Price		
	AUTO PARKING LOTS A 4.00		
03/26/10	CENGENICS PHARMACY LAS VEGAS		275.02
	MEDICAL & DENTAL LAB		
03/26/10	BROWN THOMAS DUBLIN DUBLIN	207.65	286.28
	DEPARTMENT STORE	**European Union Euro	
03/26/10	BOOTS THE CHEMIST	10.44	14.34
	MERCHANDISE	**European Union Euro	
03/27/10	DANCE ETC 0097001467BOULDER CITY		198.90
	7022935001		
	Description Price		
	DANCE HALL/STUDIO/S 198.90		
03/27/10	TRINITY COLLEGE	75.15	103.60
	BOOK STORE	**European Union Euro	
03/29/10	SLADETON LTD DUBLIN CO. DU	12.50	17.23
	LODGING	**European Union Euro	
03/29/10	SLADETON LTD DUBLIN CO. DU	2.00	2.75
	LODGING	**European Union Euro	
03/29/10	SLADETON LTD DUBLIN CO. DU	135.92	188.57
	LODGING	**European Union Euro	
03/29/10	ELEPHANT AND CASTLE CO DUBLIN	64.00	88.79
	RESTAURANT	**European Union Euro	
03/30/10	SLADETON LTD DUBLIN CO. DU	81.00	112.37
	LODGING	**European Union Euro	
03/30/10	EASON & SON LTD. DUBLIN 1	40.12	55.66
	BOOKS & NEWSPAPERS	**European Union Euro	
03/30/10	STATOIL SERVICE STAT CO GALWAY	45.08	62.63
	GAS STATION	**European Union Euro	
03/30/10	FLYNN BROS ROSCOMMON CO.	321.44	446.76
	AUTOMOBILE RENTAL	**European Union Euro	
03/30/10	FALLER SWEATER SHOP CO GALWAY	142.51	198.25
	WOMEN'S ACCESSORIES	**European Union Euro	
03/31/10	BUNRATTY FOLK PARK CO CLARE	147.66	205.23
	CARD & SOUVENIR STORE	**European Union Euro	

Continued on next page







Prepared For  
VIVIAN L HARRISON

Account Number  
XXXX-XXXXX4-23006

Closing Date  
04/07/10

Page 9 of 11

New Activity continued

\*\* Foreign Currency conversion rate  
is base rate plus 2.7%. See page 2 for details.

Foreign Spending

Amount \$

04/01/10	MAXOL SERVICE STATIOCO. CORK CO.C GAS STATION	38.26 **European Union Euro	53.17
04/02/10	US AIRWAYS PHOENIX AZ US AIRWAYS Routing Details Not Available Ticket Number: 03723840719874 Passenger Name: HARRISON/VIVIANLEE Document Type: EXCESS BAGGAGE	Date of Departure: 04/02	50.00
04/03/10	ITUNES MUSIC STORE IAUSTIN iTunes Music Store		11.28
04/03/10	LEGACY OSP 000000000800-6700015 8006700015		9.15
04/03/10	FLYNN BROS ROSCOMMON CO. AUTOMOBILE RENTAL	1,200.00 **European Union Euro	1,667.56
04/04/10	YARD HOUSE LAS VEGASLAS VEGAS 7027349273 FOOD/BEVERAGE 54.00 TIP 7.00		61.00
04/04/10	Justice 0111 00000000Las Vegas (614)775-3147 Description REFER TO INVOICE		287.39
04/05/10	TERRIBLES #176 00000MESQUITE 7023462810		34.60
04/05/10	BURGER KING #7800 45BEAVER 435-438-5914 Description FAST FOOD REST		10.98
04/05/10	BURGER KING #7800 45BEAVER 435-438-5914 Description FAST FOOD REST		6.25
04/05/10	SHELL OIL 6456959550BEAVER AUTO FUEL DISPENSER		23.48
04/05/10	SHELL OIL 6262922004MESQUITE AUTO FUEL DISPENSER		0.47
04/05/10	CRACKER BARREL 323 SALT LAKE CTY RESTAURANT		27.66
04/05/10	HOTELS.COM US 800-219-4606 TRAVEL AGENCY		118.69
04/06/10	AMAZON SERVICES (KIN866-321-8851 DIGITAL		7.19
04/06/10	AMAZON SERVICES (KIN866-321-8851 DIGITAL		9.99
04/06/10	Crystal Inn - West VWest Valley C Arrival Date Departure Date 04/05/10 04/06/10 00000000 LODGING		6.12
04/06/10	SHELL OIL 6456942800ST GEORGE AUTO FUEL DISPENSER		21.96
04/06/10	KLEINFELD BRIDAL 028NEW YORK 6466334300 Description Price WOMEN'S READY-TO-WE 1,671.50		1,671.50

Continued on reverse

## DETAILS OF YOUR TRANSACTIONS

✓ **Bonus Points:** Transactions marked with a check on the left reflect bonus reward points.

### PAYMENTS

Date	Description	Amount (\$)
Apr 16	Payment - Thank You	-100.00

### NON-NORDSTROM PURCHASES AND CREDITS

Date	Merchant	Amount (\$)
Mar 29	Fresh Camden St IE (foreign currency) 9.98 EUR 04/22 (Rate) 1.357715430	13.42
Mar 30	Out Of Aran Galway Co Gal IE (foreign currency) 38.37 EUR 03/31 (Rate) 1.362262183	51.75
Mar 30	Claddagh Gold Ltd. Co Galway IE (foreign currency) 633.0 EUR 03/31 (Rate) 1.362274881	853.78
Mar 30	Corrib Catering Ltd Galway IE (foreign currency) 19.75 EUR 03/31 (Rate) 1.362531645	26.64
Mar 31	Fitzpatricks Supervalu L Ennistymon Co IE (foreign currency) 67.29 EUR 04/01 (Rate) 1.365581810	90.98
Mar 31	Town & Country Homes A Ballyshannon IE (foreign currency) 50.0 EUR 04/01 (Rate) 1.365600000	67.60
Apr 01	Ristorante Rossini Cork IE (foreign currency) 84.35 EUR 04/02 (Rate) 1.369057498	114.34
Apr 01	Tenips Ltd Blarney IE (foreign currency) 26.7 EUR 04/02 (Rate) 1.368913857	36.19
Apr 04	Inflight Us Airways Phoenix AZ	14.00
Apr 04	Inflight Us Airways Phoenix AZ	7.00
Apr 04	Inflight Us Airways Phoenix AZ	14.00
Apr 08	Www.Skype.Com Internet LU	10.00
Apr 11	Capriottis Sandwich Shop Boulder City NV	40.07
Apr 12	Auto Specialists & The Boulder City NV	66.04
Apr 17	Dominos Pizza #7449 702-294-2424 Nv	36.58
Apr 24	Storus Corporation 800-315-3360 Ca	25.00
Apr 24	Nyx La Inc Los Angeles CA	97.50
Apr 24	Linkas Enterprise Shakopee MN	86.00
Apr 26	Dennis Bernard Inc. Freehold NJ	182.00

### PLEASE NOTE

#### Avoid Interest Charges

Pay your New balance by your Payment due date and avoid incurring interest charges on your purchases.

#### 2009 Visa Annual Summary now available online

The 2009 Nordstrom Visa Annual Summary will be available exclusively online. If your account qualifies for an annual summary, you can access it through [nordstromcard.com](http://nordstromcard.com) now through July 2010.

#### No Annual Fees

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#### 24/7 Assistance

Our Customer Service Representatives are available 24 hours a day, 7 days a week to assist you at 1.866.445.0433.

#### Traveling Abroad?

Contact our Service Center and let us know the dates of your travel so we can ensure uninterrupted service on your card.

Continued

Page 2 of 5

## DETAILS OF YOUR TRANSACTIONS

✓ Bonus Points Transactions marked with a check on the left reflect bonus reward points.

### PAYMENTS

Date	Description	Amount (\$)
Mar 18	Payment - Thank You	-100.00

### NON-NORDSTROM PURCHASES AND CREDITS

Date	Merchant	Amount (\$)
Feb 25	Techsmith Corporation 517-3332100 MI	62.44
Feb 28	Mccallbuttrickwallie 785-7764041 Ks	168.75
Mar 01	Beyondtherack 514-6377707 AI	326.95
Mar 07	Mccallbuttrickwallie 785-7764041 Ks	331.00
Mar 07	Beyondtherack 514-6377707 AI	296.95
Mar 10	Nan O Brien Inc 8772177923 Vt	32.40
Mar 25	Coze Di Roze Dublin 18 IE (foreign currency) 135.0 EUR 03/26 (Rate) 1.349407407	180.37
Mar 25	Eddie Rockets Dublin 2 IE (foreign currency) 27.0 EUR 03/26 (Rate) 1.349259259	36.07
Mar 25	Sci*Sephora.Com 877-Sephora Ca	243.23
Mar 26	La Senza Dublin IE (foreign currency) 14.0 EUR 03/27 (Rate) 1.354285714	18.77
Mar 26	River Island Dublin 2 IE (foreign currency) 211.61 EUR 03/27 (Rate) 1.354094797	283.70
Mar 26	Peter Mark Grafton St Dublin 2 IE (foreign currency) 33.95 EUR 03/27 (Rate) 1.354344624	45.52
Mar 27	Lush-Grafton St Dublin 2 IE (foreign currency) 125.72 EUR 03/28 (Rate) 1.354120267	168.55
Mar 27	The Bagel Factory Dublin IE (foreign currency) 12.86 EUR 03/28 (Rate) 1.353810264	17.24
Mar 27	Pacinos Dublin IE (foreign currency) 52.9 EUR 03/28 (Rate) 1.354064272	70.92
Mar 27	Harlequin Dublin 2 IE (foreign currency) 15.0 EUR 03/29 (Rate) 1.354000000	20.11

### FEES

Date	Description	Amount (\$)
Mar 25	Foreign Transaction Fees	1.80
Mar 25	Foreign Transaction Fees	0.36

### PLEASE NOTE

**Avoid Interest Charges**  
Pay your New balance by your Payment due date and avoid incurring interest charges on your purchases.

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Nordstrom does not charge annual, inactivity or overlimit fees.

**24/7 Assistance**  
Our Customer Service Representatives are available 24 hours a day, 7 days a week to assist you at 1.866.445.0433.

**Travelling Abroad?**  
Contact our Service Center and let us know the dates of your travel so we can ensure uninterrupted service on your card.

Continued

Page 2 of 4

Your Nordstrom Visa Signature statement  
 February 27 to March 30, 2010  
 Kirk R Harrison  
 Vivian L Harrison  
 Account number : XXXX XXXX XXXX 9906

DETAILS OF YOUR TRANSACTIONS (CONTINUED)

✓ Bonus Points Transactions marked with a check on the left reflect bonus reward points.

FEES (CONTINUED)

Mar 26	Foreign Transaction Fees	0.19
Mar 26	Foreign Transaction Fees	2.84
Mar 26	Foreign Transaction Fees	0.46
Mar 27	Foreign Transaction Fees	1.69
Mar 27	Foreign Transaction Fees	0.17
Mar 27	Foreign Transaction Fees	0.71
Mar 27	Foreign Transaction Fees	0.20
Total fees for this period		8.42

INTEREST CHARGED

Description	Amount (\$)
Interest charged on purchases	26.19
Interest charged on cash advances	0.00
Total interest for this period	26.19

TOTAL FEES AND INTEREST CHARGED FOR THE YEAR TO DATE

Description	Amount (\$)
Total fees charged to date in 2010	47.42
Total interest charged to date in 2010	104.64

INTEREST CHARGE CALCULATION

The Annual Percentage Rate (APR) is the annual interest rate on your account.

Type of balance	Balance subject to interest rate (\$)	Annual Percentage Rate (APR)	Interest charged (\$)
Nordstrom purchases	90.10	10.90%	0.86
Non-Nordstrom purchases	1,938.84	14.90%	25.33
Cash advances	0.00	14.90%	0.00
Total			26.19

Continued

Page 3 of 4



# EXHIBIT 20

**CITY OF BOULDER CITY**

City Clerk's Office  
401 California Avenue  
Boulder City, NV 89005

**Mailing Address**  
Post Office Box 61350  
Boulder City, NV 89006-1350  
[www.bcnv.org](http://www.bcnv.org)

November 7, 2011

Jolley, Urga, Wirth, Woodbury & Standish  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, NV 89169

RE: Kirk Ross Harrison  
Case No. D-11-443611

The undersigned does hereby certify the City of Boulder City has enclosed information requested in the above referenced Subpoena Duces Tecum.

Please find the following items enclosed:

- CD of 911 calls for October 14, 2011
- CAD Call Information

Respectfully,

  
Tami McKay  
Deputy City Clerk

---

"Clean Green Boulder City"

11/02/11 HTE CAD PAGE 1  
12:47:18 CAD CALL INFORMATION 112870019

Call Number: 112870019 Call Type.: 059 416D Disturbance- famil Police  
Entry Day/Tm: 10/14/11 8:08:56 062 417 Domestic Police

CmnN: Agency.....: 001 Boulder City Poli  
Location...: 1514 SUNRISE CIR Apt:  
City.....: BOULDER CITY Block#: 1500 Loc ID: Mapr: 4A  
Intersectn.: SUNRISE SUNRISE

Caller Name: Last:HARRISON First:KIRK Mid: See Caller:  
Address.... Apt:  
City/State: Phone#: 702-294-6000 Source: 911

Call Taker.: 2021 GILES JENNIFER PDDIDPDA01  
Dispatcher.: 2021 GILES JENNIFER PDDIDPDA01

#### N A R R A T I V E

wife hit male in the face 8:09:11  
left to take daughter to school 8 yrs old daughter 8:10:02  
hit him with her fist to his eye 8:10:15  
female going to king 8:10:26  
female has been staying at 561 shoshone 8:11:55  
ofr 286 advd veh passed buchanan and adams 8:17:18  
ofr 268 advd nyla is driving the juv to school 8:22:03  
and nyla stated vivian is at her house at 1534 sunrise 8:22:03  
male refused medical when on the phone to dispatch 8:23:36  
OFR 300 ADVD STARTED VERBAL THEN WENT PHYSICAL BUT 8:30:42  
NO VISIABLE SIGNS OF PHYSICAL 8:30:42  
WIFE STATES POSSIBLE CAMERAS CAUGHT THE FIGHT 8:32:50  
AND HUSBAND MAY TRY TO ERASE THAT 8:32:50  
WIFE REFUSED MEDICAL 8:34:35

o/r verbal only neither party wished to press charges 9:19:51

Call change from 417 to 416D BY PDDIDPDA01 P 01 0000002021 9:19:52

OFR ADVD FEMALE DID HAVE BLOOD ON HER FACE OFR ADVD HER 9:42:58  
RIGHT HAND HAD BLOOD AND WHEN HER FACE WAS WIPED THERE WAS 9:42:58  
NO INJURY. IT APPEARS SELF INFLICTED. 9:42:58  
OFR 269 STATED MOM CUT HER FINGER IN THE MORNING 9:42:58

#### V E H I C L E I N F O

Vehicle Type:  
License# 183WYW Year: Make: Model: AVALON  
State: VIN : Color: BUR/

#### P E R S O N I N F O

Person Type: SUSP Suspect User ID: GILES  
Race.: Sex: Age: - Hgt: - Wgt: - Person #: 1  
Weapon: Build.: Hair...: Eyes:  
Hat...: Jacket: Shirt...: Pants:  
Shoes: Facial: Glasses: SSN: 530741447

11/02/11  
12:47:18

HTE CAD  
CAD CALL INFORMATION

PAGE 2  
112870019

Flight Dir: Mode: OL#: NV 1701987081  
Name: L: HARRISON F: VIVIAN M: DOB: 8161962  
Addr: 0 Apt: 10/14/11  
City: Phone#: - ( ) Last Changed: 8:14:08  
Additional:  
Person Type: OTHR Other Person Involved User ID: GILES  
Race.: Sex: Age: - Hgt: - Wgt: - Person #: 2  
Weapon: Build.: Hair...: Eyes:  
Hat...: Jacket: Shirt...: Pants:  
Shoes: Facial: Glasses: SSN: 529290147

Flight Dir: Mode: OL#: NV 1702574788  
Name: L: ROBERTS F: NYLA M: DOB: 12221961  
Addr: 0 Apt: 10/14/11  
City: Phone#: - ( ) Last Changed: 8:22:25  
Additional:

268 Unit Status History Information

10/14/11	8:13:04	4	Dispatched	D	2053 HAM, IAN
10/14/11	8:13:11	32	Enroute To Scene	ES	
10/14/11	8:18:34	6	Arrived on Scene	AS	
10/14/11	8:24:54	32	Enroute To Scene	ES	
10/14/11	8:32:06	6	Arrived on Scene	AS	
10/14/11	8:47:04	15	Stop Unit Time Check	SP	
10/14/11	9:20:55	15	Stop Unit Time Check	SP	
10/14/11	9:22:07	20	Available	AV	
10/14/11	9:39:48	4	Dispatched	D	
10/14/11	9:39:48	11	Assigned as Primary	PR	
10/14/11	9:39:50	6	Arrived on Scene	AS	
10/14/11	9:43:02	20	Available	AV	

UNIT LOCATIONS

1	888 ADAMS	BLVD Apt:	10/14/11
	City: BOULDER CITY ST: ZIP:	Block#: 800	8:13:16
	Common Name: MARTHA P KING ELEMENTARY		
2	895 ADAMS	BLVD Apt:	10/14/11
	City: BOULDER CITY ST: ZIP:	Block#: 800	8:18:47
	Common Name: FAMILY DOCTORS		
3	1534 SUNRISE	CIR Apt:	10/14/11
	City: BOULDER CITY ST: ZIP:	Block#: 1500	8:24:52
	Common Name:		

269 Unit Status History Information

10/14/11	8:09:15	4	Dispatched	D	5383 GRASSO, JEF
10/14/11	8:09:15	11	Assigned as Primary	PR	
10/14/11	8:10:39	32	Enroute To Scene	ES	
10/14/11	8:17:51	15	Stop Unit Time Check	SP	
10/14/11	8:18:56	6	Arrived on Scene	AS	

11/02/11  
12:47:18

HTE CAD  
CAD CALL INFORMATION

PAGE 3  
112870019

10/14/11	8:25:07	32	Enroute To Scene	ES
10/14/11	8:32:04	6	Arrived on Scene	AS
10/14/11	8:47:05	15	Stop Unit Time Check	SP
10/14/11	9:15:00	20	Available	AV

UNIT LOCATIONS

1	895 ADAMS	BLVD Apt:	10/14/11
	City: BOULDER CITY	Block#:	800 8:18:47
	Common Name: FAMILY DOCTORS		
2	1534 SUNRISE	CIR Apt:	10/14/11
	City: BOULDER CITY	Block#:	1500 8:25:06
	Common Name:		
3	1514 SUNRISE	CIR Apt:	10/14/11
	City: BOULDER CITY	Block#:	1500 8:47:02
	Common Name:		

300 Unit Status History Information

10/14/11	8:09:15	4	Dispatched	D	3556 OLSON, DAV
10/14/11	8:10:39	32	Enroute To Scene	ES	
10/14/11	8:17:52	15	Stop Unit Time Check	SP	
10/14/11	8:23:27	6	Arrived on Scene	AS	
10/14/11	8:32:08	15	Stop Unit Time Check	SP	
10/14/11	9:20:57	15	Stop Unit Time Check	SP	
10/14/11	9:22:07	20	Available	AV	

997 Unit Status History Information

10/14/11	8:10:32	4	Dispatched	D	1144 MORGAN, JOS
10/14/11	8:10:39	32	Enroute To Scene	ES	
10/14/11	8:17:54	15	Stop Unit Time Check	SP	
10/14/11	8:23:27	6	Arrived on Scene	AS	
10/14/11	8:32:10	15	Stop Unit Time Check	SP	
10/14/11	9:19:33	20	Available	AV	

DISPOSITIONS

1 043 Settled at Scene Case# 1 - 00-000000 Unit: 300

# EXHIBIT 21



The Life Center for Healthy Aging

## Personal

Date of Birth: 8-16-62

Age: 47

Sex: ☐ Male ☒ Female

Height: 5'4"

Body Frame (Choose one):

- ☐ Small  
☒ Medium  
☐ Large

Weight:

Current: 149 lbs Lowest: 108 lbs Highest: 178 lbs Ideal: 115 lbs

Blood Type (if known): A+ x 27 yrs

Marital Status: ☐ Single ☒ Married ☐ Significant Other ☐ Divorced ☐ Widowed

Do you have any children? ☒ Yes ☐ No If so, how many? 5

Do you have any grandchildren? ☐ Yes ☒ No If so, how many?         

Occupation: Retired Accountant - Instructor

Level of Education Completed: Masters

Certification or Degree Received: MS Accounting; BS in

How would you rate your current health?

- ☒ Excellent  
☐ Good  
☐ Average  
☐ Fair  
☐ Poor

Business Administration  
Teaches fashion design  
at IADT

♀ 24  
♀ 22  
♂ 20  
♀ 10  
♀ 6

What are your Age Management Medical goals - i.e. what do you hope to get out of this program?

- ① Better stamina + strength
- ② Better shape
- ③  Lose weight - Decrease Body Fat / Increase muscle
- ④ Increase skin elasticity
- ⑤ Feel happier - sense of well-being (no need Celexa)
- ⑥ Look good Naked



The Life Center for Healthy Aging

## Personal Health History

1. When was the last time you went to the doctor for a general check up or an illness?
2. Within the past 12 months, how many times did you see a medical doctor about your health?
3. Which of the following do you do on a regular basis? Check all that apply.

- ☒ Annual dental check ups
- ☒ Annual teeth cleaning
- ☒ Brush your teeth at least twice a day
- ☐ Use dental floss on a daily basis
- ☐ None of the above

4. Comparing your health to others of your age, how would you rate your health?

- ☒ Excellent
- ☐ Good
- ☐ Average
- ☐ Fair
- ☐ Poor

5. During the past year, how many days did you miss from work, or have your regular activities curtailed, due to illness? 0

6. In the past 12 months, how many days were you in the hospital? 0

7. Do you have an annual rectal exam? Gynecological exam 11-08 ☒ Yes ☐ No

8. Do you have an annual examination for blood in your stool? ☐ Yes ☒ No

9. Please review the list of conditions and check the column(s) that most applies to you and your family history. Leave blank any condition(s) you wish to discuss privately with your Institute Physician.

Condition	Not Applicable	Myself	Sibling	Parents Mother Father	Grandparents Maternal Paternal
Heart Disease				(M)	
Cancer				(M) (F)	m
Diabetes					
High Blood Pressure				m	m
Arthritis					
Liver Disease (i.e. hepatitis, cirrhosis)					
Mental Health Issues (i.e. depression, anxiety, psychotic disorders)		x	x		

60's  
MI mid 50's  
Smoker  
Obese  
60's  
Pancreatic CA





The Life Center for Healthy Aging

Condition	Not Applicable	Myself	Sibling	Parents Mother Father	Grandparents Maternal Paternal
Autoimmune Disease (lupus, rheumatoid arthritis)					
Endocrine Gland Disorders (thyroid, adrenal, pituitary)					
Neurological Disorders (i.e. stroke, seizures, Parkinson's, Alzheimer's, multiple sclerosis)					
Lung Disease (i.e. asthma, emphysema, bronchitis)		X	X	m	
Abnormal EKG					
Kidney Disease (i.e. stones, infections, cysts)					
Stomach/Esophagus Disorders (i.e. reflux, stricture, ulcers)					
Bowel Disease (i.e. malabsorption, lactose intolerance, diverticulitis, Crohn's, colitis, irritable bowel syndrome)					
Bladder disease					
Substance Abuse (i.e. alcohol, prescription, recreational drugs, tobacco)			X		
Weight Control Problems		X	X	m	m
Osteoporosis					
Migraine Headaches			X		
Anemia		X			
HIV/AIDS					
Allergies		X	X		
Memory Problems					
Sleep Apnea/Snoring					

10. Please provide an explanation for any items for which you checked *myself*.

Anxiety - childhood asthma - Anemic  
Allergies - Dust, cats, dogs, melons, avocado

No contact with <sup>4</sup>Paternal Grandparents



The Life Center for Healthy Aging

11. Are you allergic to any drugs? No If yes, please list the drug(s) and describe the reaction.

12. Please list all medication including dosage and frequency (prescription and/or over-the-counter) you currently take and the condition for which it is taken.

Medication	Condition	Dosage	Times per day
CITALOPRAM	Anxiety	40 mg	1x
Phentermine	Weight	37.5 mg	1x

13. Please list all supplements including dosage and frequency (i.e. vitamins, herbs, nutritional supplements) you currently take and the condition for which it is taken. An option is to copy the labels and forward them along with your completed questionnaire.

Supplement	Condition	Dosage	Times per day

14. Please describe any current usage of recreational drugs.

Phentermine 37.5



The Life Center for Healthy Aging

15. Please list any diagnostic procedures you have had. Provide the approximate date, reason for the procedure, and result.

Neck biopsy - Cyst 10 yrs ago - Benign  
Meningitis 4-6-04 4-9-04

16. Please list any surgical procedures you have had, including plastic surgery, along with the approximate date.

Breast Augmentation - 15 yrs ago  
LIPO - 2003  
Skin laser & resurfacing 2009

17. Please list any history of trauma that you have experienced (i.e. car accidents, head injuries, broken bones).

Leg broken - child

18. Have you ever had a blood transfusion? ☐ Yes ☒ No  
If so, please list the approximate date(s) and reason(s).

19. Please indicate if you are currently receiving any of the following.

☐ Radiation Therapy  
☐ Chemotherapy

Condition: \_\_\_\_\_  
Condition: \_\_\_\_\_



The Life Center for Healthy Aging

20. Please provide the date and length of exposure, if any, to the environmental risks listed below.

Exposure	Date(s)	Length of Exposure
Asbestos	N/A	
Coal dust		
Chemicals		
Sun/tanning		
Fumes/gasses		
Radon testing		
X-ray treatments		
Other:		



The Life Center for Healthy Aging

## Review of Overall Health

Under the categories listed below, check the "yes" column **only** if you are experiencing the listed symptom to a **substantial** or **unusual** degree.

### Skin and Hair

Symptom	Yes	No
Dry/brittle and/or flaky hair		
Dry/brittle skin		
Acne		
Age spots		
Thick skin and fingernails		
Puffy, wrinkled skin		
Dark circles under eyes		
Hair thinning or falling out or hair grows very slowly		
Toe or fingernail fungus		
Bumpy skin on face or back of arms		
Spider veins in nose and/or face		
Persistent rash/skin allergy		
Hives		
Sores, boils, or sties		
Slow or poor wound healing		
Excessive sweating or itching		
Flushing or hot flashes		
Bruise easily or excessively		

Nothing  
Substantial

### Allergies

Allergy	Yes	No
Seasonal allergies—describe symptoms: - itchy, watery eyes - wheezing - throat itches	X	
Food allergies—list type & reaction: melon - tongue feels swollen Avocado - throat itches	X	
Latex or other environmental allergies—describe reaction:		X



The Life Center for Healthy Aging

## Cardiopulmonary

Symptom	Yes	No
Pain in the left side under the rib cage		
Pain in the right side under the rib cage		
Pain in the left arm		
Chest pain at rest or while walking, running, or lifting weights		
Other pain in chest or sides		
Frequent and recurring upper respiratory infections or colds/flu		
Fluid retention (e.g., swollen ankles, legs, etc.)		
Cannot tolerate much exercise		
Difficulty breathing		
Chronic lung congestion		
Wheezing		
Heaviness in legs		
Calf muscle cramps while walking		
Heart pounds easily		
Heart misses beats or has extra beats		
Rapid heartbeat, fluttering		
Shortness of breath		
Heartburn after eating		
Exhaustion with minor exertion		
Erratic blood pressure		
High blood pressure		
Low blood pressure		
Breathing problems at night		
Difficulty lying flat		

## Metabolic

Symptom	Yes	No
Certain foods cause ill feelings		
Difficulty gaining weight		
Difficulty losing weight	X	
Bad breath (no relief by brushing)		
Body odor (no relief by washing)		
Total blood cholesterol above 200	X	
HDL cholesterol below 50		X
LDL cholesterol above 130	X	
Swollen (bulging) eyes		
Hypersensitive to the cold		
Cold hands and feet		
Thinning or loss of outside portion of eyebrow	X	



The Life Center for Healthy Aging

Symptom (continued)	Yes	No
Gain weight easily	X	
Body temperature below 97.6 degrees Fahrenheit		
Crave salt or salty foods		
Blushing with no apparent cause		
Irritable if meal is missed		
Wake up in the middle of the night craving sweets		
Feel tired or weak if meal is missed		
Heart palpitations after eating sweets		
Need to drink caffeine to get going	X	
Feel tired 1 to 3 hours after eating		
Feel faint or weak		
Night sweats		
Increase thirsts		
Overweight	X	
Crave sweets (but eating sweets does not relieve symptoms)		
Sugar in urine		
Weight loss of more than 10 lbs. in the last six months		
Weight gain of more than 10 lbs. in the last six months		
Weight has stayed consistent over last five years		X



The Life Center for Healthy Aging

## **Kidney/Bowels/Bladder/Gastrointestinal**

Symptom	Yes	No
Frequent urination or scant urination/dribbling		
Burning during urination		
Loss of bladder control (including leaking)		
Hemorrhoids		
Excessive nighttime urination (specify number of times)		
Loss of bowel control		
Blood in urine		
Blood in stool		
Kidney stones		
Frequent urinary tract infections		
Diarrhea		
Constipation (hard or effortful bowel movements)		
Difficulty urinating		
Abdominal pain		
Nausea and/or vomiting		
Heartburn/reflux		
Difficulty swallowing or pain with swallowing		
Flatulence (gas) or bloating	X	
Gallbladder problems		
Dependency on Antacids		





The Life Center for Healthy Aging

## Neurological

Symptom	Yes	No
Headaches		
Faintness		
Seizures/convulsions		
Tremors		
Dizziness		
Tingling or numbness		
Balance problems		
Paralysis		
Muscle weakness		
Uncoordinated		
Difficulty walking		
Difficulty speaking		
Memory problems		
Loss of smell or taste		
Problems with attention and concentration		

## Eyes/Ears/Nose/Throat

Symptom	Yes	No
Change in vision		
Blurred or tunnel vision		
Double vision		
Balance problems		
Hearing loss		
Ringing in ears		
Ear pain		
Ear drainage		
Nosebleeds		
Stuffy nose		
Sore throat/hoarseness		
Sinus infections		
Sore or bleeding gums		
Canker sores or cold sores	X	
Difficulty swallowing		



The Life Center for Healthy Aging

## **Joints/ Muscles/ Bones**

Symptom	Yes	No
Joint pain, swelling or stiffness		
Arthritis		
Back pain		
Limited motion		
Muscle tension or spasms - Back of neck	X	
Fibromyalgia		
Carpal Tunnel Syndrome		

## **Mind and Emotions**

Symptom	Yes	No
Rapid mood swings		
Impatient, moody, nervous		
Lack of mental alertness		
Depression		
Anxiety/fear	(X)	
Lack of self-esteem	(X)	
Difficulty with memory, attention, or concentration		
Short attention span		
Personality changes		
Sleep disturbances	(X)	
Short temper/anger/irritability		
Excessive worrying		
Suicidal thoughts		
Confusion/poor comprehension		
Difficulty making decisions		
Excessive stress		
Restlessness, hyperactivity, or inability to relax		
Weakness, fatigue, or loss of energy	(X)	
Frequent infections		



The Life Center for Healthy Aging

### Miscellaneous

Symptom	Yes	No
Frequent infections or illness		
Change in appetite		
Fatigue	X	
Apathy/lethargy	X	
Lumps in neck, armpits, groin or breast		
Broken bone(s) as an adult		
Insomnia	X	
Hypersomnia (sleeping too much)		
Sleep Apnea		
Difficulty getting out of bed in the morning		
Other symptoms (please list) Chew lots of ice -cravings		

✓

**For Women ... Go to Page 17**

**For Men ... Continue to Page 15**



The Life Center for Healthy Aging

## For Men

Symptom	Yes	No
Difficulty maintaining/attaining an erection (or insufficient to maintain penetration)		
Ejaculation causes pain		
Sexual drive under active		
Sexual drive overactive		
Premature ejaculation		
Pain/coldness in genital area		
Infertility		
Varicose veins on scrotum		
Low sperm count		
Discharge from penis		
Lack of early morning erections		
Past or present rash on penis		
Swollen genitals		
Swelling in groin		
Genital sores		
Lump or mass in scrotum		
Jock itch		
Past or present sexually transmitted disease (specify):		

Medication	Yes	No
Do you use Viagra, Cialis, Levitra or any other erectile enhancement drugs? If yes, which one(s) and how often?		
Have they helped you?		
Do you use any other medication for sexual function? If yes, please list and describe results:		
Have you ever used testosterone, HCG, DHEA, or hGH? If yes, which one(s) and when?		



The Life Center for Healthy Aging

**Please provide the most recent date and results for the tests listed below.**

Test Dates	Results
Prostate exam	
PSA	
Colonoscopy	
Sigmoidoscopy	
Rectal exam	
Resting EKG	
Stress EKG	
Stress Echo	
Nuclear Stress	
Chest X-ray	
Eye exam/eye pressures	

**For Men ... Go to Page 19**



The Life Center for Healthy Aging

## For Women

Symptom	Yes	No
Missed periods		<input checked="" type="checkbox"/>
Pelvic or vaginal soreness or pain		<input checked="" type="checkbox"/>
Menstrual pain		<input checked="" type="checkbox"/>
Heavy menstrual bleeding	<input checked="" type="checkbox"/>	
Irregular periods		<input checked="" type="checkbox"/>
Infertility		<input checked="" type="checkbox"/>
Hot flashes/night sweats		<input checked="" type="checkbox"/>
Under active sex drive		<input checked="" type="checkbox"/>
Overactive sex drive		<input checked="" type="checkbox"/>
Pre-menstrual syndrome (PMS) <i>possible</i>		
Monthly weight gain		<input checked="" type="checkbox"/>
Bloating and swelling	<input checked="" type="checkbox"/>	
Tender breasts		<input checked="" type="checkbox"/>
Low backache <i>some times</i>		<input checked="" type="checkbox"/>
Vaginal itching		<input checked="" type="checkbox"/>
Vaginal discharge or sores		<input checked="" type="checkbox"/>
Past or present sexually transmitted disease (specify):		<input checked="" type="checkbox"/>
Dislike of intercourse		<input checked="" type="checkbox"/>
Pain in ovaries		<input checked="" type="checkbox"/>
Water retention		<input checked="" type="checkbox"/>
Craving for sweets	<input checked="" type="checkbox"/>	
Sweating throughout the day		<input checked="" type="checkbox"/>
Vaginal dryness		<input checked="" type="checkbox"/>
History of miscarriages		<input checked="" type="checkbox"/>
History of ovarian cysts		<input checked="" type="checkbox"/>
History of uterine cysts/fibroids		<input checked="" type="checkbox"/>
History of endometriosis		<input checked="" type="checkbox"/>
Have you had a hysterectomy? If yes, please provide the date and reason.		<input checked="" type="checkbox"/>
Have you ever taken estrogen, progesterone, testosterone, DHEA, or hGH? If yes, which one(s) and when?		<input checked="" type="checkbox"/>
Date of last menstrual period: <i>10-15-09</i>		
What form of birth control do you use? Please circle. None    Pill    IUD    Sponge    Diaphragm    Foam Vasectomy <u>Condoms</u> Tubal Ligation    Hysterectomy		



The Life Center for Healthy Aging

What form of birth control do you use? Please circle.

None	Pill	IUD	Sponge	Diaphragm	Foam
Vasectomy	<u>Condoms</u>	Tubal Ligation		Hysterectomy	

Please provide the most recent date and results for the tests listed below.

	Test Dates	Results
Pap smear	11-08	Normal
Pelvic exam	✓	✓
Breast exam	✓	
Mammogram	2-08	Normal
Colonoscopy	—	—
Sigmoidoscopy	8-05	Normal - 50cm
Rectal exam	11-08 - Gynecological Exam	Normal
Resting EKG		
Stress EKG		
Stress Echo		
Nuclear Stress		
Chest X-ray	8-05	Normal
Eye exam/eye pressures	9-11-08	15 each eye
QCT Bone Density 8-05		



The Life Center for Healthy Aging

## Lifestyle Summary

1. How many servings of an alcoholic beverage do you consume in an average week? Note: A serving is defined as a 12-ounce beer, 5-ounce glass of wine, or 1.5 ounces of liquor. 0

### For Present and Past Tobacco Users:

2. Do you currently use tobacco? ☐ Yes ☒ No  
If yes, what type? (Check all that apply)

<input type="checkbox"/> Cigarettes	How many per day? _____
<input type="checkbox"/> Pipe	How much per day? _____
<input type="checkbox"/> Snuff	How much per day? _____
<input type="checkbox"/> Cigars	How many per day? _____
<input type="checkbox"/> Chewing tobacco	How much per day? _____

3. If you previously used tobacco, what type did you use? (Check all that apply)

<input checked="" type="checkbox"/> Cigarettes	How many per day on average? <u>1/2 - 1 pack</u>
<input type="checkbox"/> Pipe	How much per day on average? _____
<input type="checkbox"/> Snuff	How much per day on average? _____
<input type="checkbox"/> Cigars	How many per day on average? _____
<input type="checkbox"/> Chewing tobacco	How much per day on average? _____

4. How long did you use tobacco? 4 yrs

5. When did you quit? 20

6. How many times have you quit? 1

7. What are your hobbies? Read, fiber arts, sewing

8. Do you travel outside the country? ☒ Yes ☐ No

If yes, please list the countries you have visited in the last 5 years:

Jamaica  
Mexico

9. Do you consider yourself to be under a great deal of stress? ☐ Yes ☒ No  
If yes, please explain.





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## Activity History Questionnaire

1. Please rate your activity level on a scale of 1 to 5 (1 = Not At All Active, 5 = Very Active) for each age range up to your present age.  
15-20 yrs: 4 21-30 yrs: 4 31-40 yrs: 4 41-50 yrs: 3 51-60 yrs: \_\_\_\_\_ 60 yrs + \_\_\_\_\_
2. Were you a high school and/or college athlete? If yes, please specify:  
No
3. Do you have any special feelings (positive or negative) toward physical activity or an exercise program? If yes, please specify:  
Like weights
4. Rate yourself on a scale of 1 to 5 (5 being highest) for each of the follow statements:  
2-3 a) My present athletic ability:  
3 b) My present cardiovascular ability:  
3 c) My present muscular ability:  
3 d) My present flexibility capacity:  
1 e) When I exercise, how much I like it to be competitive:
5. Do you start exercise programs and then find yourself able to stick to them?  
Yes ✓ No ✓  
OFF + ON
6. How much time are you willing to devote to an exercise program?  
60 min per day 6 days per week
7. Are you currently involved in regular cardiovascular exercise? Yes ✓ No \_\_\_\_\_  
Please rate the exertion level of your current program, if applicable, by checking one of the boxes:  
Light      Fairly Light      Somewhat Hard      Very Hard
8. Are you currently on a strength-training program? Yes ✓ No \_\_\_\_\_  
(If yes, please specify)  
45 min per day 3 days per week  
Please rate the exertion level of your current program, if applicable, by checking one of the boxes:  
Light      Fairly Light      Somewhat Hard      Very Hard
9. How long have you been exercising regularly? 2 mos



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10. What exercises, sports, or recreational activities have you participated in the past six months?

weight lifting -hip hop  
treadmill

11. Are you able to exercise on a workday? Yes X No \_\_\_\_\_

12. What days and hours are you available for an exercise program? Please specify:

Flexible

13. Rate the importance of the following fitness goals (1 = Not At All Important, 10 = Extremely Important)

- 10 a) Improve cardiovascular fitness:
- 10 b) Reduce body fat / Lose weight:
- 10 c) Reshape or tone my body:
- 1 d) Improve my performance for a specific sport:
- 6-7 e) Improve my mood and the ease with which I can relax:
- 6 f) Improve flexibility:
- 10 g) Increase muscular strength:
- 10 h) Increase energy levels:
- 10 i) Gain an overall feeling of well-being:

14. Please specify your two most important fitness goals:

- \* - look great naked
  - No cellulite
  - No underarm flab
  - Flat tummy
- Additional comments: J



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## Time Management Profile

Please answer questions 1-10 in the following manner:

1. Overall I'm able to manage my time...  
Poor Fair Average Good Excellent
2. I devote adequate time to study information that will enable me to be successful...  
Poor Fair Average Good Excellent
3. I do not put off what I'm supposed to do...  
Poor Fair Average Good Excellent
4. I am able to make sure that I can exercise in quality manner...  
Poor Fair Average Good Excellent
5. I can mentally prepare for exercise efficiently...  
Poor Fair Average Good Excellent
6. I am able to add and include appointments in my schedule without difficulty...  
Poor Fair Average Good Excellent
7. I am able to say no to people and decline to do things when time doesn't permit...  
Poor Fair Average Good Excellent
8. I don't take on more things or responsibilities than I can handle...  
Poor Fair Average Good Excellent
9. I am able to plan out a weekly schedule for my life...  
Poor Fair Average Good Excellent
10. I spend quality time with my family and friends...  
Poor Fair Average Good Excellent

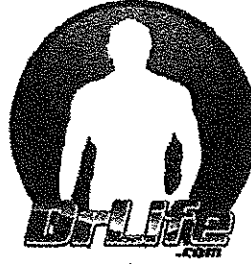
Please answer questions 11-23 with a yes/no or as necessary:

11. Do you usually eat at the same times every day during the week? Yes No
12. Do you get up at the same time every day during the week? Yes No
13. Do you go to bed at the same time every day during the week? Yes No
14. Do you set aside specific times for stretching during the week? Yes No
15. Do you set aside specific times for cardiovascular exercise during the week?  
Yes No



The Life Center for Healthy Aging

16. Do you set aside specific times for weight training during the week? Yes No
17. How many hours of sleep a night do you average a night during the week? 4-5
18. How many times during the week do you eat out? 10-14
19. How many hours a week do you work? 25 Do you work on the weekends? No
20. How many hours a day do you work? 3-5 Do you consider yourself a workaholic? Yes No
21. Are you usually late, early or right on time for appointments or responsibilities?  
Yes No usually on time
22. During the past month, what percent of the time would you say you wake up feeling fresh and fully rested?  
40%



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## Nutrition Questionnaire

1. If you are taking medication, do you feel it is helping you? Yes
2. Are you taking vitamins and or nutritional supplements? Yes If yes, please explain?  
shakes - Myoplex
3. Approximately how many regular-size glasses of water do you drink per day 2-3
4. Do you smoke? No If yes, what and how many per day? \_\_\_\_\_
5. Do you drink alcohol? No If yes, what and how many servings a week? (One glass = 8 ounces)  
\_\_\_\_\_
6. How many cups of coffee do you drink per day? 6
7. List all beverages you drink regularly? coffee diet coke
8. Approximately what percentage of the food you eat is "convenience oriented"? 90%
9. How often do you eat "Fast Food" weekly? 5-6 times
10. Do you use salt on your food? Yes
11. Do you try to keep fat calories from your diet? sometimes
12. Do you use condiments such as catsup, BBQ sauce or AI? Yes
13. Do you cut the extra fat from your meat? Yes
14. Do you use margarine or butter? Butter
15. Do you like oil type dressings on your salad? Yes
16. Do you eat cheese? Yes
17. Do you drink milk? Yes If yes, how much per week? 1 glass daily
18. Do you like foods with high sugar content like donuts, or pastries? Yes
19. Do you eat sugar coated cereal? Yes If yes, which kind? mini wheats + cheerios
20. Do you add sugar to your food? No
21. Do you add sugar to your coffee or tea? If yes, how much? Sugar Sub
22. How many cans or bottles of soft drinks do you consume weekly? 1 big gulp daily
23. When you eat bread is it white or wheat? white
24. Do you eat breakfast? Yes
25. Do you eat late at night? sometimes
26. Do you often feel hungry no matter how much you eat? No



The Life Center for Healthy Aging

27. Do you usually feel better after eating? Yes
28. Do you usually feel worse after eating? No
29. Do you snack a lot between meals? Yes
30. List the snacks you prefer? raisins, cookies, chips
31. Do you frequently skip meals? Yes
32. Do you have to watch what you eat to avoid gaining weight? Yes
33. Do you have to watch what you eat to avoid losing weight? No
34. Do you eat fruit daily? No
35. Do you eat vegetables daily? No
36. Do you eat meat daily? Yes
37. Are most of the vegetables you eat raw or cooked? raw
38. Which foods if any irritate your stomach or bowels? None
39. What foods do you especially like? processed - convenience
40. What foods do you especially dislike? fish
41. Do you feel that your diet is lacking in some respect? Yes
42. Do you feel that your diet is excessive in some respect? Yes



The Life Center for Healthy Aging

## HOLMES-RAHE LIFE CHANGES SCALE

Please review the events below. Beside each one, indicate the number of times each event occurred in the past year only.

Event	Number of times in past year
Death of a spouse	
Divorce	
Marital separation	
Law suits	
Jail term	
Death of a close family member	
Personal injury or illness	
Marriage	
Fired from work	
Marital reconciliation	
Retirement	
Change in health of a family member	
Pregnancy	
Sexual difficulties	
Gain of a new family member	
Business readjustment	
Change in financial state	
Death of a close friend	
Change to a different line of work	
Change in number of arguments with spouse	
Mortgage over \$500,000	
Foreclosure of mortgage or loan	
Change in responsibilities at work	
Son or daughter leaving home	
Trouble with in-laws	
Outstanding personal achievement	
Spouse began or stopped work	1
Began or ended school	
Change in living conditions	
Revision of personal habits	
Trouble with the boss	
Change in work hours or conditions	every 10 wks
Change in residence	
Change in schools	
Change in recreation	
Change in exercise program	12



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Change in social activities	
Change in sleeping habits	
Change in number of family get-togethers	
Change in eating habits	
Vacations	10
Religious holidays	
Minor violations of the law	
Major violations of the law	

Holmes & Rahe (1967), Holmes-Rahe life changes scale. Journal of Psychosomatic Research, Vol. 11, pp. 213-218.





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## Nutritional Summary

Question	Yes	No
Over the years, have you noticed an increased sensitivity to sweets or white flour foods resulting in increased irritability, tiredness, or depression?		X
Are you preoccupied with certain foods and the thought of food? <u>yes</u>	X	
Has your eating ever interfered with any part of your life?		X
Do you keep your feelings about food and eating a secret?		X
Has your weight gone up and down over the years?	X	
Have you ever lied about how much sweet food or other carbs you eat?		X
Is it possible to "just say no" to sweet foods and other processed carbohydrates?		<u>no</u>
Are sugar/carbs controlling your life?	X	
Have you had short-term success in controlling your eating only to slip back into uncontrollable, excessive eating of the foods you are trying to avoid?	X	
Do you continue to binge despite its adverse consequences on your life and health?	X	
Are you a vegetarian? If yes, what type?  <input type="checkbox"/> Vegan (plant products only) <input type="checkbox"/> Lactovegetarian (plant and dairy products) <input type="checkbox"/> Ovolactovegetarian (plant, dairy and egg products) <input type="checkbox"/> Fruitarian (fruits, nuts, honey, and vegetables only)		X

- How many cups of tea do you drink per day? 0
- How many cups of coffee do you drink per day? 6
- How many diet sodas or other drinks with aspartame do you drink per day? 6
- How many 8 oz. glasses of water do you drink per day? 2-3
- How many high sugar foods do you eat per day (i.e. cakes, cookies, breads, pasta)? 3-4



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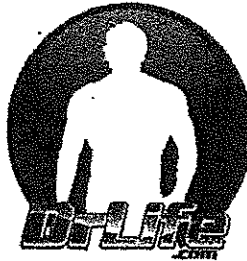
## Current Nutritional Intake

In order to accurately assess your current nutrient intake, we need to understand your current eating habits. Please fill out the following nutritional summary in detail for what you consider your average healthy eating day and most unhealthy eating day. This will give us an idea of your strengths and weaknesses and enable us to make suggestions for positive change. List the foods and portions you eat, not those you plan to eat.

- Be specific with portion sizes. If you don't know how many ounces or cups something is, give us a reference. For example: 1 large apple (baseball sized), broiled chicken (about the size of two decks of cards).
- Include any extras you may consume, such as cream or sugar in your coffee, after dinner mints, nibbles of baked goods, candy, etc.
- Don't forget to list beverages (Diet Coke, coffee, water, green tea, etc.).

## Healthiest Day

Meal/Snack (Time)	Food	Portion size or estimation	Leave blank for our comments
<b>Breakfast</b> Time: <u>6:30</u> <u>9</u>	Coffee, Fat Free Cream + Sugar Sub Myoplex Shake	6 cups	
<b>AM Snack</b> Time: <u>11</u>	yogurt	6 oz	
<b>Lunch</b> Time: <u>1-</u>	diet coke  Myoplex Shake	1	
<b>Midday Snack</b> Time: <u>3-</u>	Muscle milk	8 oz	
<b>Dinner</b> Time: <u>6:30</u>	diet coke or tea 1/2 chicken breast grilled salad - low fat		
<b>PM Snack</b> Time: _____			
<b>Before Bed Snack</b> Time: _____			



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## Most Unhealthy Day

Meal/Snack (Time)	Food	Portion size or estimation	Leave blank for our comments
<b>Breakfast</b> Time: <u>10</u>	pancakes - butter syrup coffee cream + sugar	3 large 6 cups	
<b>AM Snack</b> Time: <u>11</u>	Donut	1	
<b>Lunch</b> Time: <u>1</u>	Cafe Rio Burrito L pork - sour cream chips + salsa	1 large Bowl	
<b>Midday Snack</b> Time: <u>3</u>	cookies	6	
<b>Dinner</b> Time: <u>7</u>	pizza		
<b>PM Snack</b> Time: <u>8</u>	Ice cream - rocky road	2 Bowls	
<b>Before Bed Snack</b> Time: _____			

Please note any specific problem foods you consistently overeat, including the frequency (i.e. daily, weekly, or monthly).

pizza  
cookies  
cereal

Note situations, moods, or occasions that cause you to eat or drink more than you should.

Depressed or family get together or dining out



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## **Brain Function**

**Our Central Nervous System (CNS) assessment assesses and monitors your cognitive processing speed and efficiency, regarding short-term and working memory. It also aids in early detection of cognitive diseases, such as Alzheimer's. When combined with interventional therapies like those you will be receiving as part of your Cenegenics Program, NCA Testing is an excellent way to monitor improvements in cognitive function.**

**The Life Center for Healthy Aging offers CNS Assessment testing as part of your Executive Health Evaluation.**

## Cenegenis Executive Health Evaluation

Name

Vivian Harrison

EHE Date

October 26, 2009

Date of Birth	8/16/1962
Age	47
Sex	Female
Height	64
Weight	153

Heart Rate: 78

Score	Rating
< 59	Excellent
60-69	Good
70-79	Average
80-89	Fair
> 90	Poor

Blood Pressure: 110/70

Score	Diastolic	Rating
< 120	< 80	Normal
121-139	81-89	Pre-Hypertension
140-159	90-99	Stage 1 Hypertension
> 160	> 100	Stage 2 Hypertension

Waist Circumference: 33

Score (inches)		Rating
Male	Female	
< 31.0	< 28.0	Very Low Risk
31.5-39.0	28.5-35.0	Low Risk
39.5-47.0	35.5-43.0	High Risk
≥ 47.5	≥ 43.5	Very High Risk

Lunar Densitometer

Lean Body Mass (g)	Optimal Ranges	Your Score
Total Body Fat (%)	Less Than 25%	39.998
Trunk Fat (%)	< 20%	37.80%
Bone Mineral Density, Total Body (g/cm <sup>3</sup> )	> 0	1.240
T-Score, Total Body	> 0	1.4
Bone Mineral Density, Right Femur (g/cm <sup>3</sup> )	> 0	1.115
T-Score, Right Femur	> 0	0.9
Bone Mineral Density, Left Femur (g/cm <sup>3</sup> )	> 0	1.043
T-Score, Left Femur	> 0	0.3
Bone Mineral Density, AP Spine (g/cm <sup>3</sup> )	> 0	1.254
T-Score, AP Spine	> 0	0.5

Optimal Ranges

Your Score

Skin Elasticity
Medium
51%

Muscle Mass Index

Fat Free Mass/Height in meters<sup>2</sup>

Optimal Range

>14.30 kg

Your Score

15.14

# EXHIBIT 22

**AFFIDAVIT OF LAURIE LARSON**  
**filed in Support of Plaintiff's Motion for Primary Custody and Exclusive Possession of**  
**Marital Residence**

STATE OF NEVADA            )  
  )       ss.  
COUNTY OF CLARK        )

LAURIE LARSON, declares and says:

1.       The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

2.       I have lived in Boulder City, Nevada since April of 1999. Between April of 1999 and the end of June of 2011, I lived at 1511 Sunrise Circle, which is across the street and over just one house over from the home of Kirk and Vivian Harrison.

3.       I am married and have two sons and two daughters. My second son Charlie is the same age as Rylee Harrison. Charlie and Rylee went through Andrew J. Mitchell School (grades K thru 2) together and are now attending Martha P. King School in the third grade.

4.       My husband, Kyle, is a dentist. He practices in Bullhead City, Arizona three days a week – Monday, Tuesday, and Friday. Therefore, on those days he is gone, I drive my children to and from school and their activities. Either Kyle or I drive our children to and from school and their activities on Wednesdays and Thursdays, which are his days off. Since 2006, our family has carpooled driving to and/or from school with Kim and Kurt Bailey (Kyle and I would drive one week and then Kim and Kurt would drive the next).

5.       Charlie and Rylee attended Tiny Tots together during the 2006/07 academic year. Tiny Tots was from 9:00 a.m. until 11:30 a.m. Charlie did not like Tiny Tots and went for only a couple of months, but during that time, I saw Kirk taking Rylee to and from Tiny Tots. My older

son, Chandler, was in kindergarten at this time. I also saw Kirk take Brooke, who was in the second grade, to and from school. Since we lived across the street, I would often see Kirk driving Brooke and Rylee to and from school even on the days I did not drive.

6. During the 2007/08 academic year, I taught Charlie pre-school at home, so he did not attend Tiny Tots. However, I would see Kirk pulling out of his driveway in the mornings taking Brooke to school and Rylee to Tiny Tots. Similarly, I would see Kirk, from time to time, returning home with his girls.

7. Charlie and Rylee were in kindergarten at Andrew J. Mitchell during the 2008/09 academic year. They were both in Mrs. Olsen's class. I saw Kirk take Rylee and Anna Walker to school in the mornings. I remember mornings standing outside in the playground with Kirk while we waited for Mrs. Olsen to open the door to let the students in the class room. Full day kindergarten let out at 2:41 p.m. and I regularly saw Michele Walker picking up Anna, Rylee, and Brooke after school.

8. Charlie and Rylee were in the first grade at Andrew J. Mitchell during the 2009/10 academic year. Charlie was in Mrs. Sullins' class and Rylee was in Mrs. Hall's class. In kindergarten, the children went directly to their class room. However, beginning in first grade, the children would first assemble on the west side of the school house for morning ceremonies. I saw Kirk walking Rylee and Anna Walker to the assembly just about every day I was there. When Charlie was in the first grade, Chandler was in the third grade at Martha P. King (3<sup>rd</sup> thru 5<sup>th</sup>). Martha P. King is located next to Andrew J. Mitchell. Both Andrew J. Mitchell and Martha P. King schools let out at about 2:41 p.m. The older siblings attending Martha P. King would walk up to Andrew J. Mitchell to meet up with their younger siblings and be picked up for carpool. Brooke was in the fifth grade at Martha P. King. I recall seeing Michele Walker pick



up Anna, Rylee and Brooke and take them home.

9. Charlie and Rylee were in the second grade at Andrew J. Mitchell during the 2010/11 academic year. Both Charlie and Rylee were in Mrs. Williams' class. Both Kirk and I would drop the kids off at the same location in the mornings for school – at the end of Cottonwood Cove, which is a street situated to the west of Andrew J. Mitchell school near the northwest corner of the school playground, where there is a gate the children could enter the playground. I saw Kirk take Rylee and Anna Walker to school just about every morning I was there. I did not participate in an after-school carpool with the Baileys this year because my boys walked directly from school to the Boulder City swimming pool for swim team, but I do believe Michele Walker picked up Anna and Rylee just about every day.

10. During part of this year, Rylee took swim the same time as Charlie. I saw Kirk picking up Rylee from swim. I cannot recall ever seeing Vivian pick up Rylee from swim. Brooke was in the sixth grade at Garrett Middle School. I was rarely outside in the early morning, but my husband, Kyle, says he often saw Kirk taking Brooke to school in the mornings and bringing her home in the afternoons.

11. During all of these school years, I cannot recall ever seeing Vivian drive either Rylee or Brooke to or from school.

12. Charlie and Rylee are currently attending the third grade at Martha P. King School during this 2011/2012 academic year. Charlie is in Mrs. Peplowski's class and Rylee is in Mrs. Fecteau's class. Since we no longer live across the street from Kirk and Vivian, I have not seen who is taking Brooke to and from school this academic year, but I have seen Kirk's vehicle driving down our street from the Walker's. Sometime during the middle of October of this year, Kim Bailey informed me that there had been a problem at the Harrison home and the police had

been called. I was told the police stopped the car that was taking Rylee and Anna Walker to school. Kim related to me that Michele had informed the Harrisons that she would no longer be carpooling with them. Since that time, Michele has joined in with Kim and me in driving our kids to school.

13. Although my my daughter, Chayce, has only been in dance for 1 ½ years, I have seen Kirk driving Brooke, Rylee and other children to and from dance classes for several years. I know that until around mid-October of this year, he was in a carpool for dance with the Baileys, Roberts and Walkers.

14. There were a number of times when Kirk, Brooke and Rylee were returning from their ranch in Utah, that they would drop off a pie for our family that they had gotten from Veyo Pies. I do not recall ever seeing Vivian with Kirk, Brooke and Rylee when they were returning from their ranch.

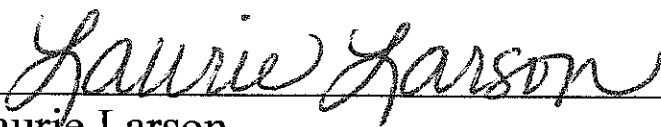
15. There were several times that my husband and sons, Kyle, Chandler, and Charlie, went to the UNLV basketball games with Kirk, Brooke and Rylee.

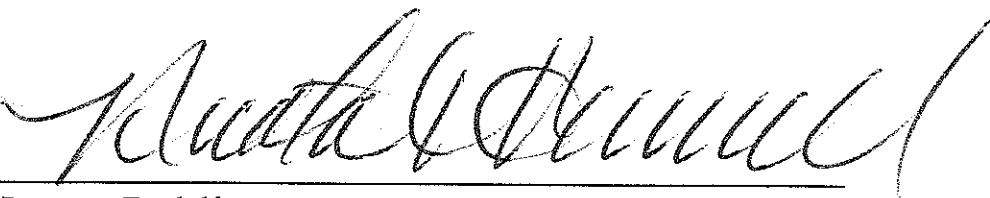
FURTHER AFFIANT SAYETH NAUGHT.

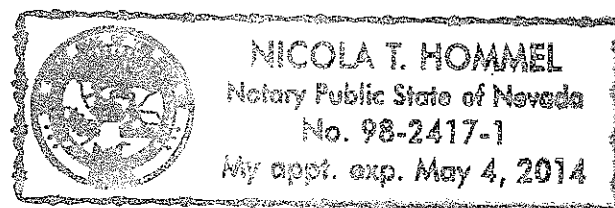
State of Nevada

County of Clark

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

  
Laurie Larson

  
Notary Public



# EXHIBIT 23

**AFFIDAVIT OF DAVE KRUMM**  
**filed in Support of Plaintiff's Motion for Primary Custody and Exclusive Possession of**  
**Marital Residence**

STATE OF NEVADA        )  
                                  )       ss.  
COUNTY OF CLARK        )

DAVID KRUMM, declares and says:

1. The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

2. I have lived in Boulder City, Nevada since July of 2004.

3. I am married and have three daughters – Taylor, Sydney and Rachel. My daughter Taylor is the same age and has been in the same class in school as Brooke Harrison since the third grade. Taylor and Brooke are close friends. My daughter Rachel is the same age and has been in the same class in school as Rylee Harrison since the first grade. Rachel and Rylee are close friends.

4. Both Brooke and Rylee will come to play at my home with Taylor, Sydney and Rachel. My daughters will go to the Harrison's home and play with Brooke and Rylee.

5. All of my daughters and Brooke and Rylee take dance lessons at Dance, Etc. and have done so for a number of years.

6. My daughters and Brooke and Rylee have played sports in Boulder City over the years including baseball and soccer.

7. My family has done things socially over the years with Brooke, Rylee and Kirk Harrison, including going to movies together, out to dinner, trips to Tuacahn, the Harrison family ranch in Utah, and Disneyland.

8. I have driven my daughters to and from school as well as to and from their dance classes since 2005.

9. During all of the years I have been driving my daughters to and from school and to and from their dance classes, it has been Kirk that has mostly been seen driving Brooke and Rylee to school each day. Until Brooke started in the sixth grade at Garrett Middle School, Michelle Walker would pick up Anna, Rylee and Brooke at school each afternoon. After Brooke started going to Garrett, Michelle Walker continued to pick up Anna and Rylee each day, but Kirk would pick up Brooke and take her home each day.

10. Sometime in September of 2011, I started to see Vivian Harrison also take Brooke and Rylee to school in the mornings and pick up Brooke after school.

11. There was an incident in the Harrison home in the middle of October of 2011. After that incident, it is my understanding that Michelle Walker stopped car pooling with the Harrisons according to Kirk.

12. For several years, Kirk was in a car pool with other families for dance classes. During all of the years I have taken my daughters to and from dance classes, I frequently saw Kirk Harrison at the dance studio picking up kids or in the parking lot dropping off kids. During all of this time, I very rarely saw Vivian Harrison, if ever, in the dance studio picking up kids or dropping them off for dance.

13. Sometime in September of 2011, I started to also see Vivian pick up kids at the dance studio and dropping them off in the parking lot. After the incident in the middle of October of 2011, it is my understanding the other families stopped car pooling with the Harrisons for dance classes.

14. Similarly, over the years, it has been Kirk that has been with Brooke and Rylee at

their sporting events. I rarely, if ever, saw Vivian at Brooke and Rylee's sporting events.

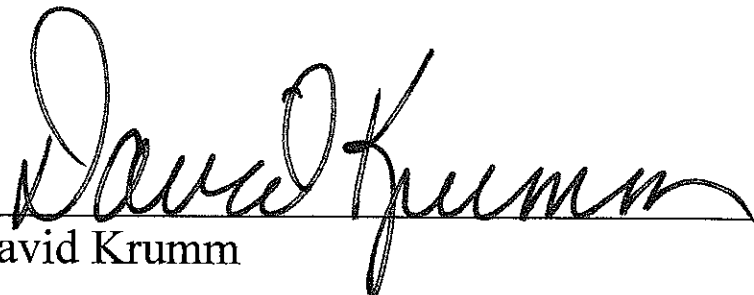
Vivian's lack of involvement with Brooke and Rylee has been particularly noticeable as it has been my understanding that for most of this time she did not have a job.

15. Whenever our kids play together, either Kirk or I will drive my daughters and Brooke and Rylee to and from my home or to and from the Harrison's home.

16. I am also aware that Kirk helps Rylee with her homework, as last year he asked to copy all of the math facts we had for Mrs. Williams class, as our daughter Sydney was in Mrs. Williams class the year before, and we had copies of all their math facts (time tests).

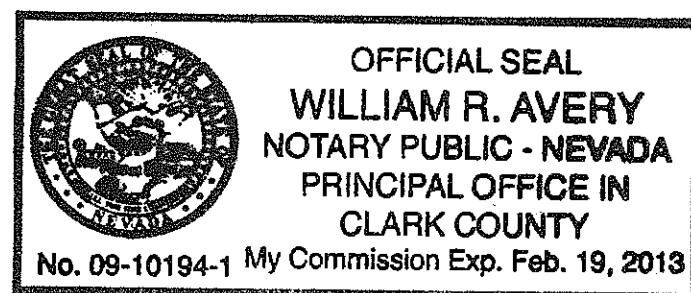
17. Based upon my own experiences and observations of Brooke, Rylee, and Kirk, I know that Kirk is a consistent and loving parent for Brooke and Rylee.

FURTHER AFFIANT SAYETH NAUGHT.

  
David Krumm

Subscribed and sworn before me  
this 19th day of December, 2011.

  
Notary Public



# EXHIBIT 24

**AFFIDAVIT OF KAREN BALKE**  
**filed in Support of Plaintiff's Motion for Primary Custody and Exclusive Possession of**  
**Marital Residence**

STATE OF NEVADA        )  
                                  )       ss.  
COUNTY OF CLARK        )

KAREN BALKE, declares and says:

1.    The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated).  If called upon to testify, I could and would competently testify to the facts set forth herein.

2.    I have lived in Boulder City, Nevada for about 10 years.

3.    I have known Kirk and Vivian Harrison since Joseph was in kindergarten or for about seventeen years.

4.    I was a crossing guard at the corner of Adams Boulevard and B Avenue for the school years 2004/2005, 2005/2006, 2006/2007, 2007/2008.

5.    Beginning in the Spring of 2006 and for the 2006/2007 and 2007/2008 school years, each school day morning I would see Kirk driving Brooke to school and driving her home each school day afternoon.  In the morning, he would always turn onto B Avenue.  During the last school year, I remember seeing him park across the street from Martha P. King and walking Brooke to school each day.  During the school years, 2006/2007 and 2007/2008, each school day morning, I would also see Kirk driving Rylee to Tiny Tots.



6. Beginning in the Spring of 2006 through all the time I was a crossing guard thereafter, I can remember only one time I saw Vivian taking the girls to school and on that day she was riding in the car with Kirk.

FURTHER AFFIANT SAYETH NAUGHT.

Karen Balke  
Karen Balke

State of Nevada  
County of Clark

Subscribed and sworn before me  
this 27th day of December, 2011.

Janis Liebhauser  
Notary Public



**JANIS LIEBHAUSER**  
Notary Public  
State of Nevada  
Appt. No. 06-107628-1  
My Appt. Expires June 28, 2014

# EXHIBIT 25

Dr. Paula Squitieri  
Licensed Psychologist  
8440 W. Lake Mead Blvd., Suite 206  
Las Vegas, NV 89128  
(702)521-5730

2005

Date: 7-1-05

Client Name: Vivian L Harrison

DOB: 8-16-62

Age: 42

Address: 1514 Sunrise Cir BC NV 89005

Referred by: B. Dickerson

Telephone: Home: 2946000 Work: — Emergency: —

Social Security #: 530 74 1447

Occupation: Homemaker

Employer: —

Employer Address: —

Marital Status: ☒ Marries ☐ Divorced ☐ Separated ☐ Widow/Widower

Have you had previous counseling or therapy? ☒ Yes ☐ No

Are you under the care of a doctor? ☐ Yes ☒ No

Are you taking medication? ☒ Yes ☐ No If yes, please list: Shantamine

Spouse's (Parents) Name: Kirk

DOB: 9-14-53

Age: 51

Social Security #: 530 48 2942

Occupation: Attorney

Employer: HARRISON Kemp Jones

Employer Address: 3800 HOWARD HUGHES PKWY 17th Fl  
LV 89108?

2005

7/1/05

Vivian Harrison

42408

S/O: Met c pt. Reviewed informed consent & HIPPA forms. Stay home mother → 5 kids → age 2 → 20. Raised kids mostly by self / Boulder City. UMW → banking/finance/acc'tg. Mental issues / kids: (1) 20yo; MUSTER NW/CA 20yo college John Hopkins / Tahnee (2) 16yo → ADHD / Early School / Athlete / Depressed / only boy (3) Whitney - 18 / Camer / Stay away from home due to conflict / (4) Bronte - 6yo (5) Riley - 2yo. Husband - Kirk - 51yo. Issues: 24yo ago; kids splitting couple; not consistent discipline. Relationship husband strained. Intimacy issues. Jan 4 hx → ø Med hx → ø Mental status: tearful / diff. concentration; R/O Depressive Disorder A/P: 1) Refer indiv to Dr. Duffy / other psychiatrists for eval med mgmt. 2) Fu after MD eval as well.

Offprint MD.

7/6/05

Wuran Hansen

8/0 Met c pt. staying in hotel / separated.

Discussion ~~and~~ around stipulations  
to move back in. Discussion re:  
pro + cons. Suggested write letter  
to husband re: her issues/concerns.  
Pt in agreement.

x/P 1) Referral for daughter → Dr.  
McNaul

2) Fu apt

3) Refer MD eval - Duffy

Spent mo

7/12/05

Kurran Hamman

8/10

Met c pt. Less conflict c eldest daughter. Back in home 2 wks. Following all of husband's requests for participation re: home. Discussed trust issues/resentfulness/intimacy issues; "Don't like being married right now." Discussed pt's family of origin; Mo died 2001 & fa fireman. Pt reported both parents in f.o.o. not involved. / Feels she over-compensated c her kids.

\* / P: Depression, NDS.

1) Fu Dr. Duffy - medical

2) Fu Ind. Therapy → F.O.O. issues/  
Intimacy

~~1/1~~

ffgnt no

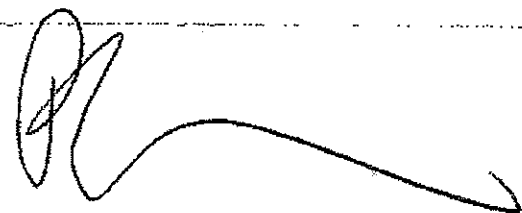
Vivian Hanson

7/26/05

8:10 Met i/g. Met c. Dr. Duffy.  
Rec. Celesta for dinner + also  
met press. Trip to Alaska for  
one week. Daylight met c. Dr. McNeil -  
(positive). Not excited abt trip to  
Alaska. Husband making (+) changes;  
helping more c. kids, dinner etc.  
Luthmeyer still same. Discuss  
about how to communicate to  
husband about what she is  
going through + how to advise him  
to best support his needs at  
this time. Pt agreed - Pt  
medication complaints.

A/P: Dep; Gen Anxiety Dis; Partner  
Related problems (Per Duffy)

(Duffy under tag)





## **VENTANA HEALTH ASSOCIATES**

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**SEAN DUFFY, M.D.**  
*Board Certified In Psychiatry*

SUMMERLIN MEDICAL CENTER  
653 Town Center Drive, Suite 408  
Las Vegas, Nevada 89144  
Telephone: (702) 360-2800  
Fax: (702) 360-2878

July 19, 2005

### **PSYCHIATRIC EVALUATION:**

Re: Vivian Harrison  
Date of Birth: 08/16/62  
Referred By: By Dr. Paul Squittieri, Ph.D.

### **IDENTIFYING INFORMATION:**

This is a 42-year-old married Caucasian female. She has been married to her husband who is an attorney for over 20 years. They have three young adult children ages 20, 18, and 16, and two young children ages 4 and 2. Vivian has no financial problems at this time, but she is considering some legal issues.

### **HISTORY OF PRESENT CIRCUMSTANCES:**

Vivian had difficulties in her family relationships. All three of her older children have had problems of one sort or another. The way she describes as they feel entitled and in a lot of ways, in terms of their inability to do things that have been asked of them which come down to the fundamentals including things like college admissions, applications, and things that one would expected they would be self-directed upon. She has been very involved with this, leading to conflicts with her husband who has a different philosophy of letting the kids be responsible for themselves. He is more of *laisse faire* and she tends to be much more wanting to be proactive in making the children do things. This has led to problems in her relationship with her husband to the point that she actually consulted with an attorney considering divorce and getting out of this situation in regards to her older children and her husband. Her younger children it sounds like are doing okay at this point.

Her oldest daughter has been treated for anxiety and possible obsessive compulsiveness. She has been on medications including serotonin reuptake inhibitors, but has not recently been taking those and apparently is not doing as well from Vivian's perspective, although her daughter says she feels better off the medication. Her 16 year old has been apparently diagnosed with attention deficit disorder and has been treated with stimulants by a psychiatrist here in town. Currently, that child is off the medication for this summer.

Vivian had concerns about her weight. She was taking phentermine last year and just in the last couple of weeks she was given a prescription for *tenuate*, a different type stimulant. This is through a diet clinic and none of her emotional issues were brought up in terms of this prescription.

Symptomatically, what results in the referral this time from the psychologist she is met with three times, is that Vivian is having trouble with disrupted sleep at night. She tends to wake up and not able to go back to sleep. She is feeling very tense, irritable, and reactive to her family dynamics manifesting as frequent arguments and anger on her part. She also has an easy potentiality to crying in discussing this material, which was present through

Vivian Horton

## VENTANA HEALTH ASSOCIATES

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much of today's evaluation. There is no hopelessness and no suicidal thinking, but there is considerable ambivalence about her relationship with her husband and her older children. She may be overeating and/or not able to lose weight in part is a byproduct of what she has been feeling emotionally. There are no panic attacks. No history of eating disorder. Dr. Squitieri mentioned the possibility of some postpartum depression from her last delivery, but it is difficult to distinguish that from the ongoing symptoms that she is describing on the present time. She is open to idea of trying antidepressant to try and help her disposition and mood in coping with these things regardless of what decision she makes, and in fact, she was treated with Effexor from her regular doctor about a year ago which she took for a few months, but the maximal dose she was on was only 75 mg which would have been probably not enough to really help her feel better. Part of the reason Effexor was chosen apparently was because she was taking phentermine, and it is not clear to her whether she has had her thyroid checked at any point in the recent past.

### PAST PSYCHIATRIC HISTORY:

She denies any remote history of depression or anxiety disorders. No history of hospitalization or suicidal thinking.

### PAST MEDICAL HISTORY:

She has a regular menstrual cycle. She does not have a very good libido and has very little to no interest in being sexually active with her husband at this time because of the issues between them. She is on no other prescriptions medications as I understand and has no drug allergies.

### MENTAL STATUS EXAM:

<b>Appearance:</b>	Reveals an alert and oriented mildly overweight Caucasian female who is dressed casually with good grooming and hygiene. Her eye contact was good.
<b>Speech:</b>	A bit pressured through much of the interview due to emotion, but otherwise, normal for volume and rhythm.
<b>Motor Activity:</b>	Within normal limits.
<b>Mood:</b>	Moderately depressed.
<b>Affect:</b>	Anxious and tense.
<b>Thought Processes:</b>	Logical and goal directed.
<b>Thought Content:</b>	There is no suicidal or homicidal ideation. No auditory or visual hallucinations. No thought broadcasting, thought insertion, or paranoid ideation.
<b>Cognition:</b>	Appears grossly intact.
<b>Insight:</b>	Appears fair.
<b>Judgment:</b>	Appears good.

## VENTANA HEALTH ASSOCIATES

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SEAN DUFFY, M.D.

Board Certified In Psychiatry

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Fax: (702) 360-2878

### ASSESSMENT:

Vivian Harrison is a 42-year-old woman who has had some significant problems with her older children which have played into growing problems in her marriage and as a byproduct of this appears to be experiencing symptoms consistent with moderate depression and generalized anxiety. I will also code her as having marital relation problems at this time.

I think the onus of treatment probably is in the therapy but certainly if she wants to try medications to temper some of her reactivity and the anger and whether or not will make a difference in her sleep problems and so forth, I am open to that. I suggested that she not take the stimulants she was just prescribed for weight loss as it has potential to aggravate all of the symptoms that she is complaining of and instead to wait on that and try a serotonin reuptake inhibitor. I chose Celexa, and she will try that, titrating at 10 mg for a week, 20 mg for a week, and then 40 mg if the prior two dosages have gone okay. Risk, benefits, and side affects of SSRIs were described to her, and she gave informed concerns, and she plans on continued individual counseling with Dr. Paul Squittieri.

### DIAGNOSES:

AXIS I: 29622 - Major depression disorder, single episode, and moderate.  
300.02 - Generalized anxiety disorder.  
V61.1 - Partner relational problem.  
AXIS II: Deferred.  
AXIS III: No active medical problems at this time.  
AXIS IV: Moderate.  
AXIS V: Currently 50.

### PLAN:

As per above regarding medications with the understanding that she shall continue to see Dr. Paul Squittieri for therapy. I did order a TSH level for her, and if she has any problems with the medication she is instructed to call me. I will actually meet with her in about eight weeks, which would be about six weeks into taking 40 mg of Celexa and trying and determine if it has been of any benefit to her time in that timeframe. If she does not tolerate the SSRI for some reason, we will either switch to different SSRI or consider another trial.

Thank you for the referral and opportunity to participate in this pleasant woman's care.

Respectfully,

Sean Duffy, M.D.

Diplomate of the American Board of Psychiatry & Neurology

SD/MJ/AK

2011

Dr. Paula Squitieri  
Licensed Clinical Psychologist  
Summerlin Counseling Associates  
8440 W. Lake Mead Blvd., Suite 206  
Las Vegas, Nevada 89128

Date 11/3/11 Client Name Vivian Harrison DOB 8/16/62 Age 49  
Address 1514 Sunnyside Circle Referred by self / previous client  
Boulder City, NV 89005  
Telephone: Home (702) 294-6000 Work (702) 275-0000 Emergency 2003  
Social Security No. 53071147 Occupation \_\_\_\_\_  
Employer \_\_\_\_\_ Address \_\_\_\_\_  
Have you had previous counseling or therapy? Yes \_\_\_ No \_\_\_ Are you under the care of a doctor? Yes \_\_\_ No \_\_\_  
Are you taking medication? \_\_\_\_\_  
Marital Status: Single \_\_\_ Married \_\_\_ Divorced \_\_\_ Separated \_\_\_ Widow/Widower \_\_\_  
Spouse's (Parents) Name \_\_\_\_\_ DOB \_\_\_\_\_ Age \_\_\_\_\_  
Social Security Number \_\_\_\_\_ Occupation \_\_\_\_\_  
Employer \_\_\_\_\_ Address \_\_\_\_\_

Vivian Harrison

11/3/11

S/O: met c pt. Pt requested copy of chart from 2005 & provided. Signed informed consent & HIPAA forms.

Pt reports stress from divorce proceedings. Discussed pt may benefit from supportive therapy during this time. Pt in agreement.

A/P: Fu with individual sessions; as requested. Requies Part

11/17/11

S/O: met c pt for session. Pt reviewed & read documentation by Dr. Bertman, Dr. Teinhaus, etc.

Discussed how she feels she has supportive legal/financial team behind her. Discussed stress management strategies, i.e. deep breathing, progressive muscle relaxation techniques. <sup>sleep</sup> Diet & exercise routine as well.

A/P: Pt will practice techniques in between sessions. Requies Part  
Future: Radical acceptance  
mindfulness work

Vivian Hansen

12/1/11

8/0: Met c pt. Discussion about ongoing issue during divorce proceeding. Overall, pt coping well. Using strategies learned in previous sessions. A/P: Continue c ongoing supportive sessions.

*[Signature]*

12/8/11

8/0:

met c pt for session. pt

staying grounded to her values.

Used metaphor: "Put googles on"

& let the dust get kicked up"

Helped focus pt on moving forward & remembering that

life will be positive & happy

post divorce. A/P: For individual

sessions. pt. making very good

use of therapy sessions; continue

mindfulness practice; continue

radical  
acceptance

12/14/11

Kuan Hanmin

8/10: met c pt for session.  
Pt discussed that she had  
a parent-teacher conference c  
Riley. Kuan happy children doing  
well during this process. Pt. continues  
to utilize coping strategies for  
stress management. Gave pt  
exercise to do at home + review in  
next session - My One-Page Miracle -  
focusing on forward desires re:  
relationships / work / self. Helping pt.  
focusing on moving forward.  
Pt. continues make good progress.  
Mood / affect bright. Pt. looking  
forward to holiday season. For  
index. as needed / requested. Work on  
radical acceptance + mindfulness.  
H. Hanmin

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_ /

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 3**

**ROBERT L. EISENBERG**  
Nevada Bar No. 0950  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
775-786-6868  
[rle@lge.net](mailto:rle@lge.net)

**KIRK R. HARRISON**  
Nevada Bar No. 0861  
1535 Sherri Lane  
Boulder City, Nevada 89005  
702-271-6000  
[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)

***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***



## CHRONO INDEX

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675

**“Exhibit A”**

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VIVIAN HARRISON, being duly sworn, deposes and says:

### A. Background Facts

3. Kirk and I met in 1980 when I was 18 years old and Kirk was 27 years old. We married on November 5, 1982.

5. Neither Kirk nor I drink excessively or use illegal substances. Neither of us has been arrested for any crime.

A.App.420



1           7.       Kirk was previously employed as an attorney. He was a partner at Harrison, Kemp &  
2 Jones until early 2006 when he left the firm. During the time that he was employed full-time as an  
3 attorney (approximately the first 24 years of our marriage), he was gone from the home typically  
4 between 10 to 14 hours per day. This was the case on each workday, and many weekends. He also  
5 travelled extensively as part of his job.  
6

7           8.       He currently earns income acting as a mediator through Harrison Dispute Resolution.

8           9.       Upon information and belief, we have approximately \$15,000,000.00 in assets, of which  
9 \$11,000,000.00 is in cash or liquid securities. Kirk receives regular distributions of \$250,000.00 per  
10 year from a tobacco tort suit that I believe will continue for fifteen more years. I have limited  
11 information as to the status of our accounts and property as Kirk has controlled all financial matters. For  
12 some time, he has provided me with \$3000.00 per month, and paid my American Express bill.  
13

14          10.      All of our children are highly accomplished, and have no special needs. Submitted with  
15 this sworn declaration as Exhibit A-1 is a CD Disk containing school and achievement records of each  
16 child in year format. The children's accomplishments and achievements are addressed in section D  
17 below titled "Children."  
18

19          11.      On September 14, 2011, his birthday, Kirk served my counsel with a 354 page motion in  
20 which he seeks primary physical custody of Brooke and Rylee, and requests that I be limited to  
21 supervised visitation of them. He further seeks exclusive possession of our residence located at 1514  
22 Sunrise Circle, Boulder City, Nevada. For the reasons set forth below, Kirk supports his motion with a  
23 mountain of falsehoods all designed to place me in the most unflattering light available.  
24

25          12.      Kirk's motion provides a warped and incomplete picture of my personal history, and  
26 little personal history for Kirk. I have provided additional information and corrections in section "B"  
27 below, titled "Personal History / Education." Kirk's motion further gives limited insight into my  
28

1 education professional work, or community service (other than to minimize it), and thus I have provided  
2 further information under section "C" titled "Career and Community Service." Kirk has provided very  
3 little information regarding either our older or our younger children and their achievements. I have  
4 included that information in section 'D' below.

5 13. I have finally attempted to address, by category, the bases that Kirk sets forth in his  
6 exceedingly long and repetitive motion. Those bases are outlined in section "G" below, and addressed  
7 in the sections that follow "G."

8  
9 **B. Personal History / Education**

10 14. I was born in Las Vegas, Nevada, in 1962. My parents were divorced when I was about 6  
11 or 7 years old. A year or so later, I remember driving with my mother, and we were stopped at a  
12 stoplight. There were firemen carrying around big black boots in the street collecting donations for  
13 Muscular Dystrophy. I recognized one of the firemen as my father and asked my mother to pull over. He  
14 came to the car and spoke to us for a few minutes. That was the last time I saw my father as a child. I  
15 was eight years old.

16  
17 15. My mother raised me, my half-sister Cindy, my older sister Raylene, and my younger  
18 brother Harold. I was told that the reason I wasn't able to visit my father was because his new wife  
19 didn't want the three of us, (my oldest sister had a different father) visiting all at once because it was too  
20 much of a burden. She had a daughter a year older than me, and she wanted my siblings and I to rotate  
21 visitation or we wouldn't be allowed to visit. My mother felt if she had to raise all of us at the same time  
22 then my father should at least have us visit at the same time . My mother was unwilling to piece meal  
23 our family visitation so we were not allowed to visit. I learned very early in life that parent's fighting  
24 over their children was not a good idea.  
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1           16.     My mother worked full-time as either a casino cashier or a hostess in a casino restaurant.  
2     Unable to support us all entirely on her income and tips, we qualified for public housing, welfare, and  
3     food stamps. Regardless of those facts, contrary to Kirk's claim in his affidavit, at no time were we  
4     simply limited to eating cereal, and though we were poor, we did not miss meals.

5           17.     We lived in North Las Vegas in public housing until I was entering the sixth grade. By  
6     then, my oldest sister Cindy, who was eight years older than me, had become a stripper in Las Vegas. I  
7     later learned that Cindy had been raped by my stepfather after my mother remarried, and that she was  
8     present when he shot himself. Around the same time, my other sister Raylene, who is four years older,  
9     was caught using illegal drugs. My mother sent her to live with my father and his wife and daughter in  
10    Boulder City. In his affidavit, Kirk seems to contend that Raylene's contact with my father was  
11    unknown to me when, in reality, I was aware that she lived with him and continued to have contact with  
12    him.  
13    him.

14           18.     At this time my grandfather retired, and he and my grandmother purchased 10 acres of  
15    desert near a pig farm and built a small house. My mother, brother Harold, and I moved into a single-  
16    wide trailer on that land.  
17    wide trailer on that land.

18           19.     My mother continued to work full-time, and I became the one responsible for taking care  
19    of the house, laundry, and my little brother. My mother worked the graveyard shift, and she was asleep  
20    when we woke up for school in the morning and away at work when we returned home. With her tips  
21    earned from that shift, she would purchase us dinner from a fast-food restaurant like McDonald's and  
22    wake us up about 2:00 a.m. or so to eat. To this day, I do not enjoy eating fast-food.  
23    wake us up about 2:00 a.m. or so to eat. To this day, I do not enjoy eating fast-food.

24           20.     Contrary to Kirk's claims in his motion, my mother never kicked me out of our home.  
25    When I was about 13 years old, I met a family who said I could come live with them so I ran away to  
26    their home. My mother wouldn't allow me to live with them, so I was placed in juvenile hall for a few  
27    their home. My mother wouldn't allow me to live with them, so I was placed in juvenile hall for a few  
28    their home. My mother wouldn't allow me to live with them, so I was placed in juvenile hall for a few

1 days and later placed in Child Haven. I can remember an instance where my grandparents came to visit  
2 me and looked around at the facility I was staying in and commented that it wasn't as bad as they  
3 thought it would be, as if it was an acceptable place for me to live. The court classified me as  
4 "incorrigible" and placed me in the only temporary living facility for girls at the time, Nike House. It  
5 was actually a half-way house for young girls who had been involved with drugs. Ironically, I never  
6 used drugs until I lived in Nike House.  
7

8 21. I lived in Nike House for about 6-9 months, which was longer than the average 1-2  
9 months. I made Jr. Counselor and waited for the State to find a suitable placement for me. My mother  
10 refused to participate in counseling or to visit me. The court eventually changed their classification to  
11 "neglected," and having nowhere else to place me sent me to live with my oldest sister, Cindy, who then  
12 lived in Hawaii.  
13

14 22. Cindy had significant problems. She was an alcoholic and was suicidal. I lived with her  
15 for about six (6) months. Most of that time I was taking care of Cindy, instead of her parenting me. At  
16 15 I met a marine, and I moved with him to Oklahoma to live with friends of his family. Luckily for me,  
17 the father in the family I lived with was a psychiatrist and the mother was a strong LDS woman with six  
18 (6) children. When the marine turned out to be physically abusive to me, the LDS family kicked him out  
19 of their home and allowed me to stay. Not being able to take "no" for an answer, he was later arrested  
20 for pulling a knife on me and forcing sexual contact. He went to jail.  
21

22 23. I note that Kirk makes much of my drug use in my teenage years, but fails to point out  
23 that the last time I used any illegal drug was when I was 15 years old. Contrary to Kirk's false  
24 statement, I never advised him that I used cocaine with my friend Russell, or any other illegal drug when  
25 I was sixteen or seventeen years old. I stopped using any illegal drugs at 15 prior to the time I moved to  
26 Oklahoma as discussed below. It is interesting to note that Kirk's claims regarding my statements to  
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1 him at that time are inconsistent. He claims in his affidavit (at page 1, para. 2) that during the first year  
2 we were together I said what I thought he wanted to hear. If that were the case, why would I tell him I  
3 had been recently been involved in drug use? I didn't, and Kirk's claims regarding my alleged  
4 statements are false.

5         24. The LDS family I lived with in Oklahoma was my strongest positive and moral influence  
6 throughout my childhood. They taught me the value of compassion (they took me in when I had  
7 nowhere else to go), hard work (the stay home mother worked hard to take care of all of her six  
8 children), self-reliance, and education. All of the children worked hard in school, and were active in  
9 sports and extra-curricular activities. I admired the family's honesty and intelligence, and I promised  
10 myself that I would someday have a family like theirs.  
11

12         25. While living in Oklahoma, I got a receptionist job at a large oil and gas firm – I was only  
13 15. They gave me glowing recommendations upon leaving. The family encouraged me to finish my  
14 education, and they aided me in returning back to North Las Vegas, where, I believed, I had a better  
15 chance of supporting myself, completing my education, and establishing plenty of distance between the  
16 abusive marine and myself. I rented a room from my grandparents because they charged me very little.  
17 Upon release from jail in Oklahoma, the marine broke into the Oklahoma family's home and found a  
18 paper which had my flight information on it. He followed me to North Las Vegas where my grandfather  
19 had him arrested and thankfully, I never saw him again.  
20

21         26. I attended just a little over a year of high school classroom instruction, while I was  
22 working as a teller at Valley Bank of Nevada, and earned my high school diploma at age 17 by testing  
23 out of the core classes and by taking the required classes (Nevada History and U S Government for  
24 example) in the evening. I enrolled in the Clark County Community College. I was working at the  
25 downtown branch of Valley Bank where I met Kirk. I was 18, Kirk was 27 and a lawyer.  
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1           27.     Kirk indicates that my grandparents kicked me out of their house. That is a bit ironic  
2 since it was my actions with Kirk that led to me leaving their home. When I took a room with them,  
3 they made it clear that I had a strict curfew of midnight. My grandmother had a bad heart, and my  
4 grandfather did not want my grandmother worrying about me if I was not home until late. One night  
5 Kirk got a bottle of wine that we drank, and I fell asleep at his house. I did not get home until the early  
6 morning hours. I knew I had broken my agreement with my grandmother, I expected her reaction, and I  
7 accepted the consequences of my own actions. Kirk suggested I move in with him, and I did.

8           28.     Prior to moving in with Kirk, Kirk and I were deeply in love, and I asked him to marry  
9 me. We set our wedding date for November of 1982, which was about a year after I moved in with him.  
10 In 1982, I graduated from the Community College of Southern Nevada with an associate's degree in  
11 banking and finance in May, turned 20 in August, and married Kirk in November.  
12

13           29.     As turned out to be the case throughout our marriage, Kirk worked and traveled most of  
14 the time, so I took on a second job working evenings at Dillard's, and I continued my education by  
15 attending UNLV and taking classes toward a degree in accounting. During that time I also earned three  
16 banking diplomas through courses offered by the American Institute of Banking (AIB).  
17

18           30.     At the age of 22, I became pregnant with our first child, Tahnee, who was born on April  
19 18, 1985. Kirk continued to travel extensively on cases and work long hours, and he was away from  
20 home much of the time. I was only able to nurse Tahnee until she was nine (9) months old. I found out I  
21 was pregnant with our second daughter, Whitney, and my doctor discouraged me from continuing to  
22 nurse during my pregnancy. Whitney was born on September 26, 1986. I nursed Whitney until she was  
23 about two (2) years of age. At that time I became pregnant with our son, Joseph, who was born on  
24 March 4, 1989. I nursed Joseph for 2 years. We were not wealthy then, and we lived in a small three  
25 bedroom home. We could not afford outside help, and we did not have either a nanny or maid. I have  
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1 nothing but fond memories of taking care of the babies during that time despite the long hours and hard  
2 work it required. I was exhausted much of the time, but I loved it.

3 31. In regard to my career and education, I stopped working outside the home when Kirk and  
4 I made the decision to have a family (Tahnee was a planned pregnancy). Between the pregnancies and  
5 child rearing, however, I continued to take classes sporadically and work toward completing the credits I  
6 needed for a bachelor's degree in accounting. I worked hard as a student, and when I received my  
7 bachelor's degree in 1990 (approximately 10 years after I graduated from high school), I graduated  
8 number one in my class. I was also the President of the Student Accounting Association, and a member  
9 of the Honor Society. I received the Outstanding Graduate in College of Business and Economics award  
10 from the Alumni Association. I was the first in my family to ever graduate from college, and graduating  
11 from college had been a lifelong dream of mine. My family was incredibly proud of me. I gave them  
12 credit and proper respect for all they were able to do for me. Though in Kirk's eyes, my family did little  
13 for me, I was and continue to be eternally grateful for the sacrifices they made. I note that Kirk's only  
14 comment about my college education was that he paid for it.  
15

16 32. I then enrolled into the masters program at UNLV, and completed my Masters in  
17 Accountancy in 1995. I did most of my assignments and studying while the children were napping, or  
18 after their bedtimes. After completing my master's degree, I interviewed with the UNR School of  
19 Medicine in Las Vegas and considered attending medical school. I decided against it, though, because  
20 Kirk's career was in Las Vegas, and it would have been impossible for me to attend medical school in  
21 Reno without relocating the family. More important, I was not willing to give the time that an education  
22 and career in medicine would have taken away from the children and Kirk. For those reasons, I did not  
23 pursue further college training.  
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1           33.     Perhaps because of our age difference, despite my education in accounting, Kirk is very,  
2 very concerned about money. Kirk has insisted throughout our marriage that he control all of our  
3 finances. He has always insisted on providing me an allowance. The funds that he provided me were  
4 sometimes barely enough to pay for the family's expenses. When I went to him for additional funds, he  
5 would provide those additional funds if I performed sexual favors or massages. That pattern continued  
6 for over 10 years in our marriage; it was demeaning and degrading. It definitely damaged any chance  
7 we had at true intimacy, and our sex life faded to almost nothing over time. Kirk and I stopped having  
8 any sexual relations about four years ago.

10           34.     Kirk's restrictions on my access to money, and need to be in control, certainly had  
11 nothing to do with any idea that I did not know how to account for it. Indeed, in years later, he asked me  
12 to come into his law firm and help them with their accounting, and until last year when Kirk abruptly  
13 took them to someone else without my knowledge, I prepared all of the our tax returns.

15           35.     In 1991, my uncle Pat called to inform me that my father was dying of pancreatic cancer.  
16 He was living in a small RV park in Seattle, Washington. My Uncle was unsure of the exact location of  
17 the park. I took a flight to Seattle and began searching for my father. I had not seen my father since that  
18 day on the street when he was participating in the fireman's boot drive collecting monies for muscular  
19 dystrophy. I wanted to tell him I loved him, show him that I was well, and let him know that I held no ill  
20 feelings towards him. I wanted to ease his mind, and I hoped my being there would help him pass  
21 without feelings of regret. Walking up to the RV unannounced was arguably the hardest thing I've ever  
22 done. I spent four (4) days with my ailing father, and then returned home quickly to pick up our children  
23 and return to Seattle to introduce them to their grandfather before it was too late. The children and I  
24 were only able to spend one day with him before returning home because of his failing health. It turned  
25 out to be the only time they ever got to see him. His health deteriorated rapidly, and I received news that  
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1 he passed two days later. Although it wasn't nearly as much time as I had prayed for, I feel so blessed  
2 that my children and I were able to spend with him what little time he had.

3 36. A short time later I received a call from my oldest sister Cindy's mother-in-law  
4 informing me that Cindy was found dead in her apartment by her children. I phoned my mother of the  
5 news, and we went to her home to identify her body. Cindy, had a very difficult and tumultuous life.  
6 She was married 5 or 6 times and was an alcoholic. She lost her first-born during childbirth, and she was  
7 raped by and held hostage by her stepfather, and she was present when he shot himself. She often  
8 phoned me when she contemplated suicide to seek my counsel, and I was always successful at  
9 convincing her that she should continue living; this time she didn't call. The medical examiner reported  
10 her death as a suicide from an overdose of prescription drugs. This is why I'm so careful in not  
11 exceeding any prescribed medications given to me by my doctors.  
12

13  
14 37. A few years later, my mother had a heart attack. She was still living in the dilapidated  
15 single wide trailer in the desert near the pig farm with no working air conditioning that I had run away  
16 from years earlier. By that time Kirk's firm had received millions of dollars in awards and he was  
17 earning enough salaried income that our family was living very comfortably. I told him I had a difficult  
18 time reconciling the fact that I was living so well and allowing my ailing mother to continue to live in  
19 the conditions in which she was living. I asked Kirk if we could purchase a small house in Anthem for  
20 her to live and charge her the same amount of rent she was paying living in the trailer. To my  
21 amazement, Kirk refused. We fought over this issue for weeks. I simply could not understand how he  
22 could be so uncaring and unwilling to help. There was no reason for him to refuse – I knew this because  
23 I did our taxes each year and saw how much income we were making. Kirk seemed indifferent toward  
24 my feelings for my mother and my need to help her in any way I could. It was not until I told him I  
25 would leave so I could get a job and earn the money to help her that he finally relented. Regardless of  
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1 our disagreements and obvious difference of priority and values, I appreciated him releasing the funds to  
2 buy the house. My mother lived her last six (6) or so years in a home nicer than any she had ever lived  
3 in. It was the first time she had ever had a garage. I still have fond memories of her ringing the doorbell  
4 over and over again while we were moving her in to her new home and the grateful smile she had on her  
5 face. My mother paid me the same nominal amount of rent she was paying for her rent on the land. To  
6 her it was a lot, it was all she had. Her income was only about 14,000 per year working full time. I sold  
7 her trailer for scrap and was able to pay off her car. The last six years was the happiest I ever remember  
8 seeing my mother; I feel fortunate to have shared somewhat in that happiness.

10 38. In 1997, on a day that I was at my son's baseball practice in Las Vegas, I realized I would  
11 be late picking up my eldest daughter, Tahnee, then 12, from dance class in Boulder City. I called my  
12 mother asking if she would mind driving to Boulder City and picking her up for me, and, of course she  
13 said "sure" even after just getting off of work. Tahnee called me a short time later to tell me that my  
14 mother was lying on the floor in the dance studio unable to speak. I called the paramedics and my good  
15 friend Torri Haney a RN to tend to my mother at the dance studio. I was too late. By the time I reached  
16 the Boulder City Hospital my mother was already pronounced dead. Tahnee has confided in me that the  
17 horrifying reality of standing there watching her grandmother pass before her eyes and feeling so  
18 helpless is the reason she is determined to become a doctor. Tahnee is currently enrolled in her first year  
19 of medical school at UNR. Before my mother's death, I promised her I would do whatever I could to  
20 make sure my older sister, Raylene, was taken care of and would never let her become a "bag lady." I  
21 have kept my promise to my mother; I recently purchased a condo for Raylene in Boulder City so she  
22 would always have a home.

26 39. Kirk is very critical of my mother in his motion and it saddens me. I find it extremely  
27 hurtful that he condemns her for having difficulties raising me and my siblings. My mother was a single  
28

1 working mother raising four children. She didn't make enough money to put food on the table, and she  
2 worked hard only making minimum wage. She did not have access to the resources Kirk and I have had  
3 in coping with difficult teenagers (which all of us were). She did not have anyone that would help her.  
4 Kirk's claim that any of my siblings were taken away from her by the court system (Kirk's affidavit,  
5 para. 8, pg.2) is an absolute falsehood. Cindy and I left on our own accord, and my mother and father  
6 decided together that Raylene would be better off living with my father and stepmother where she would  
7 have constant supervision. Harold remained living with my mother, with the exception of two months  
8 after a disagreement (see below), upon reconciliation, he returned home under my mother's care and,  
9 contrary to Kirk's contention, he graduated from high school. Harold went on to serve in the United  
10 State Army. He has been a police officer for the Clark County School District for over 20 years.

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13 40. It is because my mother had little, if any, support that when she was having difficulty  
14 with my brother Harold when he was a teenager, I went to her and told her I would help her in any way I  
15 could. I wanted her to know that someone would be there to help and support her through those  
16 emotional and difficult times. My mother wasn't "delighted and gushing over the attention she was  
17 getting," she was truly grateful that I cared enough to help her and my younger brother. My mother and  
18 Harold reconciled, and I was happy to have played a small part in that. My mother and Harold enjoyed  
19 a loving relationship until she passed.

20  
21 41. Kirk also claims that my mother played bingo rather than come to our children's birthday  
22 parties because "she didn't want to attend a function where someone else was getting all the attention."  
23 The exact opposite is true. My mother was very insecure, and she did not like public functions because  
24 she did *not* want to be the center of attention. Her life had been difficult, and I believe that it made her  
25 feel uncomfortable to be around Kirk and me because she simply did not see herself as fitting in with  
26 our lifestyle. I also note that her "bingo" sessions were always early in the morning, and we never  
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1 scheduled a party during that time. She was usually working in the afternoon/evening hours when the  
2 parties were usually scheduled and therefore unable to attend. However, she always purchased and  
3 brought them a gift. She loved and was very proud of all her grandchildren.

4 42. I find Kirk's comment about my mother being "cold-hearted" hypocritical in light of the  
5 fact that he has no contact with two of his three sisters, Jolynn and Kaye, or their spouses or children  
6 (Kirk's nephews and nieces). When Kirk's father died, he left Kirk and his three sisters land in Utah  
7 that is now our "family" ranch. Kirk wanted the land for himself, so he began putting pressure on his  
8 sisters. One of his sisters, Janie, sold her portion to him, but the other two, Jolynn and Kaye, refused.  
9 They enjoyed visiting the ranch and had many fond childhood memories. His sisters visited the ranch  
10 quite often in fact, they spent more time at the ranch than Kirk did. Kirk ended up with all of the Utah  
11 property, and I was under the impression that he had ultimately convinced his two sisters to sell. It  
12 wasn't until recently that I learned that Kirk actually sued his two sisters, and through legal maneuvering  
13 and intimidation, forced them to sell him their interests. Say what he will about my family, we didn't  
14 sue each other for money. I still speak to and care about my sister Raylene and my brother Harold, and I  
15 had a loving and caring relationship with my mother and grandparents to the very end.

16 43. Kirk also unfairly criticizes my grandparents. He finds it bizarre that they would insist on  
17 ordering for the children in a restaurant when they were paying. This is because Kirk has never been  
18 poor. My grandparents could not afford to allow children to order whatever items they wanted off a  
19 restaurant menu. It wasn't because they were controlling or unkind. In fact it was just the opposite. It  
20 was out of love and kindness that they took us out to eat and we knew it and were appreciative. Further,  
21 Kirk claims that my grandfather "killed a man," implicating that he was a murderer. In reality, a  
22 jaywalking pedestrian lost their life in a car accident in which my grandfather was involved. I can't  
23 even imagine the horror he must have felt and had to live with his entire life. My grandfather was not  
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1 perfect, nor is anyone else, but those things that Kirk has stated in his affidavit are false, or are just  
2 grossly misunderstood by Kirk. I note that my grandfather was the City Manager for North Las Vegas  
3 and well respected by the community.

4 44. Kirk also contends that I “didn’t learn to play well with others,” and that I have no  
5 friends. He then goes to great length to disparage my closest friends, Michelle Walker, Nyla Roberts,  
6 Heather Atkinson and Kim Bailey. Each has provided statements in support of me in this matter. I note  
7 that in the past, Kirk has been jealous of my relationship with friends, and he now appears to have  
8 expanded that jealousy to men and young women. I believe that his affidavit evidences that jealousy. I  
9 am blessed to have great and loyal friends, and many acquaintances with whom I am very friendly and  
10 admire.  
11

12 45. Further, Kirk’s contention that I want to be the center of attention at all times is also  
13 preposterous. I think he confuses being outgoing, friendly and being genuinely interested in others as  
14 trying to be the center of attention. Kirk is very staid and critical; it is very hard to get a read on what he  
15 feels about someone at any given time. As expressed by those who have provided statements, they  
16 thought they were friends with Kirk, only to find out through his affidavit that he does not care for them  
17 in the slightest, and in fact he dislikes them. He generally believes that others have issues, and he is  
18 quick to criticize and show disapproval of anyone or anything. He truly believes that he is better than  
19 others, and he has expressed that to me both indirectly and directly about me, my family, and my  
20 friends.  
21

22 46. As I discuss below, during the first 24 years of our marriage, when Kirk was gone most  
23 of the time, it was not impossible to deal with his constant criticism and negativity because I would have  
24 long periods away from him, and I would find happiness and solace amongst our children and friends in  
25 an environment that was friendly, positive, funny and productive. When Kirk “retired” in early 2006, all  
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1 of that changed. At first he spent the majority of his time in the back office watching TV (his favorite  
2 activity other than watching a screen at the movies). Since he was just sitting there watching TV, I  
3 asked that he take a more active role with the family, instead of doing so he told me that he was just as  
4 involved and accessible to the family as I was because he too was in the house and not at his office. It  
5 was at that point, as discussed below, that my willingness to perform nearly every household task  
6 changed and I began to cut back on duties and responsibilities in hopes to get Kirk and the older children  
7 more involved in contributing to the household and caring for the younger children.  
8

### 9 **C. Career and Community Service**

10 47. I worked for McGladrey & Pullen seasonally from 1990 and 1991. Between 1990 to  
11 1993, I worked part-time for Becker CPA Review Course as an instructor, and in 1994 and 1995 I taught  
12 at the Community College of Southern Nevada as an accounting instructor. In 1995, when our three  
13 oldest children, Tahnee, Whitney and Joseph, all entered school full time, I took a full-time position at  
14 the Nevada Gaming Control Board, where I worked as an agent. While working for the Gaming Control  
15 Board, I was selected to be a part of Leadership Las Vegas, a community leadership program sponsored  
16 by the Las Vegas Chamber of Commerce. The Gaming Control Board was a “family friendly”  
17 employer, and I often was able to get off at 3:00 p.m. and be home with the kids after school and free to  
18 run them to all their after school activities and help with their homework. I also studied for and passed  
19 the CPA National examination.  
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22 48. Wanting to advance my career, in 1997, I took a position as a staff accountant at Arthur  
23 Anderson, the largest accounting firm in the country. Arthur Anderson was extremely competitive and  
24 the work environment was not conducive for raising a young family since working long arduous hours  
25 was expected. I left that position after only six months because it placed a considerable strain on my  
26 family by having both parents not at home daily for extended periods of time.  
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1           49.     After Kirk retired, I went back to UNLV and received a certificate in fashion design in  
2 2008. Upon graduation I was asked by the administrators at the International Academy of Design &  
3 Technology (IADT) if I would be interested in applying. I was hired as an adjunct professor and I  
4 taught Draping, Clothing Construction and Global Economics, courses from 2008 to 2010. Kirk,  
5 disparages my efforts and contends that my teaching classes wasn't work. He also minimizes my efforts  
6 by indicating I taught only a draping class and teaching a class requires no effort after the first semester.  
7 Having never taught school, Kirk is probably just unaware that an instructor has to create and grade  
8 exams, projects, and papers along with having office hours where students can come and receive extra  
9 help when necessary. Kirk is also obviously unaware that it is vitally important that a fashion design  
10 instructor need stay current on designers and current fashion trends. In order to teach a course involving  
11 the design and construction of clothing, you have to know what is in the marketplace and current trends.  
12 To suggest otherwise is simply ignorance.  
13  
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15           50.     I have enjoyed being a full-time, stay-at-home mother and have absolutely no regrets. I  
16 am proud to be the mother of my children and my participation in their successes and would not have  
17 traded it to follow a career for anything. I did think it was important, however, to help others and give  
18 back to my community. I believe my desire comes in part from my last childhood encounter with my  
19 father on the street, where I witnessed him collecting money to help others. I began doing public service  
20 work shortly after our marriage when I turned 21 and was old enough to volunteer for the Junior League  
21 of Southern Nevada, and became involved in fundraisers, events, the thrift store it operates and other  
22 activities. I have also served as a volunteer or acted as an officer of the following: Hope Foundation  
23 USA, Board of Directors; Special Olympics; Boy Scout Summer Camp; Boulder City Planning  
24 Commission, Chairman 1994-1999; Andrew J Mitchell, Reading Tutor, Classroom Volunteer; Martha P  
25 King, Room Parent; Executive Director of the Boulder City Hospital Foundation; Boulder City Hospital  
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1 Art in the Park; Leadership Las Vegas, Class of 1997; UNLV Alumni Association; Southern Nevada  
2 Junior Golf Association, Board of Directors; First Tee of Southern Nevada; Southern Nevada Water  
3 Authority Integrated Resource Plan Advisory Committee; Planning Commissioners Task Force on  
4 Ethics; Southern Nevada Community College Advisory Committee; Boulder City Parks & Recreation  
5 Youth Athletic Coach; LDS Girls Camp, Counselor; Boulder City Little League, Board of Directors,  
6 Fundraising and Event Chair; Boulder City Controlled Growth Ordinance Committee; Historic District  
7 Preservation Plan Study Committee; Chautauqua-History Comes Alive Committee; Boulder City Folk  
8 Festival; Boulder City Juvenile Conference Committee; Boulder City Drug Abuse Council; Girl Scout  
9 Leader: PTA Executive Board; UNLV Student Accounting Association, President.  
10

11 51. I believe that the opportunity to perform community service and charity work is a gift. I  
12 have always tried to be generous with both time and money and believe I have exemplified and  
13 encouraged my children to do the same. As far as I'm aware, Kirk does very little if any community  
14 service, and in the absence of my involvement, donates very little money compared to our wealth. I do  
15 not understand how or why Kirk views my charitable work and donations as something negative.  
16

17 52. Kirk has disparaged much of my work for the Hope Foundation, and he has tried to  
18 diminish that work by essentially naming it a frivolous exercise to find a "soul mate" actor. The Hope  
19 Foundation is a charitable organization founded in Ireland whose primary mission has been to aid poor  
20 street children living in the slums of Calcutta, India. Because I grew up poor, I feel a special need to  
21 help children who have very little. The poverty in India, and on the streets of Calcutta where the Hope  
22 Foundations does the majority of its work, is horrifying. Neglect and starvation are rampant. The  
23 children do not have access to basic services, and are routinely exploited and abused. Children as young  
24 as five turn to drugs to relieve themselves of the pain of hunger and beatings. Girls as young as eight  
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1 years old are forced into prostitution, and sold into human trafficking. When I saw the website, and the  
2 work that the Hope Foundation does, I was moved, and I wanted to be involved.

3 53. Kirk makes the preposterous claim that I am involved with the Hope Foundation so that I  
4 can meet Jonathan Rhys Meyers, an Irish actor. The flaw in Kirk's theory is that Mr. Meyers has never  
5 been scheduled to, and has never gone to, any event that I attended on behalf of the Hope Foundation.  
6 The only connection to Mr. Meyers and my involvement in the Hope Foundation is that I became aware  
7 of the Hope Foundation on a web page of a television show, the Tudors that he acted in. Mr. Meyers is  
8 a "celebrity ambassador" to the Hope Foundation. To my knowledge, Mr. Meyers nor any other  
9 celebrity ambassadors appear regularly at Hope Foundation events, and as indicated, Mr. Meyers was  
10 never scheduled to be at any event I attended through the Hope Foundation. I note that Mr. Meyers lives  
11 in California – if I wanted to meet him, I would have had a better chance driving to L.A. and buying a  
12 map to the houses of the stars than I would travelling to Calcutta, India and Cork, Ireland.  
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15 54. I find it even harder to identify why Kirk dismisses my visit to the slums of Calcutta,  
16 India as a "shopping spree." Attached hereto as Exhibit "A-2" is my initial application to volunteer in a  
17 Hope Foundation project. It's clear that I was not going to Calcutta to shop. I had discussed the trip  
18 with others who had spent time in India, including a friend, Gard Jameson, a philanthropist.  
19

20 55. My trip to India involved aiding children on the streets of Calcutta. During that trip, we  
21 visited various projects to witness the work done and the on-going efforts of the Hope Foundation. I  
22 rode one night in the Foundation's ambulance. The ambulance travels the streets nightly providing  
23 meals and healthcare to the poor, and rescuing abandoned, neglected, abused children from the streets. I  
24 visited a project designed to aid children as young as five who were already addicted to sniffing glue  
25 they were able to obtain from the nearby train tracks in their desperate attempt to numb their agonizing  
26 pain from hunger and abuse. I visited three orphanages and two schools supported by the Hope  
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1 Foundation. I also visited two children's' hospitals supported by the Foundation one of which treated  
2 children with AIDS, and the other treated children with Polio and other critical health care needs. At no  
3 times were there any celebrities present. After that visit I had no doubt that the Hope Foundation was  
4 doing important work, and I was committed in my resolution to be more involved in this organization  
5 and in doing whatever I could to support and promote its efforts.

6  
7 56. While visiting the Projects in India, I met a number of volunteers for the Foundation. One  
8 of whom is Tania Zorilla, a bright, young, and enthusiastic college student that was selected by the  
9 Director to be my roommate. Ms. Zorilla is also a model who at the time was only twenty years old. She  
10 is the young lady Kirk insults who was with me when I called home using Skype to speak with Brooke  
11 and Rylee. I wanted to introduce Tania to my two youngest daughters and Tania too was excited for the  
12 opportunity. She also wanted to meet the girls I spoke incessantly about. Kirk's claim that I was  
13 "snuggling" with Ms. Zorilla is false, and only suggests that his insane jealousy has now extended to  
14 women. Kirk has never met Tania, and she did absolutely nothing to deserve his ridicule and disgusting  
15 insinuation. She is younger than our two older daughters. Tania cared enough about the Hope  
16 Foundation to raise the money so she could go to India to help abused and neglected street children. I  
17 think her actions are a good example for our daughters, and I am glad I introduced her to them. I  
18 support Ms. Zorilla's commitment to volunteerism, and when she asked me to attend a charity fashion  
19 show she was hosting to earn money for her college, I made the effort and arrangements to attend along  
20 with her mother.

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22  
23 57. Further, my Calcutta "shopping spree" as Kirk described it, was composed of four "saris"  
24 that cost a few dollars each – I wore them during the trip. The only other shopping I did was to buy gifts  
25 for our children, Kirk and friends who helped with our family while I was away. I had a 22 hour layover  
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1 in Dubai, and during that layover, I shopped at the airport and bought bottles of Indian perfume for  
2 myself, friends and family along with a few souvenirs such as stuffed camels, books and body oils.

3 58. I took a strip to Ireland so I could visit the Hope Foundation offices, meet the staff,  
4 volunteers and attend its annual Ball. I was appointed to the Hope Foundation Ball Committee and  
5 brought with me various items from the US for auction to help raise monies for projects. While Kirk  
6 feels it's necessary to mock my attendance of the Ball, large and expensive events are the way that many  
7 Foundations attract wealthy, caring and generous donors. It is no different than US charities. Again,  
8 Jonathan Rhys Meyers did not go to the Ball because it was never expected that he would, and being on  
9 the committee, I was well aware of that fact before going to Ireland.  
10

11 59. I readily agree that I wanted to take the opportunity to tour parts of Ireland; indeed, it is a  
12 place I've heard much about and have always wanted to visit. My grandfather is a "Callihan", and my  
13 family emigrated from Ireland. I note that my interest was made even greater after Kirk came back from  
14 a week in Ireland in 2006. As a Christmas gift, I gave Kirk and Joseph a 12 day vacation to Ireland to  
15 fulfill their dreams of attending the Ryder Cup. Unfortunately, Joseph was unable to travel because of a  
16 school conflict, so Kirk invited his friend Cam Walker to join him (although I now use the term "friend"  
17 lightly based upon Kirk's scathing insults of Cam in his second affidavit) . Kirk and Cam told me that  
18 Ireland was beautiful, that they had a fabulous time playing golf, and that watching the Ryder Cup was  
19 "amazing."  
20  
21

22 60. While visiting Ireland and attending the Ball, the Director of the Foundation, Rosaleen  
23 Thomas, approached me about spearheading the effort to establish an office of the Foundation in the  
24 United States. In addition to its offices in Ireland, the Hope Foundation has offices in Germany and  
25 London. Mrs. Thomas told me that the Foundation had tried in the past to establish a presence in the  
26 U.S., but had been unsuccessful at opening an office because the process of establishing a 501(c)(3)  
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1 charitable organization in the U.S. as a foreign entity is not an easy task. She was right. I agreed to take  
2 on the task, and I spoke with Kirk about my desire to establish the organization here.

3 61. Kirk seemed to support my efforts, as he referred me to speak with Les Sully, a lawyer he  
4 knew. I met with Mr. Sully and began the process establishing a not-for-profit corporation, bylaws,  
5 licenses, etc. I was surprised to see Kirk demean those efforts in his affidavit. I am grateful to Mr. Sully  
6 for all his efforts, hard work and support. He would not accept any remuneration for his time. He  
7 expressed his belief in the Hope Foundation, and the value of charitable work.  
8

9 62. As part of my agreement to take on the obligation of establishing the Hope Foundation in  
10 the United States, I felt the need to go back to Ireland and to train and learn as much as possible about  
11 the organization. I frankly did not realize the scope or effect of the task of bringing the Foundation here  
12 when I first committed to it. I wanted to be absolutely certain that the Foundation would be a success  
13 here. It's one thing to volunteer, and another to be on the Board of Directors and be responsible to the  
14 U.S. government and the IRS. I did not feel my previous meetings over the course of one or two days in  
15 Ireland were sufficient due diligence or training, and thus I made a decision to spend a few weeks in  
16 Ireland over the summer to do my due diligence.  
17  
18

19 63. I chose the summer because during that time Kirk and our older children would be home  
20 to help with Brooke and Rylee. I also planned that towards the end of my visit, my entire family would  
21 come to Ireland, visit the Hope Foundation offices, meet the staff, volunteers and supporters. Then we  
22 would travel the countryside and have a memorable family vacation.  
23

24 64. Before Brooke and Rylee arrived in Ireland, other than a week trip to Washington, D.C.  
25 where I lobbied Congress for charitable purposes (see below), I spent time with the directors of the Hope  
26 Foundation, Tania and Rosaleen Thomas, in Cork, Ireland where the main office is located, and at the  
27 Hope Foundation office in Wicklow. I did not spend time traveling with David Walsh as Kirk claims. I  
28

1 hope it is not me that only sees the irony in Kirk claiming that I was traveling to Ireland to meet a  
2 handsome young Irish actor, but chose to have an “affair” with a gray haired married man twice the  
3 actor’s age (at least I think he’s married, he may be divorced, it wasn’t my business and I never told  
4 Kirk he was “happily” married). I accompanied Mr. Walsh in a car during a charity event. The Hope  
5 Foundation had a GT Rally as one of their summer fundraisers and all the staff and volunteers  
6 participated in the Rally. Mr. Walsh is a supporter of the Hope Foundation and sponsors an entire  
7 orphanage for young girls in Calcutta, India.  
8

9 65. I find it odd that Kirk would have so many fantastical theories about what I was doing in  
10 Ireland. Kirk never asked me what I was doing on a day-to-day basis, and in fact he didn’t seem to care  
11 at all. When I telephoned home, he was short on the phone and had a negative, condescending tone.  
12 Any question I asked got a two-word answer if I was lucky. I believe that he was resentful of my  
13 traveling, and for having to take care of the girls while I was away, but I have now been informed that  
14 he spent a great deal of time using others to care for them.  
15

16 66. During that trip, after I was in Ireland for a week I flew to Washington D.C. to lobby with  
17 Kathleen Close and Resolve, a grass roots organization whose mission is to end world hunger and to  
18 eradicate poverty. I also met with Senator Reid, Senator Ensign and others to promote Resolve and the  
19 Hope Foundation. I then flew back to Ireland to complete my training.  
20

21 67. In August, 2010, Kirk and Whitney came to Ireland approximately seven days after  
22 Tahnee had brought Rylee and Brooke, and he stayed for only a week. The girls were there for almost  
23 three weeks. When Kirk visited me in Ireland, I told him about a fundraiser I had been helping the Hope  
24 Foundation organize over the summer (in addition to working on and completing all the documentation  
25 to open The Hope Foundation USA). The fundraiser was a mountain climbing expedition to the base  
26 camp of Mt. Everest. The climbers were to include Irish “celebrities” (a sports radio announcer, artist,  
27  
28

1 and two young actors on Irish soap operas) in an effort to spur media coverage of the event and  
2 correspondingly spread information regarding the Hope Foundation. Kirk asked if I was planning on  
3 going and I said I'd like to, but I wasn't sure if could go since I had already been away from home for an  
4 extended period of time during the summer. I was worried about the time away from the girls (Brooke  
5 and Rylee). At that time, I was excited that Kirk enthusiastically encouraged me to go. He told me that  
6 his friend, Chris Publow, climbed to the Everest Base Camp and then gave a presentation for the Rotary  
7 club about the climb. Kirk related that Chris said it was one of the most amazing experiences he'd ever  
8 had. Kirk said I should go, and I almost hit the floor. With Kirk's assurance, I felt I could go on  
9 something that I had only heard of, climbing Mt. Everest (though this was something very different than  
10 the peak climb which takes about three months). The trip was planned for 22 days. I was very excited  
11 to go, and I was thankful that Kirk was supportive. He was well aware that the one overnight that I left  
12 the girls in Ireland (with Rosaleen Thomas's daughter whom I trusted implicitly, took them to the  
13 Dublin Zoo, an indoor amusement arcade, and to watch the play "Chitty Chitty Bang Bang") was  
14 because I had to attend a mandatory training for the climb. Unfortunately, it appears as though the only  
15 reason Kirk was so supportive of my endeavors and encouraging me to make the climb was so he could  
16 use it against me in his planned custody action by claiming I abandoned and don't love my children.

20 68. I note that after the trip to and from the Mt. Everest base camp (which was a remarkable  
21 success for the Foundation), I travelled back to Ireland to run in the Dublin marathon. Running a full  
22 marathon was again another dream that I had, and I completed the marathon and flew home.

24 69. We have moved forward with the work for the Foundation, and we are likely just weeks  
25 away from the organization being approved in the U.S. Because my future duties will be with the board  
26 of directors here, my trips to Ireland will be few and limited. I am proud of the work that I have done  
27 for the Foundation, and I will continue to support its efforts. I saw what the Foundation does first hand,  
28

1 and it is imperative that its work continues. I will do whatever it takes to promote their mission, and to  
2 ensure its success. I never want a child to endure the horrific, gut wrenching and painful circumstances I  
3 witnessed during the trip to Calcutta.

#### 4 **D. Children**

5 70. One of the clear reasons that Kirk and I are getting a divorce from my perspective is his  
6 failure to recognize or appreciate my role in our family. In his topsy-turvy world, Kirk believes that if  
7 you work to give your children the opportunity to be successful, and then are proud of their  
8 accomplishments, you are a “narcissist.” With the clear understanding that I will be accused of taking  
9 credit for the children’s accomplishments for being proud of our children, I have gathered documents  
10 evidencing the successes, and in some instances the problems, of our children. Submitted as Exhibit A-  
11 A-1 is a compact disc of documents and photographs that are organized by child by year. As is evident  
12 from those documents, our older children have been, Brooke and Rylee are, excellent students that were  
13 and are involved and successful in numerous activities, including music, sports and dance.

14 71. Kirk seems to suggest that the only thing I ever did for the children was gloat about their  
15 accomplishments. He suggests in his affidavit that because I did not cook every meal (he has greatly  
16 exaggerated or misstated nearly everything about cooking, feeding and eating in our home), that  
17 somehow I did not contribute as a mother. That statement reveals a complete lack of understanding of  
18 all that goes into parenting. Kirk seems to dismiss his own admission that he worked long hours for the  
19 first 24 years of our marriage. Kirk’s notion was that he was working so hard at the office fourteen (14)  
20 hours a day and he shouldn’t have to do anything, not even take out the trash or feed the dogs. He  
21 watched television when home, claiming he needed time to “wind down.” He was very little help during  
22 those years.  
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1           72.     I am proud of the fact that our children were involved in activities. Kirk dismisses any  
2 role I had in the children's success in school, sports, music or dance. He suggests that the children were  
3 just naturally gifted. Does he really think that children happily sit down and do their homework each  
4 night, or sign themselves up for dance, piano, golf, tennis, karate and go to the various activities,  
5 practices, lessons, etc.? I'm not taking or asking for credit, but at least some notion that I made  
6 sacrifices for, and contributed to, their success. I wasn't pursuing a career, I was wiping rear ends, and  
7 cleaning up accidents, and balancing schedules, and washing and folding clothes, and taking kids to the  
8 doctor, and cooking meals, and sitting through play dates, and attending so many practices and lessons  
9 that I cannot even possibly count them -- and I loved it. Yet because Kirk didn't have a hot meal waiting  
10 for him each night, he believes that I didn't fulfill my role as a mother and wife. I'm not the one of us  
11 that is delusional.

12  
13  
14           73.     Kirk has a "laissez-faire" style of parenting. He watches a lot of television. He is not  
15 usually the one who signs them up for events and activities, he does not participate in their school (until  
16 a few days ago when he attended the library field trip), and has only transported the children consistently  
17 anywhere in the last two or three years (after he consulted with his divorce counsel).

18  
19           74.     I have been an active parent, and I believe that children, especially children as gifted as  
20 ours (something that Kirk and I agree upon), should be involved in activities. Here is just a short, and  
21 certainly incomplete, list of things that I have done with the children, or directly involved them in:

- 22           a.     I have taught all of the children to read, and I have read extensively with and to all  
23 of the children. All of the children have reading awards for number of pages or  
24 minutes read during a specific school year. Before the time that the children could  
25 read independently, I read all of those pages with the children;  
26  
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- 1           b.     The children have received mountains of awards based on academics. I was the  
2           parent that helped the children with the vast bulk of their homework, but I  
3           certainly understand that our children worked very hard at their schoolwork. Kirk  
4           may not understand this, however, but children don't always run naturally toward  
5           schoolwork after school, and there were many times where I had to push all five  
6           children to study, and complete their assignments and projects;  
7  
8           c.     I supplemented the children's education by tutoring them during the summers  
9           utilizing the Abeka program;  
10  
11          d.     All of the children have participated in swimming lessons. Some started with the  
12          Mommy and me program at six months, but everyone took Red Cross swimming  
13          lessons, or private swim lessons. (My mother didn't know how to swim, and I was  
14          afraid of the children drowning);  
15  
16          e.     All five children have played soccer, and I coached Joseph's soccer team;  
17  
18          f.     All five children have played on softball/baseball teams;  
19  
20          g.     The four oldest children have all played organized basketball;  
21  
22          h.     The older three children were "every sport" every season (golf, basketball,  
23          volleyball, swim, baseball / softball), and all of them lettered in sports in high  
24          school;  
25  
26          i.     All the children have taken dance lessons (Joseph was the first boy in his dance  
27          school);  
28  
29          j.     I sat through almost all of the full practices of all of the children. Even when they  
30          were in high school, I sat through many of the practices, sometimes as the only  
31          parent in the stands (with Brooke in a baby seat).

- 1 k. The older children were in karate when they were five, and Tahnee and Whitney  
2 achieved their junior black belts. I believe Joseph may have also, or was very  
3 close to it.
- 4 l. All five children have taken piano lessons, while Brooke and Rylee have also  
5 taken violin, guitar and drums;
- 6 m. The older children have received art instruction through the Parks and Recreation  
7 Department;
- 8 n. I took the children on many vacations to Disneyland alone (at least once per year  
9 and sometimes twice). Kirk and I once took a vacation without the children to  
10 Paris, but I asked Kirk to come back early because I couldn't stand to be away  
11 from the children and was worried about them. That is the only time I can ever  
12 recall being away from the older girls or Joseph during their childhood.
- 13 o. Joseph played baseball for approximately six years when he was younger.
- 14 p. All the children have taken golf lessons, and Joseph is pursuing a career in  
15 professional golf.
- 16 q. All the kids have been good students. Some have had different struggles and  
17 different strengths. Tahnee and Whitney are graduates of the prestigious and  
18 difficult International Baccalaureate program at Green Valley High School.  
19 Joseph struggled a little, but he was an excellent math student and an incredible  
20 golfer. Brooke and Rylee are both excellent students.
- 21 r. There were days that I was in the car driving the children to places 5 or 6 hours  
22 (see below). We used to joke that Brooke grew up in a car seat.  
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1 s. Tahnee and Whitney were both in the Miss Teen Nevada pageant and others.

2 Tahnee was Miss Teen Nevada.

3 75. Kirk also seems to believe that children naturally want to do all of the extra-curricular  
4 activities, and happily put in all of the work necessary to excel. Again, this is a delusional notion.  
5 Children need to be encouraged, and that encouragement takes many forms, including compliments and  
6 threats and everything in between. If he has the notion that the dialogue, prompting, and effort it takes  
7 to get kids to achieve is easy and fun, it is because he simply hasn't done much of it.  
8

9 76. Tahnee recently indicated that I had her in too many activities. On the other hand,  
10 Whitney recently questioned why I wasn't making the little girls play sports. Brooke tried soccer for 3  
11 seasons, basketball for two seasons, swim for one season, and volleyball for one season, but prefers to  
12 only dance. My experience tells me that Tahnee is right, and that I shouldn't over-schedule the kids.  
13 Consequently, I don't make Brooke play sports. It remains to be seen if Rylee will choose to just dance  
14 or to play other sports. Rylee has tried soccer, T-ball, and swimming, but so far she also prefers to just  
15 dance.  
16

17 77. The older children are accomplished adults. Tahnee is a gifted pianist and attended St.  
18 Andrews University in Scotland for two years and later completed her degree at Johns Hopkins  
19 University. Tahnee is currently enrolled in medical school at the University of Nevada at Reno.  
20 Whitney attended Wake Forest University and married an Army Ranger who is now serving in Kuwait.  
21 She is currently enrolled at a University in North Carolina studying to become a Physician's Assistant.  
22 Our son Joseph attended Clemson University and University of San Diego, and he is finishing his degree  
23 in Business Administration at the University of Nevada, Las Vegas. He is a competitive college golfer  
24 and is striving to play on the PGA Tour.  
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### **E. Kirk's Attempts at Alienation**

78. Kirk claims that I have taken credit for the accomplishments of the children. Frankly, is absurd and ridiculous. I'm not sure from his explanation how he thinks that I took such credit. I certainly never said, "I earned that trophy", or "I'm Miss Teen Nevada", or "I hit that home run," "I won that State Championship," or "That Jr. Black Belt is mine", or "I took that math exam," etc. Did I see to it that they were signed up, had the proper equipment, and went to practice on a consistent basis? Yes, but their achievements are their own. I have been proud of my children's accomplishments like all parents, and if Kirk and others have heard me speak about my children's accomplishments, it's because in that area there is a lot I can talk about.

79. There have been times when I have discussed my role in the children's accomplishments with them. Our daughter Tahnee has a temper, and when angry can make very hurtful comments. For example, she has said, "I'm smarter than you," "have more talent than you", "am more athletic than you", "I went to a better college than you," "I'm going to be more successful than you," "You do nothing, you don't even work", "Its dad's money", etc. (all themes that I believe have been kept alive by Kirk since they are mentioned throughout his motion). I had conversations with Tahnee when she was in high school, after she said something along the lines of the foregoing quotes, reiterating the fact to Tahnee that she was able to achieve so much was because I supported her efforts. Tahnee would then allege I was trying to take credit. The problem wasn't that I wanted to take credit, the problem was that Tahnee was of the belief that she did not need to show any gratitude, and even worse, she could taunt me by telling me that I had no role in her achievements. Do I think she was grateful? Yes, I do. Do I think she said things in the heat of arguments that suggested she wasn't grateful? Yes, I do. Rather than assuring her that I played any role in her success, it is clear (indeed, he even admits it) that Kirk instead

1 fostered the notion, and continues to foster the notion, that I only did anything for Tahnee (or any of the  
2 other children for that matter) because I wanted to take credit for it.

3         80. One of the consistent problems in our marriage has been Kirk's lack of respect for me  
4 when dealing with the children. There are numerous times in his affidavits that he demonstrates this.  
5 When I would attempt to discipline the children by loss of privileges, he often undermined it. Kirk has  
6 on many occasions referred to me as a "freeloader" and he told me in front of the children "you don't  
7 work." He has even convinced the older children that I don't deserve "his money," a theme the two  
8 oldest girls have seemed to latched onto based upon their continual reference to things I buy (of course  
9 neither of them has ever suggested to me that I've spent too much on them). So the Court can see that  
10 Kirk's suggestion that I only buy things for myself is plain wrong, I have attached as Exhibit A-3 a list  
11 of purchases I have made on behalf of the children in the period from 2005 to 2011.  
12  
13

14         81. There are other themes besides the "your freeloading mother is spending too much of my  
15 money" and "she has stolen credit for all your achievements" mantra that he has used to try to alienate  
16 the children. Kirk's most recent invention is that I have favored Tahnee while growing up. I have never  
17 "favored" any child and I love them all immeasurably. Each child had his or her own individual needs  
18 and talents and interests, which I did my best to address. Whitney spent more time with her friends,  
19 because Whitney's personality is very gregarious and social. She loves to be around people; she is very  
20 social and has lots of friends. Tahnee's personality is quite different. She is much more introverted and  
21 enjoys spending time alone. Tahnee loves to stay at home and read, draw and work on the computer.  
22 Being around people is exhausting for Tahnee and she has described herself as having social anxiety. I  
23 supported Whitney's decision to participate in extra-curricular activities and attend the LDS church. I  
24 supported all of the children in everything they did. Sibling rivalry and relationships are always  
25 complicated, and I did my best to help all of them.  
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1           82.     Kirk makes much of the notion that Whitney, at age 13, expressed that she wanted to live  
2 with friends (she never actually did live with anyone else). Whitney had good friends who were LDS,  
3 and she wanted to go to church regularly. She looked at LDS families and compared them to Kirk and  
4 me, and she thought we fell short of her ideal. Again, she was 13 years old. Whitney remained in our  
5 home, and was very involved in church activities, student body office, and other leadership positions at  
6 school. Rather than allowing this to just die, Kirk brings this issue up over and over again. At no time  
7 do I recall ever expressing to Whitney that she should move out of our house.  
8

9           83.     Kirk's repetition of problems that occurred while the children were in high school is on  
10 full display in his motion. He repeats again the incident where I smacked Tahnee and told her to get out  
11 of the house. Kirk, of course, has selectively used or distorted facts. First, he claims Tahnee was  
12 sixteen. In reality she was almost 18, and in her senior year of high school. After arguing for a  
13 significant period in which Tahnee continued to belittle my parenting of our younger children, she  
14 punctuated her argument with a "F\_\_k you," and I smacked her mouth. I am not proud of that fact, but  
15 it was a single incident. Contrary to Kirk's contention, that is the only time I ever recall smacking  
16 Tahnee in the mouth. I fully understand teenagers need to become independent and thus separate  
17 themselves from their parents. I also understand that this struggle for independence may lead to  
18 disagreements. I do not believe, however, that a teenager's desire to gain independence grants them  
19 license to be rude, defiant and ignore their responsibilities  
20  
21

22           84.     Both Kirk and Tahnee have failed to tell the whole story underlying that incident, and by  
23 doing so, have misrepresented it. Tahnee and I began having difficulties when she started high school.  
24 Our family was forced out of our Boulder City home because of a lawsuit Kirk was in with our  
25 neighbor, and we were renting a home in Green Valley. Tahnee and Whitney transferred to Green  
26 Valley High School and were accepted into the International Baccalaureate Program. Both girls made  
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28

1 the golf team and Whitney also made the basketball team and served as an officer in the student  
2 government. During Tahnee's junior year she inexplicably appeared to be shutting down and exhibiting  
3 signs of depression. She became more isolated, quit her dance and piano classes, refused to practice golf,  
4 study for her preparatory ACT Kaplan practice exams and received multiple failing notices. *See Exhibit*  
5 *A-4*, attached hereto. She had also began to talk back and became openly defiant in front of Brooke who  
6 then was only three years old. I took Tahnee to Sue Beglinger, a family counselor, and then to a  
7 psychiatrist, Dr. Elizabeth Tully to prescribe medication. I was seriously concerned about Tahnee's  
8 failing notices, and I wanted to help her overcome her problem. Kirk's only input to this process was to  
9 criticize me for trying to "control" Tahnee. I was extremely thankful when the psychiatrist provided a  
10 medical note that allowed Tahnee additional time to turn in all late assignments, and Tahnee was  
11 eventually able to pull up her grades. Nevertheless, this was a very stressful time for the family.  
12

13  
14 85. We finally moved into a new home in Boulder City, and our fifth child Rylee was born in  
15 January 2003. My conflicts with Tahnee became more frequent and started to escalate. I asked Kirk to  
16 assist me in parenting the older children for months, but Kirk replied that I had "messed up the kids",  
17 and now I wanted him to "fix it." Instead of Kirk becoming supportive, he began to undermine my  
18 authority by belittling me openly in front of the children. He started saying things like, "You know how  
19 your Mom is" and, "just walk away and wait until I get home." After a while, whenever I asked Tahnee  
20 to do anything she did not want to do she said, "No, I'll talk to Dad."  
21

22 86. The day that I asked her to leave, we had been arguing for hours. When I went into a  
23 different room with the little girls, then three and a baby, she would follow and say more. The  
24 conversation became heated. I was tired, and I was angry that she continued to come after me even with  
25 the little girls there. I said things that I shouldn't have – the worst of which was mentioning the  
26 problems she had undergone earlier that school year. I know that hurt Tahnee, and she felt like I was  
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1 abandoning her by telling her to leave. I simply wanted to stop the arguments, and I did not truly think  
2 she would be gone for any length of time. It was wrong, and I regret it, but what truly made it an  
3 incident that continues to be brought up over and over again is the way Kirk reacted.

4         87. Tahnee did leave the house that day, but I knew where she would go, her friend Heather's  
5 house. Tahnee had a place to go and was not in any danger or living on the street. I was hoping for two  
6 things, 1) Kirk would realize the severity of the situation and step up and help parent; and, 2) Tahnee  
7 would realize how good she had it and make a commitment to change and participate with her family in  
8 a positive nature. Instead, Kirk retrieved Tahnee from Heather's (exactly where I suspected she would  
9 go) and brought her home. In front of the children he said "this house belongs to the children" and that  
10 it was going to "always be their home no matter what they say or do." In other words, the children need  
11 not show me any respect, were free to do whatever they wanted or did not want to do at the home, and  
12 there was not going to be any consequence. Kirk expresses his view in his motion that the children's  
13 only "fault" was to want some independence from me, or to dare to question a decision I made  
14 concerning them.

15         88. I note that in his motion he presents his theme that I could not accept the independence of  
16 the children in a way that makes no sense. Strangely, while saying on the one hand that I was too  
17 involved in the older children's lives (and thus could not accept their independence), he also states that  
18 after giving birth to Rylee and having a toddler, Brooke, I became more focused on the two youngest  
19 children, while I became less tolerant of the oldest three children's attempts to be more independent.  
20 (Kirk's aff. p. 7) That statement is contradictory and illogical. It stands to reason that if I was more  
21 focused on the younger children that I would be less focused on the older three and any of their attempts  
22 to be more independent would be aided by my focus on the younger children.  
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1           89.     Kirk, however, was wrong about what was going on. The person that best expressed  
2 what happened that day was Tahnee. In a letter that she wrote, she outlined how she felt about the  
3 incident. A true and correct copy of that letter is attached hereto as Exhibit A-5. For me, the incident is  
4 over, and I love Tahnee and always will. She should, and I believe does, know that I will be there for  
5 her whenever she needs me for as long as I live.  
6

7           90.     While Kirk is quick to blame me for every ill that has ever occurred in our family, he  
8 fails to mention any of his own confrontations with Whitney and Tahnee. When they were defiant with  
9 him the story had a different ending. He chased Tahnee down the street yelling. My recollection is that  
10 he couldn't catch her and came back empty handed, and it was a while later when Tahnee mustered  
11 enough courage to come home. He also chased Whitney with a hairbrush in our home and caught her  
12 upstairs and spanked her with the brush in hand. He also chased Tahnee while playing golf at the golf  
13 course and she fell down in a hazard and cut her leg. He grabbed her and brought her back to the golf  
14 cart. All of these instances occurred during the same timeframe, and during all the above instances Kirk  
15 used profanity. Kirk did these things only on a few occasions when the girls were defiant with him, and  
16 they stopped being defiant. With me, however, that never happened. I couldn't threaten them with  
17 physical punishment. Tahnee is six feet tall and Whitney is five foot eight and they both are junior black  
18 belts. The girls were bigger, stronger, and faster than me. At five foot three and often with a toddler  
19 and infant in my arms, I posed no real threat to them. With Kirks constant undermining and non-  
20 supportive nature, I could not discipline them in anyway.  
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#### 24           **F.     Deterioration of the Marriage**

25           91.     Kirk and I had significant marital problems after the incidents with the older children.  
26 The children started to go away to college, but would come back every summer. In the summer of 2005,  
27 I asked the girls to do basic chores when they came home, and help with things around the house. They  
28

1 did what they pleased, because Kirk had continually assured them that they did not have to do anything I  
2 had asked of them. When I went to Kirk, he refused to help and continued to undermine and belittle me  
3 in front of the older children. Tahnee and I again were at odds, and again I told her that if she was going  
4 to be disrespectful, she needed to find another place to live. Kirk told me it was Tahnee's house, and if  
5 anyone should have to go anywhere that it was me who should have to leave. That night about 9:00 pm,  
6 I left with Rylee and Brooke and checked in to the Marriott in Green Valley. Contrary to Kirk's gross  
7 exaggeration, I was gone for 16 days, not six weeks, and contrary to Kirk's misrepresentation, he did see  
8 Brooke on her birthday during that time. I spoke to Kirk each day that I was out of the house.

10 92. Part of the time away was me waiting to get an appointment with Robert Dickerson, a  
11 local attorney that had been recommended to me. After meeting with Mr. Dickerson, he told me that he  
12 didn't think I was ready for a divorce because I was still crying about leaving Kirk. Mr. Dickerson  
13 advised me to move back into the home to try and work things out. He also gave me the name of a  
14 therapist, and I made an appointment to see her. After visiting with the therapist, I went to speak to Dr.  
15 Sean Duffy, a psychiatrist, who prescribed Celexa for anxiety. (Dr. Duffy's records are submitted as  
16 Exhibit A-6). After seeing the therapist and Dr. Duffy, I went back into the home and began trying to  
17 resolve our family issues. Although Tahnee and Whitney seemed ambivalent to my return, Kirk was  
18 very supportive and told the kids "this was a good thing." At that time I didn't know Kirk also sought  
19 advice from an attorney (I believe one of the two he's using now). I thought at the time he was trying to  
20 help with the children, but I now believe that this was the beginning of his campaign against me. Kirk  
21 said he would help me deal with the older children, and I held out hope for our future.

25 93. Kirk claims that I criticized him for working too much. That comment probably came  
26 from the context of discussing the problems with the older children, something along the lines of "Kirk,  
27 you don't see what they do, you're never here," or words to that effect. Even so, this wasn't a criticism  
28

1 but a statement of fact, which Kirk confirms in his affidavit “Kirk continued to work extremely hard in  
2 his practice through the 1990’s and into the first five years of the 2000’s”.(at page 4), and “Kirk  
3 continued to work long hours at this practice” (at page 5).

4 94. Kirk “retired” in early 2006. When he received his first large settlement years earlier he  
5 stated that his goal was to retire when he was 50. The only reason he didn’t was that his partners talked  
6 him into putting his name on a lease extension through 2005. Therefore, he retired when he was 51. He  
7 claims that he did so because he was worried about my mental state and my ability to care for the  
8 children. That is just a flat out falsehood. If he was so worried about my mental state, then why would  
9 he leave everything to me in a will he prepared days before he retired? *See* Exhibit A-7 attached hereto.  
10 Moreover, shortly after his retirement he travelled to Ireland and was gone for fourteen days. In reality,  
11 Kirk had earned many millions of dollars through the firm, and he stopped working full time as a lawyer  
12 because he no longer wanted to work, period. It had nothing to do with me, and based upon his actions  
13 after he first retired nothing to do with our children.  
14

15 95. When he first retired, he went through a bit of culture shock. I can still remember him  
16 coming down the first day and saying, “So, what are you going to do today?” He was used to having  
17 direction and having employees – he seemed a bit lost. The next day he came into my office and  
18 announced that he was going to continue to write all of the checks to pay bills, put the stamps on the  
19 envelopes, and then give them to me to mail. I was speechless; he essentially wanted me to mail his  
20 bills like his secretary had been hired to do at his office.  
21

22 96. Kirk didn’t know what to do with himself in the early months of 2006. At first I felt  
23 sorry for him because he was having a hard time with the transition, but feeling sorry for him quickly  
24 vanished when he began relentlessly criticizing me. He began to tell me how to do everything, and  
25 began to run everything--“run” everything, not “do” everything. For example, if I didn’t fill the  
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1 dishwasher right he would want to show me how to load it better. He would suggest to me that the only  
2 reason I know how to do laundry is because he had taught me how to do it. He wouldn't actually load  
3 the dishwasher or do the laundry, he would just explain to me how I should do it better. He didn't seem  
4 to grasp that I had actually been doing these things for the last 24 years, and that his patronizing  
5 suggestions were insulting. Moreover, because he had not done the dishes or laundry in all that time, his  
6 suggestions were often just an announcement of the obvious stated in a way that suggested he had just  
7 invented the wheel. I did not want to fight with him, so I said little in response.

9 97. When he wasn't criticizing and belittling, he would lie on the couch in the back office  
10 and watch television. Kirk loves television, particularly sports and movies. A careful read of his  
11 affidavit will demonstrate that the most common activity he describes with the girls is watching  
12 television. He will sit in front of the television for hours watching sports.

14 98. My position was simple. Now that he was home 24/7, he needed to be a part of the family  
15 and help with the chores and with the children. Kirk was still oblivious to what was going on around him  
16 such as the telephone ringing (he would just let it ring), door knocking (he would just sit until I  
17 answered it) and simple things that needed to get done like the children's homework and preparation for  
18 bed at a reasonable hour, etc. I repeatedly asked him to not close the door in the back office and watch  
19 television, and instead help me with the children and the running of the household. He thought since he  
20 wasn't at the office, that he was helping with the family since he was "at home". I told him that sitting in  
21 the office with the door shut watching television wasn't helping with the family. Kirk replied, "Doesn't  
22 my working 14 hours a day at the office for the last 30 years mean anything?" He also stated that he was  
23 just as involved and accessible to the children lying in the office with the door shut, watching television  
24 as I was sitting in the living room and kitchen where the family congregated. This was absolutely  
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1 ludicrous, and I responded that he couldn't possibly be serious. To my astonishment, he really was  
2 serious.

3         99. It was about that time that our relationship began to really deteriorate. I felt that he did  
4 little, and we did almost nothing together. I still managed to spend time with the children, but Kirk and I  
5 simply didn't get along. Kirk did not respect my role as a mother, and now his attitude suggested that he  
6 only wanted me there if I made his life easier by taking care of the girls, cooking, cleaning etc. When,  
7 as I discuss below, I began doing less of these things for him and our adult children, they were all  
8 angered. Eventually, the resentment and hostility that had been lying under the surface since the older  
9 children's teenage years began to resurface, and it became uncomfortable to even be in the same room as  
10 Kirk. Sometime later, we eventually stopped having any physical intimacy whatsoever, and he  
11 demanded that (apparently since I was useless to him that way as well) I move out of the master  
12 bedroom. Indeed, after he retired he seemed to want to take over any space in the home I occupied.  
13  
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15         100. As stated, after Kirk retired I was frustrated, and I decided that as long as I continued to  
16 run the entire household, do all that needed to be done, and took responsibility for everything, nothing  
17 was ever going to change. Since I do not watch television, I purchased a Kindle, an electronic book, and  
18 started to take the time to read. My oldest daughter Tahnee, who is an English Literature major, gave me  
19 a list of her favorite authors and series. Since I had not had the opportunity to do much pleasure reading  
20 in the previous 24 years, I took Tahnee's list and began to read the books on it.  
21  
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23         101. When the older children came home from college in late Spring, I decided not to pick up  
24 after everybody constantly and I no longer prepared all the meals. The older kids and Kirk were  
25 surprised and angered by my actions. My belief was that if the older children were going to come back  
26 home as adults they could help by contributing to the household and the household responsibilities like  
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1 cleaning and cooking. Of course, arguing and fighting ensued, and everyone was angry with me and felt  
2 that I was not living up to my “responsibilities” of the running of the entire household.

3 102. Kirk’s suggests that I locked myself in my office each day, and then proceeds to state that  
4 I read my kindle and surf and shop on the internet all day. The obvious question is how he would know  
5 what I was doing behind a locked and closed door. In any event, I was not in my office all day, and I  
6 did not spend my whole day reading or on the internet. Kirk is partially correct. I purchase the majority  
7 of items for myself and for our family online, especially around the holidays and after Christmas sales.  
8 Kirk, however, also receives a number of items from Amazon.com and Cabela’s for himself and many  
9 items for the ranch, as well.  
10

#### 11 **G. Issues Raised By Kirk in his Motion**

12 103. Kirk has set forth a myriad of arguments why I should be restricted from having the girls  
13 in my care. In addition to the issues raised in his motion, he sets forth approximately 160 pages of  
14 factual allegations. I will address the issues addressed in his motion, and any factual allegations that I  
15 believe need to be addressed, but sheer mass prevents me from responding to each and every one of  
16 Kirk’s factual allegations. To the extent such allegations are not specifically addressed in this affidavit,  
17 they are denied.  
18  
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20 104. Kirk’s motion can be distilled into a handful of arguments that can be categorized. I will  
21 address each one of the category of arguments, and any relevant sub-arguments. The categories and  
22 sub-arguments are as follows:  
23

- 24 a. Allegation of “Abandonment” of Children
- 25 b. Mental Health
  - 26 i. Alleged Diagnosis of Narcissistic Personality Disorder
  - 27 ii. Allegation of obsession with Jonathan Rhys Meyers
  - 28

1                   iii. Allegation of obsession with Cosmetic Surgery

2                   iv. Allegation of Mental or Physical Defect due to Drug Use

3                   v. Allegation of Use of “Psychic” as Counselor

4                   c. Alleged Mental and Physical Damage to Children

5                         i. Prenatal Care

6                         ii. “Sleeping” with the Children

7                         iii. Transfer of Testosterone

8                   d. Exclusive Possession of the Residence

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10           **a. Allegation of Abandonment of the Children**

11           105. In early 2006, Kirk said he’d like to drive the girls to school and dance. I was happy  
12 about that, as I had been taking all of the children everywhere for years, and it freed some extra time in  
13 the mornings for me to shower and get ready for the day. Kirk slowly began to fill his days by driving  
14 the kids to school and dance, and then going on bike rides and playing golf. Within a few weeks, I  
15 recall him telling me how he thought I should once again either take girls to school, or pick up Brooke  
16 from school because doing both cut into the middle of the day and would interfere with his golf game  
17 and/or extended bike rides. My response was “welcome to parenting where your time is no longer your  
18 own.” He was not amused. I began again doing some of the driving.  
19  
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21           106. Kirk became more active around the house, but certainly not to the extent that he claims.  
22 For example, Kirk’s contention that he does more of the housework and all of the girls’ laundry than I  
23 do borders on complete fantasy. I have always done all of my laundry, and all of the children’s laundry.  
24 That includes washing and folding all of the sheets and towels in the home. Kirk at some time started  
25 washing his “laundry,” which for the first 24 years of our marriage was composed almost entirely of his  
26 socks, t-shirts and underwear (Kirk took and picked up all of his shirts and suits at the laundry / dry  
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1 cleaners). To this day I still handle the laundry for the girls. Moreover, his contention that he does the  
2 bulk of the housework is also false. Every Wednesday I work with our housekeeper, Liz Castello, to  
3 ensure that the home is clean. In between the housekeeper's visits, I straighten up the house and take  
4 out the trash. At one point Kirk contends that I did not take out the trash for "three weeks." Apparently  
5 he forgot that we have a housekeeper that comes in weekly. Kirk's allegations regarding the laundry  
6 and cleaning are false, and simply designed to present a false impression to the Court. Kirk does feed  
7 the dogs the vast majority of the time and takes the trash cans out to the street and he makes sure  
8 everyone knows it.  
9

10 107. As stated, I stopped sleeping with Kirk in 2005 or 2006. After he commandeered the  
11 master bedroom. I read stories to Brooke and Rylee or they read their own story nightly before falling  
12 asleep. Up until May of this year, I would often time fall asleep with Brooke and Rylee while  
13 snuggling. If I fell asleep I would almost always wake up between the hours of 11:00 p.m. and 1:00 a.m.  
14 and go downstairs and sleep, on the couch. However, since May, after our reading, I remove myself  
15 from the bed while the girls are still awake and lie on the couch in their bedroom. When I wake up,  
16 again usually between the above hours, I go downstairs to sleep on the couch.  
17  
18

19 108. Kirk's presentation of our daily duties with the children is inaccurate. On school  
20 mornings I wake Brooke and Rylee, assist them in getting dressed, help them with their hair (if they  
21 want me to), and I prepare and pack their school lunch and a thermos of ice and water. If it's my driving  
22 day, I drive them to school and pick up Brooke. I also share driving them to and from dance. I help the  
23 children with their homework and school projects, when I'm not responding to 350+ page motions. I  
24 continue to volunteer in Rylee's classroom and assist the school during fundraising events. I typically  
25 make them a snack before they go to dance, and if it is my turn to make dinner, I prepare the evening  
26 meal. I have taken the girls to nearly all of their doctor's appointments, and I shop with them for all of  
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1 their dance attire, sports equipment, toiletries, eyeglasses, and the majority of their clothing. I take them  
2 to their hair cut appointments and to have their nails manicured 6-8 times a year. I took Brooke to  
3 physical therapy for 6-10 weeks when her shoulder was ailing. I take them, and sometimes participate  
4 in activities with their friends. We have gone to visit places together and go to summer camps together  
5 etc.

6  
7 109. Brooke and Rylee are very social and have friends with whom they like to spend time,  
8 but Kirk's contention that I drop them off every weekend is false. The children spend probably one or  
9 two nights a month with friends at the most during the school year and one or two nights per week  
10 during the summer. I note that Kirk continually allowed the children to spend evenings and nights at my  
11 friend's homes when I travelled in 2010.

12  
13 110. Kirk claims that "On almost all school mornings Kirk cooks the girls' scrambled eggs,  
14 sausage, bacon or ham, honey toast and orange juice." This was almost immediately a point of  
15 contention between us. I warned Kirk that the children should not have eggs and sausage or bacon every  
16 morning because it is unhealthy and full of fat and cholesterol. He replied he grew up on that diet, and  
17 he has "one of the lowest cholesterol counts in the world." Unfortunately, when we did Rylee's lab tests  
18 earlier this year, it showed that her cholesterol levels were dangerously high, and I made an appointment  
19 with the dietician at the doctor's office and invited Kirk to join me. The dietician told Kirk that Rylee  
20 should have no more than four egg yolks a week, and that amount includes egg yolks in all things she  
21 eats during the week, including breads and pasta. Though he would never listen to my suggestions that  
22 alter the diet of the children, he listened to the dietician, and he has now dramatically cut down her egg  
23 intake. Had he any respect for my role as a co-parent, he might have not waited several years before he  
24 even considered my concerns.  
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1           111. Kirk contends that he has made dinner for years – that statement is a gross exaggeration.  
2 Kirk’s favorite store in the world is Costco, and he purchases prepackaged processed food there. He  
3 does not cook as much as he heats, and until I showed him how to use the George Foreman grill, he  
4 almost never grilled. Before 2006 he did not even get home in time on most days to have dinner with the  
5 children, much less cook it. He has only regularly started to cook since 2010 when he started buying  
6 Costco food so he could cook for the children during the time I was away. Much of the time he  
7 “cooked” I have been away; I am informed and believe he has left much of the responsibility of the care  
8 of the children to others including Tahnee, and Whitney during that time. I note that we now have a  
9 schedule of who prepares dinner for the children, and this has worked well.  
10

11           112. He claims he has “always” purchased groceries for the home – that too is an  
12 exaggeration. Again, he likes to go to Costco and buy large quantities of food but I purchased the bulk  
13 of the groceries prior to 2006. I have mountains of receipts and credit card statements revealing all the  
14 times I’ve gone to Von’s etc. Yes I too go to Costco to shop but undoubtedly, Kirk shops at Costco the  
15 most. Even after 2006, for approximately 18 months, (I believe in 2008-2009), I prepared meals through  
16 Dream Dinners. Dream Dinners was an organization that allowed you to go to their kitchens, use their  
17 fresh ingredients, and put together meal packages that you then wrapped and brought home. I made  
18 multiple dinners at a time, and brought them home for our family. During that period I prepared all of  
19 the dinners. I continue to prepare meals for the children, but Kirk has become more active in “heating”  
20 things for the children, particularly as it has gotten closer to the time of the divorce.  
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23           113. Kirk’s contention that I do not feed Brooke and Rylee is ridiculous and insulting and my  
24 meals for them are not limited to cereal. As Kirk has indicated, I lay down with the children every night  
25 to read them stories. It is a preposterous notion that I would do so after I failed to feed them dinner. I  
26 note that when going through documents as part of my preparation of this affidavit, I found a note  
27  
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1 written by Joseph when he was younger thanking me for the food I cook for him. *See* Exhibit A-8. This  
2 idea that I was not providing food for the older children is also false – none of the children, who were all  
3 active healthy children, wanted for food when they were growing up. Although Kirk was in the home  
4 very little while the children were growing up, he did actually live there. Did he never look into the  
5 refrigerator or pantry? Besides, didn't he contend that he was buying "all the groceries?" The truth is  
6 that I too bought food, and plenty of it, for all of the children and we never, ever, ever went hungry!

8 114. Though Kirk claims I "checked out" in 2006, for all the years after that I have still done  
9 all of the things with the girls that I did before and quite possibly more. I volunteered in their schools, I  
10 was active in the Parent Advisory Committee (PAC, Boulder City's version of the PTA), I participated  
11 in book fairs and anything else the PAC was doing, I went on field trips, vacations, I bought the  
12 children's school, music instruments, dance, & sport supplies, I did the bulk of their clothes shopping,  
13 scheduled all their activities including dance and music lessons, I took them to the doctor and dentist,  
14 etc. etc. etc.

16 115. What Kirk is referring to, fairly, is that I checked out of my relationship with him. After  
17 we stopped having any intimacy, and after he could not seem to muster a kind word or thought toward  
18 me, it became uncomfortable to spend time together, and this became progressively worse over time. I  
19 have avoided going to social functions with Kirk because it's awkward for both of us. In reality, we have  
20 been separated for four to five years. Kirk and I don't do much together, other than go to the children's  
21 events.

24 116. Kirk's contention that I have not participated in family events is false. I have always  
25 participated in the children's birthday festivities and I have planned the parties, day outs, etc. (Kirk  
26 started to buy a gift and pick up a Von's cake a few years ago, and now he believes he's in charge of  
27 planning family activities.) I continue to participate in all Christmas activities and I have even made  
28

1 sure that the children did things for Kirk on his birthdays, Christmas, Father's day and other holidays;  
2 that won't and hasn't changed even after this divorce. Even today in the midst of the divorce, I helped  
3 the little girls to make a cake, cook a special dinner, and buy a gift for their father's birthday in  
4 September (actually four days after he served me with his motion). Some people believe that this was a  
5 strange thing for me to do, but I am hoping to send the message that it's okay with me for our girls to  
6 love their father. I only wish that Kirk would send the children the same message.  
7

8 117. After I stopped picking up after the adult children and they had to do more of their own  
9 chores, the home became a chorus of complaints. I did spend time on my own reading during those  
10 times, but the complaints were not really about me reading too much. The complaints were about my  
11 unwillingness to cater to the adults. The irony of all of this regarding the adult children, of course, is  
12 that the girls, I am informed, ultimately stopped staying at the home because Kirk was giving them so  
13 much of the responsibility for caring for Brooke and Rylee while I travelled last year. Whitney is  
14 married now, so she will not be living at the home, and Tahnee now attends medical school in Reno, and  
15 to my knowledge she has no plans to live in the home again.  
16

17 118. In 2006 I was looking for hobbies that I could do with the younger girls. I bought a  
18 sewing machine, and so did my friend Heather Atkinson. During the summer of 2006, when the adult  
19 children were up in arms about my failure to cook and pick up after them, etc., I spent the bulk of the  
20 summer with Rylee and Brooke doing crafts classes at Michaels. The girls loved it. They got to play  
21 with Heather's children, Kayla and Kyler, and they had a blast and continue to enjoy their friendship  
22 today. We made many great projects, and we all had fun. We were there daily for weeks and weeks.  
23 We continued to do projects and take crafts classes at various locations throughout the years. We made  
24 quilts, learned to knit and crochet, etc. Kirk did not participate in any of the craft activities.  
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1           119. I have also gone to sewing camp for years during the summers in Alabama. First with  
2 Brooke and then her friend and mother (Rylee was too young to participate), and most recently with  
3 Brooke and Rylee and their friends and mother. Those classes, and the 10 day trips associated with  
4 them, have been great fun for everyone involved. We look forward to participating again next summer.

5           120. Kirk during that period and since then has continued his schedule of bike rides, (until he  
6 had a bad accident), golf, travel (to both Ireland in 2005 and then to Australia in 2006 with our daughter  
7 Whitney), and many, many trips to the "family" ranch in Utah. On many occasions Kirk will go up to  
8 the ranch without even stating that he is leaving. He will go anywhere from a day trip, or for as long as  
9 4-6 days at a time. Kirk has occasionally taken Brooke and Rylee, but they seem lately to indicate that  
10 their time at the ranch is boring and prefer not to go. Indeed, apparently recognizing that fact, Kirk  
11 prohibited me from purchasing a Wii game for our family at Christmas. He stated he wanted to buy a  
12 Wii for the ranch to try and entice the children to go, but apparently has never been able, or gotten  
13 around to, setting it up. It has been approximately 5 years (Nov 2006) since he purchased the Wii for the  
14 ranch. I still to this day haven't been allowed to purchase a Wii. Last Christmas I purchased the Xbox  
15 for my children's Christmas gift in 2010 and Kirk was furious, even getting into an argument with my  
16 friend Nyla over the purchase because he believes it would take away from his gift and that the children  
17 wouldn't want to go to the ranch anymore. What's interesting about his trips to Utah is that he has been  
18 building or improving an "apartment" there for over 4 years. There is no reasonable explanation why  
19 such a simple project would take so long. My belief is that Kirk likes to go to the ranch alone, (that's  
20 assuming he goes to the ranch at all or even goes alone) and spend the time away from the family. My  
21 recollection is that during this last summer he took Brooke & Rylee to the ranch only once to haul wood.  
22 That was during the time I was with our daughter Whitney and friends on a Mediterranean Cruise.  
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1           121. Kirk's general comments that I have not been around for the girls is simply untrue. The  
2 two "witnesses" that he provides (our adult daughters) have only been around mainly during summers  
3 for the last several years. Tahnee moved out of our home into her own apartment in January 2010. Note  
4 too that when they were at the home they felt empowered to go through my receipts, packages, clothing,  
5 desk and computer. They complained, as they have done in their affidavits, that I was spending too  
6 much of their "dad's money." They have been heavily influenced for many years by their father's  
7 failure to treat me with respect, and his claims that I am mentally disabled and a drug addict. They truly  
8 have no idea what happens between me, Kirk and the children when they are gone other than Kirk's  
9 incessant, slanted reports. The more reliable reports are from my closest friends who see me and Kirk  
10 almost daily and spend time with our children almost daily, they are: Heather Atkinson, Michele  
11 Walker, Kim Bailey and Nyla Roberts, all of whom can attest to the time I spend with Brooke and  
12 Rylee.  
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15           122. For the last couple of weeks I have spent much time away from the house in order to help  
16 prepare and research materials for the response to Kirk's gargantuan motion. Other than that, I do not  
17 anticipate being away from the girls for any significant time in the near future. I note that on the  
18 weekend of October 21, I had a trip planned with the children to Disneyland. Our friends Heather and  
19 Jesse Atkinson are season pass holders and go regularly, and we have been many times over the last  
20 several years. Kirk, through counsel, asked that I not go on the trip. I agreed to avoid conflict, but this  
21 is another example of Kirk playing lawyer. There was no reason for him to object to the girls going to  
22 Disneyland other than to preserve his claims for the upcoming hearing.  
23  
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25           123. Kirk has now started to do things that are specifically designed to prevent me from being  
26 around the girls. As indicated, about three years ago Kirk became part of my friend's car pool where  
27 parents alternate driving responsibilities to take and retrieve our children from school and dance. Over  
28

1 time, Kirk began forgetting children, or having difficulties with the children or parents in the car pool.  
2 All of the parents have now refused to participate in the car pool with Kirk. As a result, Kirk is  
3 particularly sensitive to the entire issue of transporting the children to school.

4 124. During the first week of this school year, I had a confrontation with Kirk in our garage in  
5 front of Rylee and it concerned me. There are three separate and distinct garages and in culmination are  
6 very large (4000 square feet, and contains a basketball court and work out area). Kirk and I park our  
7 cars in separate rooms of the garage.

9 125. It was time for Rylee to go to school and Kirk was upstairs in the master bathroom.  
10 Rylee asked me if I would take her. We were in my car pulling out of the garage when Kirk abruptly  
11 came out of the house and up to the car and announced "I'm taking Rylee to school". I replied that I'm  
12 already in the car and its fine I'll take her. He reached to open the car door and said, "It's my job". I  
13 said, "It's not your job Kirk, I'll take her" and continued to back up. He looked angry and turned and  
14 went back into the house. This was very uncomfortable and indeed unsettling. I made a drivign  
15 schedule after that, and we have followed that schedule for the most part.

17 126. Unfortunately, this scene, repeated itself on Friday, October 14 when Kirk again insisted  
18 that he was going to take Rylee to school even though she was already in my car. That morning, Kirk  
19 was at the table helping Brooke study vocabulary words during breakfast. I have never ever seen him do  
20 that (one of several things he has not done before that he is now doing because he has filed an action).  
21 I've witnessed him helping her with math but never vocabulary. I asked Kirk when did he start helping  
22 Brooke with vocabulary, and Kirk, apparently feeling a bit insecure, snapped back, "I've helped her for  
23 two years while you locked yourself away in your office being a no show parent reading vampire  
24 novels." I was stunned; I didn't expect that response. Brooke and Rylee were sitting right next to him at  
25 the breakfast table. I asked Brooke if that was true. She disagreed, and indicated that he had only  
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1 helped her three or four times, and not the previous year. Kirk became incensed and as he was walking  
2 out into the garage he was repeating "3 or 4 times!" and in a raised voice "YOU NEED HELP VIVIAN,  
3 YOU NEED HELP VIVIAN, YOU NEED HELP VIVIAN" again in front of Brooke and Rylee. I told  
4 him he shouldn't say that in front of the girls. I immediately began writing an email to my counsel; and  
5 upon Kirk's return from dropping off Brooke at school about 7-10 minutes later, Kirk stood over me  
6 while I was typing. I told him I could send him a copy if he wanted. He told me "You have no idea what  
7 I'm going to do to you" that he had "so many experts coming after" me, and began to repeat his insults  
8 that I'm a drug addict etc. I wanted Rylee out of there. I told her to go to the car and that I would take  
9 her to school. She went out of the garage door leading to my car and then got inside. I told Kirk that I  
10 was working (responding to his motion) at the Atkinson's home, and since Rylee's school was on my  
11 way I would drop her off.  
12

13  
14 127. I began to walk to my car – I wanted Rylee away from this scene. Kirk came into the  
15 garage as well walking along my left side nudging me away from my car. Kirk was attempting to  
16 intimidate and to block me with his 6'5" frame from entering my car. Rylee was sitting in the car, it was  
17 clear that he was still angry. I wanted to leave. I reached around and opened the car door, and as I was  
18 getting in the car, he forced the door against me by wedging me between the car door and the car. I was  
19 stuck in the door! He had his right hand on or near the door handle and was pushing the door against my  
20 body. I couldn't get into the car nor could I get out. I reached up through the space between the car door  
21 and roof top swung with my right hand the best I could slapping him along the right side of his face  
22 hoping to get him to release me from in between the door and the car. He immediately came across with  
23 his left hand (the hand he was not holding the door with) and struck me in the head hitting the right side  
24 of my face next to my eye and temple area. I yelled "you hit me". Kirk went into full lawyer mode at  
25 that point. He looked at me, and after a few seconds stated "I'm calling the police!" He let up on the  
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1 door, and I immediately entered my car and left and drove to my friend Nyla's home 4 or 5 houses down  
2 around the curved bend on our circle street. I arrived within minutes.

3 128. Upon my immediate arrival at Nyla's home, she answered the door and saw I was crying  
4 and the blood over my right eye. I told her that Kirk had just hit me and Rylee was in the car and saw it  
5 happen. Nyla, told me to come in and sit down on her couch, her husband and two teenage children  
6 were there in the home. She asked Rylee if she wanted to go to school and she said yes. I asked Rylee if  
7 she saw her dad hit me and she responded at first "no" and then she replied "yes". I'm not exactly sure  
8 what Rylee witnessed but I do know she heard what was happening. I'm sickened by the entire  
9 unfortunate and unnecessary incident. Nyla took my car which was still running outside and picked up  
10 Rylee's friend Anna W. and drove them to the school, about 4-5 minutes away. She was pulled over by  
11 three police cars in front of the school for all the parents and children to see. Both Rylee and her best  
12 friend were in the car – Rylee and Anna was petrified according to Nyla. The police questioned both  
13 girls in front of their friends at school and escorted Nyla to her home where I was awaiting her return. I  
14 am not aware from the police what Kirk told them, but judging from a conversation between my counsel  
15 and his this week he is apparently contending that I was trying to set him up by recording the incident.  
16 That is absolutely not true. I didn't call the police, he did. I didn't come to his car (in a different room  
17 of the garage), he came to mine. I told the police what happened, they took a statement, and left. I went  
18 back to my house with Nyla. We both wanted the videotape from the garage to show what had  
19 happened. By the time we got to the house, Kirk already had a tech there and was asking him to get the  
20 tape. He seemed stunned to see me and Nyla. The tech indicated that the system was not operating, and  
21 no tape was made.

22 129. I went to my counsel's office, and he advised me to seek a TPO. I told him that I did not  
23 want to take this case to that level because no good would ever come from it. I asked him to write a  
24

1 letter to my husband's counsel regarding the incident and try to work it out. He did, but to my  
2 knowledge he never received a response to that letter.

3 130. Kirk apparently knowing that it was going to be hard to explain why he was on my side  
4 of the garage has now suggested through his counsel that he has concerns about my driving. What a  
5 stretch. I have only had approximately 3 tickets in my entire 33 years of driving and to my recollection I  
6 have been pulled over once in the last 10-15 years when I drove by a school bus that was stopped across  
7 the highway. That ticket was thrown out by the Judge because there was a divider between the 5 lanes of  
8 traffic and no stop was necessary.

9  
10 131. I believe Kirk's actions were fueled in part because of what occurred the previous  
11 weekend. I have been over at Heather's home working on my response to Kirk's 354 page motion.  
12 Brooke came to Heathers while I was at Heather's so that I could help her complete a huge book report  
13 project. Kirk was aware of this, but he was incensed that Brooke was with me at the Atkinson's.

14  
15 132. He apparently told Brooke on Saturday evening that he was going to pick her up at 9:00  
16 p.m., but we were not going to be done with her project by then. I called Kirk and let him know that we  
17 were not done with the project, and that I would bring her home afterwards. Kirk kept calling Brooke  
18 asking when she would be coming home. I answered the phone and told him not to worry about it, that I  
19 would bring her home when she had completed the project. It was a weekend; there was no reason that  
20 Brooke had to leave in the middle of preparing her project. When I wouldn't agree to do what he asked,  
21 the insults began flying. He yelled that I had to bring her back because I was a "drug addict" and I  
22 needed help. He said it so loud that my friend Heather, who was sitting near me, could hear it over the  
23 phone.  
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1           133. Brooke and I stayed up late, and she continued to work on the project the following day  
2 (Brooke spent the night). The project was a great success. Her teacher showed it to all the classes as  
3 exemplary work.

4           134. Kirk has now told everyone that will that I am a “drug addict” and that I am “crazy.” He  
5 even sent a copy of his giant motion to the attorney, Rodney Woodbury, who is helping me with a real  
6 estate transaction apparently in an effort to convince Mr. Woodbury that he should not represent me.  
7

8           135. Kirk’s action are designed to control everyone and do everything he can to push me out  
9 of the girl’s lives. His false claim of “abandonment” is simply part of that scheme.

10           **b. Mental Health**

11                   **i. Alleged Diagnosis of Narcissistic Personality Disorder**

12           136. Approximately three years ago, as our marriage was clearly deteriorating, I saw Kirk with  
13 a book on narcissism. He claims that he got the book from Tahnee, but the book he identifies in his  
14 affidavit is different than the book he claims Tahnee gave him. From his affidavit, it appears that he  
15 looked at the characteristics of this “disorder” and then tried to mold facts to support his opinion.  
16

17           137. For example, Kirk has contended that I have taken credit for all that the children do. As  
18 addressed above, (*see* paragraphs 71 through 80), that claim is simply false. I have pride in my children,  
19 but I have not tried to live through their achievements. I have been active in my own life, as well as  
20 supporting the children to help them reach their goals.  
21

22           138. Kirk’s contention that I took credit for other matters not related to our children is equally  
23 false. Kirk is correct in saying that he rarely shared any information with me about his cases and clients.  
24 He said he didn’t want to bring work home with him, and I respected his decision so I never asked or  
25 discussed it with him. Consequently, I never gave him any advice regarding his cases; we never spoke  
26 of such things. I never took credit for his work because I wasn’t aware of the work he was doing.  
27  
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1           139. Kirk's claim that I took credit for anything to do with his geothermal company is also  
2 false. Kirk's friend and business associate Piotr Moncarz invited Kirk and I to dinner one evening. We  
3 were discussing possible sites to drill a hole for Geo-Thermal Energy. As part of the general  
4 conversation, I asked if they considered Boulder City as a potential location. I was appointed and served  
5 on the Boulder City planning commission for four years, and I served during the time Nevada Energy  
6 and other energy companies submitted applications to do business. This was just a simple conversation  
7 regarding business – I never promoted or took credit for their later decision to try to do business in  
8 Boulder City. Again, this seemingly random allegation is manufactured by Kirk to fit into his diagnosis.

9  
10           140. I hope the Court can see that it is a bit too convenient that Kirk's chosen diagnosis fits  
11 perfectly into discrediting everything I have done that might influence the court that I am an appropriate  
12 care provider. If the older children have had great success, that doesn't matter because I'm taking credit.  
13 If I do community service or charitable work, that doesn't matter because I just want attention (or if I go  
14 to Calcutta to help poor children, it's a "shopping spree"). If I am generous with friends, I am "buying  
15 their loyalty." If I insist that our adult children show respect and pick up after themselves, I am  
16 "controlling" them. If I try to co-parent with him and allow him to share in the responsibilities of the  
17 younger children, I'm "abandoning" them. If I go on a philanthropic, once in a lifetime opportunity trip  
18 to climb Mt. Everest after he encourages me, I'm being selfish and again abandoning the children. If I  
19 go on trips with other members of the family without the two youngest, I am abandoning them. If I  
20 attempt to improve my appearance, I am being selfish. If I like to joke and have fun with people (which I  
21 do), I am trying to get all of the attention. Hell, he even identified me complimenting our dance teacher  
22 on choreography as a method to bring attention to *me*, and not the dance teacher. I'm curious to know  
23 whether under Kirk's and Dr. Roitman's "diagnosis" there is anything I can actually do without being  
24 deemed a "narcissist."  
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1           141.   Without belaboring all of the points that Kirk has raised in his tome, because Kirk had  
2 repeatedly called me “crazy” to the children and others, I anticipated that he would make that claim  
3 when we went to court (though I was hopeful that we could just agree to each spend time with the girls  
4 and work together – I had no idea of the extent of his anger), so I consulted with Dr. Ole Thienhaus and  
5 asked that he perform a mental examination. As part of that examination, I completed MMPI testing  
6 with Dr. Jill Margolis. A copy of Dr. Thienhaus’s initial report is attached as Exhibit A-9. After I  
7 received Kirk’s motions, my counsel supplied Dr. Thienhaus with a full copy of the motion, including  
8 Dr. Roitman’s “diagnosis,” and requested that he re-examine me in light of the allegations in the motion.  
9 Dr. Thienhaus’s report following that review and interview is attached hereto as Exhibit A-10 Both  
10 reports both find that I have no mental disorder whatsoever.  
11

12           142.   I have never met Dr. Roitman, and I have never spoken to him or his staff. Neither he  
13 nor his staff ever attempted to contact me, or request any information. I never had the opportunity to  
14 provide any evidence rebutting the statements Dr. Roitman reviewed, and much of the information  
15 contained in the statements is false, misstated, mischaracterized, or places me in a false light.  
16

17           143.   I note that I have been under the care of a psychiatrist, Dr. Duffy, primarily to manage the  
18 small amount of medication he prescribed after my brief separation from Kirk in 2005. His records have  
19 been produced to the Court and counsel as Exhibit A-6 hereto. Nothing in Dr. Duffy’s notes or  
20 diagnosis suggest that he has found that I have any personality disorder whatsoever.  
21

22           144.   I have also been seeing a counselor, Marvin Gawryn, for the past 6 months. Mr. Gawryn  
23 was a counselor that Tahnee saw to address her obsessive compulsive disorder and social anxiety in late  
24 2010. Mr. Gawryn suggested that Tahnee engage other members of the family to be involved in the  
25 counseling, and I did so. I have continued to meet with Mr. Gawryn to address family issues, and I have  
26 encouraged Kirk to be involved in that process. He has, for the most part, refused. If he were as  
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28

1 worried about my mental health as he contends he is, it seems to me that he would have taken the  
2 opportunity to address those issues with Mr. Gawryn.

3 145. Dr. Roitman doesn't take into account that I was a sewing and draping instructor for 2  
4 years at IADT. Many of the supplies were furnished to me as an instructor or given to me at  
5 conventions. Some of my classes at UNLV where I received my certificate of Fashion Design required  
6 supplies and materials as well as my continuing education courses.  
7

8 146. I'm curious as to know what dollar amount of clothing Dr. Roitman considers to be  
9 "reasonable and a necessity". I believe the dollar amount or number of items that Dr. Roitman would  
10 consider reasonable would be considerably less than not only what's in my closet but also what's in  
11 Kirk's, Joseph's, Tahnee's, Whitney's Brooke's and Rylee's as well. The entire family dresses well.  
12

13 **b. Allegation of obsession with Jonathan Rhys Meyers**

14 147. Jonathan Rhys Meyers is an actor born in Ireland. He was one of the leads in the  
15 Showtime series, "The Tudors." Tahnee gave me the first season DVD set of the Tudors for my  
16 birthday. Tahnee thought I would love the series because of its historical nature (the life of King Henry  
17 VIII), and because of the beautiful costumes. (I was teaching fashion design at the time). It was a  
18 thoughtful gift, and I enjoyed the series tremendously. Prior to this gift, I never heard of Jonathan Rhys  
19 Meyers nor have seen any movie or television show in which he acted.  
20

21 148. As I watched the series, I placed a picture of the three leads on the family computer in  
22 our kitchen area (it was the marketing photo for the series). I later put a picture of Mr. Meyers as a  
23 screensaver on my personal computer as well. He is a handsome young man, and he followed screen  
24 savers of Johnny Depp, Robert Pattinson and other celebrities over the years. There was nothing  
25 improper about the picture, and if Kirk or the older girls had a problem with it, they could have changed  
26 it at any time since Tahnee was responsible for placing the "Twilight" movie leading male Robert  
27  
28

1     Pattinson on prior to my placing the television show the “Tudors” marketing photo. It stayed as a screen  
2     saver for about 45 days, until I replaced it with a picture of Brooke and Rylee with Santa Claus. I note  
3     that I may have made comments, particularly to friends, about how I found Johnny Depp or Mr. Meyers  
4     or other celebrities attractive, and may have made jokes about getting together with them. That sort of  
5     banter, however, happens frequently among friends.

6  
7     149.     According to the website IMBD, Mr. Meyers has appeared in 37 major motion pictures  
8     and made for TV movies. I have watched 3 of his 37 movies, but I have never even watched his most  
9     popular movie, “Bend it Like Beckham”, which *Kirk* purchased and has had in our video library for  
10    years. A truly obsessed person would have certainly seen all or most of his movies. I have never  
11    researched Jonathan Rhys Meyer’s every move on the internet, nor do I care to. This allegation is yet  
12    another inconsistency claimed by Kirk. He first claims that I researched every move of Mr. Meyers, but  
13    on the other hand I supposedly asked Tahnee on a number of occasions where he was and if she thought  
14    he would be appearing at an event she and I were going to attend.

15  
16    150.     Kirk is correct in that I learned about the Hope Foundation through the website for the  
17    Tudors. That, and his celebrity ambassador status, is the only connection that Mr. Meyers has to the  
18    Hope Foundation.

19  
20    151.     Part of Kirk’s claim of obsession is that I bought clothes that he, or Tahnee, linked to Mr.  
21    Meyers. Let me first note that I teach fashion design, at a fashion design school, among other classes,  
22    and I have a keen interest in fashion. I regularly look to see what clothing is being worn in the fashion  
23    world, which prominently features celebrities. Fashion designers now pay celebrities large sums or give  
24    them clothing simply to wear their designs at various events or to the supermarket because consumers  
25    and industry professionals often look to celebrities to gauge fashion trends.

1           152. Both of the items of clothing that Kirk cites are well-known *women's* clothes. I own a  
2 pair of jeans of the brand that Kirk links to Mr. Meyers, but they are women's jeans. Kirk exaggerates  
3 the cost that I paid for the jeans, and I note that I have several pairs of other types of designer jeans in  
4 the same or similar price range. I own many pairs of jeans of all makes and styles including, Hudson,  
5 PRPS, Levi, Citizen of Humanity, True Religion (my favorite brand), Joes, Seven, etc. In regard to the  
6 pair of Christian Louboutin shoes, I bought them to go with a gown I was wearing to the first Ball I've  
7 ever attended. The shoes retailed for \$1,395, but I bought them at a drastically reduced price, \$575.00.  
8 They were still expensive, but not what Kirk claims. This was a very special occasion, and I did splurge.  
9 I do have other designer shoes in my closet as well.

11           153. Again, the greatest flaw in Kirk's theory about the clothes is that they could not have  
12 been bought to impress Mr. Meyers since he was never scheduled to be at any event I attended for the  
13 Hope Foundation.

15           154. I don't recall saying that I would kill Jonathan Rhys Meyers if he flirted with Tahnee, and  
16 if I said anything even close to that it was a joke. Kirk fails to mention that I have at various times told  
17 him or others that I like certain actors, like Johnny Depp and Jim Carrey. This does not mean, however,  
18 that I am obsessed with them.

20           155. Kirk mentions that I have a Victorian Robe, and that this fact is evidence of my obsession  
21 with Jonathan Rhys Meyers and/or the "Tudors." Kirk's notion is that the robe is consistent with the  
22 costumes in the show. I do have a Victorian Robe among other items from that era, but Kirk's theory  
23 that this has something to do with Mr. Meyers or the "Tudors" is problematic. The Victorian era was  
24 1837-1901, King Henry VIII, upon which the "Tudors" was based, lived in the early 1500's. There is  
25 little or no connection between the clothing of the two eras that were roughly 300 years apart. I think  
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1 that what Kirk may have been referring to were Halloween costumes where I dressed up as Ann Boleyn  
2 and Rylee dressed up as her daughter Queen Elizabeth. *See* photo attached hereto as Exhibit A-11.

3 156. Tahnee apparently contends that I was concerned whether Mr. Meyer would be watching  
4 the television show "Say Yes to the Dress." I don't believe I said anything of the sort, and the entire  
5 notion is absurd. "Say Yes to the Dress" is not aimed toward an audience of young men. Whitney  
6 asked me if I would take her to New York City to buy her wedding dress and appear on the show "Say  
7 Yes to the Dress." I was concerned about my weight, as I usually am. I can't recall, but I may have made  
8 some kind of joke about my weight, because the idea of being on TV did make me nervous. My main  
9 concern, however, was not whether Mr. Meyers or anyone else would watch that show. I was concerned  
10 about the cost of shopping at Kleinfelds, paying for some of the flights, accommodations, and food and  
11 entertainment for Mrs. Birmingham, Mrs. Walker, Tahnee, myself, Whitney and Whitney's friend  
12 Shilpa. I believe the excursion cost somewhere in the neighborhood of \$15,000-20,000. I note that  
13 though Whitney and Tahnee portray me as loud and inappropriate (the type of personality that reality  
14 show hosts relish), our group was apparently too boring to even warrant an episode of the show.  
15  
16

17 157. Though not directly related to Mr. Meyers, since we are addressing my behavior, I will  
18 address the allegations about what I did in New York in 2010. First, I don't recall showing anyone my  
19 underwear. Someone may have seen me dressing or unpacking (we were several girls in a room), I did  
20 not make any effort to show anyone my underwear. I find it disturbing that Kirk, in his affidavit, seems  
21 to know the exact amount of underwear that I have, which suggests he went into my drawers and  
22 counted them in my absence.  
23  
24

25 158. While in New York, with all of the girls spending an extended time together, all of us  
26 started to discuss our family history. During those conversations, Mrs. Birmingham did ask about my  
27 siblings, and I answered her questions honestly. While I don't remember doing so, I may have talked  
28

1 about cosmetic surgery (it's a topic that women of a certain age discuss), and particularly my concern  
2 (fear) about the surgery. I likely did mention my then upcoming trip to Europe, but I am confident my  
3 explanation of what I was doing had no mention of Mr. Meyers whatsoever (except perhaps to explain  
4 how I first learned about the Foundation).

5         159. The allegation that I wanted to go to a sex museum in New York is representative of the  
6 false and twisted presentation of facts found throughout Kirk's Motion. One night at dinner as the ladies  
7 were discussing what to do during the trip Whitney's friend Shilpa said she had gone to the sex museum  
8 in New York. She brought that topic up, not me. Shilpa said it was very "educational," which everyone  
9 present thought was amusing. I can't specifically recall, but I think it likely I may have joked about  
10 going for educational purposes. No one at the table seriously wanted to go the museum, and no one did.  
11 The idea that Mrs. Walker and Mrs. Birmingham, two of the nicest most conservative women I know,  
12 would go to a sex museum is so ludicrous that it *had* to be a joke.  
13  
14

15         160. As indicated above, Mr. Meyers has lent his name as an ambassador to the Hope  
16 Foundation, but that had nothing to do with my involvement in the Foundation. I went to Calcutta to see  
17 and participate in the work the Foundation was doing to aid the plight of desperately poor children. I  
18 became seriously involved after I witnessed firsthand what the conditions were in India, and how  
19 successfully HOPE was helping the street children of Calcutta. I note that before going, I spoke to one of  
20 Whitney's friends, Elyse who has spent time working with children in Calcutta, and I spoke to my friend  
21 Gard Jameson who is a philanthropist who has spent time in India. I did not go to "shop" as Kirk  
22 suggests, and my trip to India, and all subsequent trips for the Hope Foundation, also had nothing  
23 whatsoever to do with Mr. Meyers.  
24  
25

26         161. The plight of poor children has special resonance with me. I had almost nothing as a  
27 child. I was homeless for a short period while living in a teen halfway house. I am grateful that there  
28

1 were people there to help me during that period, and what I went through is only a fraction of the pain  
2 suffered by children in India every second of every day. I give back, not because I want recognition, or  
3 contact with celebrities, I do it because it's the right thing to do. Kirk may have little understanding of  
4 this because he gives very little back to his community or charity. Most of the donations to charity or to  
5 others that are in his name are the result of my prompting him or actually making the donations.

6  
7 162. I note that I have long supported other organizations that have nothing to do with Mr.  
8 Meyers. Almost all of those organizations have celebrity ambassadors or spokespersons, but that has  
9 never weighed in my decision to, for example, give money to American Red Cross, or attend a live  
10 concerts for AIDS research and victims, etc. What mattered to me was the work the organization was  
11 doing, and my "soul mates" motivating me to work for the Hope Foundation are the thousands of  
12 children starving on the streets of Calcutta who can benefit from all of our commitments of time and  
13 resources.  
14

### 15 **iii. Allegation of Obsession with Cosmetic Surgery**

16 163. Kirk contends that the cosmetic procedures that I have undergone are representative of a  
17 mental disorder. The procedures that I have undergone are common for women of my age. The series  
18 of procedures (breast repair, facelift, eyelift, tummy tuck, and liposuction) even have a common name  
19 among patients and professionals, as a "mommy makeover." I am a 49 year old mother who nursed five  
20 children for approximately eleven years, was pregnant for over four years, and wants to look her best. I  
21 am not alone, nor do I think that this is evident of any disorder.  
22

23 164. Kirk tries to fit my surgeries into his "obsession" model by again presenting facts in a  
24 false light. He claims, for example, that when I heard that Whitney moved the date for her wedding, I  
25 was angry because I had scheduled a cosmetic procedure for that date. Kirk fails to point out that my  
26 statement was sarcasm. I was, in essence, mocking myself when I said, while laughing, "you can't have  
27  
28

1 your wedding on that date, I'm going for a butt lift." Everyone laughed, except, apparently, Kirk. I note  
2 that I threw Whitney's bridal shower, and attended her wedding on the date she chose.

3 165. I note too that not all of the procedures that Kirk has identified were cosmetic. I was  
4 born and raised in the Mojave Desert. I have tried to be careful in the sun, but I have noticed some skin  
5 spots that have appeared in the last few years. My mother and grandparents all had skin cancers  
6 removed, and I have a clear understanding that melanoma is the serious and life-threatening condition.  
7 Dr. Michaels has been my dermatologist for about 15 years. He worked at LV Skin & Cancer Clinic,  
8 and then opened up his own office while continuing to work for LV Skin & Cancer Clinic, a couple of  
9 years ago. He has always removed moles, warts and sunspots and any suspicious skin marks. Tahnee,  
10 Whitney, and Joseph have seen him on a number of occasions too. In more recent years, he has done  
11 other skin rejuvenation procedures as well. Dr Michaels has never done a chemical peel on me, but he  
12 has used chemical agents to rejuvenate my skin. I have no information or knowledge to suggest that the  
13 procedures were dangerous, and they were always performed with the knowledge, consultation and  
14 approval of Dr. Michaels.  
15

16 166. Kirk alleges that I have undergone excessive amounts of facial treatments; that claim is  
17 untrue. Betty Peeler is an esthetician, and I regularly go for facials (again a common and beneficial  
18 treatment). I have never, however, had multiple sessions in a week. Ms. Peeler only performs facials.  
19 She doesn't remove age spots on face, arms, hands or other parts of the body as Kirk alleges. I note that  
20 I have taken Whitney, who struggled with acne, for sessions with Ms. Peeler, which may explain why  
21 Kirk believes I have gone for more than weekly treatments.  
22

23 167. I note that the procedures that Kirk complains about arose initially from health concerns.  
24 Seventeen years ago, I had a breast augmentation (a procedure Kirk has never complained about and  
25 belies his claim that my interest in cosmetic surgery is recent). In 2010, I originally went to see Dr.  
26  
27  
28

1 Clemente in Phoenix to replace my silicone breast implants. The implants had been recalled shortly  
2 after their placement, and recently when I went to get a mammogram the nurse had me sign a waiver  
3 releasing them of liability should one of the implants burst during a routine exam. I was concerned  
4 because they were old, taken off the market, and were shown to have safety issues. Nevertheless, I  
5 feared another procedure, and I made the decision to change them only after talking to the original  
6 surgeon and Dr. Clement. They both advised me that they were required to place a slightly larger  
7 implant in for the replacement or the breast tissue would sag and affect the overall appearance.  
8

9 168. When I saw Dr. Clement I asked him about doing a “mommy makeover” at the same  
10 time as the replacement. He did not want to perform even a partial tummy tuck at that time because of  
11 the number hours I would be under anesthesia. He advised me to undergo that procedure at a later time.  
12 I had consulted with him approximately 6 years prior about a lower face lift, but he indicated that he did  
13 not feel I needed a face lift at that time. Dr. Clement did however place a small incision under my chin  
14 and performed liposuction to help flatten that small area. Dr. Clement told me to come back in 5 or 6  
15 years if I was still considering a face lift for an evaluation. When I went to see him regarding the  
16 silicone breast replacement, he indicated that I would now benefit from a lower face-lift (he previously  
17 stated to me that he felt I wasn’t ready for an upper face-lift yet and to see him years down the road).  
18 Once again this belies Kirks claim that my interest in cosmetic surgery is recent. I opted to have the  
19 implants replaced and a lower face lift procedure done at that time. The later appointments (which Kirk  
20 falsely characterizes as more procedures) were for follow-ups, to take out stitches etc. At one of the  
21 routine follow up appointments, Dr. Griffin noticed an uneven area that needed attention. I was required  
22 to schedule another extra appointment to have the anomaly repaired.  
23  
24  
25

26 169. Dr. Clement did not perform the liposuction and fat transfer procedures, and so I was  
27 required to consult with, and have the procedure performed by another doctor, Dr. Griffin. The final  
28

1 procedure in the “mommy makeover” is a tummy tuck. I chose a partial, not full, tummy tuck and it was  
2 performed by Dr. Clement. There was a follow up visit to remove stitches. None of the common  
3 procedures I underwent were excessive or unusual.

4 170. I find it remarkable that Kirk would find that even having *hair removal* is an alleged sign  
5 of instability or sexual promiscuity. It was our daughter Whitney who first broached the subject of laser  
6 hair removal. She asked if I would loan her money for hair removal, and, of course, I agreed. I went  
7 with her to Ideal Image Laser Center, and she purchased a package. I paid for half and Whitney paid the  
8 other half over time. While I was there with Whitney, I decided to have my bikini area done. Having a  
9 bikini wax hurts and having laser removal is permanent and pain free. Again, this is a common  
10 procedure.  
11

12 171. I have had my veins in my legs shrunk by Dr. Vajtial. Again, this is an extremely  
13 common and safe procedure performed regularly to women of my age. I usually go in twice a year to  
14 have spider veins shrunk in an effort to stay on top of it. Over the long run I’m told it will be cheaper.  
15

16 172. Kirk seems to further contend that a nose piercing is a sign of instability. Our daughter  
17 Whitney had a small nose piercing, and she liked it. I didn’t get one until I went to India (mostly all  
18 women in India have them) and had it done as a reminder from the trip. I thought it was pretty, but since  
19 that trip, I let it close.  
20

21 173. Kirk alleges that I buy tanning solution “by the gallons.” His claim is, again, false. I  
22 believe at one point Costco had a sale on Shea butter, and I may have bought 8-10 packages. Kirk, who  
23 shops almost exclusively at Costco, should understand the concept of buying in bulk. I may have  
24 bought a case of toilet paper and paper towels at the same time, but he says nothing of that. I have never  
25 bought “Original Bronz” by the “gallons” as he suggests.  
26  
27  
28

1           174. Kirk is again being hypocritical when he criticizes my cosmetic procedures. Kirk too has  
2 had a nose job (rhinoplasty) and had his teeth repaired through veneers and braces. Kirk is also  
3 concerned about his appearance, but societal norms have different images of beauty for men and  
4 women. It is clear, however, Kirk has no qualms about using commonly used procedures to improve his  
5 appearance, and I believe this is the course that I have taken as well.  
6

7           175. I note that the theme that pervades Kirk's motion, and the affidavits of my adult  
8 daughters, is that I do not have a realistic understanding of my own appearance. I am no more obsessed  
9 with my appearance than many women my age, particularly women with the means to have cosmetic  
10 procedures. No one is suggesting that Barbara Walters is delusional (well, perhaps some on the right),  
11 yet it is readily apparent that she has undergone many cosmetic procedures. I also find the criticism  
12 from Tahnee and Whitney about my clothes purchases is odd considering both have large and extensive  
13 wardrobes of clothes that I have regularly helped them purchase. I certainly did not receive criticism  
14 from those girls when I was helping them in every way possible with their appearance and presentation  
15 when they were competing in pageants. I also believe that is very easy for beautiful young women  
16 without children, who have years before their looks and bodies begin to fade, to sit in judgment of those  
17 who are attempting to improve their appearance through cosmetic surgery and fashion. I love my  
18 daughters eternally, but I believe in this instance they are showing a lack of life experience, and an  
19 unhealthy dose of their father's cynicism.  
20  
21

22                   **iv. Allegation of Mental or Physical Defect due to Drug Use**  
23

24           176. Like many people, I have struggled with my weight for many years. I have typically  
25 dieted when I feel as if I've gained weight or when I believe that my health is at risk. My current weight  
26 of 191 pounds places me in the "obese" category for my height. Although I'm not a doctor, I understand  
27 that being overweight places many health risks such as diabetes, increased risk of heart attacks, high  
28

1 blood pressure etc. I have used various procedures to lose weight, including exercise, diet, and medical  
2 procedures.

3 177. Kirk's largest complaint is in regard to my use of the drug Phentermine, a commonly  
4 prescribed stimulant ("diet pill") prescribed as a diet aid by physicians. In 2005, I sought out medical  
5 help to lose weight because I had gained a significant amount of weight and I was in the "obese"  
6 category. I went to Unicorn Weight Clinic and was seen by the doctors there. The doctors took my  
7 medical history, performed blood tests, administered an EKG, took my blood pressure and performed  
8 various other tests. Once the tests were completed, and I was approved to proceed further, I met with a  
9 bariatric doctor who prescribed Phentermine, and outlined a diet plan. Over the course of about 6  
10 months, I lost 40 pounds. I stopped taking Phentermine for several months after that, but then began  
11 again (after similar testing and evaluation) when my weight increased again.  
12  
13

14 178. Since that time (approximately the beginning of 2006) I have gone on and off various  
15 diets, usually after the holiday season and prior to bathing suit weather. I continued to work on my  
16 weight through Unicorn from 2005 through 2008, and the doctors there prescribed Phentermine. When  
17 Unicorn Weight Clinic moved its offices, I went to Trim Care and worked with its doctors. Its doctors  
18 also prescribed phentermine, and I worked with Trim Care during the year 2008. After 2009 I used the  
19 services of physicians, Dr. J.R. Martin, and Dr. Warren Smith (my general care doctor), who prescribed  
20 the same medication.  
21

22 179. I did not take the Phentermine continually, and there would be periods of months where I  
23 did not take it at all. I have never exceeded my prescribed dosage and have always followed my  
24 doctor's orders on taking any and all medications prescribed. I trusted their medical expertise. Each  
25 reviewed my personal medical history and monitored my lab results. Each performed EKG monitoring,  
26 regularly took my blood pressure, and performed physical examinations.  
27  
28



1           180. The primary side effects linked to phentermine use are damage to the heart and  
2 pulmonary hypertension. I have never been diagnosed or been prescribed medication for pulmonary  
3 hypertension or any heart condition. I have not been diagnosed nor have experienced any delusional  
4 behavior. I have never had an abnormal EKG. My last EKG was in January 2011, I have never had  
5 abnormal blood pressure (always low), and there have been no anomalies in my blood panel results that  
6 I am aware of. There is nothing to suggest that I have suffered any effect from my prior use of  
7 Phentermine.  
8

9           181. During divorce mediation in May, Kirk demanded a copy of all my phentermine  
10 prescription usage since 2006, and I gave him those records. Since May I've gained 40+ pounds from  
11 stress (I am an emotional eater), and went back to the Trim Care doctors to see if there was anything  
12 they could help me with. I told them I could not take Phentermine because of Kirk's allegations of drug  
13 use. They prescribed Bontril. When Kirk raised an issue with that drug as well, I discontinued its use  
14 immediately. If Kirk thought my drug use was a problem, I am unsure why then he filed his complaint  
15 for divorce in April, 2011, but failed to serve it or his motion until September 14, 2011. I'm also unsure  
16 as to why he would pick up my phentermine prescriptions for me at Costco. See Exhibit A-12, attached  
17 hereto.  
18  
19

20           182. I am currently not taking any drugs whatsoever. See, blood test panel results from  
21 LabCorp dated October 5, 2011 showing negative for all drugs of any kind, attached hereto as Exhibit  
22 A-13.  
23

24           183. Several years ago I also went to the Green Valley Spa in St. George, Utah, and tried the  
25 HCG diet (I lost 37 pounds on that diet). She did visit a doctor in St George who specialized in HCG at  
26 the Green Valley Health Spa. I did go to another physician as part of the HCG diet at Trim Care in  
27 Henderson, who added HCG to their line after I went to Green Valley Health Spa. My change to Trim  
28

1 Care was a matter of convenience. During the patient interview, the doctor at Trim Care asked me if I'd  
2 ever been on HCG before and I said "yes," and advised him when and where.

3 184. Kirk's reference to Dr. Sean R. Duffy in relation to phentermine is misplaced. Dr. Duffy,  
4 as stated above, is a psychiatrist and does not prescribe diet pills. Dr. Duffy has prescribed Celexa, a  
5 serotonin uptake inhibitor. Again, I have regularly seen Dr. Duffy in the intervals he requested, and I  
6 have taken only the prescription he gave, and in the amount he stated should be taken.  
7

8 185. In 2009, I was feeling very tired and sleeping more than usual (which was usually the  
9 reason I closed my office door downstairs, something that occurred occasionally, not daily). I thought  
10 because of my age I might be starting early menopause. I went to see Dr. Jeffrey Life and had a battery  
11 of tests done. He found that my estrogen and progesterone levels were normal, and, consequently,  
12 concluded I was not in menopause. He noted, however, that I was severely anemic, and that I had  
13 suffered from menorrhagia (heavy periods), and that had resulted in severely low levels of iron in my  
14 system. He further noted that my testosterone level was very low for my age.  
15

16 186. In October, 2009, as a result of his diagnosis, Dr. Life prescribed iron, various vitamins  
17 and the use of testosterone cream. I note that every six months after that time, Dr. Life has performed a  
18 blood panel, and has monitored all of my hormone levels. He has adjusted my medications and  
19 supplements based on those results. Dr. Life has never prescribed phentermine to me. Again, I have  
20 followed the prescriptions and recommendations of Dr. Life, and undergone all testing he has  
21 recommended.  
22

23 187. Kirk also suggests that my misuse of medications include Gardasil. Gardasil HPV  
24 vaccine is believed to prevent cervical cancer. In 2010, my OBGYN, Dr. Jameson, did a routine pap  
25 smear that came back positive, and I was required to schedule a biopsy and pelvic ultrasound. I was  
26 advised that the results of those tests showed that I had a tumor the size of a baseball on one of my  
27  
28

1 ovaries. I was further told that it was unclear whether it was cancerous. I then consulted with Dr. Spirtos  
2 at the Women's Cancer Clinic. He performed an ultrasound, and advised me that the original ultrasound  
3 was misread by the Radiologist, and that the "tumor" was actually my bladder, which was extended. My  
4 bladder condition dated back to the birth of Rylee, when she bruised my bladder during her delivery, and  
5 I was required to wear a catheter for a number of weeks. I was advised in 2010 that the bruise or damage  
6 had never really healed, and that I was still unable to empty my bladder completely. I went through a  
7 number of procedures at the Cancer Clinic, including an electronic stimulator, which would  
8 continuously send shock pulses to her bladder to stimulate it. I still can't void my bladder completely,  
9 and I will have to try other options to repair the damage in the near future. In any event, my use of  
10 Gardasil arose from my cancer scare, and it was prescribed by my OBGYN. I am unaware of any  
11 indication that Gardasil can cause delusion or any mental instability.  
12  
13

14 188. I note that Kirk makes much of the fact that I was prescribed birth control pills. As  
15 indicated above, I suffered from menorrhagia (heavy bleeding) and Dr. Jameson prescribed birth control  
16 to aid that condition. The birth control pills did not stop the heavy bleeding, so Dr. Jameson prescribed  
17 Mirena, an IUD used to control heavy bleeding. It was suppose to stay in place for five years, but  
18 dislodged after two months. Consequently, Dr. Jameson scheduled me for Nova Sure surgery to stop the  
19 bleeding which basically burns the inside of your uterus. I postponed the surgery and have gone back on  
20 the birth control pills to help reduce some of the menstrual flow.  
21

22 189. I don't ever recall asking Whitney where her old pain medication was located. I don't  
23 need anyone's pain medication because I have such medication that I have been prescribed but never  
24 took. Kirk has rifled through my prescriptions, and listed every prescription or bottle of medicine that I  
25 had at our home. His suggestion is that the existence of such medication demonstrates that I am a drug  
26 addict. The exact opposite is true. The reason that I have so much pain medication at my home is  
27  
28

1 because I rarely use it even when it is prescribed. I have set forth in a chart attached hereto as Exhibit  
2 A-14 a full listing of all of the prescription drug bottles in my name our home, the date of the  
3 prescription, the amount prescribed and issued, and the amount remaining. As is readily apparent from  
4 the chart, I did not take the vast majority of pain medications that were prescribed to me after surgeries  
5 or medical procedures.

6  
7 **i. Allegation of Use of “Psychic” as Counselor**

8 190. Kirk suggests that I regularly consult with a “psychic” to make decisions. I have spoken  
9 to the woman he references (who advertises herself as an intuitive counselor) four times in my entire  
10 life. I note that she, Ms. O’Brien, is not a telephone “psychic,” is the host of a syndicated radio show,  
11 and makes her living passing on “spiritual” advice. I actually liked speaking to her. Like reading a  
12 horoscope, the “advice” she gives is usually upbeat. She was a nice respite from the constant barrage of  
13 criticism from Kirk. Ms. O’Brien does speak of reincarnation and did make a reference to me as a  
14 “master soul”, but I’m not exactly sure what she meant by that. Also like the advice from a horoscope,  
15 she gave general enough advice to apply it to any situation.  
16

17 191. Kirk’s suggestion that I regularly use Ms. O’Brien to make any decision of any kind,  
18 much less ones of import, is simply wrong. Let me note, however, that many people daily make  
19 decisions that are based upon a moral core that is more based upon spirituality than logic. Even if I did  
20 make decisions using a spiritualist, a “psychic”, a horoscope, or a flip of the coin, it is the decision that  
21 matters, not the process.  
22

23 **a. Alleged Mental and Physical Damage to Children**

24 **i. Prenatal Care**

25 192. Kirk’s claim that any physical problem that Rylee may suffer is due to my ingestion of a  
26 tablespoon or two, not a bottle, of castor oil prior to her delivery is not supported by any fact or  
27  
28

1 scientific knowledge that I am aware of. In the days before Rylee's birth, I was at full term and very  
2 uncomfortable. I was constipated, and I took a tablespoon or two of castor oil, which helps with  
3 constipation because I didn't want to take any over the counter laxatives and potentially expose Rylee to  
4 the chemicals in them. Castor Oil is natural and will not harm an unborn child.

5 193. Rylee's birth was a quick delivery, but I am advised that this is not uncommon for a  
6 woman having her fifth child. Moreover, the unusual part of Rylee's birth was not the speed, but the  
7 fact that Rylee emerged face first rather than head first, which caused some concern among the nurses  
8 and physicians there. One of the nurses was Torri Haney, who has provided a statement. There is  
9 absolutely nothing from the medical records or Rylee's birth that suggest that she suffered in any way as  
10 a result of the tablespoon of Castor Oil.  
11

#### 12 **i. Alleged Emotional Abuse**

13 194. Kirk's primary allegation of emotional abuse has to do with his allegation that I have  
14 "abandoned" Brooke and Rylee over the last five years. That claim is false, and I have addressed above  
15 many, but certainly not all, of the activities in which I have engaged with Brooke and Rylee over the last  
16 five years. All of the persons that regularly are around our family can attest to that involvement, and  
17 have done so in their statements attached hereto.  
18

19 195. Kirk's primary argument is that I travelled too much in 2010. I did travel much more in  
20 that year by myself than in all other years combined, but as indicated above, my travel was largely  
21 related to work with the Hope Foundation and establishing an office of the Foundation in the U.S. The  
22 other travel that I engaged in was either with Brooke and Rylee, or with their older siblings. I do not  
23 have the same type of travel commitments to the Hope Foundation in the future now that I've nearly  
24 completed the establishment of the U.S. office, but I still hope to travel to India again (this time with any  
25  
26  
27  
28

1 family member who is willing to come and volunteer). I also still hope to travel with my adult children  
2 when their schedules permit.

3 196. One of the other ways that Kirk claims that I have abused the younger girls because I  
4 have “lied” to them. The only time I can recall telling them anything that was untrue was about Santa  
5 Claus, the Easter Bunny, the Tooth fairy or gifts and surprise parties. I do not state false things about  
6 Kirk to Brooke and Rylee, and instead I am careful to speak kindly about Kirk and encourage their  
7 relationship with him. I see from reading Kirk’s affidavits that the same cannot be said of Kirk. I have,  
8 unlike Kirk, done things to promote his relationship with the girls. Just recently I invited Kirk to  
9 accompany the girls and me on a weekend to my girlfriend’s ranch, and he came. I had invited him to  
10 come to Disneyland with us this past weekend but had to cancel as stated above so I could complete my  
11 response to the motion Kirk filed against me.  
12

13  
14 197. The instance of “lying” that Kirk highlights in his pleading is the MUSE concert. For  
15 Tahnee’s birthday in 2010, I bought tickets to take the three older kids to Salt Lake City on Monday  
16 April 5, 2010 to attend a concert of Tahnee’s favorite band MUSE. Joseph couldn’t attend, so I offered  
17 the ticket to Tahnee so that she could take a friend. Tahnee didn’t have anyone she wanted to take, so I  
18 offered the ticket to Whitney so that she could take a friend. I didn’t have a ticket because I had  
19 committed it to Tahnee, and then to Whitney. As it turned out Whitney never gave her ticket to anyone,  
20 and unfortunately it did go to waste. Had I known that was what was going to happen, I would have  
21 loved to have given the ticket to Brooke because she likes MUSE as well. However, I believe it’s a  
22 moot point anyway since Kirk wouldn’t have allowed her to attend because the concert was on a school  
23 night and we stayed over because the lateness of the concert. I never lied to Brooke about that.  
24

25  
26 198. Kirk further argues that I emotionally abuse the children by constantly criticizing them.  
27 This too is a distortion of reality. It’s very possible he’s referring to when I have told them to brush  
28

1 their teeth because there was something on them, or brush their hair because I could see a knot, or take a  
2 shower because they were dirty, clean their room because it was dirty, or take their chipped nail polish  
3 off before going to school, etc., but these aren't criticisms, they are a part of parenting. I have never  
4 indicated, as Kirk has stated about me in his affidavit, that they lacked athletic ability, or were not good  
5 dancers, had no creative talent etc.

6  
7 199. I note that what I believe is the most significant form of emotional abuse of our children  
8 is Kirk's constant suggestion to them that I don't care about them, or with the adult children, that I am  
9 "crazy." Kirk seems to be planting seeds with the younger children to lose confidence in me, and to  
10 think poorly of me. He disguises it as being "supportive" and either doesn't see it or doesn't think  
11 anyone else will see it as harmful or abusive in its own right. There are numerous examples of this in  
12 Kirk's affidavit, only a few of which are referenced by paragraph number below:

13  
14 ¶68 "I told Brooke Mom is going through a rough time right now."

15 ¶97 Conversation with Brooke reminding her of all the times Vivian was going to be  
16 gone, discussing his "concerns" with what Vivian has done in the past.

17 ¶116 "Brooke told me tonight that Vivian talked to her about she and Rylee going to  
18 Ireland this summer. . . I told Brooke that she could go for a week or two if I went as  
19 well."

20  
21 ¶151 "Later when I was consoling her I asked Brooke how she thought Rylee was dealing  
22 with all of this..."

23 ¶156 "I believe Brooke knows that until very recently I would have quickly dismissed  
24 anything at all said that negatively reflected on Vivian. At some point, it is more  
25 important that your children have an environment where they feel comfortable speaking  
26  
27  
28

1           openly about things that bother them, than to continue to wrongly protect the image of  
2           someone that continues to do harm to your children.”

3           ¶166 “I told Brooke that just like she, Rylee and I had done all year, that we would do the  
4           laundry tomorrow.”

5           200.   Moreover, it is apparent throughout his statements about Brooke and Rylee that he did  
6           nothing to ease their feelings when I was gone from the house. A fair reading of his affidavit is that he  
7           actually stoked their insecurities without reassuring them that I love them and that I would be returning  
8           soon. Kirk is correct that I did get angry, and perhaps said things that I shouldn’t about our divorce (but  
9           did not say all the things that Kirk has alleged), when he suggested to the girls that I was leaving for  
10          Ireland because I didn’t care for them. That evening Brooke asked to go to the Atkinson’s because she  
11          didn’t like to see me pack. I understood, and told her she could go. Kirk completely undermined that,  
12          and set them up for the scene that occurred by his suggestion that my travel was evidence that I didn’t  
13          care about them. In all the years that Kirk was gone from the house, including his extensive travel, and  
14          left me in charge of nearly everything but earning money and paying bills, I never suggested to the  
15          children that he was gone because he didn’t love them.

16           201.   It also seems like he planted these same seeds with the older children that he is now using  
17          to influence them.

18           ¶28 “I would talk to each of the children separately in an effort to solve the then pending  
19          problem.”

20           ¶41 “I told Tahnee how bizarre it is for a mother to say such things to and about her own  
21          children, let alone even think such things. Tahnee and I both agreed how this highlights  
22          just how incredibly insecure Vivian has become and that Vivian feels she is in  
23          competition with her own children and feel threatened by them.”



¶50 “I told [Tahnee] that in her mother’s condition, if we got a divorce and Vivian had partial custody, I would be fearful for Brooke and Rylee.”

¶53 “I told Tahnee that I had done all I could concerning Vivian, and all I could do was be the best father I could and that all of us needed to do our best in looking out for one another.”

¶56 “I told Tahnee that Vivian does not really think Chloe is a better dancer than her. Vivian is simply incredibly insecure and needs to tell others that they are not so hot. I told Tahnee about when Vivian last year told me that nobody wants to be with me.”

¶69 “I telephoned Whitney and expressed concern about this to Whitney saying you are going to be on national television with someone who is not dealing with a full deck right now and it could prove very embarrassing.”

¶75 “I told Tahnee that Vivian’s need for attention is frightening.”

¶106 “That night Tahnee, Joseph, and I talked about some of the issues with Vivian, including the incident at Brooke’s ball game with Bill B. and her meeting a man on the airplane, giving him a ride to his hotel and having drinks with him in a bar, then discovering he was Cam W.’s boss. We also talked about her lack of attention to Brooke and Rylee.”

The fact that Kirk fails to recognize that his not so thinly veiled efforts at alienation are a form of abuse is frightening. I truly believe that based upon the pure hatred that I have seen from Kirk during this process that he will never be able to promote my relationship with our children in any fashion, nor do I believe that he will be able to co-parent the younger children with me.

202. The best source of information about their parent’s relative involvement, their bond with each parent, and whether they have been “emotionally abused” by either parent is the girls themselves.

1 There is no need in my view to perform an “assessment” of the children because they are happy, healthy,  
2 high performing and intelligent children. I believe that a simple interview of the children will lead the  
3 Court to the same conclusion, and will shed light on many of the claims in this case. Kirk recognizes  
4 that they will likely express a preference to be with me, so he attempts to prevent an interview before  
5 anyone has even requested it. I would ask that the court interview the children, or have them  
6 interviewed.  
7

8 **i. “Sleeping” with the Children**

9 203. Kirk claims that my time with the children should be supervised because I “sleep” with  
10 them. First, let me point out that this is a non-issue. In May, 2011, I stopped sleeping with them  
11 altogether after discussing the issue with our family counselor, and developing strategies for breaking  
12 the pattern we had established without increasing their level of anxiety. The counselor, Mr. Garwin  
13 suggested that after reading to them I go to their couch, and that I put a night light in their room. I also  
14 had Mr. Garwin meet with the girls on a couple of occasions to talk about this issue and help them with  
15 any concerns they might have pertaining to their sleeping arrangements.  
16

17 204. Since May, our nightly routine includes prayers, thirty minutes of reading and talk about  
18 whatever is on their minds, snuggling with the lights off for a few minutes. Prior to the children falling  
19 asleep, I get up from the bed and lay on the couch in their room. I still wake up between 11:00 p.m. and  
20 1:00 a.m. (a habit that began while I was nursing my babies and has never gone away) and go  
21 downstairs and sleep on either the office couch or living room couch. Kirk is never downstairs when I  
22 come downstairs, and he has no knowledge of what I do when I wake up.  
23

24 205. So the Court understands the context of this claim, I nursed all of the children for at least  
25 two years, and I nursed Rylee until she was four. During the process of putting them to sleep, they  
26 would nurse and I would read to them. I continued this pattern with all of the children years after they  
27  
28

1 stopped nursing. Indeed, all of the children loved me reading to them. I also taught them how to read at  
2 night and they all could read prior to entering kindergarten.

3         206. With Brooke and Rylee, I read to them at night before they go to sleep. Kirk demanded  
4 that I leave our master bedroom (he has recently placed a more substantial lock on the door). Most of the  
5 time they would fall asleep before me, but sometimes I would fall asleep before them. Soon the pattern  
6 came to be that I would sleep and get up around 11:00 p.m. and go downstairs to my office and sleep.  
7 At times, certainly not every night, one of the girls would come down to where I was sleeping and lay  
8 with me in the early hours of the morning.

10         207. About a year ago Kirk, and then Tahnee with Kirk, began to suggest that my sleeping  
11 with or near the girls was harmful to them. I disagreed, primarily because I wasn't sleeping with them  
12 through the night. I also find it odd that Tahnee would suggest that somehow I would damage the  
13 children if I slept with them. I slept with Tahnee on many nights when she was Rylee and Brooke's age,  
14 and she loved it. Attached as Exhibit A-15 is a note Tahnee sent me when she was about Brooke's age.  
15 In the note she asks me to please sleep with her. I think Tahnee turned out great, and I don't think that  
16 my sleeping with her did her any harm. As for Kirk, I cannot understand how he can make this  
17 argument with a straight face. He admits that Brooke slept with him in the master bedroom. She did so  
18 for close to a year or more from 2009 to 2010. This is a great example of the pot calling the kettle black.

21         208. Even Whitney got involved at one point in this. Whitney, without discussing it with me,  
22 spoke to Brooke and Rylee about sleeping with Kirk and me. She told them that they could sleep with  
23 her but not their parents. Rylee came to me upset, and told me Whitney said she couldn't sleep with me  
24 anymore. I felt that Whitney had overstepped her bounds something that occurred too often when the  
25 older girls were living at home. I told Whitney that I am Rylee's parent and that Whitney should have  
26 spoken to me prior to speaking with Brooke and Rylee.

1           209.   Kirk cites an incident in which Rylee was hurt after falling out of bed as an example of  
2 the dangers that can occur if I am in the bed with them. The only problem with Kirk's theory is that I  
3 wasn't in bed with them the night Rylee fell out, I was on the couch sleeping. Whitney had placed 3  
4 chandeliers on her bedroom floor that she used as decoration props for her wedding reception. Two were  
5 at the end of the bed and the other was on the side of the bed next to the wall. When Rylee fell out of the  
6 bed, her arm struck one of the lights and was cut by the glass. Kirks' claim that he came into the room  
7 and I was not up is false. When he arrived I was holding Rylee on the floor while she was crying, and I  
8 was trying to comfort her. Kirk stood above me while I was rocking Rylee and stated repeatedly that the  
9 accident was my fault because I was sleeping in the bed with her. I told Kirk it wasn't my fault, but he  
10 continued to insist, in front of the girls, that it was. Brooke kept telling Kirk that I wasn't in the bed  
11 with them, but he told Brooke that he knows I was sleeping in the bed because he could hear me snoring  
12 in the other room, basically calling Brooke a liar. Brooke had been in the bed with Rylee, again stated  
13 to Kirk "Mom wasn't sleeping with us," but Kirk kept insisting I was. Brooke replied that I wasn't, and  
14 that I was sleeping on the couch. (Ironically, had I been sleeping with the children the accident wouldn't  
15 have happened, because Rylee would always sleep in between Brooke and me, and so she wouldn't have  
16 rolled off). Kirk's focus wasn't on Rylee, it was on making me wrong and trying to undermine and  
17 belittle me in front of our children.  
18

19           210.   While comforting Rylee, I felt warm blood on my arm and realized Rylee was bleeding.  
20  
21 Kirk, already angry, reached down and pulled Rylee from my arms and took her away. He took her to  
22 the Boulder City Hospital. I cleaned up the blood; I held Brooke and comforted her in bed. She was  
23 worried about Rylee, but she was also upset at how Kirk had acted (basically stating that she was lying).  
24  
25 We both fell asleep awaiting her sister's return.  
26  
27  
28

1 Kirk seems to take issue with the fact that I did not go to the hospital. If I had, I would have had to take  
2 Brooke. Kirk has often expressed to me how he thinks hospitals are full of disease, and he has chided  
3 me about taking the children to the hospital. It's likely he would have discouraged me from taking  
4 Brooke, and he certainly did not suggest to us that he wanted us to go when he angrily left (something  
5 I'm sure made Rylee feel even worse). It made sense for one of us to go with Rylee and one parent to  
6 stay home with Emma Brooke. If Kirk somehow suggests that it was unsafe to put her in the room with  
7 the chandeliers, I note that Kirk had put Rylee to bed in the same room with the chandeliers several  
8 nights prior to the accident as he states in his affidavit. Also, approximately one week later while  
9 sleeping with Brooke in their normal bed, Rylee fell out of bed and woke up crying. Again, I was not  
10 sleeping with them at that time. Sometimes kids just fall out of bed.  
11

#### 12 **i. Transfer of Testosterone**

13  
14 211. Kirk suggests in his motion that I either purposely or negligently exposed Rylee to  
15 testosterone. As stated above, I was prescribed testosterone by Dr. Jeffrey Life due to my unusually low  
16 levels of testosterone, and to treat the symptoms I was experiencing as a result of that deficiency. He  
17 prescribed a cream application. The cream was dispensed by a pharmacy in Salt Lake, and had an  
18 applicator that ensured the proper amount per dosage. The instructions indicated that it should be  
19 applied nightly, in the amount suggested, and in the crook of my arm above my forearm, the back of my  
20 leg, or my stomach. I chose the crook of my arm, and I applied only the amount suggested.  
21

22 212. At no time did Dr. Life, the dispensing pharmacist, or anyone else (including Kirk who  
23 admits he saw me applying the cream and knew I was sleeping with Rylee) suggest that I could transfer  
24 the testosterone by contact. I note that Dr. Life has confirmed this in a sworn statement. Also, my friend  
25 Nyla Roberts had similar therapy and had no warning, and the materials from the dispensing pharmacist  
26 contained no warning whatsoever regarding any risk of transfer.  
27  
28

1           213.     Upon hearing the suggestion that the testosterone could be transferred, I immediately  
2 contacted Dr. Life and changed my testosterone therapy to injections that eliminate the risk of transfer  
3 upon contact.

4           214.     Kirk and I found, through testing of Rylee through Dr. Dewan, that Rylee had a high  
5 level of testosterone. That level went down to normal in later tests. While there is some chance that the  
6 testosterone had an effect on Rylee (that cannot be determined), there is a method (a hormone implant)  
7 for postponing puberty once it appears as if it has started to begin. As of now, Rylee has not entered  
8 into puberty. I note that Dr. Dewan was more concerned about Rylee's high cholesterol levels and  
9 diabetes indicator than he was with the testosterone exposure. As indicated above, I believe that Rylee's  
10 high cholesterol has come from a diet of eggs, bacon and processed food that Kirk served. Kirk  
11 accompanied me when I went to visit the dietician in Dr. Dewan's office and to his credit, Kirk has  
12 taken steps to limit the cholesterol in her diet when he feeds her. I have done the same with the meals I  
13 provide.  
14

15           215.     I note that Kirk has distorted the facts leading up to our knowledge of Rylee's exposure  
16 to testosterone Nyla had thyroid cancer a few years back and is knowledgeable about thyroid and testing  
17 etc. For that reason I approached Nyla about my concerns that Rylee might be in premature puberty, and  
18 I sought her advice. Nyla and her husband Dennis, who were both patients of Dr. Life and were  
19 prescribed testosterone cream, put it all together. She had recently viewed an episode of the television  
20 show "House" where a six-year-old girl had come into contact with a hormonal cream from one of her  
21 parents and went into premature puberty. Nyla told me about the episode because she knew that I had  
22 also had been prescribed testosterone cream and suggested Rylee have her blood checked. She was  
23 correct. I also noticed that Rylee's energy level was down and she was suffering from allergies. Rylee  
24  
25  
26  
27  
28

1 was going to have blood drawn by the allergist, and our neighbor and friend Nyla suggested to Kirk that  
2 he should have a thyroid panel done at the same time so they don't have to draw blood a second time.

3 216. The appointment with Dr. Dewan, a pediatric endocrinologist, is a perfect example of  
4 the way Kirk exaggerates, twists words to his benefit, and rewrites history. First, Kirk did not make the  
5 appointment. While our friend Dr. Schroeder gave him a name, I made the appointment. Dr. Dewan's  
6 office has me listed as the contact person, and when the first appointment is made they secure an email  
7 address by the person calling to send the new patient paperwork that must be completed prior to the first  
8 visit. They have my email as the address, and the patient packet was sent to me, and I filled it out. If  
9 Kirk had made the appointment he would not have given my email address but would have given his.  
10

11 217. I completed the new patient information packet and Kirk and I went to Rylee's  
12 scheduled appointment. Kirk mischaracterizes what occurred at the appointment. I did not "confess after  
13 a series of questions" from Dr. Dewan about testosterone exposure. The whole purpose of me being  
14 there was to speak to Dr. Dewan about the possibility of Rylee's contact with testosterone since Nyla  
15 had suggested it. It was also me who requested that Dr. Dewan run a diabetic screening panel because I  
16 was concerned about Rylee's weight and diet.  
17

18 218. In any event, Rylee's test results indicated that she was not in pre-mature puberty. Her  
19 levels of testosterone were elevated, as were her levels of cholesterol. Dr. Dewan prescribed another  
20 blood panel to be taken in three months. The tests were repeated and came back that Rylee's testosterone  
21 level was normal, her cholesterol was too high and she was pre-diabetic for Type II diabetes due to an  
22 unhealthful diet (which Kirk claims he exclusively prepares and provides to the children).  
23

24 219. Kirk's entire presentation of the issue is deceptive. He claims, "Vivian...reasonably  
25 should have known the very foreseeable consequence of rubbing testosterone on her forearms and the  
26 getting in bed with Rylee, snuggling with, and sleeping against her". (§ 43) Kirk knew I was using  
27  
28

1 testosterone cream and saw me applying it to my forearms on a number of occasions as he as admitted in  
2 his affidavit. He also was aware I snuggled nightly with the girls. Since he believes that I “should have  
3 known the very foreseeable consequence” of the testosterone use and exposure, shouldn’t he be held to  
4 the same standard? “Simple basic common sense precautions would have avoided this terrible situation  
5 that has now seriously compromised Rylee’s endocrine system.” This is simply untrue. I was not ever  
6 advised of the possibility of transfer, as the small amount of cream rubs into the skin and disappears  
7 immediately. It is not like lotion that leaves a film, and the extremely small amount of cream used did  
8 not suggest that there was risk of transfer. Attached as Exhibit A-16 is a picture of the dispensing bottle  
9 with the prescribed amount of cream on top of it. Note that the bottle contains no warning whatsoever.  
10

11 **a. Exclusive Possession of the Residence / Funds to Meet Expenses**

12  
13 220. Further, throughout our marriage, Kirk has used money as a method of control. Even  
14 recently, he has refused to pay credit card bills that we can easily afford. In May, we advised Kirk that I  
15 had approximately \$55,000.00 in credit card debt that had accumulated over time. The debt was  
16 incurred for travel, clothing for me and the children, entertainment expense, etc. At the time of our  
17 divorce mediation in May, 2011, Kirk agreed to pay the balances, but when I presented him with the  
18 statements, he refused. I have since made requests both directly and through counsel for sufficient funds  
19 to pay the amounts due, but he continues to refuse stating his counsel has advised him not to. Finally,  
20 even though we have millions of dollars in cash assets for which there is not dispute about their  
21 community nature, I was forced to take a temporary loan from my IRA to pay off as much of the  
22 outstanding balances as possible. As set forth in my Financial Disclosure Form, I would ask that the  
23 Court order the distribution of sufficient funds, approximately \$14,000 per month, to meet my needs  
24 during the term of the divorce action.  
25  
26  
27  
28



1           221.     The costs of the response to Kirk's motion have been enormous, and based upon Kirk's  
2     pledge to hire multiple experts. I strongly believe that this litigation will be hugely expensive. I would  
3     ask that my attorney's fees be paid from community funds as the fees and costs are incurred. I note that  
4     my fees will very likely be much higher than Kirks. It was obvious from both the first person used in his  
5     affidavit, and the writing in the motion, that Kirk prepared all of the affidavits, and the bulk of his 354  
6     page motion. I am not a lawyer, and cannot hold my attorney's and expert costs down in the same  
7     manner. We live in a home that was built by my friend Nyla Roberts. For the first six years that we  
8     owned the house, I did substantial improvements to the residence, including the painting of the the entire  
9     4000 square foot garage. I also painted the girls' room, and the dresser in their room. I decorated the  
10    home, and I travelled to North Carolina to pick out most of the furniture in the home.  
11

12           222.     The home is approximately 6000 square feet, and has five bedrooms. Currently Joseph,  
13     Brooke, Rylee, Kirk and I live in the home. Joseph intends to move out, and as stated above, Whitney  
14     and Tahnee now live in different cities.  
15

16           223.     I have lived in Boulder City for many years, and I have no intent of living anywhere else.  
17     As addressed above, I have been active, and I am still active with organizations in the community,  
18     charitable causes, and the girls' school. The girls' closest friends are the children of my closest friends,  
19     particularly Michele Walker, and Kim Bailey, and Nyla Roberts who have provided statements for me in  
20     this Opposition and all live only a few houses away while Michelle lives on the next street over. The  
21     Atkinson's' and their children who are the girls close friends, will now live a couple of houses away as  
22     well. *See*, Aerial Photo of Neighborhood with designations of friend's homes attached hereto as Exhibit  
23     A-17.  
24

25           224.     I would have thought at the commencement of our discussions regarding divorce (we  
26     went to mediation months before this action started in September) we could have worked this issue out  
27  
28

1 and remained in the home. After reading Kirk's motion, and his attack of me and anyone who was close  
2 to me, including the mothers and fathers of the girls best friends, I can see that it will be impossible to  
3 remain living together.

4         225. Kirk claims in his Motion that, "[h]e has done everything possible in an attempt to  
5 minimize conflict in their home," but I wholeheartedly disagree. Has Kirk seen a therapist or a  
6 psychiatrist? No, but I have. Has Kirk tried family counseling? No, but I have and I continue in that  
7 counseling to this day. Did I ask our children to file an affidavit against their parent? No, but Kirk did.  
8 Did I call Kirk's friends and acquaintances and tell them he was delusional? No, but Kirk did. Did I go  
9 thru Kirk's, computer, desk drawers, trash, phone texts, emails, medicine cabinet, packages, closet &  
10 underwear drawer, pictures, etc.? No, but Kirk did. Did Kirk ask me to not file or seek any legal action  
11 prior to Whitney's wedding so that there wouldn't be stress of the divorce to ruin the joy of the  
12 wedding? Yes, and I complied, but Kirk didn't. He filed a Complaint in April, 2011 prior to the  
13 wedding. Did I ask our daughter one month prior to her wedding date to sign an affidavit? No, but Kirk  
14 did. Did I keep a continuous log on what I perceived as Kirk's actions? No, he did and continues to do  
15 so. Did I misquote and twist the words of all of his friends in an affidavit? No, but Kirk did. Did I take  
16 Kirks personal property without knowledge or permission? No, but Kirk did. Did I refuse to pay his  
17 outstanding debt after agreeing to do so in mediation along with his attorney present? No, but Kirk did.  
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1           226. Kirk has filed his 350 page motion because he knows that the girls will want to live with  
2 me and remain at the present home. His tactic of taunting, and then subsequently committing an act of  
3 domestic violence against me, is nothing more than an attempt to further bolster his claim for possession  
4 of the home. To Kirk, the home is territory, not part of a community of friends and schools that benefit  
5 the girls. I would request that the Court grant me exclusive possession of the marital residence.  
6

7 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF NEVADA  
8 THAT THE FOREGOING IS TRUE AND CORRECT  
9

10   
11 VIVIAN HARRISON  
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**“Exhibit A-1”**

**SEE DISC  
PROVIDED TO  
COURT AND  
COUNSEL**

**“Exhibit A-2”**

# The Hope Foundation



## Volunteer Application Form 2009

*Please read Information on pages 8-9 before completing this form, thank you.*

### PERSONAL INFORMATION

1. First Name: Vivian
2. Surname: Harrison
3. Full name as on passport (if different than above): \_\_\_\_\_
4. Date of birth: 08-16-62
5. Age: 47
6. Email address: vivianlharrison@aol.com
7. Home phone: 702-294-6000
8. Mobile phone: 702-275-0000
9. Home address: 1514 Sunrise Circle  
Boulder City, Nv 89005 USA
10. Nationality: American
11. Next of kin name: Kirk Harrison
12. Next of kin phone number: 702-271-6000

### EDUCATION

1. Name(s) of third level college attended (or equivalent):  
University of Nevada at Las Vegas  
Community College of Southern Nevada  
American Institute of Banking

2. Course title(s): Accounting, Business, Management, Marketing, Computer etc.

**Degrees obtained:**

- 01/08 Certificate in Fashion Design Program, University of Nevada Las Vegas
- 12/95 Master of Science in Accountancy, University of Nevada Las Vegas
- 5/90 Bachelor of Science in Business Administration with emphasis in Public Accounting, University of Nevada Las Vegas
- 08/84 Bank Management Skills and Theory, American Institute of Banking, Washington, DC
- 04/84 Applied Banking, Major: General Banking, American Institute of Banking, Washington, DC
- 5/83 Associate in Applied Science with emphasis in Finance, Clark County Community College, Las Vegas, Nevada
- 04/83 Foundations of Banking, American Institute of Banking, Washington, DC

**3. Any other qualifications:**

Proficient in Microsoft Office Software: Word, Excel, PowerPoint and Adobe: Acrobat, Dreamweaver, Illustrator and Photoshop

**WORK EXPERIENCE**

Details of previous or current work and voluntary experience:

Name of Organisation	Dates Employed	Roles & Responsibilities
International Academy of Design & Technology	04/2008-Current	Instruct students in design, pattern drafting, draping techniques, garment construction, marketing, business and general education classes.



Boulder City Hospital Foundation	1997-1999	Executive Director responsible for raising funds, maintaining endowment requirements, coordinating events and arranging and conducting organized meetings.
Arthur Andersen, LLP	1997	Consult with clients, conduct financial statement audits, reviews and compilations. Evaluate internal control procedures and systems and determine compliance with NRS statutes and regulations
State of Nevada Gaming Control Board	95-97	Conduct audits of casinos with gaming revenues in excess of \$1 million dollars for compliance with NRS gaming statutes and regulations. Analyze internal control systems, evaluate financial condition and performance, conduct an in-depth analytical review of operating statistics and provide a written determination to the Gaming Control Board.
Community College of Southern Nevada	94-95	Teach various accounting and tax related courses.
Becker CPA Review	90-93	Instruct students on Government and Non-profit Procedures and Standards, Generally Accepted Auditing Standards, Tax and Business Law. Responsible for preparing students to pass the CPA Exam.
Valley Bank of Nevada	80-85	Responsible for general operations and the supervision of employees working within branch operating functions. Responsible for training, evaluation and counselling of all employees. Completed all reporting requirements and branch certifications

<b>VOLUNTEER EXPERIENCE</b>		
<p>Volunteers in Medicine, Andrew J. Mitchell, Reading Tutor; Boulder City Planning Commission, Chairman 1994-1999; Boulder City Hospital Foundation, Executive Director; Leadership Las Vegas, Class of 1997; UNLV Alumni Association; Southern Nevada Junior Golf Association, Board of Directors; First Tee of Southern Nevada; Southern Nevada Water Authority Integrated Resource Plan Advisory Committee; Planning Commissioners Task Force on Ethics; Southern Nevada Community College Advisory Committee; Boulder City Parks &amp; Recreation Youth Athletic Coach; Boulder City Little League, Fundraising and Event Chair; Boulder City Controlled Growth Ordinance Committee; Historic District Preservation Plan Study Committee; Chautauqua-History Comes Alive Committee; Boulder City Folk Festival; Boulder City Juvenile Conference Committee; Boulder City Drug Abuse Council; Girl Scout Leader; PTA Executive Board; UNLV Student Accounting Association, President; Junior League of Las Vegas</p>		<p>Assisting in opening a health clinic for the economically disadvantaged. Opening Jan 2010.</p> <p>Various roles &amp; responsibilities from being a girl scout leader, youth baseball, basketball, soccer coach, board member, task force member, planning commissioner to a tutor.</p>


1. Why would you like to be a volunteer with the Hope Foundation?

The mission of the Hope Foundation is to care for and aid in the development of severely underprivileged children. I believe in the approach the Hope foundation utilizes in achieving its mission. Protection, rehabilitation, healthcare, education, and training are all vitally important areas which need attention and it is these areas where the Hope Foundation focuses its efforts.

2. What skills do you feel you could bring to HOPE's projects in Calcutta?

Some of the skills I have may be best used to support the areas of education, vocational training, or administration. I've tutored over 5 years in elementary schools teaching reading fundamentals to young children ages 4-10. I've also instructed adults in business related courses, general education classes, fashion design, textile and fabric manipulation, pattern drafting, garment draping techniques, and clothing construction.

3. What personal qualities do you feel you could bring to the Foundation in Calcutta?

Some of the personal qualities or characteristics I strive for that will benefit HOPE are the: 1) desire to learn 2) desire to serve 3) desire to teach 4) belief in being responsible and accountable for one's actions 5) belief in humility 6) belief in being open-minded and accepting of others 7) belief in being non-judgmental.

These are some of the qualities and characteristics I try to demonstrate in all areas of my life, both personal and professional. Unfortunately I sometimes falter, however, when I do, I always seek to give retribution.

4. Where did you hear about HOPE and our work in Calcutta?

I've talked with a number of friends whom have or have had ties to India and they have all endorsed the Hope Foundation and its work. One friend's family is from India and she visits them in India regularly-she also has expressed interest in volunteering with me in India. In addition, a friend of mine along with her school served two months with the Missionaries of Charity in Calcutta. I've also spoken to a friend that extends micro-credit loans and a friend whom is a philanthropist. Again, they all speak highly of HOPE.

5. Is there any other information you'd like to give in support of your application?

I meet all the outlined volunteer requirements 1-8 listed on page 11.  
I would like to take the TEFL course. Is there one you recommend?

6. We require volunteers to do fundraising (€2,600) to cover your travel and maintenance costs & towards HOPE's projects. Would you be prepared to do this and do you have any ideas on how you might raise this money?

Yes, money has already been pledged.

7. What length of time do you wish to volunteer for?

4-8 weeks

8. Approximate dates that you would like to volunteer in Calcutta:

Summer 2010

9. Please give contact details of two referees:

(1)

Hank Falstad  
10221 Beach Willow Drive  
Las Vegas, Nv 89134  
702-649-7575

(2)

Nyla & Dennis Roberts  
1534 Sunrise Circle  
Boulder City, Nv 89005  
702-294-6068

10. In what capacity & for how long have they known you?

(1)

Rotary Club and friend for 20 years.

(2)

A business deal a neighbour and a friend.

11. Due of the demanding nature of the work in Calcutta, we are obliged to  
~~ask you about your general and mental health:~~

- Are you currently taking any medication for a psychiatric or other condition? If so please give details on next page.

- If you have a history of psychiatric illness or any other medical condition that may affect your working life in Calcutta, please include details here also. In this case we would need a certificate of Fitness to Travel from your doctor.

Thank you very much for your cooperation.

No psychiatric condition being treated.

No history of psychiatric illness or medical condition that would prevent me from serving.

**Please return this completed form by email if possible or else by post to:**

Volunteer Placement Programme, The Hope Foundation, 3 Clover Lawn, Skehard Road, Cork.

T. 021-4292990

E. [admin@hopefoundation.ie](mailto:admin@hopefoundation.ie)

**Please contact HOPE if you have any queries on: 021-4292 990**

*Please bear with us while we assess your application. We receive a very high number of applicants for volunteer work and we will try and get back to you as soon as possible.*



## INFORMATION FOR POTENTIAL VOLUNTEERS

Please read carefully before completing the Application Form

### REQUIREMENTS FOR VOLUNTEERING:

Please only apply if you meet the following criteria for volunteering with HOPE:

1. Possession of **skills** relevant to HOPE's work eg. primary teaching; TEFL; medical skills.  
If you do not have any of these skills but have other skills that you think would be useful on HOPE's projects, please explain clearly (No. 2 above) how you feel you could use your skills to benefit the work of HOPE. If you have no relevant skills, would you consider doing a TEFL course (min 100 hours)? This would have to be undertaken at your own expense as we currently have no funding for volunteer training.
2. Commitment to make your own **travel arrangements** (flight, insurance, vaccinations, visa);
3. Commitment to **fundraise** €2,600 towards HOPE's projects in Calcutta;
4. Ability to organise own work schedule and work on own **initiative**;
5. Ability to **fit in** with existing staff and work structures;
6. **Realistic expectations** of what you can expect in a developing country and what you can hope to achieve during your placement period;
7. A **positive, flexible** outlook.
8. Ideally we would prefer volunteers to commit for a minimum of 3 months however if this is not possible we will consider a shorter stay.

Please do not apply if:

- You are looking for a **travel opportunity** – we require that our volunteers remain in Calcutta for the duration of their placement. Any time off during your placement is at the discretion of the staff in our Calcutta office and is limited to short periods;
- You have any present **medical or psychiatric condition** that could make it difficult or dangerous for you to carry out your work in what can be hot and difficult conditions. Volunteers must be in good health physically & mentally;
- You are not prepared for **relatively basic living conditions**, room-sharing and communal living quarters;
- You have **no skills** relevant to HOPE's work in Calcutta and are not in a position to do a TEFL course (see point 1 above).

## **INTERVIEW**

HOPE will assess your application. If there is a potential volunteering placement for you with our organisation in Calcutta you will be requested to come to the HOPE office in Cork for interview.

**If you are then placed as a volunteer with HOPE in Calcutta please note the following:**

## **TRAINING**

You will be offered 1 week of preparation training with DSC (Development Studies Centre) in Kimmage, Dublin. Details of this training will be supplied by HOPE. Training is optional but recommended. The cost of the training course and your travel/living expenses will be covered by your fundraising money and will be paid by HOPE.

## **HEALTH INFORMATION**

The Hope Foundation takes no responsibility for your health. Please contact a Travel Medical Specialist or your GP for information and details on vaccinations required for your trip and malaria tablets. Please note that some of these vaccines may need to be taken several months in advance of a trip to India.

## **VISA**

HOPE will send you a Visa Application Form. This must be completed and sent to the Indian Embassy, Dublin. Again this process can take up to 2-3 weeks (longer if you have a non-Irish passport) so we advise that you do this well in advance of your trip. Make sure you discuss your visa application with HOPE before applying.

**THANK YOU.**

**“Exhibit A-3”**

## Vivian's Credit Card Statements For Kid's Summary

	2005	2006	2007	2008	2009	2010	*2011
Kid's Activities/Crafts/Etc	4,339.93	3,987.91	4,233.36	11,600.62	15,813.97	15,645.62	9,391.51
Kid's Clothing/Dance	3,088.45	3,478.63	3,377.69	2,842.95	5,373.40	3,560.50	3,905.03
Total	7428.38	7466.54	7611.05	14,443.57	21,187.37	19,206.12	13,296.65

\*Thru September 2011

## Vivian's Credit Card Statements For Kids Clothes & Dance 2005

Date	Store	Amount	Notes	Credit Card
10/14/2005	Nordstrom	77.58		Chase 9135
10/14/2005	Nordstrom	43.10		Chase 9135
09/27/2005	Hot Topic	12.96	Online purchase	Chase 7021
01/26/2005	Walmart	280.08		B of A 1400
05/23/2005	Target	82.52		B of A 1400
06/23/2005	Gap USA	83.84		B of A 1400
04/10/2005	Target	183.47		Amex 2008
04/19/2005	Gymboree	198.84		Amex 2008
04/27/2005	Old Navy	13.43		Amex 2008
06/29/2005	Walmart	34.78		Amex 2008
07/16/2005	Nordstrom	301.00	Tahnee	Amex 2008
08/29/2005	Target	197.29		Amex 2008
10/14/2005	Dillards	16.98		Amex 2008
10/16/2005	Target	222.34		Amex 2008
11/21/2005	Gymboree	59.62		Amex 2008
11/30/2005	WM Supercenter	162.12		Amex 2008
12/11/2004	Target	247.28		Amex 1000
12/15/2004	Woolrich	44.25		Amex 1000
12/18/2004	Along Came A Spider	330.16		Amex 1000
03/12/2005	Pacific Sunwear	228.96		Amex 1000
03/16/2005	Target	267.85		Amex 1000
	<b>2005 Total</b>	<b>\$3,088.45</b>		

## Vivian's Credit Card Statements For Kid's Clothing and Dance 2006

Date	Store	Amount	Notes	Credit Card
12/04/2006	Walmart	108.25		B of A 1400
12/04/2006	K-Mart	100.63		B of A 1400
12/04/2006	Kohl's	259.77		B of A 1400
12/19/2006	Walmart	145.78		B of A 1400
01/17/2006	Nordstrom	60.23		B of A 1400
12/22/2006	Dillards	23.71		Chase 4323
12/23/2006	Gap	46.33		Chase 4323
12/22/2006	Dillards	15.01		Chase 4323
03/01/2006	Nordstrom	43.58		Chase 4323
03/20/2006	Anchor Blue	132.77		Chase 4323
03/20/2006	Abercrombie & Fitch	53.34		Chase 4323
03/21/2006	Kohl's	57.64		Chase 4323
12/01/2005	Nordstrom	16.38		Amex 2008
12/01/2005	Nordstrom	25.81		Amex 2008
12/01/2005	Nordstrom	112.81		Amex 2008
12/01/2005	Nordstrom	86.95		Amex 2008
12/07/2005	JC Penney	51.63		Amex 2008
12/16/2005	Nordstrom	312.48		Amex 2008
12/16/2005	Nordstrom	30.71		Amex 2008
09/05/2006	Pacific Sunwear	239.74		Amex 2008
09/16/2006	Children's Place	81.06		Amex 2008
09/17/2006	WM Supercenter	639.03		Amex 2008
09/24/2006	WM Supercenter	275.62		Amex 2008
10/01/2006	WM Supercenter	121.73		Amex 2008
12/14/2006	Tilly's	138.97		Amex 2008
06/08/2006	Charlotte Russe	16.15		Chase Visa 7201
12/15/2006	Kohl's	85.73		Kohl's 612
07/25/2006	Hot Topic	20.47		Disney Visa 7021
02/23/2006	Robinson-May	96.95		B of A 1400
03/16/2006	Walmart	79.37		B of A 1400
	<b>2006 Total</b>	<b>\$3,478.63</b>		

## Vivian's Credit Card Statements For Kids Clothing and Dance 2007

Date	Store	Amount	Notes	Credit Card
12/14/2006	Tilly's	138.97		Amex 2008
12/22/2006	Tilly's	21.54		Amex 2008
12/22/2006	Bebe Store	255.37		Amex 2008
12/22/2006	Pacific Sunware	205.04		Amex 2008
01/19/2007	WM Supercenter	155.88		Amex 2008
02/22/2007	Dick's Clothing	43.09		Amex 2008
02/23/2007	Target	113.16		Amex 2008
03/04/2007	Dillards	47.14		Amex 2008
03/04/2007	Dillards	262.73		Amex 2008
03/04/2007	Dillards	200.15		Amex 2008
03/08/2007	Dillards	169.85		Amex 2008
03/12/2007	Along Came A Spider	90.38		CPA's 3727
06/27/2007	Kids Korner	27.85		CPA's 3727
08/23/2007	Macy's West	675.52		CPA's 3727
01/19/2007	Nordstrom	252.97		Citi 6230
01/18/2007	Dillards	92.91		B of A 1400
02/14/2007	Target	129.83		B of A 1400
03/13/2007	Dillards	104.47		B of A 1400
03/23/2007	Old Navy	60.88		B of A 1400
11/28/2007	Dillards	12.93		B of A 1400
12/03/2007	Dillards	19.36		B of A 1400
12/03/2007	Dillards	123.91		B of A 1400
04/09/2007	Nordstrom	87.93		Disney Chase 7201
10/29/2007	Walmart	85.83		B of A 1400
	<b>2007 Total</b>	<b>\$3,377.69</b>		

## Vivian's Credit Card Statements For Kids Clothing and Dance 2008

Date	Store	Amount	Notes	Credit Card
12/24/2007	Target	255.03		CPA's 3727
12/29/2007	Target	75.21		CPA's 3727
02/25/2008	Dillards	205.53		B of A 1400
04/09/2008	Walmart	100.30		B of A 1400
06/02/2008	Limited Too	31.24		B of A 1400
06/02/2008	Macy's West	300.00		B of A 1400
06/09/2008	Desert Brats	29.06		B of A 1400
08/11/2008	Target	62.10		B of A 1400
08/26/2008	FYE	37.68		B of A 1400
09/05/2008	Walmart	24.67		B of A 1400
11/07/2008	Nordstroms	89.00		Nordstrom
11/08/2008	Walmart	44.46		Amex 3006
11/09/2008	Target	185.13		Amex 3006
11/14/2008	Walmart	41.66		Amex 3006
11/15/2008	Target	407.68		Amex 3006
12/04/2008	Dance Wear Solutions	200.55		Amex 3006
07/19/2008	Eagle Outfitters	319.14		B of A 2361
07/29/2008	Childrens Corner	34.00		B of A 2361
08/11/2008	Limited Too	21.18		B of A 2361
11/15/2008	Eagle Outfitters	62.39		Disney Visa 7021
03/10/2008	Mervyns	316.94		Mervyns 965
	<b>2008 Total</b>	<b>\$2,842.95</b>		



## Vivian's Credit Card Statements For Kids Clothing and Dance 2009

Date	Store	Amount	Notes	Credit Card
09/14/2009	Dick's	110.23		Amex 4004
10/02/2009	Dance Wear Solutions	61.65		Amex 4004
10/08/2009	Dance Wear Solutions	198.40		Amex 4004
10/11/2009	Chasing Fireflies	439.95	Costumes	Amex 4004
11/02/2009	Dillard	32.42		Amex 4004
11/05/2009	Dance Wear Solutions	39.75		Amex 4004
11/20/2009	Rue 57	180.36		
11/21/2009	Kleinfelds	2406.00	W-wedding dress	Amex 4004
12/13/2009	Justice	19.71		Amex 4004
12/16/2009	Dance Wear Solution	63.95		Amex 4004
12/21/2009	Target	234.91		Amex 4004
12/25/2009	Endless	209.96	W shoes	Amex 4004
12/25/2009	Endless	84.82	T shoes	Amex 4004
12/29/2009	Journey's	170.37		Amex 4004
12/30/2009	Dance Wear Solutions	21.75		Amex 4004
06/01/2009	Justice	323.42		B of A 1400
06/29/2009	Walmart	136.27		B of A 1400
11/23/2009	Nordstrom	44.45		B of A 1400
11/23/2009	Macy's	54.00		B of A 1400
11/23/2009	Bloomys	121.50		B of A 1400
11/27/2009	Nordstroms	83.13		B of A 1400
06/26/2009	Target	87.71		B of A 2361
08/19/2009	Nordstrom	248.69		Visa 9906
	<b>2009 Total</b>	<b>\$5,373.40</b>		

## Vivian's Credit Card Statements For Kids Clothing and Dance 2010

Date	Store	Amount	Notes	Credit Card
01/30/2010	Target	191.67		Amex 4004
03/03/2010	Dance Wear Solutions	32.90		Amex 4004
05/17/2010	Justice	83.90		Amex 4004
08/20/2010	Walmart	134.97		Amex 4004
08/20/10	Las Vegas Dance Shop	161.29	Dance Shoes	Amex 4004
08/26/2010	Target	44.41		Amex 4004
09/13/2010	Dillards	32.32		Amex 4004
09/13/2010	Dillards	43.24		Amex 4004
09/13/2010	Dillards	257.21		Amex 4004
09/18/2010	Walmart	113.86		Amex 4004
11/11/2010	Walmart	148.31		Amex 4004
11/26/2010	Target	485.73		Amex 4004
11/27/2010	Kohl's	10.80		Amex 4004
12/02/2010	Walmart	87.24		Amex 4004
12/04/2010	Target	193.70		Amex 4004
12/05/2010	JC Penney	10.37		Amex 4004
12/05/2010	Justice	36.06		Amex 4004
12/19/2010	Little Miss Matched	243.12		Amex 4004
12/30/2010	Kohl's	316.62		Amex 4004
04/04/2010	Justice	287.39		Amex 4004
04/10/2010	Las Vegas Dance Shop	93.88		Amex 4004
04/10/2010	Las Vegas Dance Shop	142.04		Amex 4004
09/10/2010	Walmart	118.12		Amex 4004
09/10/2010	Walmart	191.35		Amex 4004
05/18/2010	Nordstroms	100.00		B of A 1400
	<b>2010 Total</b>	<b>\$3,560.50</b>		

## Vivian's Credit Card Statements For Kids Clothing and Dance 2011

Date	Store	Amount	Notes	Credit Card
01/02/2011	Kohl's	79.23		Amex 4004
01/02/2011	Kohl's	247.78		Amex 4004
01/08/2011	Victoria's Secrets	12.94	Brooke	Amex 4004
01/08/2011	Victoria's Secrets	38.38	Brooke	Amex 4004
01/08/2011	Justice	136.48		Amex 4004
01/29/2011	Las Vegas Dance Shop	20.54		Amex 4004
01/29/2011	Las Vegas Dance Shop	85.40		Amex 4004
01/29/2011	Las Vegas Dance Shop	90.26		Amex 4004
02/08/2011	Ross	39.95		Amex 4004
02/09/2011	Old Navy	31.35		Amex 4004
02/22/2011	Target	81.38		Amex 4004
02/25/2011	A Eagle Outfitters	85.40	Clothes	Amex 4004
02/26/2011	Galleria Sunset Mall	327.56		Amex 4004
03/05/2011	Capezio	210.25	Dance	Amex 4004
03/05/2011	A Eagle Outfitters	111.20		Amex 4004
03/06/2011	Target	36.73		Amex 4004
03/06/2011	Target	44.23		Amex 4004
03/12/2011	Nordstroms	292.19		Amex 4004
03/13/2011	David's Bridal	52.97	Whitney Slip	Amex 4004
04/04/2011	Walmart	53.17		Amex 4004
04/07/2011	Old Navy	78.90		Amex 4004
04/09/2011	Boulder City Ballet	23.68		Amex 4004
04/10/2011	Walmart	58.12		Amex 4004
04/17/2011	Old Navy	858.22		Amex 4004
04/18/2011	Mad Hatter	21.71		Amex 4004
06/05/11	Journeys Shoes	171.85	Kids Shoes	Amex 4004
07/14/2011	Dance Wear Solutions	79.30	Dance	Amex 4004
08/04/2011	Dance Wear Solutions	4.50	Dance	Amex 4004

08/08/11	LV Dance	197.50	Dance	Amex 4004
08/08/11	LV Dance Shop	195.55	Dance	Amex 4004
10/01/2011	Quick Silver	108.00	Clothes	Amex 4004
12/05/2011	Macy's	53.99		Macy's
	<b>2011 Totals</b>	<b>\$3,905.03</b>		

\* No Costco bills are used in above listing due to the lack of information available.

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2005

Date	Store	Amount	Notes	Card
12/17/2004	Michaels	38.53	Arts & Crafts	Amex 21000
03/10/2005	Barnes & Noble	9.57	Books	Amex 21000
03/10/2005	Barnes & Noble	20.31	Books	Amex 21000
04/05/2005	Hooked on Phonics	115.00	Reading Program	Amex 24004
04/08/2005	Toys 'R Us	153.30	Toys	Amex 22008
04/16/2005	Disney Store	20.48	Toys	Amex 22008
04/24/2005	Michaels	73.94	Arts & Crafts	Amex 22008
04/25/2005	Michaels	159.79	Arts & Crafts	Amex 22008
04/26/2005	Barnes & Noble	57.05	Books	Amex 22008
05/04/2005	Michaels	63.09	Arts & Crafts	Amex 22008
05/19/2005	American Jr Golf	70.00	Golf	Amex 22008
06/15/2005	So. Nevada Jr Golf	80.00	Golf	Amex 22008
06/15/2005	American Jr Golf	10.00	Golf	Amex 22008
06/17/2005	So. Nevada Jr Golf	125.00	Golf	Amex 22008
06/17/2005	American Jr Golf	70.00	Golf	Amex 22008
06/23/2005	So. Nevada Jr Golf	210.00	Golf	Amex 22008
07/03/2005	Barnes & Noble	90.81	Books	Amex 22008
07/04/2005	Village Golf Shop	113.00	Golf	Amex 22008
07/08/2005	Reflections Bay Golf	113.00	Golf	Amex 22008
07/15/2005	American Jr Golf	70.00	Golf	Amex 22008
08/08/2005	American Jr Golf	220.00	Golf	Amex 22008
09/05/2005	Copeland Sports	33.84	Golf	Amex 22008
09/05/2005	Barnes & Noble	81.09	Books	Amex 22008

10/13/2005	Barnes & Noble	33.32	Books	Amex 22008
10/26/2005	Movie Poster Warehouse	22.50	Tahnee	Amex 22008
11/15/2005	Toys R Us	96.95	Toys	Amex 22008
11/15/2005	Toys R Us	107.73	Toys	Amex 22008
11/15/2005	Toys R Us	96.91	Toys	Amex 22008
11/15/2005	Toys R Us	81.76	Toys	Amex 22008
11/15/2005	Toys R Us	80.75	Toys	Amex 22008
11/15/2005	Toys R Us	85.06	Toys	Amex 22008
11/15/2005	Toys R Us	88.26	Toys	Amex 22008
11/15/2005	Toys R Us	80.79	Toys	Amex 22008
11/21/2005	Party City	40.92	Party Supplies	Amex 22008
12/07/2005	Scholastic Store	29.80	Books	Amex 22008
12/09/2005	Border Books	20.44	Books	Amex 22008
01/07/2005	Toys R Us	46.02	Toys	Capitol One MC 9701
02/15/2005	Australian Swim School	56.00	Swimming	Capitol One MC 9701
03/01/2005	Australian Swim School	98.00	Swimming	Capitol One MC 9701
02/18/2005	American Jr Golf	70.00	Golf	Capitol One MC 9701
03/03/2005	Student Center East	161.00	Book	Capitol One MC 9701
06/22/2005	Party City	92.54	Brooke Party	Capitol One MC 9701
09/27/2005	Hot Topic	12.96	Clothing	Disney Visa 7021
01/16/2005	Barnes & Noble	17.35	Books	B of A 1400
01/24/2005	Barnes & Noble	49.77	Books	B of A 1400
01/24/2005	Toys R Us	311.49	Toys	B of A 1400
01/26/2005	Party City	16.46	Rylee Party	B of A 1400
02/08/2005	Barnes & Noble	34.79	Books	B of A 1400
05/23/2005	Barnes & Noble	35.60	Books	B of A 1400
06/22/2005	Barnes & Noble	59.38	Books	B of A 1400
06/23/2005	Border Books	25.33	Books	B of A 1400

06/23/2005	Barnes & Noble	13.49	Books	B of A 1400
09/09/2005	Periwinkle Cottage	31.18	Toys	B of A 1400
10/11/2005	Disney Character Warehouse	23.50	Toys	B of A 1400
12/19/2005	Scholastic Book Fair	8.99	Books	B of A 1400
04/08/2005	Toys R Us	153.30	Toys	Amex 22008
04/25/2005	Michaels	159.79	Art & Crafts	Amex 22008
	<b>2005 Total</b>	<b>\$4,339.93</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2006

Date	Store	Amount	Notes	Credit Card
11/03/2006	Halloween Express	18.86	Costumes	B of A 1400
11/03/2006	Halloween Express	272.61	Costumes	B of A 1400
11/17/2006	Joann's	49.18	Arts & Crafts	B of A 1400
11/20/2006	Joann's	30.92	A & C	B of A 1400
12/04/2006	Joann's	23.78	A & C	B of A 1400
12/11/2006	Joann's	50.20	A & C	B of A 1400
12/12/2006	Joann's	7.11	A & C	B of A 1400
01/12/2006	Periwinkle Cottage	29.09	Toys	B of A 1400
04/01/06	A Beka Books	70.29	Kids Tutoring	B of A 2004
04/24/2006	Barnes & Noble	15.30	Books	B of A 1400
12/24/2006	Regal Cinema	9.50	Movie	Chase 4323
03/21/2006	Border Books	20.45	Books	Chase 4323
09/06/2006	Joann's	276.59	Arts & Crafts	Amex 22008
09/06/2006	Joann's	101.45	A & C	Amex 22008
09/07/2006	Chuck E Cheese	42.28	Pizza Party	Amex 22008
09/08/2006	Joann's	60.00	A & C	Amex 22008
09/08/2006	Joann's	19.53	A & C	Amex 22008
09/08/2006	Joann's	102.31	A & C	Amex 22008
09/12/2006	Joann's	78.31	A & C	Amex 22008
09/16/2006	Joann's	51.02	A & C	Amex 22008
09/17/2006	Joann's	87.84	A & C	Amex 22008
09/25/2006	Michaels	48.75	A & C	Amex 22088
09/29/2006	Fiddlesticks	41.55	Sewing	Amex 22008
09/30/2006	Joann's	129.43	A & C	Amex 22008
09/30/2006	Fiddlesticks	56.61	Sewing	Amex 22008
10/01/2006	Joann's	247.09	A & C	Amex 22008
10/02/2006	Fiddlesticks	163.75	Sewing	Amex 22008
12/07/2006	Sensational Beginnings Hobby Shop	81.80	Toys	Amex 22008
12/15/2006	Kohl's	1153.94	Christmas Gift	Kohl 612
05/10/2006	Borders Books	16.11	Books	Citi MC 6230
05/10/2006	Home Fabrics	20.20	Sewing	Citi MC 6230
11/06/2006	Joann's	71.90	A & C	CPA's 3727
07/08/2006	Regal Cinema	21.50	Movie	Disney Visa 7021
07/14/2006	Joann's	9.39	A & C	Visa 7021
07/15/2006	Barnes & Noble	35.68	Books	Visa 7021
09/11/2006	Joann's	12.00	A & C	B of A 1400
09/11/2006	Joann's	111.91	A & C	B of A 1400
02/15/2006	Barnes & Noble	26.12	Books	B of A 1400
03/13/2006	Joann's	23.53	A & C	B of A 1400
10/10/2006	Joann's	15.14	A & C	B of A 1400



10/10/2006	Michael's	31.68	A & C	B of A 1400
10/10/2006	Joann's	64.64	A & C	B of A 1400
10/12/2006	Joann's	73.23	A & C	B of A 1400
10/12/2006	Joann's	45.27	A & C	B of A 1400
10/16/2006	Quiltique	59.15	Sewing	B of A 1400
10/20/2006	Joann's	10.92	Sewing	B of A 1400
	<b>2006 Total</b>	<b>\$3,987.91</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2007

Date	Store	Amount	Notes	Credit Card
12/23/2006	Barnes & Noble	73.92	Books	Amex 22008
12/17/2006	Joann's	33.98	Arts & Crafts	Amex 22008
12/18/2006	Joann's	30.25	A & C	Amex 22008
01/20/2007	Joann's	79.96	A & C	Amex 22008
01/22/2007	Joann's	97.10	A & C	Amex 22008
01/23/2007	Barnes & Noble	28.74	Books	Amex 22008
01/23/2007	Joann's	71.81	A & C	Amex 22008
01/27/2007	Party City	29.65	Rylee Birthday	Amex 22008
01/28/2007	Joann's	35.90	A & C	Amex 22008
01/30/2007	Barnes & Noble	66.91	Books	Amex 22008
02/16/2007	Joann's	66.61	A & C	Amex 22008
02/19/2007	Joann's	60.39	A & C	Amex 22008
02/25/2007	Barnes & Noble	40.02	Books	Amex 22008
03/02/2007	Michael's	18.82	A & C	Amex 22008
03/06/2007	Michael's	122.77	A & C	Amex 22008
03/06/2007	Joann's	46.67	A & C	Amex 22008
03/22/2007	Joann's	22.26	A & C	Amex 22008
01/03/2007	Barnes & Noble	67.11	Books	CPA's 3727
03/27/2007	Barnes & Noble	79.52	Books	CPA's 3727
03/29/2007	Barnes & Noble	7.07	Books	CPA's 3727
05/10/2007	Hancock Fabric	76.61	Sewing	CPA's 3727
08/25/2007	Learning is Fun	53.34	Tutoring	CPA's 3727
10/27/2007	Spirit Halloween	531.01	Haunted House	CPA's 3727
10/29/2007	Spirit Halloween	51.66	Haunted House	CPA's 3727
10/29/2007	Spirit Halloween	86.08	Haunted House	CPA's 3727
11/05/2007	Learning is Fun	173.93	Tutoring	CPA's 3727
01/17/2007	Stan Schroener	560.00	Tutoring	DDA 1400
01/24/2007	Michael's	73.48	Arts & Crafts	Citi 6230
02/22/2007	Barnes & Noble	8.36	Books	Citi 6230
02/22/2007	Barnes & Noble	45.19	Books	Citi 6230

02/28/2007	Joann's	20.44	A & C	Citi 6230
02/28/2007	Joann's	75.41	A & C	Citi 6230
03/02/2007	Joann's	11.09	A & C	Citi 6230
02/06/2007	Joann's	17.51	A & C	B of A 1400
02/07/2007	Joann's	59.09	A & C	B of A 1400
02/07/2007	Joann's	98.47	A & C	B of A 1400
02/07/2007	Joann's	11.65	A & C	B of A 1400
02/12/2007	Kay Bee Toys	14.00	Toys	B of A 1400
02/13/2007	Joann's	52.12	A & C	B of a 1400
02/20/2007	Joann's	310.56	A & C	B of A 1400
02/20/2007	Barnes & Noble	31.88	Books	B of A 1400
02/22/2007	Joann's	78.50	A & C	B of A 1400
03/12/2007	Joann's	5.50	A & C	B of A 1400
03/14/2007	Barnes & Noble	12.59	Books	B of A 1400
04/11/2007	Joann's	66.06	A & C	B of A 1400
04/19/2007	Joann's	26.16	A & C	B of A 1400
04/23/2007	Joann's	17.84	A & C	B of A 1400
05/02/2007	Joann's	62.87	A & C	B of A 1400
05/02/2007	Heddy's Fabric	164.44	Sewing	B of A 1400
05/09/2007	Joann's	47.69	A & C	B of A 1400
06/04/2007	Joann's	25.35	A & C	B of A 1400
06/11/2007	Joann's	74.98	A & C	B of A 1400
08/06/2007	Joann's	72.14	A & C	B of A 1400
08/13/2007	Hancock Fabric	5.33	Sewing	B of A 1400
08/13/2007	Hancock Fabric	9.16	Sewing	B of A 1400
08/13/2007	Joann's	44.03	A & C	B of A 1400
08/15/2007	Joann's	22.13	A & C	B of A 1400
09/27/2007	Joann's	34.83	A & C	B of A 1400
11/05/2007	Hancock Fabric	27.90	Sewing	B of A 1400
11/07/2007	Joann's	27.03	A & C	B of A 1400
12/07/2007	Joann's	4.88	A & C	B of A 1400
07/03/2007	Joann's	58.62	A & C	B of A 1400
07/27/2007	Nails 4 U	73.00	Girls Spa Day	B of A 1400
10/01/2007	Fiddlesticks	59.26	Sewing	B of A 1400
10/01/2007	Quiltique	60.95	Sewing	B of A 1400
10/03/2007	Quiltique	152.09	Sewing	B of A 1400
10/04/2007	Joann's	27.01	A & C	B of A 1400
10/29/2007	Party Superstore	206.90	Halloween	B of A 1400
	<b>2007 Total</b>	<b>\$4,233.36</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2008

Date	Store	Amount	Notes	Credit Card
12/28/2008	Toys R Us	107.43	Toys	CPA's 3727
03/21/2008	Regal Cinema	20.50	Movie	B of A 1400
03/21/2008	Regal Cinema	35.50	Movie	B of A 1400
03/24/2008	Michael's	43.37	A & C	B of A 1400
04/04/2008	Joann's	14.19	A & C	B of A 1400
04/14/2008	Home Fabrics	10.76	Sewing	B of A 1400
04/17/2008	Apparel Arts	32.50	A & C	B of A 1400
05/12/2008	Craft Cottage	96.28	A & C	B of A 1400
06/02/2008	Everything but the Kit	30.17	A & C	B of A 1400
06/11/2008	Nancy's Notions	68.22	Toys	B of A 1400
06/12/2008	Joann's	2.74	A & C	B of A 1400
07/02/2008	Nancy's Notions	117.30	Sewing	B of A 1400
07/21/2008	AL Rocket Center	20.95	Brooke Activities	B of A 1400
07/21/2008	AL Rocket Center	53.85	Brooke Activities	B of A 1400
07/21/2008	AL Rocket Center	125.00	Brooke	B of A 1400
08/11/2008	Books A Million	87.99	Books	B of A 1400
09/02/2008	Regal Fiesta	19.00	Movie	B of A 1400
09/03/2008	CCSD ES Kindergarten	300.00	Kindergarten	B of A 1400
09/08/2008	Barnes & Noble	92.79	Books	B of A 1400
09/15/2008	Joann's	21.78	A & C	B of A 1400
09/22/2008	Fiddlesticks	23.68	Sewing	B of A 1400
10/03/2008	CCSD ES Kindergarten	300.00	Kindergarten	B of A 1400
10/06/2008	Craft Cottage	81.66	A & C	B of A 1400
10/24/2008	Joann's	33.29	A & C	B of A 1400
10/29/2008	Heddy's Fabric	9.50	Sewing	B of A 1400
11/03/2008	Cutting Corners	35.95	Sewing	B of A 1400
11/03/2008	CCSD ES Kindergarten	300.00	Kindergarten	B of A 1400
11/09/2008	Toys R Us	4.89	Toys	Amex 306
11/14/2008	Barnes & Noble	20.99	Books	Amex 3006

11/25/2008	Dance ETC	108.90	Dance	Amex 3006
12/03/2008	Nancy's Notions	71.44	Sewing	Amex 3006
12/04/2008	Toys To Grow On	144.70	Toys	Amex 3006
12/04/2008	Sensational Beginnings Toys	147.47	Toys	Amex 3006
07/14/2008	Silhouette Patterns	56.95	Sewing	B of A 2361
07/14/2008	Atlas Levy Sewing Machine	91.25	Sewing	B of A 2361
07/21/2008	Barbs Sewing Center	154.38	Sewing	B of A 2361
07/27/2008	Martha P Sew	294.65	Sewing	B of A 2361
07/26/2008	A Bit of Stitch	292.68	Sewing	B of A 2361
07/30/2008	SNR Sewing Machine	744.00	Brooke Sewing Machine	B of A 2361
07/31/2008	Farmhouse Fabrics	70.20	Sewing	B of A 2361
08/01/2008	Peanut Butter & Jelly	15.90	Sewing	B of A 2361
08/01/2008	Kari Me Away	277.56	Sewing	B of A 2361
02/13/2008	Barnes & Noble	85.34	Books	CPA 3727
08/24/2008	Best Buy	4,134.24	Computer	Best Buy 8058
09/13/2008	Best Buy	938.86	Computer	Best Buy 8058
10/01/2008	MFM Productions	200.00	Brooke Guitar Lessons	Checking Account
10/29/2008	MFM Productions	200.00	Brooke Guitar Lessons	Checking Account
12/10/2008	MFM Productions	225.34	Brooke Guitar Lessons and strings	Checking Account
12/06/2008	Jim Deutz	1,000.00	Brooke Dance Lessons	Checking Account
01/23/2008	American Girl	80.31	Ear Piercing	Amex
01/25/2008	Party City	86.17	Party Supplies	Amex
	<b>2008 Total</b>	<b>\$11,600.62</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2009

Date	Store	Amount	Notes	Credit Card
09/07/2009	Kindle	6.39	Book	Amex 4004
09/07/2009	Kindle	7.99	Book	Amex 4004
09/10/2009	Kindle	7.99	Book	Amex 4004
09/13/2009	Kindle	7.99	Book	Amex 4004
09/13/2009	Kindle	7.99	Book	Amex 4004
09/15/2009	Kindle	7.99	Book	Amex 4004
09/16/2009	Kindle	7.99	Book	Amex 4004
09/18/2009	Kindle	7.99	Book	Amex 4004
09/18/2008	Kindle	6.99	Book	Amex 4004
09/20/2009	Kindle	7.99	Book	Amex 4004
09/24/2009	Kindle	7.99	Book	Amex 4004
09/26/2009	Kindle	7.22	Book	Amex 4004
09/26/2009	Kindle	7.99	Book	Amex 4004
09/26/2009	Kindle	9.99	Book	Amex 4004
10/04/2009	Kindle	6.39	Book	Amex 4004
10/06/2009	Teaching Co.	1244.30	Great Courses Video	Amex 4004
10/06/2009	Kindle	9.99	Book	Amex 4004
10/08/2009	I Tunes	10.62	Music	Amex 4004
10/11/2009	Kindle	9.99	Book	Amex 4004
10/11/2009	Kindle	9.99	Book	Amex 4004
10/16/2009	Justin Timberlake	3500.00	Guitar	Amex 4004
10/18/2009	Kindle	6.39	Book	Amex 4004
10/21/2009	Nick Arcade Pass	7.99	Internet	Amex 4004
10/22/2009	Kindle	3.81	Book	Amex 4004
10/22/2009	Kindle	5.59	Book	Amex 4004
11/02/2009	Kindle	8.96	Book	Amex 4004
11/07/2009	Kindle	6.39	Book	Amex 4004
11/09/2009	Amazon.com	259.00	Tahnee-Kindle	Amex 4004
11/08/2010	iTunes	1.29	Music	Amex 4004
11/13/2009	Apple Store	2129.93	Kids Computer	Amex 4004
11/11/2009	Kindle	9.99	Book	Amex 4004
11/18/2009	Nick Arcade	7.99	Internet	
12/05/2009	Guitar Center	97.27	Music	Amex 4004
12/05/2009	Guitar Center	670.20	Guitar-Music	Amex 4004
12/05/2009	Guitar Center	2,399.64	Drums-Music	Amex 4004
12/05/2009	Toys R Us	207.45	Toys	Amex 4004
12/07/2009	Apple Web Store	183.00	Computer software	Amex 4004
12/07/2009	Magic Beans	552.94	Toys	Amex 4004
12/07/2009	Oak Ridge Hobby & Toys	130.32	Toys	Amex 4004
12/09/2009	Apple Web Store	1586.91	Kids Computer	Amex 4004

12/09/2009	Guitar Center	21.61	Music	Amex 4004
12/11/2009	American Girl	43.43	Toys	Amex 4004
12/16/2009	Nick Arcade	7.99	Internet	Amex 4004
12/17/2009	Playmobil	121.24	Toys	Amex 4004
01/12/2009	Regal Cinema	9.75	Movie	B of A 1400
01/12/2009	Regal Cinema	26.75	Movie	B of A 1400
01/12/2009	Barnes & Noble	61.92	Books	B of A 1400
01/20/2009	Barnes & Noble	22.61	Books	B of A 1400
03/03/2009	CCSD ES Kindergarten	300.00	Kindergarten	B of A 1400
08/04/2009	Stitching It Up	123.03	Sewing	B of A 1400
12/23/2009	Borders	57.89	Books	B of A 2361
06/26/2009	Target	87.71	Toys	B of A 2361
08/27/2009	Walmart	17.91	Toys	B of A 2361
08/27/2009	Walmart	20.54	Toys	B of A 2361
11/08/2009	Halloween Mart	118.63	Halloween	B of A 2361
11/08/2009	Halloween Mart	131.02	Halloween	B of A 2361
12/05/2009	Halloween Mart	446.73	Halloween	B of A 2361
01/16/2009	MFM Productions	200.00	Brooke Guitar Lessons	Checking Account
07/09/2009	MFM Productions	400.00	Brooke Guitar Lessons	Checking Account
08/14/2009	MFM Productions	300.00	Brooke and Tahnee Guitar Lessons	Checking Account
06/19/2009	Learning Is Fun	84.38	School Supplies	Amex
06/17/2009	City of Boulder City	34.00	Rylee Pool	Visa 7339
	<b>2009 Total</b>	<b>\$15,813.97</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2010

Date	Store	Amount	Notes	Credit Card
01/13/2010	Nick Arcade Pass	7.99	Internet	Amex 4004
01/16/2010	Mandalay Bay	41.21	Lion King	Amex 4004
02/03/2010	Barnes & Noble	59.62	Books	Amex 4004
02/03/2010	Kindle	6.50	Books	Amex 4004
02/03/2010	Kindle	8.00	Books	Amex 4004
02/04/2010	Kindle	6.99	Books	Amex 4004
02/06/2010	Build A Bear Workshop	318.20	Rylee B-day Party	Amex 4004
02/06/2010	Kindle	9.99	Books	Amex 4004
02/06/2010	Kindle	9.99	Books	Amex 4004
02/06/2010	Regal Cinema	10.50	Movies	Amex 4004
02/08/2010	Kindle	8.96	Books	Amex 4004
02/10/2010	Kindle	0.99	Books	Amex 4004
02/10/2010	Kindle	0.99	Books	Amex 4004
02/10/2010	Kindle	8.96	Books	Amex 4004
03/01/10	Apple Web	239.00	Software	Amex 4004
03/03/2010	Apple Web	2431.11	Kids Computer	Amex 4004
03/10/2010	Nick Arcade	7.99	Internet	Amex 4004
03/14/2010	Kindle	2.50	Books	Amex 4004
03/14/2010	Kindle	8.99	Books	Amex 4004
03/14/2010	Kindle	9.99	Books	Amex 4004
03/14/2010	Kindle	9.99	Books	Amex 4004
03/14/2010	Kindle	13.17	Books	Amex 4004
03/16/2010	Kindle	0.99	Books	Amex 4004
03/22/2010	Kindle	9.60	Books	Amex 4004
03/22/2010	Kindle	9.99	Books	Amex 4004
03/24/2010	Martha Pullen	72.75	Sewing	Amex 4004
03/24/2010	Martha Pullen	207.45	Sewing	Amex 4004
04/03/2010	iTunes	11.28	Music	Amex 4004
04/07/2010	Nick Arcade	7.99	Internet	Amex 4004
04/08/2010	Claire's Boutique	81.08	Brooke	Amex 4004
04/17/2010	Barnes & Noble	64.84	Books	Amex 4004
04/23/2010	MGM Grand	1200.00	Eagles Concert	Amex 4004
05/05/2010	Nick Arcade	7.99	Internet	Amex 4004
05/23/2010	Toys R Us	41.36	Toys	Amex 4004
05/24/2010	Kids Las Vegas	78.34	Clothing	Amex 4004



05/24/2010	Kids Las Vegas	246.83	Clothing	Amex 4004
06/02/2010	Nick Arcade	7.99	Internet	Amex 4004
06/26/2010	iTunes	9.99	Music	Amex 4004
06/30/2010	Nick Arcade	7.99	Internet	Amex 4004
07/02/2010	iTunes	15.27	Music	Amex 4004
7/19/2010	iTunes	8.73	Music	Amex 4004
08/26/2010	Toys R Us	43.21	Toys	Amex 4004
09/22/2010	Nick Arcade	7.99	Internet	Amex 4004
10/29/2010	Rosetta Stone	347.42	Language Tutoring	Amex 4004
10/30/2010	Disney Vault	191.40	Tahnee Clothes	Amex 4004
11/06/2010	Apple Store	42.16	Computer	Amex 4004
11/06/2010	Toys R Us	153.06	Toys	Amex 4004
11/07/2010	Borders	18.32	Books	Amex 4004
11/14/2010	iTunes	6.15	Music	Amex 4004
11/19/2010	Borders	95.69	Books	Amex 4004
11/29/2010	Rosetta Stone	149.75	Language Tutoring	Amex 4004
12/04/2010	Borders	30.10	Books	Amex 4004
12/04/2010	Borders	98.38	Books	Amex 4004
12/04/2010	Toys R Us	103.72	Gift	Amex 4004
12/05/2010	Claire's Boutique	94.05	Jewelry Misc	Amex 4004
12/08/2010	iTunes	16.41	Music	Amex 4004
12/15/2010	iTunes	15.12	Music	Amex 4004
12/17/2010	Regal Fiesta Cinema	20.50	Movies	Amex 4004
12/18/2010	Lego Shop	88.93	Gift	Amex 4004
12/19/2010	XM Radio	43.05	Whit Radio	Amex 4004
12/19/2010	Lego Imagination	21.74	Gift	Amex 4004
12/20/2010	Target	73.34	Gift	Amex 4004
12/22/2010	Creative Cooking School	450.00	Gift	Amex 4004
12/23/2010	Toys R Us	334.43	Gift	Amex 4004
12/23/2010	Best Buy	162.13	Gift	Amex 4004
12/23/2010	Borders	102.55	Gift	Amex 4004
12/23/2010	Verizon	324.44	Brooke-Phone	Amex 4004
12/25/2010	Lego Shop	5.31	Toy	Amex 4004
12/26/2010	Regal Cinema	5.75	Movies	Amex 4004
12/26/2010	Regal Cinema	10.75	Movies	Amex 4004
12/27/2010	Sirius	157.83	Gift	Amex 4004
12/28/2010	Rosetta Stone	149.75	Tutor- Language	Amex 4004
12/29/2010	Family Music	60.96	Music	Amex 4004
02/08/2010	Regal Cinema	5.25	Movie	B of A 1400
01/07/2010	Barnes & Noble	26.55	Books	B of A 1400
09/28/2010	Back to Music	180.80	Activity	B of A 1400
09/28/2010	Smyth's Toys	242.86	Toys	B of A 1400
06/24/2010	NGA Books	29.90	Books	Cap One 9701

06/10/2010	Lego Shop	136.88	Toys	Cap One 9701
11/03/2010	Best Buy	1,789.37	Computer	Best Buy 8058
11/07/2010	Best Buy	1,768.78	Computer	Best Buy 8058
Date	Store	AMT	Notes	Credit Card
10/14/2010	Walmart	213.92	Toys	B of A 2361
10/26/2010	Party Superstore	48.43	Party Supplies	B of A 2361
10/26/2010	Michael's	82.90	A & C	B of A 2361
10/28/2010	Spirit Halloween	456.74	Halloween	B of A 2361
10/28/2010	Spirit Halloween	21.53	Halloween	B of A 2361
10/29/2010	Party Superstore	75.28	Halloween	B of A 2361
10/29/2010	Halloween Mart Retail	131.37	Halloween	B of A 2361
10/29/2010	Spirit Halloween	229.38	Halloween	B of A 2361
11/06/2010	Spirit Halloween	223.42	Halloween	B of A 2361
02/28/2010	Beach Body Fitness	19.95	Gym Activity	B of A 2361
06/10/2010	Barnes & Noble	119.99	Books	B of A 2361
02/15/2010	Netflix	15.12	Movie	CPA 3727
04/14/2010	Netflix	15.12	Movie	CPA 3727
03/14/2010	Netflix	15.12	Movie	CPA 3727
07/14/2010	Netflix	15.12	Movies	CPA 3727
10/14/2010	Netflix	15.12	Movies	CPA 3727
09/14/2010	Netflix	15.12	Movies	CPA 3727
11/14/2010	Netflix	15.12	Movies	CPA 3727
05/14/2010	MFM Productions	200.00	Brooke Guitar Lessons	Checking Account
05/14/2010	Sydney Levine	200.00	Riley Drum Lessons	Checking Account
01/21/2010	Sean Burningham	600.00	Whitney wedding ring	Checking Account
	<b>2010 Total</b>	<b>\$15,645.62</b>		

## Vivian's Credit Card Statements For Kids Activities/Crafts/Etc 2011

Date	Store	Amount	Notes	Credit Card
01/08/2011	Joann's	3.98	Arts & Crafts	Amex 4004
01/08/2011	Joann's	43.32	Arts & Crafts	Amex 4004
01/12/2011	Learning is Fun	100.93	Studies	Amex 4004
01/15/2011	Claire's Boutique	13.51	Jewelry	Amex 4004
01/29/2011	Sports Authority	252.85	Brooke Volleyball	Amex 4004
02/04/2011	Pump it Up	50.00	Rylee B-day Party	Amex 4004
02/09/2011	Joann's	53.32	Arts & Crafts	Amex 4004
02/13/2011	Claire's Boutique	147.02	Brooke Room	Amex 4004
02/13/2011	Fandango Movie	24.00	Movie	Amex 4004
02/13/2011	Regal Cinema	14.75	Movie	Amex 4004
03/05/2011	Capezio	210.25	Dance	Amex 4004
03/06/2011	Joann's	13.16	Arts & Crafts	Amex 4004
03/06/2011	Joann's	79.58	W-wedding	Amex 4004
03/08/2011	Barnes & Noble	26.97	Books	Amex 4004
03/08/2011	Michael's	134.21	W-wedding	Amex 4004
03/10/2011	Joann's	49.03	W-wedding	Amex 4004
03/11/2011	Pump it Up	223.46	Rylee-B-day Party	Amex 404
03/13/2011	David's Bridal	52.97	Whitney Bridal Slip	Amex 4004
03/13/2011	Joann's	51.70	W-wedding	Amex 4004
03/19/2011	Joann's	63.64	W-wedding	Amex 4004
03/19/2011	Siruis XM	43.05	Jobie Radio	Amex 4004
04/01/2011	Joann's	56.12	W-wedding	Amex 4004
04/07/2011	Barnes & Noble	13.03	Book	Amex 4004
04/07/2011	Borders Books	39.49	Books	Amex 4004
04/07/2011	Michael's	209.71	W-wedding	Amex 4004
04/10/2011	Barnes & Noble	2.81	Books	Amex 4004
04/10/2011	Barnes & Noble	60.46	Books	Amex 4004
04/10/2011	Century 12 Theater	6.50	Movies	Amex 4004
04/19/2011	Barnes & Noble	10.60	Books	Amex 4004
04/19/2011	Barnes Noble	32.85	Books	Amex 4004

04/19/2011	American Girl	498.98	Toys	Amex 4004
04/22/2011	Lego Land	295.42	Toys	Amex 4004
05/01/2011	Barnes & Noble	26.96	Books	Amex 4004
05/03/2011	Barnes & Noble	24.79	Books	Amex 4004
05/03/2011	Home Goods	262.47	Brooke Room	Amex 4004
05/03/2011	Pier 1	20.47	Brooke Room	Amex 4004
05/03/2011	Barnes & Noble	28.41	Books	Amex 4004
05/06/2011	Barnes & Noble	9.40	Books	Amex 4004
05/06/2011	Michael's	187.94	Dance-Peter Pan	Amex 4004
05/07/2011	Wake Up Frankie	2170.30	Brooke Room	Amex 4004
05/11/2011	Over Stock	206.43	Brooke Room	Amex 4004
05/11/2011	Wallpapers to go	71.88	Brooke Room	Amex 4004
05/16/2011	Joann's	67.91	Dance-Peter Pan	Amex 4004
05/28/2011	PB Teen	60.76	Brooke Room	Amex 4004
05/29/2011	Barnes & Noble	143.60	Books	Amex 4004
05/29/2011	Borders Books	26.57	Books	Amex 4004
05/29/2011	Fabric. Com	391.40	Brooke Room	Amex 4004
06/02/2011	Joann's	14.87	Arts & Crafts	Amex 4004
06/05/2011	Claire's Boutique	124.32	Brooke Room	Amex 4004
06/08/2011	Michael's	49.62	Arts & Crafts	Amex 4004
06/08/2011	Wallpapers to go	170.95	Brooke Room	Amex 4004
06/11/2011	Michael's	46.70	Arts & Crafts	Amex 4004
06/13/2011	Bistro MD	154.90	Whitney	Amex 4004
06/14/2011	Wake up Frankie	388.59	Brooke Room	Amex 4004
06/16/2011	Bistro MD	204.90	Whitney	Amex 4004
06/18/2011	Michael's	44.18	Arts & Crafts	Amex 4004
06/18/2011	Ace Hardware	151.65	Brooke Room	Amex 4004
06/18/2011	Over Stock	137.91	Brooke Room	Amex 4004
06/18/2011	Design Toscano	43.90	Brooke Room	Amex 4004
06/19/2011	iTunes	9.13	Brooke Room	Amex 4004
06/20/2011	Joann's	47.47	Arts & Crafts	Amex 4004
06/20/2011	NetFlix	16.20	Movies	Amex 4004
06/20/2011	Horchow	393.48	Brooke Room	Amex 4004
06/24/2011	iTunes	17.95	Music	Amex 4004
07/01/2011	Regal Cinema	19.00	Movies	Amex 4004
07/12/2011	Garnet Hill	170.95	Brooke Room	Amex 4004
07/14/2011	Netflix	10.80	Movies	Amex 4004
07/26/2011	Kari Me Away	81.00	Sewing	Amex 4004
07/27/2011	S & R Sewing	115.26	Sewing	Amex 4004

08/08/2011	Quilt and Sew Shop	90.47	Sewing	Amex 4004
08/10/2011	LV Dance	195.55	Dance	Amex 4004
08/12/2011	S & R Sewing	72.33	Sewing	Amex 4004
08/14/2011	Netflix	10.80	Movie	Amex 4004
08/25/2011	Nick Arcade	7.99	Internet	Amex 4004
	2011 Total	\$9,391.51		

**“Exhibit A-4”**

445-Green Valley High School  
460 Arroyo Grande Blvd  
Henderson, NV 89014

# MARKS, CITIZENSHIP, WORK HABITS

A EXCELLENT  
B ABOVE AVERAGE  
C AVERAGE  
D BELOW AVERAGE  
F FAILING  
P PASSING  
CR NO CREDIT  
NC NO CREDIT  
I INCOMPLETE  
NM NO MARK  
O OUTSTANDING  
S SATISFACTORY  
N NEEDS IMPROVEMENT  
U UNSATISFACTORY  
W WITHDREW

STUDENT	COURSE	TEACHER	698281	GRADE LEVEL	12	REPORT PERIOD	FROM 01/21/03 TO 06/04/03
PRD.			ACADEMIC MARKS	CREDIT EARNED	CITIZ	ATTENDANCE	TEACHER COMMENTS
			1ST 2ND EXAM FINAL			ABS TARDY	
02	Geopolit Econ AP	Swallow, C	B	B	0.50	O 24	
03	Chemistry II IB	Ebert, E.	D	A	0.50	S 23	
04	Calculus IB	Stephen, B	F	F	0.00	O 18	
05	Wrld Lit II IB	Fialkiewicz,	D	C	0.50	O 18	
06	Psychology II AP	Fairless, Re	D	A	0.50	O 20	
07	U.S. Govt IB	Roberts, J	B	F	0.50	S 20	
<p>If you have questions or concerns regarding your child's progress, please call the Counseling office to schedule an appointment.</p> <p>** PAGE 1 OF 1 **</p>							

Printed by PTA Document Systems

Vivian L Harrison  
RE: Tahnee L. Harrison  
1514 SUNRISE CIR  
BOULDER CITY, NV 89005

2nd Semester Report Card

Student Name <b>Harrison, Tahnee Lee</b>		
Student ID <b>698281</b>	Grade <b>12</b>	Gender <b>F</b>
Birth Place <b>Las Vegas, NV</b>	Date Of Birth <b>04/18/85</b>	Ethnic Code

## ACADEMIC HISTORY

Enter Date: **08/27/90**  
 Leave Date:  
 Class Of: **2003**

School Name/Address <b>945-Green Valley High School 460 Arroyo Grande Blvd Henderson, NV 89014</b>	
Tel: <b>702-799-0950</b>	Fax: <b>799-0975</b>
School Alternate Number: <b>416</b>	

Crs ID	Course Title	Grade Ab	Credit	Crs ID	Course Title	Grade Ab	Credit	Crs ID	Course Title	Grade Ab	Credit
<b>933-Garrett Middle School</b>				<b>941-Boulder City High School</b>				<b>945-Green Valley High School</b>			
Grd 09	1/1999	Term: 01		Grd 10	1/2001	Term: 01		Grd 12	1/2003	Term: S1	
13840000	Spanish I	A	3 0.500	13860400	Spanish III H	A	4 0.500	14710300	Wrlt Lit II IB	C	12 0.500
Crd Att: 0.500	Cmp: 0.500	GPA for Term: 4.000		14310400	English II H	A	2 0.500	14880300	Calculus IB	B	11 0.500
<b>933-Garrett Middle School</b>				<b>941-Boulder City High School</b>				<b>Work In Progress</b>			
Grd 09	6/1999	Term: 02		Grd 10	6/2001	Term: 02		Crs ID	Course Title		Credit
13600000	Comp Lit Waiver	P	0.500	13500000	Career Ed	A	8 0.500	24710300	Wrlt Lit II IB		0.500
23840000	Spanish I	A	5 0.500	23860400	Spanish III H	A	7 0.500	24880300	Calculus IB		0.500
Crd Att: 1.000	Cmp: 1.000	GPA for Term: 4.000		24310400	English II H	A	6 0.500	26860300	Chemistry II IB		0.500
<b>941-Boulder City High School</b>				<b>998-External Credits</b>				<b>Credit Summary - Standard Diploma</b>			
Grd 09	1/2000	Term: 01		Grd 10	6/2001	Term: 02		Subject Area	Req	Cmp	Def
13850400	Spanish II H	A	1 0.500	24790000	Algebra I	A	0.500	English 1 (1)	0.50	0.50	
14300400	English I H	A	2 0.500	Crd Att: 0.500	Cmp: 0.500	GPA for Term: 4.000		English 1 (2)	0.50	0.50	
14830400	Geometry H	A	4 0.500	<b>945-Green Valley High School</b>				English Other	3.00	2.50	0.50
16450000	PE I	A	3 0.500	Grd 11	1/2002	Term: 01		Mathematics	3.00	3.00	
16760400	Biology I H	A	1 0.500	13870300	Spanish IV IB	B	2 0.500	Physical Education I	1.00	1.00	
17180000	Prin of Ldrshp	A	4 0.500	14670200	Eng Lang & Comp AP	B	2 0.500	Physical Education II	1.00	1.00	
Crd Att: 3.000	Cmp: 3.000	GPA for Term: 4.000		14850400	Trigonometry H	A	2 0.500	Health Education	0.50	0.50	
<b>945-Green Valley High School</b>				16770300	Biology II IB	B	6 0.500	Science	2.00	2.00	
Grd 11	1/2000	Term: 01		16900400	PHYSICS I H	B	6 0.500	Wrlt Hist/Human (1)	0.50	0.50	
1000	PE II Waiver	P	0.500	16940800	Adv Sci Lab	A	0.500	Wrlt Hist/Human (2)	0.50	0.50	
Crd Att: 0.500	Cmp: 0.500	GPA for Term: 0.000		17010400	WORLD HISTORY H	A	4 0.500	U.S. History (1)	0.50	0.50	
<b>941-Boulder City High School</b>				Crd Att: 3.500	Cmp: 3.500	GPA for Term: 3.429		U.S. History (2)	0.50	0.50	
Grd 09	6/2000	Term: 02		<b>945-Green Valley High School</b>				U.S. Government (1)	0.50	0.50	
23850400	Spanish II H	A	4 0.500	Grd 11	6/2002	Term: 02		U.S. Government (2)	0.50	0.00	0.50
24300400	English I H	A	3 0.500	23000000	Art I	A	6 0.500	Use of Computers	0.50	0.50	
24830400	Geometry H	A	4 0.500	23870300	Spanish IV IB	A	6 0.500	SocStd/Arts/Human/OccEd	0.00	0.00	
26450000	PE I	A	4 0.500	24430300	Theo/Knwldge I IB	A	13 0.500	Electives	7.50	12.00	
26760400	Biology I H	A	3 0.500	24670200	Eng Lang & Comp AP	B	6 0.500	-----Total Credits-----	22.500	26.000	1.00
27180000	Prin of Ldrshp	A	4 0.500	24870400	PRECALCULUS H	B	4 0.500				
Crd Att: 3.000	Cmp: 3.000	GPA for Term: 4.000		26900400	PHYSICS I H	B	5 0.500				
<b>945-Green Valley High School</b>				27010400	WORLD HISTORY H	A	7 0.500				
Grd 11	6/2000	Term: 02		Crd Att: 3.500	Cmp: 3.500	GPA for Term: 3.571					
26600000	PE II Waiver	P	0.500	<b>998-External Credits</b>							
Crd Att: 0.500	Cmp: 0.500	GPA for Term: 0.000		Grd 09	8/2000	Term: 03					
<b>998-External Credits</b>				24790000	Algebra I	A	0.500				
Grd 09	8/2000	Term: 03		Crd Att: 0.500	Cmp: 0.500	GPA for Term: 4.000					





**“Exhibit A-5”**

Dear Mom,

I don't want this letter to become some fallacious attempt to appease you. I don't want you to be under the impression that I'm only writing this letter to make amends with you and to put myself ahead. I'm going to be completely honest and straightforward. I know, as do you I'm sure, that yesterday's conflict made a lasting impression in our relationship. We will no longer be as close as we used to be. There is nothing you or I can do to change that. I wish I had walked out of the house when you first asked me to, but there's nothing I can do about that now. I stayed and confronted you, and now I have to face up to the consequences.

I'm going to be blunt. You were totally wrong in how you handled our disagreement yesterday. You didn't act like a mother to me. You didn't seem to care at all about me as you taunted and hurt me. You may not think much of what you did or how it could have affected me. Try thinking about how I felt for a second. You might be surprised. I think you might find out it hurt me more than anything I've ever experienced before. And, no, I'm not just saying that to be *dramatic*. Right now, I can't stop thinking about how much you must abhor me. Imagine what it feels like knowing the one you love most in your life absolutely loathes you. This person doesn't even want to see you ever again. You'll find that this is the most depressing thought imaginable, and it's become reality for me. My own mother hates me.

Although I still believe you were totally wrong in what you did yesterday, I'm also willing to confess that I was wrong too. Can't we both just admit that we were wrong, or is it only my fault as always? I know you think that I disrespect you and don't appreciate what you do for me, but I think, deep down, you know that that's not true. If you do believe it to be true, then I think you don't know me as well as you might have thought. Perhaps I just haven't gone about showing it as much as I should. You deserve better. I realize now that your life must be awful. You go about your day taking care of all of your children as if it were your only responsibility. You never even think twice about doing something for yourself. Every waking hour is spent tending to our wants and needs. I know this, Mom. I'm aware of your sacrifices, and that's exactly why I used it against you. You hurt me where it hurts the most. My entire life I've been trying to live up to your expectations. I've always wanted to please you and make you proud of me. I honestly held your opinion in the *highest* regard. In the past few months, however, I felt your approval of me dwindling away. I failed you and myself. I can't stress enough how much my last semester of high school became an absolute embarrassment for me. I can't believe that I, Tahnee Harrison, did so poorly in school. As I said, I failed miserably. Everything I had been working for since I was a little girl went down the toilet. No more Harvard, no more nothing... To me, I was a complete idiot, and there was nothing I could do to change what I had done. My life seemed to be over, and I became severely depressed. Little Ms. Perfect was a failure. Ms. Perfect's mother no longer had bragging rights. I was a disgrace. I don't know if you'll ever know how much I was affected by this experience. I think that maybe if you did, you would be more understanding.

My point is that, to me, you were unabashedly referring back to this awful experience on purpose. It didn't seem that the thought of mentioning this over and over to you mattered. It appeared to me that you just didn't care, and that hurt more than anything. It was a constant reminder of the fact that yes, my mother was aware of my failure, and yes, she would never forget it. My mother whose opinion I held in the *highest* regard was aware of the fact that I was a failure. I think that if you could just understand how much your words and thoughts affect me, you would be able to comprehend my reaction. I know it wasn't right and that it was uncalled for. I just want you to know that what you said was probably the last possible thing on this earth that I wanted to hear. It was as if everyone around me, being you and Ms. Tully, thought of me as being incompetent and stupid. The two people whose opinion I care about and let affect me the most thought this about me.

I guess this is why I lashed out the way I did. I know it's no excuse for anything, but maybe it will give you some insight as to *why* I did what I did.

Mom, I want you to know that I do and always will love you with all of my heart. There's nothing you can do to me that will make me stop loving you. Although sometimes I wish this weren't the case, I can't deny it. Because I love you so much, you have the power to hurt me more than anyone. You have more control over me than I think you know. I've grown up and become the person that I am under your influence. I just hope you know how much I truly love you. You will always be the person I love and care most about in this world. I'm not telling you this for your pity. I want you to know the truth. I just hope you will believe me.

I wish all of this wouldn't have happened. I wish you still loved me and wanted me in your home. I wish you still wanted to see me, yet I know this isn't the case. I know our relationship has permanently been broken for what we've both done. This hurts me more than anything. I'll never have the love and the attachment that I once had with you. That precious, delicate bond is gone, and I will have a terrible life because of it. I'm not sure as to how it will affect you, but I know that without you, I don't have the potential I once possessed. An enormous part of my life is gone, and there's nothing I can do to replace it.

I guess, from this letter, I want you to know just a few simple things: 1) I will always love you; 2) I believe both of us were wrong; 3) I appreciate you. I'm sorry something like this had to happen before you would know how much I do appreciate you. So, I suppose, ultimately, it is my fault. It's my fault for not showing you my gratitude, and for that I will always be regretful. I hope that although I probably won't ever see you again at home, you will at least have this letter to serve as a reminder of my love and thanks. You are everything to me, and I just pray that in your heart you know this.

---

Your daughter,  
Tahnee

**“Exhibit A-6”**

Name

Vivian

Harrison

MD Appointment



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July 19, 2005

PSYCHIATRIC EVALUATION:

Re: Vivian Harrison

Date of Birth: 08/16/62

Referred By: By Dr. Paula Squittieri, Ph.D.

IDENTIFYING INFORMATION:

This is a 42-year-old married Caucasian female. She has been married to her husband who is an attorney for over 20 years. They have three young adult children ages 20, 18, and 16, and two young children ages 4 and 2. Vivian has no financial problems at this time, but she is considering some legal issues.

HISTORY OF PRESENT CIRCUMSTANCES:

Vivian had difficulties in her family relationships. All three of her older children have had problems of one sort or another. The way she describes as they feel entitled and in a lot of ways, in terms of their inability to do things that have been asked of them which come down to the fundamentals including things like college admissions, applications, and things that one would expect they would be self-directed upon. She has been very involved with this, leading to conflicts with her husband who has a different philosophy of letting the kids be responsible for themselves. He is more of a laissez faire and she tends to be much more wanting to be proactive in making the children do things. This has led to problems in her relationship with her husband to the point that she actually consulted with an attorney considering divorce and getting out of this situation in regards to her older children and her husband. Her younger children it sounds like are doing okay at this point.

Her oldest daughter has been treated for anxiety and possible obsessive compulsiveness. She has been on medications including serotonin reuptake inhibitors, but has not recently been taking those and apparently is not doing as well from Vivian's perspective, although her daughter says she feels better off the medication. Her 16 year old has been apparently diagnosed with attention deficit disorder and has been treated with stimulants by a psychiatrist here in town. Currently, that child is off the medication for this summer.

Vivian had concerns about her weight. She was taking phentermine last year and just in the last couple of weeks she was given a prescription for tenuate, a different type stimulant. This is through a diet clinic and none of her emotional issues were brought up in terms of this prescription.

Symptomatically, what results in the referral this time from the psychologist she is met with three times, is that Vivian is having trouble with disrupted sleep at night. She tends to wake up and not able to go back to sleep. She is feeling very tense, irritable, and reactive to her family dynamics manifesting as frequent arguments and anger on her part. She also has an easy potentiality to crying in discussing this material, which was present through much of today's evaluation. There is no hopelessness and no suicidal thinking, but there is considerable ambivalence about her relationship with her husband and her older children. She may be overeating and/or not able to lose weight in part is a byproduct of what she has been feeling emotionally. There are no panic attacks. No history of eating disorder. Dr. Squittieri mentioned the possibility of some postpartum depression from her last delivery, but it is difficult to distinguish that from the ongoing symptoms that she is describing on the present time. She is open to idea of trying antidepressant to try and help her disposition and mood in coping with these things regardless of what decision she makes, and in fact, she was treated with Effexor from her regular doctor about a year ago which she took for a few months, but the maximal dose she was on was only 75 mg which would have been probably not enough to really help her feel better. Part of the reason Effexor was chosen apparently was because she was taking phentermine, and it is

MD Appointment



COPY

Name

Vivian

Harrison

CONFIDENTIAL

not clear to her whether she has had her thyroid checked at any point in the recent past.

**PAST PSYCHIATRIC HISTORY:**

She denies any remote history of depression or anxiety disorders. No history of hospitalization or suicidal thinking.

**PAST MEDICAL HISTORY:**

She has a regular menstrual cycle. She does not have a very good libido and has very little to no interest in being sexually active with her husband at this time because of the issues between them. She is on no other prescriptions medications as I understand and has no drug allergies.

**MENTAL STATUS EXAM:**

**Appearance:** Reveals an alert and oriented mildly overweight Caucasian female who is dressed casually with good grooming and hygiene. Her eye contact was good.

**Speech:** A bit pressured through much of the interview due to emotion, but otherwise, normal for volume and rhythm.

**Motor Activity:** Within normal limits.

**Mood:** Moderately depressed.

**Affect:** Anxious and tense.

**Thought Processes:** Logical and goal directed.

**Thought Content:** There is no suicidal or homicidal ideation. No auditory or visual hallucinations. No thought broadcasting, thought insertion, or paranoid ideation.

**Cognition:** Appears grossly intact.

**Insight:** Appears fair.

**Judgment:** Appears good.

**ASSESSMENT:**

Vivian Harrison is a 42-year-old woman who has had some significant problems with her older children which have played into growing problems in her marriage and as a byproduct of this appears to be experiencing symptoms consistent with moderate depression and generalized anxiety. I will also code her as having marital relation problems at this time.

I think the onus of treatment probably is in the therapy but certainly if she wants to try medications to temper some of her reactivity and the anger and whether or not will make a difference in her sleep problems and so forth, I am open to that. I suggested that she not take the stimulants she was just prescribed for weight loss as it has potential to aggravate all of the symptoms that she is complaining of and instead to wait on that and try a serotonin reuptake inhibitor. I chose Celexa, and she will try that, titrating at 10 mg for a week, 20 mg for a week, and then 40 mg if the prior two dosages have gone okay. Risk, benefits, and side affects of SSRIs were described to her, and she gave informed concerns, and she plans on continued individual counseling with Dr. Paula Squittieri.

**DIAGNOSES:**

AXIS I: 29622 - Major depression disorder, single episode, and moderate.

300.02 - Generalized anxiety disorder.

V61.1 - Partner relational problem.

**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144

(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

**Medical Record**  
**Psychiatric Eval**

Name

Vivian

Harrison

MD Appointment



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AXIS II: Deferred.  
AXIS III: No active medical problems at this time.  
AXIS IV: Moderate.

AXIS V: Currently 50.

**PLAN:**

As per above regarding medications with the understanding that she shall continue to see Dr. Paula Squitieri for therapy. I did order a TSH level for her, and if she has any problems with the medication she is instructed to call me. I will actually meet with her in about eight weeks, which would be about six weeks into taking 40 mg of Celexa and trying and determine if it has been of any benefit to her time in that timeframe. If she does not tolerate the SSRI for some reason, we will either switch to different SSRI or consider another trial.

Thank you for the referral and opportunity to participate in this pleasant woman's care.

Respectfully,

Sean Duffy, M.D.

Diplomate of the American Board of Psychiatry &amp; Neurology

SD/MJ/AK



**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144

(702) 360-2800 FAX (702) 360-2878

**Beginning of Chart****Medical Record****MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

**COPY****CONFIDENTIAL**Date 9/19/05MD Apt # 2

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Great Improvement

8/25 - Thy wnl

none

Lab Results

Side Effects?

**Note**

**S/O** - Taking celexa and finding it does help, 40 mg once a day, not as reactive, less crying, not snapping or yelling as much. Positive feedback from people around her. Still trouble sleeping with waking up at 1-3 am, takes a while to get back to sleep, then up at 5 am. Not as much energy as before, tried it at night initially but then went to mornings as thought effects would wear off if taken at night. No sse that she is aware of, but not very sexual.

**A/P** - MDD, full remission, GAD is much better - Will try 60 of celexa to see if its more effective, let me know, once decided on final amount then if chooses to for her concerns about weight, can take phentermine or tenuate if chooses to, with my stating that stimulants could bring back or aggravate problems with irritability, nervousness, trouble sleeping. Also mentioned diphenhydramine as alternative to help sleep.

New Med? ☒ Informed Consent ☐ Informed Consent by GuardianReturn to Clinic: **Three Months**Date 1/19/06MD Apt # 3

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Effective

Patient Progress?

Unchanged

none

Lab Results

Side Effects?

New Med? ☐ Informed Consent ☐ Informed Consent by Guardian**Note**

**s/O** - Not in counseling anymore, two older kids are away at school. Husband is retiring at the end of the month and a bit of a risk of this to stability. Her mood is much calmer and more even, handles stress a lot better. Sleep improved somewhat although still a bit of a problem. Increase in celexa may or not have been of much difference.

**a/P** - MDD, full remission, GAD in remission - Holding on 60 celexa, not fully clear if needs to be on this much but wants to stay on that since husband is about to retire at age 54. Meet in the fall, discuss whether or not to stay on it, dont stop it abruptly.

**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144  
(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

Medical Record

MD Appointments

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs

Return to Clinic:



COPY

Date 2/27/2007MD Apt # 4

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Effective

Patient Progress?

Unchanged

none

**Note**

S/O - Not clinically depressed at this time, but did stop for one week a couple months ago and had noticeable irritability and tension. Sleep has never been regular entire with or without it. One sister is being treated for dep, not sure as only talks to her once a year, and a half-sister who killed herself. Daughter has anxiety and some tendencies toward obsessive compulsiveness, is now in college and struggling emotionally, not on meds at this time. Taking 40 mg a day, generic, down from 60 at time of the last visit.

a/P - MDD, full remission, GAD - Not clear if needs to be on celexa from the standpoint of risk for significant depression but on the other hand some sx of low grade when she did not take in just a few months ago, and gad is likely to be persistent given daughter's history of such. So asking about long term use and risks associated and with study came out about bone density that would be the main concern.

Lab Results

Side Effects?

New Med? ☐ Informed Consent ☐ Informed Consent by GuardianReturn to Clinic: One YearDate 5/12/2008MD Apt # 5

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☒ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Some Deterioration

none

**Note**

S/O - Has been on medicine since last here although reduced to 20 mg over the last four months, and has noticed an increase in GAD sx including irritability, fatigue, low energy.

A/P - MDD, full remission, GAD - I think she should go back to 40 mg, 20 is just not going to hold her. If resumes 40 mg and feels better cont once a year visits. Call me in four to six weeks.

**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144

(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

Medical Record

MD Appointments

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs



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Lab Results

Side Effects?

New Med?



Informed Consent



Informed Consent by Guardian

Return to Clinic:

One Year

Date 6/12/2009

MD Apt # 6

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Some Improvement

none

## Note

S/O - Has been well, going back to the 40 mg did improve mood. No new health problems.

A/P - MDD, full remission, GAD - Cont maintenance long term treatment with citalopram. Doing well.

Lab Results

Side Effects?

New Med?



Informed Consent



Informed Consent by Guardian

Return to Clinic:

One Year

Date 5/25/2010

MD Apt # 7

Visit

- ☒ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☒ Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

## Note

S/O - Had a good year, going to Ireland in a few weeks, will be out of town for two months on trip so needs me to write double dose for the time she is away, if insurance wont go for that then will have to argue it out with them or just pay for it. Living together but physically and sexually seperated from husband, no fighting. Has legal counsel to discuss how to go about ending the relationship.

A/P - MDD, full remission, GAD - Doing well on maintenance antidepressant treatment. Has pending probable divorce with legal counsel but holding up alright.

2/24/11 - phone - pt going through divorce and asks by phone msg to increase antidepressant, I think before I do that I would like to meet with her and discuss what has been going on and how she has been feeling before just bumping the dose.

**Ventana Health Associates**

Summerlin Medical Center

653 Town Center Drive Suite 408, Las Vegas, Nevada 89144  
(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

**Medical Record**  
**MD Appointments**

Name

Vivian

Harrison

Psychiatric Evaluation

Medication Record

Nursing Notes

Mental Status

Labs



COPY

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Lab Results

Side Effects?

New Med?

☒ Informed Consent ☐ Informed Consent by Guardian

Return to Clinic:

One Year

Date 3/1/2011

MD Apt # 8

Visit

- ☒
- Patient
- 
- ☐
- Spouse/Sig. Other
- 
- ☐
- Parent
- 
- ☐
- Son/Daughter
- 
- ☐
- Therapist
- 
- ☐
- Case Conference

- ☐
- Noncompliant
- 
- ☐
- Partial Compliance
- 
- ☒
- Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

Lab Results

Side Effects?

**Note**

**S/O** - She is in therapy with a Marvin Garwin, daughter has OCD and had seen that therapist. This is in the last two months. This was to help with her plan for divorce which is going forward at this point. Told therapist what dose she was on and he looked up and that she is on standard dose. So now she is reconsidering the increases in dose as psychologist said it might harm her.

**A/P** - MDD, full remission, GAD - As prophylaxis I do not have a problem with going to 60 mg in context of what is going to likely be an ugly divorce. I disagree with psychologist that taking a larger amount would harm her in some way which was not quantified by him. I think it may be wise in fact to go back on 60 mg just to help deal with stress.

10/10/11 - phone - pt wanted to talk to me about "medicine advice" - seven months since last seen - overdue for f/u - schedule apt.

Date 10/11/2011

MD Apt # 9

Visit

- ☒
- Patient
- 
- ☐
- Spouse/Sig. Other
- 
- ☐
- Parent
- 
- ☐
- Son/Daughter
- 
- ☐
- Therapist
- 
- ☐
- Case Conference

- ☐
- Noncompliant
- 
- ☐
- Partial Compliance
- 
- ☒
- Compliant

Medication(s) Effective?

Partial

Patient Progress?

Unchanged

none

**Note**

**S/O** - Taking 60 of celexa, doing well on that dose, no depression, has gained wt in the last several months in context of stress of her divorce, poor diet and lack of exercise.. Wt went from 150 to 180. Shows me an extensive report from Dr. Roitman, who did not interview her directly, diagnosing her as having impairments related to intermittent use of phentermine and narcissitic personality disorder, based on affidavits of husband and two adult daughters that she has problems. He formulated this "analysis". She then had her own psychiatric evaluation from Dr. Thienhaus that stated no diagnosis and clean MMPI - completely opposite from Dr. Roitman's report. Dr. Thienhaus did evaluate her directly. No phentermine use since last May. She remains in therapy. No Bontril since June. Has only used two xanax pills in the six months since I wrote that rx.

**A/P** - MDD, full remission, GAD - Atty asking whether I want to be in a role of evaluation of her in the complexity of her legal problems, and the answer is no I do not want to do that, clearly two forensic psychiatrists have formed opinions of her and their opinions should be the "expert opinions", one of whom interviewed her directly and did MMPI, the other whom never met her directly (is this ethical?). I am simply doing med management for anxiety and mood, and she is

**Ventana Health Associates**  
Summerlin Medical Center  
653 Town Center Drive Suite 408, Las Vegas, Nevada 89144  
(702) 360-2800 FAX (702) 360-2878

Beginning of Chart

**Medical Record**  
**MD Appointments**

Name

Vivian

Harrison

Nursing Notes



**COPY**

**CONFIDENTIAL**

faring fairly well with the medicine she is on (no evidence of EKG abnormalities, last EKG was January). Ask her to have her regular doctor repeat EKG to verify no QT prolongation from citalopram. Advised her I would recommend not doing anything in terms of medicines or surgeries for weight while she has legal proceedings going on. Continue therapy.

Lab Results

Side Effects?

New Med?

☐ Informed Consent

☐ Informed Consent by Guardian

Return to Clinic:

Six Months

Date

MD Apt #

- ☐ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☐ Compliant

Medication(s) Effective?

Patient Progress?

Note

S/O -

A/P -

Lab Results

Side Effects?

New Med?

☐ Informed Consent

☐ Informed Consent by Guardian

Return to Clinic:

Date

MD Apt #

- ☐ Patient  
☐ Spouse/Sig. Other  
☐ Parent  
☐ Son/Daughter  
☐ Therapist  
☐ Case Conference

- ☐ Noncompliant  
☐ Partial Compliance  
☐ Compliant

Medication(s) Effective?

Patient Progress?

Note

S/O -

A/P -

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**Beginning of Chart****Medical Record  
Medication Records**

Name

Vivian

Harrison

**MD Appointments****Nursing Notes****Labs**

Allergies: nkda

Previous  
Medication Trials:  
Reason DC'd

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Pharmacy

Costco - Henderson

Pharmacy Phone Number

352-2030

Meds From Other MDs	Dosage	Schedule	Active/DC'd	Rxing MD	Phone
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
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			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		
			<input type="checkbox"/> Active <input type="checkbox"/> DC'd		

Previous Psychiatric Med Trials	Adequate Trial	Reason DC'd
Effexor	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	75 mg max for about 3 months one year ago
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	
	<input type="checkbox"/> Dose <input type="checkbox"/> Duration	

**Medication**

Refill Date Rx Change

Refill #

Name of Prescriber

Celexa name brand 10 mg for one week, 20 mg for one week, 40 mg after that take in am	8/11/05	40 mg i po qd 1 mo 1	srd/ah		
	9/19/05	40 mg 1 1/2 1 mo 2	srd/ko		
	10/03/05	40 mg 1 1/2 po qd 1mo 2	srd/ah		
	12/16/05	40 mg 1 1/2 po qd 1mo	srd/ah		
	1/19/06	40 mg 1 1/2 nb 1 mo 8	srd		
	2/27/07	40 mg i po qd 1 mo 11 generic	srd		
	03/03/08	generic 40 mg #30 i po qd	srd/faxed		
Date First Rx	7/19/05	5/6/08	40 mg i po qd 1 mo 11	srd	
#	One Month	Refill: 1	6/12/09	40 mg i po qd 1 mo 11	srd/tw
<input checked="" type="checkbox"/> Informed Consent		Date DC'd		Reason DC'd	
<input checked="" type="checkbox"/> Side Effects Discussed					
<input checked="" type="checkbox"/> Risk/Benefit Discussed					

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**Beginning of Chart****Medical Record  
Medication Records**

Name

Vivian

Harrison

**MD Appointments****Nursing Notes****Labs**☐ Pregnancy Risk Discussed**COPY****CONFIDENTIAL****Medication**

Refill Date Rx Change

Refill #

Name of Prescriber

**Citalopram 40 mg ii po qd  
generic date 6/7 then  
rewrite for 40 mg i po qd  
on 8/20 with 9 refills**

9/14/10 40 mg i po qd #30 7

3/1/11 40 mg 1 1/2 po qd 1 mo 5

9/8/11 40 mg 1 1/2 po qd #45

10/7/11 40 mg 1 1/2 po pd #45

10/10/11 1 mo 5 same

srd/faxed

srd

srd/faxed

srd/faxed

srd

Date First Rx 5/25/10

#

Refill:

- ☒ Informed Consent  
☒ Side Effects Discussed  
☒ Risk/Benefit Discussed  
☐ Pregnancy Risk Discussed

Date DC'd

Reason  
DC'd**Medication**

Refill Date Rx Change

Refill #

Name of Prescriber

**Xanax 1 mg i po q4 prn  
#10 for divorce meeting  
with attys 293-6705**

5/26/11 1 mg i po every 4-6 hrs #10

3

srd/faxed

Date First Rx 5/5/11

#

10

Refill: 0

- ☒ Informed Consent  
☒ Side Effects Discussed  
☒ Risk/Benefit Discussed  
☐ Pregnancy Risk Discussed

Date DC'd

Reason  
DC'd**Medication**

Refill Date Rx Change

Refill #

Name of Prescriber

Date First Rx

#

Refill:

**“Exhibit A-7”**



LAST WILL & TESTAMENT OF KIRK R. HARRISON

I, KIRK R. HARRISON, being of sound mind and body, do hereby bequeath everything I own as follows:

1. To my wife, Vivian L. Harrison.
2. In the event my wife predeceases me, dies simultaneously, or within 72 hours of my death, then equally to all of my children: TATNEE, Whitney, Joseph, Brooke & Rylee.
3. In the event my wife and some of my children predecease me, die simultaneously, or within 72 hours of my death, then equally to my living children.
4. In the event my wife and all of my children predecease me, die simultaneously, or within 72 hours of my death, then to my sister Janie Harrison Ferguson.

DATED THIS 25<sup>TH</sup> day of December, 2005.

Kirk R. Harrison

It is my STRANGEST hope, desire, and wish that the RANCH, including each and every part thereof, Always stays in the family.

## Appointment of Co-executors AND CUSTODIANS

1. I hereby appoint Mel Case and Randall Jones as co-executors of my estate.
2. In the event my wife and I die simultaneously or within 72 hours of each other, my eldest children, Tahnée & Whitney, are to have custody of our minor children Joseph, Brooke & Rylee. If in the discretion of Tahnée & Whitney, they are unable to properly take care of the other children, then it is my wish that my sister, Jamie Harrison Ferguson, be given custody of our minor children until such time that Tahnée, Whitney, and/or Joseph are in a position to take care of Brooke & Rylee.

Dated this 25<sup>th</sup> day of December,  
2005

Mike R. [Signature]

**“Exhibit A-8”**

## My Mom

My mom is someone who is very influential to me and my life. She is the love of my life and I am proud to say that she is my mom. She does so much for me. She schedules appointments for me when I need them. Wherever those appointments are, she is there

run  
on

driving me to them and then waiting for me. She builds

up my confidence by complimenting me to make me feel better about myself. Something that is really important

is that my mom buys me food. I love food. My mom

also buys me sports equipment that I need to play that certain sport. My mom is also concerned about

my safety. That is very important to me because it

shows how much she cares about me. And most importantly,

of all, she pays for my education so I will grow

up to live a great life. I can only wish to give

back to her as much as she has given to me. I

love my mom.

**“Exhibit A-9”**

Ole J. Thienhaus, M.D., FACPsych

Diplomate, American Board of Psychiatry and  
Neurology

100 North Arlington Ave., 10-K  
Reno, NV 89501

3459 French Daisy Street  
Las Vegas, NV 89135

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Saturday, August 13, 2011

Gary R. Silverman, Esq.  
Silverman, Decaria & Kattelman, Chtd.  
6140 Plumas Street, Suite 200  
Reno, NV 89519

Dear Mr. Silverman:

On August 11, 2011, I saw your client, Ms. **Vivian Harrison** for a one-and-a-half hour psychiatric examination in my office in Las Vegas.

Vivian Harrison is a 49 year old married woman referred to me by Gary Silverman, a Reno-based attorney who represents her in her divorce proceedings. The requested evaluation was part of her preparation for custody hearings. Ms. Harrison understood that the interview occurred as part of her legal case, rather than as a therapeutic encounter, and that consequently the conclusions I would draw from the evaluation would be shared with her attorney and, in the case of court proceedings, might become evidence and part of the official record.

#### Biographical Background

Ms. Harrison was born in Las Vegas and grew up in North Las Vegas. She was the third oldest of four children, raised by a single mother. The oldest sibling, a sister now deceased, had a different father. She describes a difficult home situation. Her father left the family when she was only four or five years old, so her mother had to raise four children on welfare support, complemented by her wages as a casino hostess. Because of her mother's working shifts, Ms. Harrison ended up with roles as homemaker and parental figure for her younger brother. She describes her two older sisters as deeply troubled individuals. The oldest (half-) sister died of an overdose which was ruled a suicide. Her other sister is alive but has a drinking problem.

Ms. Harrison explains that life at home was so stressful that she ran away at age 14 to stay with another family, a complete family with two parents. However, she was returned home after a short stay at Child Haven. Shortly thereafter, she ran away again, and was declared "incorrigible." On a later occasion, when again she ran away, the designation was lifted. She was temporarily placed at Nike House, and her parents were labeled "negligent." Ms. Harrison was allowed to move to Hawaii and moved in with her older sister there. At age 17, she returned to Las Vegas to stay with a case manager, took some supplemental classes in night school, then tested out of high school with a diploma awarded in 1980, and subsequently enrolled in Community College of Southern Nevada. She obtained an Associate Degree in Banking and Finance, working on the side to put herself through school.

At age 18 she got married to her current husband, Kirk Harrison, an attorney in Las Vegas. After the birth of her first child, three years into the marriage, she largely assumed the role of stay-at-home Mom, but enrolled in UNLV later, and, over a protracted time ended up earning Bachelor's and Master's degrees in Accounting. In 1999, she started working for the Nevada Gaming Control Board for two years, then took a job with Arthur Anderson, but quit soon because "it was too hard on the kids."

She has five kids, the three oldest now being adults. The two youngest are 8 and 12 respectively.

Ms. Harrison describes reconciliation with both her parents. Eighteen years ago, she received a phone call, learning that her father (whom she had not lived with since age 4 or 5, and whom she had last seen at age 8) was dying of pancreatic cancer in an RV park in Washington State. She found him and spent three days with him, returned to Las Vegas to collect her children and took them to see their grandfather. He died two days later. As for her mother, she bought her a house in Las Vegas 17 years ago, and maintained regular contact, until the mother died three years later of a heart attack.

### Psychiatric History

In 2004, Ms. Harrison consulted an attorney in Las Vegas as she considered a divorce from her husband. She explains that, while talking to the attorney she began to cry. Seeing this, the attorney suggested she go and see a therapist. She followed the advice and saw Sean Duffy, M.D., a psychiatrist in private practice in Las Vegas. Dr. Duffy expressed his concern about her degree of anxiety and prescribed citalopram (Celexa®), a serotonin reuptake inhibitor. She experienced reduced anxiety and the medication was continued, initially at a dose of 40 mg, later reduced to 20 mg. She saw Dr. Duffy once a year for a prescription renewal and has continued the medication to this day. About five

months ago, as the current divorce proceedings became more concrete, she called to request a dose adjustment back to the original 40 mg.

In her own experience, Ms. Harrison is aware of situational anxiety, a tendency to cry rather easily, for example when watching movies with scenes of child abuse or kidnapping, and a propensity to show her anger, when aroused, by yelling and arguing. On one occasion, during an argument with her then-teenage daughter, she ended up shoving her daughter physically, and on "maybe five occasions" she slapped her teenage kids. She speculates that for a while, "maybe five or six years ago," her tendency to get irritated increased while she was prescribed phentermine to help her efforts at losing weight.

Ms. Harrison was never hospitalized for psychiatric reasons and never underwent intensive psychotherapy. She denies any history of suicidal ideation or intent – "especially after I saw my oldest sister go downhill." Likewise, there is no history of mood changes consistent with a manic episode, such as increased risk-taking behavior, loss of behavioral control and extended times of needing less sleep. She emphasizes and illustrates with examples how both her anxiety, her tearfulness and her irritation are reactive in nature and respond to external situational cues.

The treatment with a serotonin reuptake inhibitor would suggest an underlying mental illness. Indeed, citalopram is approved by the FDA for the treatment of major depressive disorder and of generalized anxiety disorder. However, the effect of citalopram as well as other medications in its class is symptom reversal rather cure of a disease. Citalopram effectively alleviates symptoms of depression and symptoms of anxiety, irrespective whether such symptoms occur as part of major depressive disorder, generalized anxiety disorder, another psychiatric illness, or are situationally determined. Ms. Harrison's description of her symptoms is not suggestive of any of the mood disorders listed in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, nor of any of the anxiety disorders, but would most likely be classified as an adjustment reaction.

She describes herself as a sensitive person, and her tears are easily triggered by sad situations in movies or in remembering parts of her own history. She does not experience sustained times of depressed mood, no neurovegetative signs such as insomnia or anorexia, and no loss of enjoyment of activities she has enjoyed over the years, such as sewing, reading, shopping, watching movies, eating out and traveling. The absence of a history of manic or hypomanic phases rules out the differential diagnosis of a bipolar affective disorder.

#### Mental Status Examination

Ms. Harrison presents as a woman who looks slightly younger than her stated age. She was cooperative throughout the interview and appeared to be well at



ease. She was alert and oriented to time, place and person. In fact, I saw no evidence of any cognitive impairment, such as difficulties in concentration, short-term and long-term memory functions or abstraction. Thought processes were organized and goal directed, answers to questions were responsive and succinct. There were no delusions, fixed ideas or any evidence of a perceptual disorder like illusions or hallucinations. She described her mood as "pretty good" and her affect was contained and always consistent with the themes of our conversation. Most of the time it was euthymic. She only became tearful when she discussed the last two visits with her father and the death of her mother. She denied any suicidal or homicidal ideation. Her judgment is intact, and her insight seems to be excellent.


#### Clinical Conclusions

Based on my clinical examination and on the history obtained from Ms. Harrison, I do not see any data to base a psychiatric diagnosis on. Retrospectively, in 2004, she might temporarily have met criteria for an adjustment reaction.

While I am still waiting for the results of objective psychological testing, I infer from my clinical data base that Ms. Harrison does not meet diagnostic criteria for a personality disorder either. The sustained pattern of distress or dysfunction (or both) required for that kind of diagnosis, regardless of any specific type of personality disorder, is absent: She is subjectively happy ("feeling pretty good"), she has accomplished a high level of education despite adverse conditions at the outset, she has raised five children, three of whom are adults. She has good relationships with the grown children, for instance going on a cruise with one of her daughters this coming week, and the kids seem to have adjusted well to adulthood, as exemplified in one of her daughters studying medicine.

I hope my observations and conclusions are plausible and helpful in the course of the current legal proceedings.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ole J. Thienhaus". The signature is fluid and cursive, with the first name "Ole" being more prominent.

Ole J. Thienhaus, M.D., FACPpsych

**“Exhibit A-10”**

Ole J. Thienhaus, M.D., FACPpsych

Diplomate, American Board of Psychiatry and  
Neurology

100 North Arlington Ave., 10-K  
Reno, NV 89501

3459 French Daisy Street  
Las Vegas, NV 89135

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24 September 2011

Gary Silverman, Esq.  
Silverman, Decaria, Kattelman, Chtd.  
6140 Plumas Street  
Suite 200  
Reno, NV 89519

RE: Case No.: D-11-443611

Dear Mr. Silverman:

On September 19, I received the material your office sent me, including a motion filed by Kirk Harrison on September 14, 2011, with an extended Statement of Facts; an Affidavit filed by Kirk Harrison on June 9, 2011; a letter by Kirk Harrison to his wife, dated March 21, 2010; Affidavits filed by Tahnee and Whitney Harrison on March 22, 2011; various photographs; a Psychiatric Analysis by Norton Roitman, M.D., performed without examining the Defendant, dated June 9, 2011; various appendices to Dr. Roitman's report; and a supplemental Affidavit filed by Kirk Harrison on September 9, 2011.

I read these documents and then met, for a second time, with the Defendant, Vivian Harrison in my office on West Charleston Boulevard in Las Vegas on September 22, 2011, from 4:10 PM until 5:00 PM.

Kirk Ross Harrison vs. Vivian Marie Lee Harrison  
24 September 2011

The documents reviewed contain the assertion that Vivian Harrison meets diagnostic criteria for a narcissistic personality disorder and is addicted to stimulant medications.

In contrast I find that the Defendant does not meet diagnostic criteria for any mental disorder defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders, and that, specifically, she does not have a personality disorder. The absence of a personality disorder is endorsed by the findings on the Minnesota Multiphasic Personality Inventory. Both my conclusions and the MMPI results are based on direct examination of the Defendant by appropriately credentialed clinicians.

The material I was asked to review was copious, containing well over 300 pages, but there was much repetition in it. In essence, the allegation of a narcissistic personality disorder is based on the reports by Kirk, Tahnee and Whitney that Vivian lacks empathic capacity, acts consistently in a way that puts her in the center of attention, and, based on these two facets, neglects her family with negative consequences for husband and children, especially the two youngest daughters, Brooke and Rylee. The allegation of drug addiction is based on the extended intake of stimulants ("weight loss pills") by Vivian. The effect of the stimulant medication is alleged to aggravate the symptomatic expression of the personality disorder.

The allegations are based on specific observations which I reviewed and then discussed with Vivian in detail.

- Stimulant Abuse

Vivian states that she became concerned about excessive weight gain in 2004. She weighs about 180 pounds, which, at a height of 5'4", puts her in the overweight, bordering on obesity, category (BMI>30). She consulted a doctor and was prescribed the stimulant Phentermine. She has used Phentermine and related medications (most recently Bontril) since then, although not continuously. She never used more than one at a time and she did not exceed the prescribed dosages. The pattern she describes is that, upon detecting weight gain, she would start taking the medication for "about four or five months," record a loss of "maybe five pounds or so," and then discontinue the drug. After "about two or three months" she would repeat the cycle.

This is not a recommended method of regulating excessive body weight. In state-of-the-art approaches to weight control, stimulants no longer play a role. Vivian received poor advice and used poor judgment in following the desultory regimen without obtaining a second opinion from a qualified practitioner.

The underlying problem is that she is a middle-aged woman with significant insecurity about the way she looks. Besides the use of stimulant drugs, her insecurity caused her to try a multitude of dietary regimens and led her to consult plastic surgeons and a self-

declared specialist in “Age Management Medicine” ([www.drlife.com/about/](http://www.drlife.com/about/)), Dr. Jeffry Life who advertises himself as an expert in the retention and recovery of youthfulness by using hormone therapies.

Neither her concern about her weight and appearance nor her hapless search for medical help for it amount to a mental illness. These kinds of concern are quite common today and primarily a reflection of cultural values and norms rather than an individual's personality style.

The question of alleged drug addiction is easily refuted. Addiction is characterized by loss of control as the defining feature. The absence of dose escalation, the adherence to prescriptions, the extended intervals between episodes of use, and the absence of evidence that she sought the compounds outside the physician-initiated channels, all speak to the fact that addiction was not an issue in this case.

- Application of testosterone

The material I reviewed claims that Vivian applied testosterone cream to her forearms, in pursuit of tenuous health benefits to herself but in flagrant disregard for the well-being of her daughter Rylee.

After consulting with Dr. Life in 2008, Vivian was advised by this clinician that incipient menopause required hormonal treatment. Rather than injections (“he thought that would be too strong”), he recommended a testosterone cream to be applied to her skin. Vivian avers that she was not aware of the fact that such a cream easily traverses the skin of anyone who comes in contact with it. When her youngest daughter Rylee, whom she regularly holds in her arms for extended periods of time on going to sleep, developed signs of premature puberty, elevated testosterone levels were found in Rylee's blood. Vivian promptly discontinued the use of the cream, and Rylee's testosterone level has dropped back into the normal range since then.

My comments on this are similar to those regarding her stimulant use. In this instance, the concerns centered on the onset of menopause. Instead of consulting with a gynecologist or endocrinologist, Vivian chose to seek the advice of a self-declared specialist in “Age Management Medicine.” She followed that advice, but she discontinued the practice once the negative consequences became apparent. Once again, I declare that such weakness in judicious use of medical consultants does not amount to a manifestation of mental illness.

- Preoccupation with Jonathan Rhys Meyers

The material I reviewed claims that Vivian was so taken up with pursuit of a TV actor that she neglected her duties towards her children. Specifically, she allegedly had this

Kirk Ross Harrison vs. Vivian Marie Lee Harrison  
24 September 2011

actor's picture installed as a screensaver on various computers, referred to him as her soul-mate and purchased expensive clothes that Mr. Meyers apparently declared desirable.

Vivian explains that she enjoyed a TV series titled "The Tudors" ("I fell in love with the show 'The Tudors'"), and that Jonathan Meyers played the role of Henry VIII in that production. She says she liked his performance and read up about him, "Just as I do about other actors I like, like for example Johnny Depp." She dismisses the allegation that she bought clothes of a particular kind to appeal to the tastes of this man: "I teach fashion design. So I buy special clothes – it has nothing to do with my admiration for a particular actor." Indeed, the claim that she bought PRPS jeans and Louboutin boots (to please Meyers) occur alongside multiple listings of other expensive apparel items for which no connection to any celebrity is claimed.

Again I refute the notion that a middle-aged woman's admiration for an attractive young actor constitutes grounds for diagnosing a personality disorder or a mental illness.

- Failing to cook for her children

The material I reviewed claims that Vivian frequently failed to cook dinners for her youngest daughters. In addition, it is claimed that she "only did laundry about once a month."

Vivian rejects these claims as false. Based on the way she describes her relationship with the kids and the examples she gave me (see previous report) of how she cared for her estranged parents at the end of their lives, I find her rejection credible. The allegation is also somewhat difficult to square with another allegation made, namely that of inappropriate protectiveness ("she sleeps with Brook and Rylee every night"). I submit that a mother who insists on going to sleep with her children is unlikely to starve those same kids prior to bedtime.

- Sleeping in the same bed as Brooke and Rylee

The material I reviewed claims that Vivian's habit of going to sleep with her daughters demonstrated her "narcissistic feeding" on the children by instilling and perpetuating a need for physical closeness that would cause the girls to become overly dependent on the continued presence of their mother in their lives.

Until very recently, Vivian went to bed with her two youngest daughters and stayed there for a while, but left before they were asleep. Then, she would get up and retire to her home office. She explained to me that she breast-fed both Brooke and Rylee for the first two years of their lives (as she did Whitney and Joseph), i.e. longer than is usual in our culture. She sees her continued sleeping time management as an extension of this

exceptional closeness. She says that the recent phasing-out of the shared bedtime has not caused any major problems.

It is indeed generally agreed that children ought to learn to sleep by themselves earlier than happened in the case of Brooke and Rylee. Dr. Spock and a host of similar experts testify to this. By the same token, there is no hard science to show deleterious effects of having 9- and 11-year-old girls go to sleep with their mother in the middle between them. Sleeping alone is one of numerous developmental tasks to be mastered in order to allow children to become more autonomous by the time they start into adolescence. These tasks all occur along a time continuum from infancy through the preteen years.

I again fail to see a reason to conclude that Vivian suffers from mental illness from the fact that her child-rearing technique in this instance deviates from the American norm.

- Immersion in Kindle-reading

The material I reviewed claims that Vivian spends excessive amounts of time in her home office reading her Kindle. This preoccupation is presented as evidence that she does not care about her children's needs.

Reading a Kindle is, of course, identical to reading a book. Vivian rejects the claim that her reading is excessive. She explains that as her youngest daughters started reading chapter books, as school assignments and then on their own initiative, she made a point of reading the same material herself as a way of connecting with them ("That's what Kirk calls 'Vampire Series.' In fact it was my daughters' 'Twilight Series' books."). This, she says, is how she began reading the Kindle and how the allegation of her proclivity to immerse herself in reading novels came about.

I reject the notion that a psychiatric diagnosis can be construed out of a love of reading. The attunement to her daughters' reading choices, if anything, argues against narcissistic self-centeredness.

After going through these key allegations offered in support of the suggested mental disorder, I allowed some time for unstructured dialogue.

Vivian discussed, again, the occasions when she impulsively hit her teenage children in the heat of argument. She regrets those incidents. She does not claim to be a perfect mother or a flawless human being, but her weaknesses do not permit the inference that she suffers from a "severe narcissistic personality disorder."

I asked Vivian to describe for me one of her kids., "Which one?" she asked. I said, "Say, Brooke." She then went ahead and explained, "Brooke is kind of quirky. She is emotional and tender-hearted. She is bright and lively. Most of all though, she is incredibly caring. She is so close to her little sister, it's incredible. She cares so much

Kirk Ross Harrison vs. Vivian Marie Lee Harrison  
24 September 2011

about Rylee, they are much closer than the older ones ever were to each other.” Then she began to tear up as she related how, “Once there was this girl in Brooke’s class, and she was diagnosed with cancer. When she had to have surgery, Brooke said she’d not eat anything for the same amount of time this girl had to fast before the surgery. And when she found out that all her hair would fall out, Brook said she’d be wearing a head scarf to disguise her own hair so this girl wouldn’t stand out.”

I submit that this is not the way a self-absorbed woman with a narcissistic personality disorder can speak about her child.

I also asked Vivian if she intended to put together a dossier about her husband similar to the one Kirk had submitted. She smiled and said no: “I wouldn’t talk about another person that way, and ruin his standing in his children’s eyes that way.”

Again, this is not the way a self-absorbed woman with a narcissistic personality disorder would be expected to react to a lengthy document filled with serious aspersions on her character.

Finally, I am concerned about the expert opinion included in the material I reviewed. Dr. Roitman is a competent community psychiatrist, but he can no more make a psychiatric diagnosis without examining the person than anyone else. It is especially disturbing that he based his “psychiatric analysis” on narratives provided by arguably the least objective observer imaginable, namely the spouse who is in the middle of divorce proceedings with the person he comments on.

The American Association for Psychiatry and the Law (AAPL) states in its professional ethics guidelines (<http://www.aapl.org/ethics.htm>):

Psychiatrists should not distort their opinion in the service of the retaining party. **Honesty, objectivity and the adequacy of the clinical evaluation may be called into question when an expert opinion is offered without a personal examination.** For certain evaluations (such as record reviews for malpractice cases), a personal examination is not required. In all other forensic evaluations, if, after appropriate effort, it is not feasible to conduct a personal examination, an opinion may nonetheless be rendered on the basis of other information. Under these circumstances, it is the responsibility of psychiatrists to make earnest efforts to ensure that their statements, opinions and any reports or testimony based on those opinions, clearly state that there was no personal examination and note any resulting limitations to their opinions.

In custody cases, honesty and objectivity require that all parties be interviewed, if possible, before an opinion is rendered. When this is not possible, or is not done for any reason, this should be clearly indicated in the forensic psychiatrist’s report and testimony. **If one parent has not been interviewed, even after deliberate effort, it may be inappropriate to comment on that parent’s fitness as a parent.** Any



comments on the fitness of a parent who has not been interviewed should be qualified and the data for the opinion clearly indicated.

(Emphasis added)

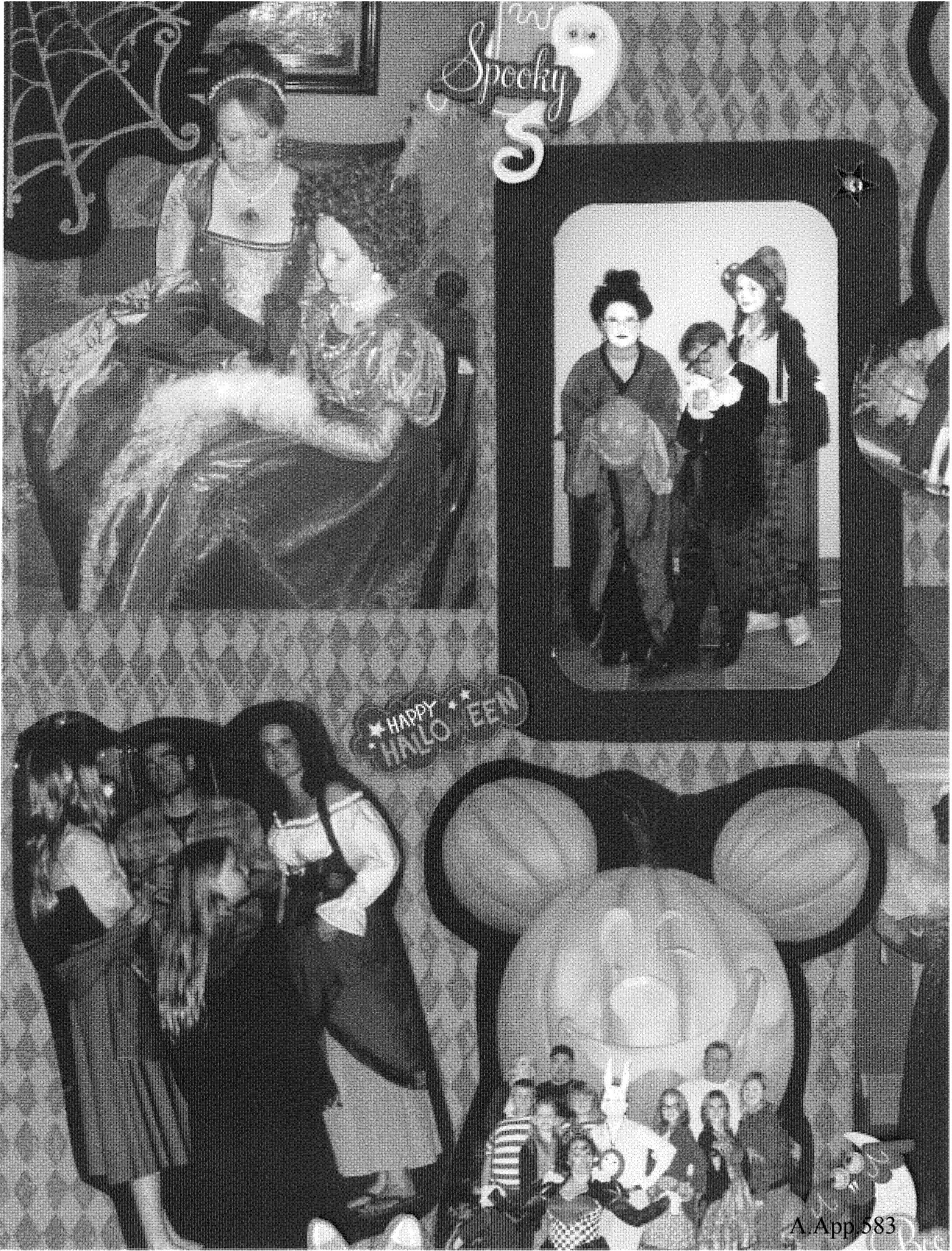
I hope these comments help in the disposition of this case.

Sincerely,

Ole J. Thienhaus, M.D., FACPsych

Kirk Ross Harrison vs. Vivian Marie Lee Harrison  
24 September 2011

**“Exhibit A-11”**



Specky

HAPPY HALLOWEEN

**“Exhibit A-12”**

# Customer Signature History Report

All delivery sets for Rx/Refill Number: 54058210

COSTCO 06673


Rx/Refill #	Patient Name	NDC	Medication	Quantity	Responses	Date/Time Signed	Order ID (Vial Bar Code)
540382/00	HARRISON, VIVIAN L	10702-0025-01	PENTETERMINE HCL 37.5MG	30	SC = Yes CON = Yes	10/30/09 12:54 PM	054058200

## Signature Pad Captured Data

The undersigned certifies that they:

- 1) Authorized information release to 3rd party payer or plan sponsor.
- 2) Received 1 prescription(s)
- 3) Received safety caps for 1 prescription(s).
- 4) Received consultation on 1 prescription(s).
- 5) Are the patient or authorized representative.
- 6) Assign payment to pharmacy.
- 7) Are eligible for benefits.
- 8) Are not covered by other insurance.

Signature:



09/14/2011

CustomerSignatureHistory.exe

**PharmASSIST®**

**“Exhibit A-13”**



SCANNED

OCT 05 2011 R

Specimen Number 273-237-4160-0	Patient ID 2933	Control Number B7T27314290	Account Number 27314290	Account Phone Number	Rtc
Patient Last Name HARRISON			Account Address Warren Smith, MD 895 Adams Boulevard Boulder City, NV 89005		
Patient First Name VIVIAN		Patient Middle Name			
Patient SSN ***-**-1447	Patient Phone	Total Volume			
Age (Y/M/D) 44/1/14	Date of Birth 08/16/67	Sex F	Fasting No		
Patient Address 1514 SUNRISE CIR BOULDER CITY, NV 89005			Additional Information CCU:0161290598 HT-00016865 UPIN: C96582		
Date and Time Collected 09/30/11 10:55	Date Entered 10/01/11	Date and Time Reported 10/05/11 08:36ET	Physician Name SMITH, W	NPI 1679572853	Physician ID SM, M
Drug Profile, Blood (7 Drugs)					
General Comments PID: 2933					

TESTS	RESULT	FLAG	UNITS	REFERENCE INTERVAL	LAB
Drug Profile, Blood (7 Drugs)					
Amphetamines Screen, Blood	Negative		ng/mL	Cutoff=50	01
Barbiturates Screen, Blood	Negative		ng/mL	Cutoff=100	01
Benzodiazepines Screen, Blood	Negative		ng/mL	Cutoff=50	01
Cannabinoid Screen, Blood	Negative		ng/mL	Cutoff=10	01
Cocaine + Metab. Screen, Blood	Negative		ng/mL	Cutoff=20	01
Opiates Screen, Blood	Negative		ng/mL	Cutoff=50	01
Phencyclidine Screen, Blood	Negative		ng/mL	Cutoff=2.5	01

01 01 LabCorp OTS RTP Dir: Fox, Michael MD  
1904 Alexander Drive, RTP, NC 277099998  
For inquiries, the physician may contact: Branch: 919-572-6900 Lab: 919-572-6900

10/5/11

Warren Smith

No evidence of any substance  
No phentermine found

HARRISON, VIVIAN	2933	273-237-4160-0	Seq # 2057
10/05/11 08:59		FINAL REPORT	

Page 1 of 1

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**“Exhibit A-14”**



# Vivian Harrison Prescription Medications

Medication	Dosage	Quantity Prescribed	Date	Physician	Remaining Amount	Symptom
Malarone Tablet GLX	N/A	16	02/02/2010	Silvers, Michael	9	Malaria – India Trip
Ciprofloxacin	500 mg	14	02/02/2010	Silvers, Michael	14	Dysentery – India Trip
Ondansetron ODT generic for Zofran	8 mg	2	02/24/2010	Richard, Clement	2	Post Op – Vomiting
Zolpidem Tartrate generic for Ambien	10 mg	7	03/04/2010	Richard, Clement	2	Post Op – Sleep
Hydrocodone Apap generic for Lortab	5/500	30	03/15/2010	Richard W. Clement	16	Post Op- Pain
Melatonin SR	3mg QHS	30	03/25/2010	Life, Jeff	30	Sleep
Metronidazole generic for Flagyl	500 mg	20	04/08/2010	Griffin, Anthony	20	Pre and Post Op – Antibiotic
Lorazepam generic for Ativan	0.5 mg	8	04/08/2010	Griffin, Anthony	2	Anxiety
Ondansetron ODT generic for Zofran ODT	8 mg	2	04/20/2010	Clement, Richard	1	Nausea
Thyroid Compound	½ grain QAM	30	04/26/2010	Life, Jeff	30	Low thyroid
Ferrochel Iron Chelate	3QD	90	04/26/2010	Life, Jeff	79	Anemia
Thyroid Compound	½ grain QAM	30	07/26/2010	Life, Jeff	30	Low thyroid
Thyroid Compound	½ grain QAM	30	08/30/2010	Life, Jeff	30	Low thyroid
Thyroid Compound	½ grain QAM	30	10/25/2010	Life, Jeff	30	Low thyroid
Testosterone Vanishing Cream	20 mg	30 gm	10/25/2010	Life, Jeff	30	Low testosterone
Thyroid	0.5 grain 30mg	30	12/22/2010	Life, Jeff	30	Low thyroid
Ondansetron ODT generic for Zofran ODT	8 mg	6	01/12/2011	Griffin, Anthony	6	Post Op – Nausea
Hydrocodone generic Vicodin	5/500	40	02/10/2011	Griffin, Anthony	40	Post Op – Pain
Thyroid	0.5 grain 30 mg	30	02/18/2011	Life, Jeff	30	Low thyroid
Testosterone Vanishing Cream	20 mg	30gm	02/18/2011	Life, Jeff	30	Low testosterone
Premarin	1.25mg	21	02/25/2011	Jameson, Florence	21	Stop excessive bleeding
Metronidazole Cream	0.75%	45	03/05/2011	Michaels, Jason	0	Red spots
Hydroquinone Cream	4%	29	03/05/2011	Michaels, Jason	0	Brown spots
Thyroid	0.5 grain 30mg	30	03/18/2011	Life, Jeff	30	Low thyroid
Testosterone Vanishing Cream	20 mg	30 gm	03/18/2011	Life, Jeff	30	Low testosterone
Testosterone Vanishing Cream	20 mg	30 gm	04/15/2011	Life, Jeff	30	Low Testosterone
Thyroid	0.5 grain	30	04/15/2011	Life, Jeff	30	Low thyroid

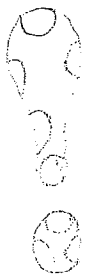
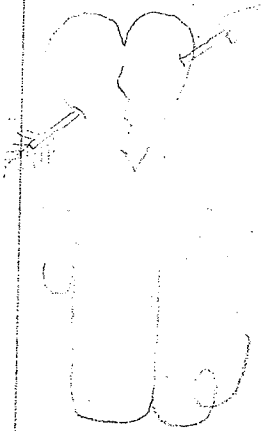
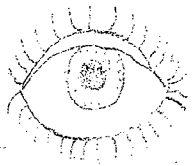
# Vivian Harrison Prescription Medications

	30mg					
Valacyclovir HCL generic for Valtrex	1 gr	4	05/26/2011	Smith, Warren	4	Cold sore
Alprazolam generic for Xanax	1 mg	10	05/26/2011	Reid Duffy, Sean	10 & 8 ½ refill	Anxiety
Thyroid	0.5 grain	30	07/12/2011	Life, Duffy	30	Low thyroid
Topamax	25 mg	30	07/15/2011	Oliver, Jill A.	30 & 14 refill	Appetite suppressant
Thyroid	0.5 grain 30mg	30	08/09/2011	Life, Jeff	30	Low thyroid
Bontril	35 mg	90	08/27/2011	Oliver, Jill A	52	Appetite suppressant
Acyclovir	800 mg	60	09/09/2011	Croveti, Christine	60	Cold Sore
Testosterone Cypionate	100 mg/ml injectable compound	0.4 ml vial	09/22/2011	Life, Jeff	0.4 ml vial	Low testosterone
Needle	18g x 1.5"	4	09/22/2011	Life, Jeff	4	Needles for testosterone injections
Crestor	5 mg	30	09/28/2011	Life, Jeff	27	Cholesterol
Seasonique		91	Sample	Jameson, Florence	39	Birth control
Proventil Inhaler			Sample	Smith, William		Exercise induced asthma

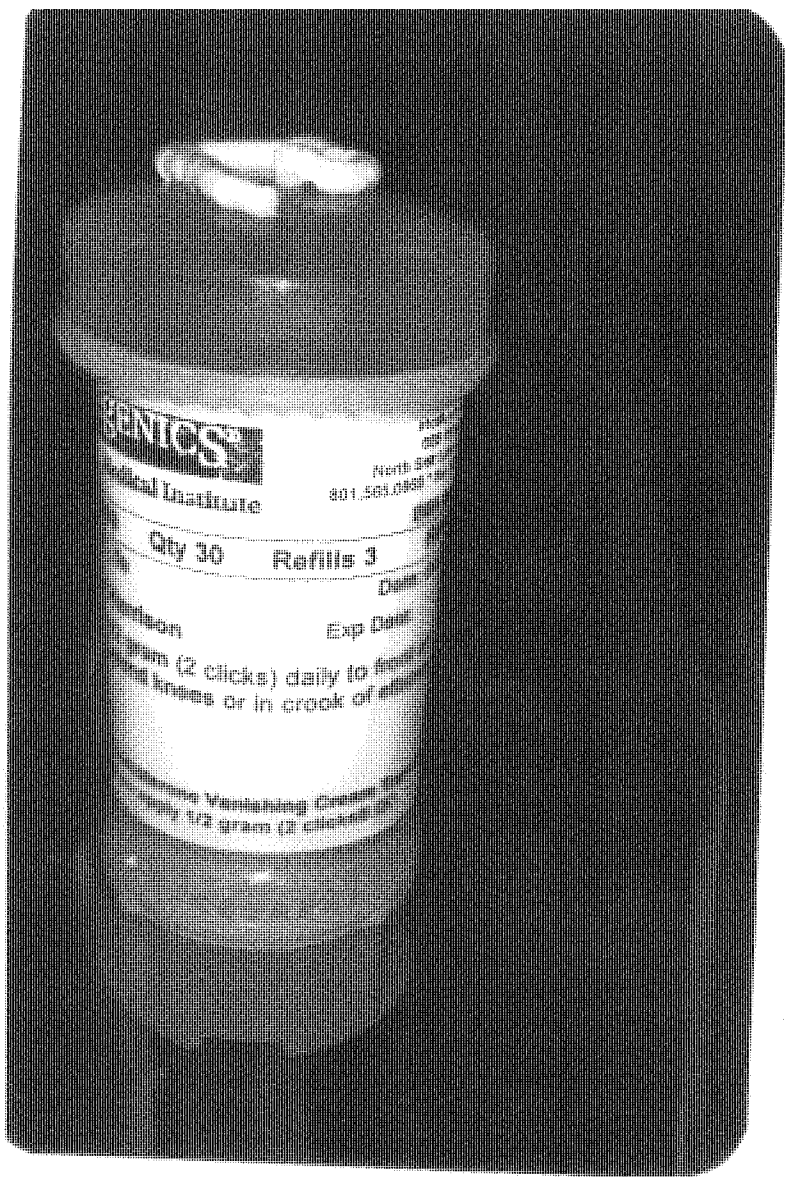
**“Exhibit A-15”**

mom here is a chocolate  
chip cookie with milk  
for you to eat. I love  
you a lot! Will you  
sleep with me? Please!

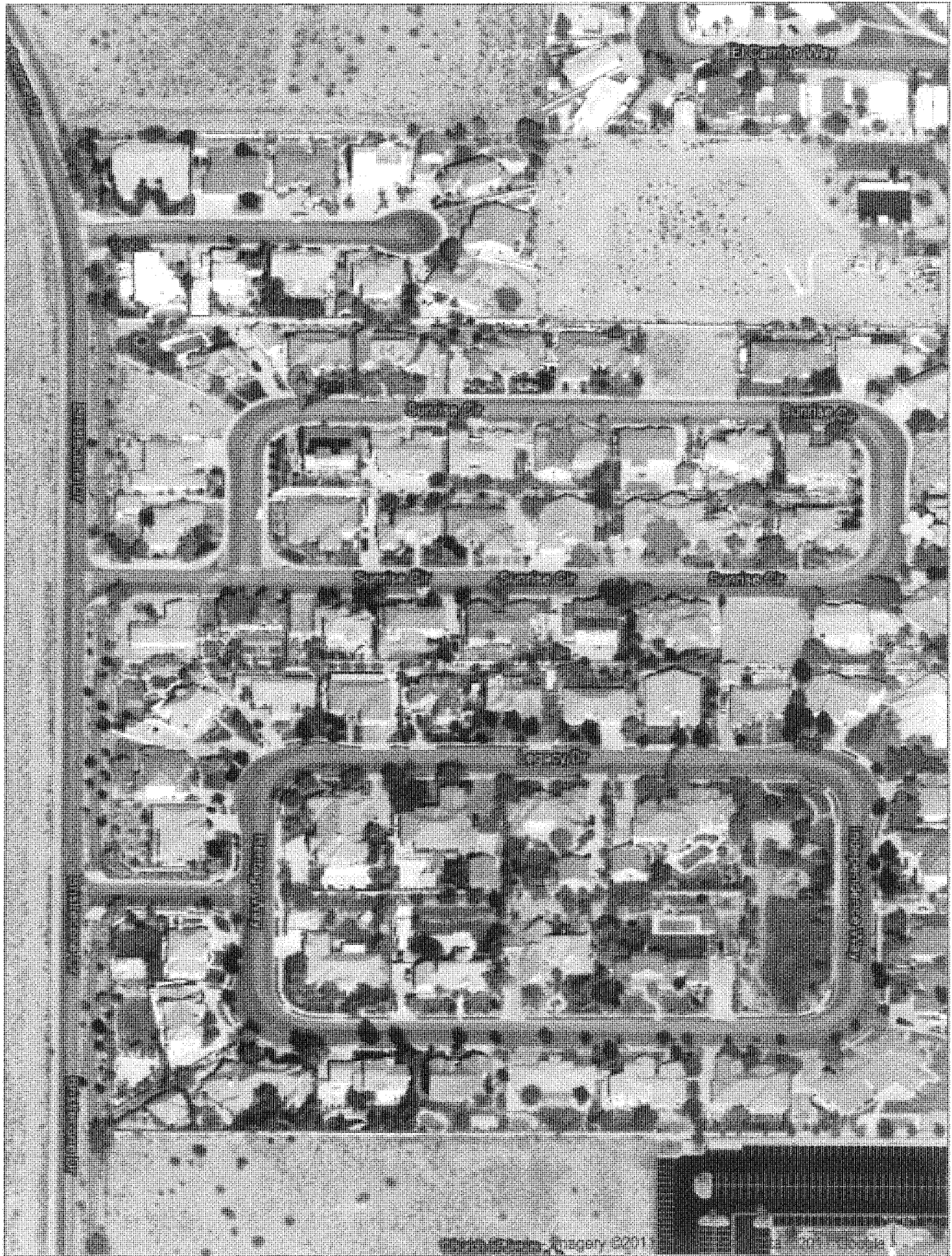
Yours truly,  
Tahnee Fardison



**“Exhibit A-16”**



**“Exhibit A-17”**



- ✿ Harrison home
- ✿ Roberts home
- ✿ Bailey home
- ✿ Walker home
- ✿ Atkinson's (pending)

A.App.596



# **“Exhibit B”**

SWORN DECLARATION OF MICHELE WALKER

STATE OF NEVADA        )  
                                  ) ss:  
COUNTY OF CLARK        )

MICHELE WALKER, being duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein, and I am competent to testify thereto.

2. I regret the necessity of making this statement. I have known and liked both of the Harrisons for many years and had discussed with both Kirk and Vivian my desire to stay out of their divorce and my sincere desire to be neutral. Vivian once joked when another friend made a negative comment about Kirk in my presence that they would have to talk about it later because I was busy being "Switzerland" and didn't want to hear any negative stuff about Kirk. That was true. I hate conflict and never would have made this statement except that Mr. Harrison had so many unkind things to say in his affidavit about husband, my family and me. Until I was advised of his statement, I felt that we were friends. I feel a need to answer the statements about my family, especially those about my husband, which were incredibly spiteful and mean.

3. My family has been friends with the Harrison family for several years. I see Vivian for a few hours every week. During that time, I have had the opportunity to spend time with everyone in the Harrison family, and I feel I know them quite well.

4. I met Kirk once or twice before I met Vivian. I was aware that he was an attorney who knew my husband, but that is all I knew. In 2003 my husband hired Mr. Harrison's partner Jones to help him with a legal matter.

5. I met Vivian later when my husband Cam was a board member of the Boulder City Hospital Foundation--Vivian was the executive director of the Foundation at that

1 time. It was always my impression that Vivian served on the Board because she wanted to  
2 help others.

3 6. When my daughter, Anna, and Vivian's daughter, Rylee, were around 2½  
4 years old, they took ballet classes together. Anna is very outgoing, while Rylee is a little shy.  
5 Anna took Rylee by the hand and took her to the stage to dance in the first recital. Since then,  
6 they have been inseparable friends.  
7

8 7. My friendship with Vivian started slowly. I am fairly shy and it takes me  
9 awhile to develop close friendships. However, we became friends as our daughters would go  
10 to each other's home to play together, we would visit and a friendship grew. Vivian is a great  
11 mother; I trust her with my children and she trusts me with her children as well.  
12

13 8. Cam and Kirk also became friends and sometime in approximately 2005 or so,  
14 Cam and Kirk went to Ireland together to attend the Ryder Cup and to play golf. To the best  
15 of my recollection they were out of the country for about 9 days.  
16

17 9. As friends, we look out for each other's children as if they were our own. I  
18 have never seen Vivian intoxicated, inebriated, or in any condition that concerns me about her  
19 ability to care for her children or my own. I trust her, and I have never seen anything to  
20 suggest my trust is misplaced.  
21

22 10. When our little girls were four years old, my entire family started spending  
23 more time with the whole Harrison family, rather than just our two youngest daughters. The  
24 whole family came to Anna's 4<sup>th</sup> birthday party. Our older daughters (my daughter, Chloe,  
25 and Vivian's daughter, Whitney) have become friends as well.

26 11. I consider Vivian to be a good friend and, until being advised what Kirk had  
27 said about my husband Cam in his affidavit filed with the Court, I believed that Kirk and Cam  
28

1 (my husband) were friends. My family has spent a great deal of time with the Harrison  
2 family. Ironically, Cam has been Kirk's number one defender to me during the divorce.  
3 Often telling me to be calm and understand that he is just fighting for his kids. Until we were  
4 advised on October 17 of the part of Kirk's statement that said how he really feels about us,  
5 Cam was one of his most loyal friends.  
6

7 12. I have trouble believing Kirk's statements that Tahnee, Whitney and Joseph  
8 dislike me. I am sure that I have said or done things that they didn't like, but I hope that  
9 doesn't mean that they don't like me. We have gone many places together, and Whitney  
10 invited me to go to New York with her to find her wedding dress. On her seating chart at her  
11 bridal shower, Whitney even placed me right next to her. Whitney was also in New York  
12 during Spring Break of 2010 when I went to New York with my daughter, Chloe, staying  
13 with her friend Shilpa. Chloe, Whitney and I went to several Broadway plays, walked across  
14 the Brooklyn Bridge, went shopping, had several meals together, and had a great time.  
15 Besides Brooke and Rylee, I am closest to Whitney. I truly love being with her, and I think  
16 she is a good example for my daughter of how to have fun and work hard. My daughter  
17 Chloe loves her. I am not as close with Joseph, as he is quiet; however, he is always very  
18 friendly to me, and he has always seemed grateful and polite when he eats dinner at my home.  
19 My husband Cam has played golf with Joseph on several occasions and enjoys Joseph's  
20 company. I enjoy listening to Tahnee play the piano and attended two of her pageants as a  
21 member of "Team Tahnee." The children have never shown dislike toward me.  
22  
23  
24

25 13. I have also learned more about Rylee because Vivian and I both help in our  
26 children's classrooms (Anna and Rylee have been in the same class for the past two years).  
27 Rylee is a sweet, shy girl, who is very conscientious in everything she does. She is very  
28

1 intelligent child with a vivid imagination and is a very good student. She and Anna create and  
2 play in the most incredible lands of make believe. From what I have seen, Vivian helps her  
3 with her homework on a consistent basis, and she always ensures that it is turned in on time.

4 14. I have also spent a good deal of time with Vivian's daughter, Brooke. We had  
5 a car pool, in which Vivian and Kirk would take the children to school, and I would pick them  
6 up in the afternoon. Even when Brooke moved to junior high school, she would sometimes  
7 walk to the elementary school, and I would take her home.

8 15. Brooke is an adorable little girl, who is very polite (she always thanks me for  
9 driving her home). She has a quirky personality, and she wears interesting, cute clothes.  
10 Brooke is a great big sister to Rylee, and she is very kind to both Anna and Rylee. For  
11 example, Rylee walks slowly, so Brooke has made up a game for her when they walk home.

12 16. Vivian is very outgoing and gregarious and enthusiastic. She is both fun and  
13 funny, she laughs a lot and she is always joking.

14 17. Kirk makes several allegations of statements I have allegedly made about  
15 Vivian. I do not recall making any of these statements or even thinking those things. I have  
16 never thought anything was "wrong" with Vivian. I do not recall ever telling Kirk that  
17 "something's wrong with Vivian." At most, I said I did not understand why Vivian felt she  
18 needed cosmetic procedures because she is beautiful and does not need them.

19 18. Similarly, I have never told Kirk that Vivian should be more involved with the  
20 children. I believe that Vivian is a very good mother, who is very involved with her children.

21 19. Vivian is a very kind and loving person, who gets pleasure from doing nice  
22 things for others. I have never felt that Vivian tries to buy people's affections or friendships.  
23 Over the years, she has been very kind to me and my family, as well as to others around her.  
24  
25  
26  
27  
28

1           20. For example, I was the Co-President of the Parent Advisory Committee (a  
2 PTA-type organization). Two years ago, the Committee did not have enough money to buy  
3 gifts for all the teachers for Teacher Appreciation Week. We all were very upset about this,  
4 and I discussed it with Vivian. Vivian, on her own initiative, handmade forty (40) brightly-  
5 colored duffle bags for all of the teachers. The bags were adorable, and we were very  
6 grateful. We tried to give Vivian money for the bags, but she refused. She simply wanted to  
7 do something kind for the teachers.  
8

9 . . .  
10  
11           21. Another time, when I hurt my shoulder and was unable to drive, Vivian  
12 volunteered to drive me and my son Camron so Camron could try out for the BYU swim  
13 team. We made a quick trip to up Utah and back in two days in February 2009. When  
14 Camron was feeling discouraged and worried, Vivian had a heart-to-heart “pep” talk with  
15 him. Vivian had a positive influence on Camron, and she gave him courage to pursue this  
16 goal. As a mother, I was very appreciative of Vivian’s efforts. I believe it was also very  
17 meaningful to Camron.  
18

19           22. In July of 2009, Vivian and I returned to Salt Lake to have a little vacation and  
20 to pick up my daughter Chloe from Young Ambassador camp at BYU. I brought Anna, and  
21 Vivian brought Whitney, (maybe Brooke, I can’t recall for sure) and Rylee. We went to the  
22 Hogle Zoo and to Seven Peaks water park. On the drive there (when the little girls were  
23 watching a movie with headphones on), Whitney brought up something about an argument  
24 between her parents. Vivian started crying and told me that she was planning to get a divorce.  
25 This is the first that I had heard of the severity of the Harrisons’ marital problems. Previous to  
26 this conversation, I witnessed a loud argument between Kirk and Vivian. Vivian left the  
27  
28

1 room and I must have looked shocked because I recollect Kirk telling me something like,  
2 "Don't worry, Michele, this is just the way we communicate." I thought they had poor  
3 communication, but I was truly shocked to hear that they were discussing divorce.

4 23. I believe Vivian is reliable, and I know she is always ready to show kindness  
5 to anyone who needs it.

6 24. My daughter, Anna, loves to spend time with Vivian; however, she is reluctant  
7 to be around Kirk because sometimes "he is grumpy." Anna is often worried and has said, "I  
8 don't think Mr. Harrison likes me." (She was probably picking up on feelings that her parents  
9 missed.)  
10

11 25. Despite their marital problems, I don't recollect hearing Vivian say anything  
12 negative toward Kirk in front of the little girls. In fact, she has complimented him. When  
13 Vivian told me that they were discussing divorce, she told me how she and Kirk met, how  
14 charming he was, and her hope that, even though they could not be married, they could still be  
15 a family and spend holidays together.  
16

17  
18  
19 26. Privately, Vivian has told me that Kirk constantly criticizes her. I had no  
20 reason to doubt it because Kirk has made many disparaging remarks to me over the years. He  
21 was upset about Vivian's plastic surgery, and he even said he believed she was addicted to  
22 plastic surgery. He was also very upset about her trips out of the country.

23  
24 27. When Vivian was away, he would rely heavily on me to help him with the  
25 children. This continued at least through Vivian's last trip in March 2011. I told Kirk about  
26 the dance schedules, events, and what school supplies Rylee needed; I explained how Rylee  
27 needed to be dressed for dance class; and I helped with school projects – all things Vivian  
28

1 would normally handle. There were many occasions I would watch Brooke and Rylee after  
2 school. Several times, Kirk forgot to pick up Brooke from school. I would have to remind  
3 him about dance classes, but he would still forget at times. Brooke called me a few times,  
4 asking me to pick her up because she was unable to reach Kirk. These were not huge issues  
5 (no one is perfect especially me), but I cannot help but wonder if his hurtful statements  
6 against me are because he is embarrassed about these things or worried what I might say.  
7

8 28. Because I worked in Rylee's classroom, I also noticed that when Vivian was  
9 gone, Rylee's homework was sometimes unfinished and that her reading notes were  
10 frequently not turned in.  
11

12 29. When Vivian was away, it seemed that Kirk spent a lot of time at his ranch,  
13 leaving the children with Tahnee or Whitney. I also cared for Brooke and Rylee during those  
14 times, because Tahnee would not often get home from work until 6:00 or 7:00 p.m. Tahnee  
15 often relied on me to pick up the children and watch them after school. I like Tahnee and was  
16 happy to help her.  
17

18 30. I was very surprised and disappointed by Kirk's Affidavits in this matter, as  
19 there are many things that are simply incorrect about me and my family. Other statements are  
20 misleading or generally exaggerated. I am trying to believe that Kirk is simply acting this  
21 way because of the stress of the divorce; however, his statements seem to show a pattern of  
22 feelings that I never knew he had about us all.  
23

24 31. In Tahnee's Affidavit, she discusses an incident (September 2009) in which  
25 several teenagers came to the Harrison home and watched a movie. I remember this night,  
26 which was approximately one week before the Homecoming Dance. Chloe was having a  
27 double date with her friends, Keelin M., Hudson B. and Joseph W. They initially were going  
28



1 to watch a movie at Chloe's aunt's home theatre, but her uncle became ill. Chloe was upset  
2 that they had no place to go for their date, so Vivian offered the use of her home theater.

3 32. I was not sure which boy was Chloe's date, so Vivian popped popcorn for  
4 them and went into the theater to see who was sitting with whom. After the movie was  
5 finished, the kids left. Chloe is close with Vivian, and we both appreciated Vivian's  
6 generosity in saving (and chaperoning) their date.  
7

8 33. Although Chloe likes Vivian very much, I do not recall them doing things  
9 together alone. When we visited Chloe at BYU Young Ambassador camp, we all went  
10 shopping together. Chloe was with me primarily, while Vivian bought things for her girls. I  
11 have never seen any unusual attachment by Vivian to Chloe.  
12

13 34. In the Spring of 2010, Chloe and I were planning to go to New York City for  
14 Spring Break. I discussed the trip one day with Vivian and she suggested that she and  
15 Whitney (and maybe Tahnee) would like to go as well. Whitney had just gotten engaged.  
16 Either Chloe or I suggested that Whitney go to Kleinfelds (the store where "Say Yes to the  
17 Dress" is filmed) to buy her wedding dress while we were in New York for Spring Break.  
18 Both Chloe and Whitney love that television show, and Whitney got very excited about the  
19 idea. She applied to the television show, and she was accepted quickly for a Fall of 2009  
20 taping.  
21

22 35. Whitney invited Chloe and me to go with them to New York (I think because  
23 we had discussed the show "Say Yes to the Dress" with her previously). Chloe was unable to  
24 go on such short notice, and because it was very short notice, and I recall that my flight was  
25 very expensive. Kirk's allegation that Vivian purchased my ticket is simply false - I  
26 purchased my own ticket. On the trip, we all paid for ourselves for the most part. Vivian  
27  
28

1 purchased a couple dinners for everyone and tickets to see "Shrek the Musical." She also  
2 purchased tickets for some to go see "Wicked". I did not see "Wicked". Certainly, nobody  
3 took financial advantage of Vivian.  
4 . . .  
5 . . .  
6

7 36. On this trip, we all stayed in the same room (Vivian, Tahnee, Whitney's  
8 mother-in-law, and me). I was with Vivian almost all of the time during this trip. I do not  
9 remember Vivian even having her Kindle with her. We went to dinners and plays together,  
10 we went shopping, and in general we just had a great time.  
11

12 37. As Whitney and Vivian were still getting to know Whitney's (then future)  
13 mother-in-law, it initially felt a little awkward. However, they seemed to get along okay.  
14 Also because they were getting to know one another, everyone talked about their families,  
15 their backgrounds and just general information about themselves. I had several pleasant  
16 conversations with Mrs. B about our families.  
17

18 38. One night at dinner, Whitney's friend, Shilpa, told us about the Sex Museum.  
19 Although she repeatedly told us that she found it very educational, we all found it very funny.  
20 We all laughed about it, including Vivian, and it was a very funny moment. I don't remember  
21 that anyone seriously suggested going to the museum.  
22

23 39. As I said before, I see Vivian regularly. I recall on one occasion at the  
24 Harrison home, I saw a computer screensaver with the cast of The Tudors on it. Tahnee was  
25 very excited about the show and was telling me about it. I never heard *Vivian say that*  
26 *Jonathan Rhys Meyers was her "soul mate."* In fact, the only thing I remember her saying  
27  
28

1 was that he had nice, "spooky" eyes that she wanted me to see and that he was a good actor.  
2 If someone asked me who Vivian's favorite actor is I would say Johnny Depp.

3 40. I asked Tahnee and Vivian if I would like the show, and they both thought I  
4 would not. That was essentially the extent of the conversation. I do not remember any other  
5 specific conversation with Vivian about Jonathan Rhys Meyers, and I have seen nothing to  
6 suggest that she is "obsessed" with him.  
7

8 41. Vivian has discussed her work with the Hope Foundation with me on many  
9 occasions. She has told me about the work they do, their mission, and the trips she was taking  
10 to further that mission. She talks about helping the children in India, and she is very moved  
11 by their plight. She has talked about bringing the Hope Foundation to the United States. I  
12 think the mission of the Hope Foundation resonates with her particularly because she grew up  
13 poor, and because she has a very generous spirit. In all that time, she has never mentioned  
14 any connection between the Hope Foundation and Jonathan Rhys Meyers.  
15

16 42. Although Vivian has a very generous heart, I have never capitalized on that or  
17 taken advantage of Vivian. She has never had to "buy my friendship" nor do I feel that she  
18 tries to do so. My husband earns a comfortable living and we are well-situated. By no means  
19 is Vivian my "meal ticket." Beyond just untrue, that accusation is simply mean. It is hurtful  
20 that Kirk would say such horrible things about my husband and me, as I feel we have been  
21 good friends to him and his family.  
22

23 43. My husband works very hard and never earns his way by taking advantage of  
24 others. He has worked for McCarthy Construction for three years, and he serves on the City  
25 Council as well. Before that, he worked for the Las Vegas Monorail. In between, he did take  
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1 some time to consider his many career options. We were quite comfortable financially, which  
2 allowed him the luxury of this time.

3 44. During that time off (approximately four years ago), Cam considered  
4 purchasing a printing business that was going into foreclosure, and he believed he had the  
5 ability to market the company and make it a success. He approached Kirk for advice, not for  
6 money, because he believed that Kirk had good business sense. Cam and I and Kirk and  
7 Vivian discussed the business opportunity while sitting in their family room. As I recall Kirk  
8 advised Cam not to purchase the company because it was too risky and because he didn't  
9 have printing experience. Cam never indicated to me that he would ever want Kirk as a  
10 business partner or even as an investor. He went to get advice from someone he thought was  
11 his friend. I was not as enthusiastic about this potential business as Cam was, and ultimately,  
12 we decided against pursuing it.  
13  
14

15 45. However, as I recall Vivian was very enthusiastic about the printing company  
16 because Vivian is very enthusiastic. After Cam decided not to purchase the company, Vivian  
17 tried several times to convince me that we should purchase the company together. She had a  
18 whole plan involving how we would be a woman owned business and would work together  
19 and put our kids to work also. I never considered her idea. In fact, Cam heard her plans and  
20 commented later to me that he would never want the Harrisons as a business partner. He  
21 mentioned that Kirk had sued his family over the ranch. We were just getting out of a  
22 business with family and friends that had ended with hurt feelings and had no desire to ever  
23 be in business with friends again. Vivian and I only talked about it a few times and then  
24 never again. In fact, I haven't even thought about the printing company for a second over the  
25 past four years until being advised of Kirk's claims in his affidavit.  
26  
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1           46.     As I recall, a few weeks after we decided not to purchase the company Cam  
2     came home and said that he had a strange conversation with Kirk. From what I can remember  
3     Cam said that Kirk asked him not to talk to Vivian about the printing business anymore  
4     because it was causing problems. Cam agreed to Kirk's request but thought that the  
5     conversation was strange and thought that Kirk feeling the need to request such a thing was  
6     surprising. Based on my recollection of the events, it seems far-fetched to believe Kirk's  
7     version of their conversation.  
8

9     ...  
10    ...  
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12           47.     Contrary to Kirk's suggestions, Cam and I were not even aware that the  
13     Harrisons were having marital problems at that time. In fact, the first time I became aware of  
14     their problems was July of 2009 during our trip to Salt Lake, well after we considered the  
15     printing business.

16           48.     Cam has said to me that the only strain he has ever felt in his relationship with  
17     Kirk is over the geothermal plant that Kirk tried to build in Boulder City. Cam tried to help  
18     him, but as an elected official he had to be very careful in how and how much he helped his  
19     friend. The company ended up going belly up, and Cam thought that was why their  
20     relationship has been a little strained over the past year.  
21

22           49.     Over the years of our friendship, Vivian and I have each bought things for one  
23     another. Money has never been an issue between Vivian and me. I see it that we are  
24     generous with one another, but we do not keep a "tit-for-tat" score of what we do for one  
25     another. Vivian has taken Anna for many dinners and purchased stuffed animals at Art in the  
26  
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1 Park; I have taken Whitney to dinner and made meals for Rylee. There are many more  
2 examples, but I do not keep a running tally of these things with my friends.

3 50. Kirk, however, has greatly exaggerated most of the things Vivian has done for  
4 me, and has ignored the things I have done for their family over the years.

5 51. Among Kirk's untrue or incomplete statements are the following (1) that  
6 Vivian bought Anna's gymnastics leotards (this never happened); (2) that Vivian has funded  
7 Chloe's pageant participations (she sponsored her for about \$300 one time); (3) that Vivian  
8 paid for my flight, food, and entertainment for the trip to New York City (this is just untrue);  
9 and (4) that Vivian paid for my daughter, Chloe's cruise.

10 52. Vivian did pay for Anna to attend Gymcats stretch class. This occurred when  
11 she was at Gymcats and learned about the class (I was not there). Vivian wanted Rylee and  
12 Brooke to attend the class and thought I may want Anna to attend also. In order to reserve the  
13 spots for all the girls, Vivian paid for all three girls (a partial payment for Anna) at that time. I  
14 actually would not have chosen the class because I was busy on Thursday evenings with  
15 basketball for my older children. Vivian assured me that she would drive to the class, but  
16 then Rylee hurt her arm and the girls ended up only attending the stretch class and class  
17 following the stretch class a few times. Vivian didn't want me to pay her back because the  
18 girls ended up only attending class approximately 3 times. I paid entirely for Anna's  
19 remaining four classes.

20 53. This is not to say that I am not extremely appreciative of Vivian's generosity.  
21 When her children outgrow their clothes and because Anna is smaller than Rylee, she gives  
22 me their hand-me-downs. We both agree that because they grow faster than it takes to wear  
23 out the clothes, it is a shame to waste their beautiful clothes. If she did not give them to me,  
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she would still give them to Goodwill or another organization. If my children were bigger than Vivian's, I would not hesitate to do the same for her. It is not unusual between families to do this.

54. To my knowledge, I have knowingly never taken clothing that still fits her children, nor would I do so. From what I have seen, the clothes and shoes are usually at least a year old. Also, I have never seen anything to suggest the children are upset by this or that it is not voluntary. If they ever were upset about any item, all Kirk had to do was call me and the item would have been returned immediately. In fact, Brooke usually fills the bags and cheerily gives them to me.

55. The two largest gifts from Vivian consisted of a gift to my daughter and one to me. When Vivian was traveling with the Hope Foundation, as her friend, I helped watch over her children. As I said before, I helped Kirk keep track of the children's schedules and their daily needs. I cooked for them on many occasions, and I helped drive the children around. Vivian was very grateful for my help during this time, and she chose to thank me in a large way by inviting me on a cruise with her. Vivian invited me to share the room she paid for herself because the cost was based on double occupancy. We shared a room on the trip. I have since offered to pay her back for the trip on many occasions, but Vivian refuses to accept my offers. Chloe's grandmother paid for her cruise and all of the excursions for herself, Chloe and me.

56. Vivian's largest gift was a "scholarship" that Vivian paid to BYU for Chloe. Vivian was aware that Chloe had applied for many scholarships, but that all her applications had been denied. On her own accord, Vivian paid \$10,000 to BYU for Chloe's tuition. This gift was humbling and even a little uncomfortable for Cam and me. Although Vivian and I

1 have been friends for a long time, such a large gift was unexpected and startling. I was  
2 overwhelmed by Vivian's kindness toward my daughter.

3 . . .  
4 . . .  
5 . . .  
6  
7 57. I disagree with Kirk's characterization of these gifts. I do not believe either of  
8 them (or any gift by Vivian) were motivated by a need to impress anyone or garner favor.  
9 Neither are they the result of anyone manipulating Vivian. I believe they are purely the best  
10 examples of Vivian's true appreciation and love for the people around her.

11 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
12 CORRECT.  
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14   
15 MICHELE WALKER  
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# **“Exhibit C”**

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NYLA ROBERTS, being duly sworn, deposes and says:

2. I have resided in Boulder City, Nevada with my husband since 1999. My husband and I owned a construction company in Utah, but chose to move to a warmer climate for my health. We built a home at 1514 Sunrise Circle. This is the home in which Vivian and Kirk Harrison now reside.

3. I first became acquainted with the Harrisons in the end of the summer of 2001. We had placed the Sunrise Circle home on the market for sale not long after we built it. We realized before we had even completed construction that we had built too large of a home for our needs. The home was built on two lots, is approximately 7000 square feet, with a 4000 square foot heated and cooled garage and a large pool. The home required a lot of work and expense to maintain. We placed the home on the market, and purchased a lot behind it. The home appraised for \$1,300,000, but we listed it for \$999,999. We told the agent that we were willing to sell it at that price if we could remain in the home for the four months it would require for us to complete the home we would build on the lot behind it. Thus, we intended to close 120 days after we had accepted the purchase contract; we did not want to move twice.

1

1 the home (the oversized garage for example). Vivian was apparently insistent that they should buy the  
2 home, and Kirk finally made an offer indicating that he wanted the home for his family. After aggressive  
3 negotiations, we verbally agreed that we would sell for \$900,000, and close right away, but remain in the  
4 home until April 2002. We were surprised when the realtor came with the written offer at a reduced price.  
5 He explained that Kirk wanted to collect 12% interest on the funds for the time we remained in the home.  
6 He wanted it as a price reduction instead, saving him out of pocket money, and from being taxed on the  
7 income. We contested this, and offered to close in April instead, we did not need the funds for construction.  
8 Kirk insisted it was a deal breaker, and wanted to close as soon as possible, because he had already pulled  
9 the funds from another investment. Normally we would have refused, but Kirk played on our fears. 9/11  
10 had just occurred, and no one knew what impact it would have on the economy. We were surprised he  
11 would be so aggressive with someone who was going to be his neighbor. Our proceeds, after reduced  
12 commissions and closing costs, were deposited on October 25, 2001 totaling only \$811,346.60. Nyla  
13 learned years later that Kirk had never advised Vivian (who was aware of our request to remain in the home  
14 for four months) about his demand to close and seek interest.

18 **Family relationships in the earlier years**

19 5. Vivian and I had the typical neighborly interchanges over the next few years. I was able to  
20 meet her children. They all seemed very polite and quite intelligent. Brooke would play with my daughter  
21 Hannah. I also got to know Whitney, Vivian and Kirk's older daughter, after she started attending our  
22 church, and I was serving as secretary in the organization for the teenage girls. I remember seeing Vivian  
23 out walking shortly before Rylee's birth. From the way she carried the baby, it was more of a waddle than a  
24 walk. I could tell it wouldn't be long before the birth. I stopped and visited with her, reminiscing how I  
25 had felt at that stage of pregnancy, and how difficult childbirth can be. We have known Rylee since her  
26 birth.  
27  
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1           6.       In July 2002, our son Brandon, who is the same age as the Harrison's daughter Whitney,  
2 broke his neck. Vivian brought Whitney to our home with a cookie bouquet, for Brandon. It was a small  
3 gesture, but it meant a lot to me and Brandon.  
4

5           7.       Over the years, Vivian consulted with me regarding things associated with the house we had  
6 sold to them. She also discussed the many changes she was making to the house. I was aware over the  
7 years that she worked hard to both keep up the house, and make it beautiful. I can recall when she painted  
8 the garages, and converted the largest one into a gym for her family. She also added a nice outdoor kitchen  
9 and fireplace near the pool.  
10

11          8.       Brooke was on a soccer team with Hannah one year, and later my children enrolled at the  
12 local dance studio, where they dance with Brooke in several classes. Brooke and Rylee came to our home  
13 and played, and sometimes Hannah went to their home. My children also wanted to earn some money, and  
14 asked if they could walk their dogs. Kirk hired them, and also paid them to take care of the dogs whenever  
15 the family was out of town. My daughter Jessie also taught the younger girls beginning piano lessons.  
16 Sometimes Vivian hired my other children to do odd jobs.  
17

18           **How Vivian and I became closer, my cancer, and our many attempts to improve our**  
19           **health**

20          9.       In late 2004 leading into 2005, I was going through tests to determine whether or not I had  
21 thyroid cancer. It took several agonizing months of appointments before I received the final diagnosis,  
22 which came on Valentine's Day 2005. My youngest daughter was turning seven later that month. I  
23 decided to have a party for her. I invited Brooke. When Vivian brought Brooke to the party, I told her of  
24 my diagnosis, and that I was scheduled for surgery about ten days from then. She asked if I had gotten a  
25 second opinion. I said no, that I hadn't even met with an endocrinologist, only his assistant. I was so  
26 exhausted with the all the red tape that I had been going through for months, that I just wanted to get the  
27 cancer out. Vivian jumped in and arranged for me to meet with an endocrinologist. I was so grateful. The  
28

1 surgery was postponed a month, and although the diagnosis remained the same, it was worth the delay to  
2 have a great doctor that actually listened to me, and then remained my doctor until his retirement. I began  
3 to call Vivian my guardian angel.  
4

5 10. When I had my cancer surgery, Vivian brought a large meal from Lucille's BBQ for my  
6 family. It was enough for several meals. My oldest two boys were already away at college, the remaining  
7 four children were ages seven to fifteen. Vivian came and visited, and offered to help with the children.  
8 Sometimes my youngest daughter would go over to their home.  
9

10 11. That fall, after I had recovered from my surgery and radiation treatments, Vivian and I  
11 began exercising together. She invited me to go to Green Valley Spa with her. My husband had been  
12 encouraging me to go to a spa, and although this spa cost a lot more than the others I had been researching,  
13 by sharing a room with Vivian, it was a little more affordable. We worked out for months before the spa,  
14 and then went there in May, 2006. We had an amazing experience there, and for me it was life changing.  
15 We reserved the room for a week, but I could only stay for five days, so Kirk and the two youngest girls  
16 came and replaced me for the last two days.  
17

18 12. Weight maintenance has always been, and continues to be, a struggle for me. Vivian and I  
19 have tried to support each other in this battle. In the fall of 2006, we jointly hired a personal trainer  
20 named Tony Melendez, who had also worked with Tahnee preparing for pageants. Sometimes we would  
21 train in Vivian's garage, and other times at Tony's gym. Minimal weight loss was all I was ever able to  
22 obtain, and as soon as we stopped working out together, my weight would go back up again. This became  
23 our on and off routine for several years. We tried the spa, then trainer, then just doing cardio together.  
24 Vivian did some other things, and would have temporary success, but never anything lasting. I went to a  
25 "fat camp" for three weeks, and only lost a pound per week, while following the program perfectly.  
26 Everyone else had substantial weight loss. I was more discouraged than ever. Vivian found out that Tony,  
27  
28

1 our old trainer, was going out of business. She had purchased the equipment already in her garage when  
2 another gym in town had gone out of business, and she thought this would be a good opportunity to expand.  
3 I told her that if his rowing machine was available, I would like to buy it if she didn't. Vivian bought the  
4 equipment, and filled her garage. I remember that Kirk was against it at first, but when he found out what a  
5 great deal she had made, he decided it was a good thing. He and his friend John started using the equipment  
6 as well, plus lots of other people that they invited over. Kirk took the rowing machine to the ranch to put in  
7 storage. Vivian asked him to bring it back, but he never did. Sometimes Vivian seemed very tired during  
8 out workouts. When I inquired why, she mentioned that she had been up during the night on the phone  
9 with Tahnee, who was struggling, and finding it difficult to sleep. There were many days that this was the  
10 case.  
11

12  
13 13. In 2008, Green Valley Spa sent emails introducing a new weight loss program. Vivian and I  
14 began to talk about going back to the spa to try it out. Staying at the spa was very expensive, so Vivian  
15 made arrangements for us to stay at Kirk's cousin's condo. This saved a lot of money. The program was  
16 the HCG diet. Vivian went back and forth from St. George to Boulder City for work and to see her girls.  
17 One night, it was quite late, and she didn't have to teach until the next day. She had told her girls that she  
18 would come home that night, but she was tired. She called and spoke with Brooke, who along with Rylee,  
19 was at my home with my family. Vivian told Brooke she was tired, and might sleep there and come in the  
20 morning in time to get her ready for school. Brooke really wanted her mom to come home. My husband  
21 tried to convince her that it would be safer to let her mom stay and drive in the morning when she was  
22 rested. Brooke was insistent that her mother had promised to be home that night, so Vivian drove home.  
23

24  
25 14. On another day, Vivian brought the girls with her, and they spent the night. At first, the  
26 HCG diet seemed to really work. The success we showed got the attention of our friends and neighbors. At  
27 that time, HCG was not allowed for use for weight loss in Nevada, so most people weren't aware of it.  
28

1 Vivian found a less expensive source in Utah for the HCG than the spa, and we signed up for a second  
2 round for a lot less money. Several other women in our area began the diet as well. Unfortunately, it was  
3 not an effective or permanent solution for me. I would get results for a week to ten days, and then plateau.  
4 I quit using it, because I noticed my thyroid levels kept fluctuating. I assumed because my thyroid had been  
5 removed, maybe the HCG didn't work as well. I decided to quit using it, but we continued to exercise.  
6

7 15. Separately, Vivian and I tried a program with Dr. Jeffrey Life. Vivian had already been  
8 going to him when I heard about him from another source, and decided to look into his program. Dr. Life  
9 sent his wife to our home to introduce the program and draw blood for testing. I later went to his office for  
10 additional testing, and to review the results with him. He prescribed a lot of hormone supplements,  
11 vitamins, diet and exercise. The hormones came from Cenegenics, and neither Dr. Life nor the pharmacy  
12 gave *any* warnings about their use. A few months later I went for my annual women's physical. My doctor  
13 said I was entering menopause, and recommended quitting the hormones from Dr. Life, and using birth  
14 control pills to stabilize my hormones instead, so I did.  
15  
16

17 16. Vivian and I continued exercising. By that time, she had decided to try to hike to base camp  
18 of Mt. Everest. I agreed to be her hiking buddy to help her get ready. We hiked several days each week.  
19 We also worked with another personal trainer, Rod Stanley. We purchased "Body Buggs" to measure our  
20 total calories burned each day. It included a program to track all your food as well. After that, I returned to  
21 the "fat camp" which now had merged with "Biggest Loser." I wore the Body Bugg. It showed that I was  
22 burning about 3700 calories each day. We were only served 1200 calories. Once again I was disappointed  
23 to only lose 0.8 lbs that week. At that point, I was so discouraged, I basically gave up. Vivian didn't give  
24 up on me though, and encouraged me to join the new Weight Watchers with her. We did well for a while,  
25 but I left for the summer, and gained back what I had lost. Sadly, after all this effort, I think we are both at  
26 our heaviest weight ever.  
27  
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**The family relationships from 2005 to now.**

17. Later, when Vivian and I became closer friends we often celebrated Thanksgiving together at their home. Vivian usually makes the turkey, and we both make all the traditional side dishes that our families are used to having. Kirk picks up pies from a bakery in Veyo. Kirk would sometimes bring a pie to our family, just because he had been in Veyo. It was during these gatherings that I got to know Joseph and Tahnee a little bit better. Sometimes we have gone to movies together, or had a sing along. All of our children are quite musical, and love to perform. I really enjoy hearing Tahnee's original compositions. She is very talented, and I think it is a good balance for her medical studies. My oldest son, Clayton, has his masters degree in music, and so it was fun when they both participated one year. He has lived in Houston for several years, and usually isn't available.

18. Vivian and I started shopping on Black Friday together (the day after Thanksgiving.) It wasn't so much about the great deals we got, it was more about having an adventure. My children really looked forward to it, and Vivian was a big part of the fun. We would get up early, go to a few stores, and then go out to breakfast. Brooke joined us for the first time last year, when Vivian felt like she was old enough not to get overwhelmed by the crowd. We had a lot of fun.

19. Over the years, I have really enjoyed their whole family. I often visited with their family when I was there to exercise, and Vivian would frequently come by our home. I felt like I also had a good relationship with Kirk. We weren't as close as me and Vivian, but I thought that was appropriate. We would sometime discuss politics, business, and just day to day things. He seemed to enjoy my daughter Jessie, I think because she liked his dog Jimmy, nearly as much as he did. Vivian often encouraged my children. Vivian brought Brooke and Rylee to Hannah's baptism. She came to Jordan and Jessie's seminary graduations. We invited them to our ranch in Wyoming. In 2009, Vivian, Whitney, Brooke and Rylee came up. During that visit, Vivian ended up driving me 100 miles in the middle of the night to a hospital



1 when I passed a kidney stone. In 2010, when Vivian was in Ireland, Kirk, Whitney, Brooke and Rylee  
2 came.

3  
4 20. Sometimes Whitney and I walked together. Once in a while my daughter Jessie came too.  
5 When it was just me and Whitney, occasionally we talked about her career plans, or her relationship with  
6 Vivian. She expressed her love for Vivian, but she was frustrated and worried about the dynamics in the  
7 home. She felt like Vivian was gone too much, and that left her acting as the most stable influence for the  
8 younger girls at that time. She expressed that when Kirk was gone too, she became the surrogate parent.  
9 She felt like sometimes she was the parent even when both of them were home. She was trying to learn to  
10 cook, and occasionally prepared dinner. She disapproved that sometimes Vivian and I talked about the  
11 family problems when the younger girls were nearby. I thought she was right, and after that, I was more  
12 careful about our discussions when we were in their home. She also felt like Vivian was spending too much  
13 time in the office reading her Kindle. I knew why Vivian was doing this, (see item #28) but I didn't feel  
14 like it was something I should discuss with her. I felt like it was about Kirk and Vivian's issues, not hers. I  
15 didn't try to justify or excuse any of the things she found frustrating about her parents. I didn't think it was  
16 my place. I tried to just be a sounding board. Once in a while I offered advice, or shared struggles that we  
17 had in our home, so she would see that ALL families have problems. I encouraged her to be supportive of  
18 Vivian's desire to be involved with the Hope Foundation. I felt like it was a good activity for Vivian, and  
19 something that they could all become involved in later. Our family started a charitable foundation, and  
20 charity is very important to us. I thought it could be the same for them.  
21  
22  
23

24 21. Last year, Michele Walker and I joined Vivian, and went to see Tahnee compete in the Miss  
25 Nevada pageant. Tahnee was magnificent. I thought she was going to win. She seemed happy to have her  
26 mother's help and support.  
27  
28

1           22.     Vivian helped me when I was asked to organize monthly meetings for the women at church.  
2 Vivian came up with several ideas, including an oil cloth project that was extremely popular. She helped  
3 me locate and order all the supplies. She found the patterns. She came to the church and brought her  
4 sewing machine to help the women there. She also did the same thing about a month later for the teenage  
5 girls. She monogrammed towels that were given to the eight year old children to wrap themselves in at  
6 their baptisms. It was something special they could keep to remember that special day.  
7

8           23.     When our son Jordan was about to turn 18, he and I had a clash. I laid down the law...  
9 and gave him the "my way or the highway speech." He packed a backpack and left. We couldn't find him.  
10 We drove around looking for him, but he would hide when he saw our cars. I told Vivian, and she drove  
11 around until she found him. She took him back to her home and talked to him. They have always had a  
12 great relationship. He returned home later that evening, thanks to her influence.  
13

#### 14           **My relationship with Vivian**

15           24.     Through all the years, Vivian and I used each other for "therapy" as we exercised. We each  
16 vented about our personal issues. We helped each other through many hard times. It was nice to have  
17 someone I could talk to and trust. I always knew that Vivian "had my back."  
18

19           25.     I remember the summer that Vivian left for a short time. She came and visited with me,  
20 asking if we (my husband and I) could maybe build her another home in the neighborhood. She told me  
21 about the difficulties she was having at home. She expressed her frustration about adult children being back  
22 in the home, and not helping. She said they were unwilling to even clean up their own messes, or help with  
23 laundry, meals or their younger siblings. They were on summer vacation, but their extreme schedules were  
24 upsetting the household. They would stay up late, and sleep very late. This made it difficult to keep the  
25 little girls on a schedule. She had tried to lay down the law. I believe she told them if they weren't going to  
26 carry their own load, that they needed to live elsewhere. This led to an argument when Kirk got home, and  
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1 Vivian ended up taking the younger girls and leaving. After meeting with an attorney and counselor, she  
2 returned home to try again.

3           26. One evening in particular, Vivian was upset because an older child had taken money from  
4 her (Vivian's) wallet without asking and ordered pizza to be delivered. When it arrived and one of the  
5 younger children wanted some, they didn't want to share. Vivian was upset at the selfish behavior. We  
6 often swapped stories because we had many children that were about the same age, and were going through  
7 similar things. The wide range of ages is very difficult to manage for any parent. It is human nature to  
8 want to be loved, valued and appreciated. At that time, I don't think Vivian felt those things from anyone  
9 but the youngest girls. Since Kirk seemed to increasingly disrespect and show no appreciation for Vivian,  
10 the older children seemed to follow his example.

11           27. I noticed a change in Vivian's stress levels after Kirk's retirement. Things became more  
12 strained, and she was struggling. She was used to running the household, and suddenly Kirk was there,  
13 commenting on everything, and almost always in a critical way. She would try to boost her mood by  
14 cracking jokes. This is a common fall back position for Vivian. If you can't cope... make a joke. Kirk  
15 also seemed to be taking over every area that Vivian tried to retreat. Even though he had a large office in  
16 the front of the house, he seemed to frequently end up in the room that Vivian had set up for her office. She  
17 had purchased an LCD TV when we went to a "Black Friday" sale. Kirk would spread out on the sofa  
18 there, and take over the room. Vivian offered to get a TV for his office. He didn't want that. Vivian had a  
19 large armchair where she cuddled with the young girls to read with them; soon Kirk began sitting there. It  
20 was like he was marking his territory. By then, Vivian wasn't sleeping in the master bedroom anymore.  
21 The older girls were gone to college, and I recommended that she move into one of their rooms. She told  
22 me that Kirk insisted that those were their rooms, and had to remain that way. There is a small bedroom at  
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1 the back of the house, but it is too far away to hear the children if they get up at night. Vivian felt like there  
2 wasn't anywhere that she could have privacy, or call her own.

3  
4 28. The first year of Kirk's retirement, Vivian was bothered that he just hung around the house  
5 at first. She encouraged him to be more involved. He began driving the children to school and many of  
6 their activities. One day when we were exercising, Vivian vented that she was really bothered that Kirk  
7 would stay in her office and watch TV for many of the hours after school when there were things that  
8 needed to be done. She was out in the main area, helping the children with their homework etc. She told  
9 him that he needed to be more involved in the parenting, instead of back in her office. He said he was just  
10 as involved as she was, that his location didn't make any difference. After that, Vivian began spending a lot  
11 of time in her office. She was trying to teach Kirk a lesson, that it wasn't the same as being out in the main  
12 room with the family. After that, he did step in and begin doing more things like cooking and spending  
13 more time with the girls.  
14

15  
16 29. There was a period a few years ago that Kirk spoke to me directly about Vivian. He said  
17 they were worried about her, and felt that I was the only person she would listen to. He asked me to be  
18 supportive. He had arranged for a yoga instructor to come to their home. He said the older girls were doing  
19 yoga with him, but Vivian wouldn't. He said that he was going out of town, and asked if I would  
20 encourage Vivian to give it a try. I said I would. The day of the yoga, I had a business call that delayed my  
21 departure, so I was late. When I arrived, the yoga instructor was already working with the oldest girls in the  
22 basketball garage. Vivian and I were in the next garage, which is open to the other one, where they were  
23 working. Vivian was already exercising on the elliptical machine. I apologized for being late, and began to  
24 explain why. I am known for speaking too loud... it is a fault of mine. Tahnee came in and in a sharp tone  
25 scolded me, informing me that they were trying to do yoga. I apologized, and explained I knew about the  
26 yoga, that it was the reason I was there, that Kirk had invited me. I got out a mat to start doing yoga, when I  
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1 realized that Vivian wasn't joining us. She was the reason I had come, so I put my mat away, and went to  
2 find her. She was upset that Tahnee had treated me so badly. She told me that I was her guest, as well as  
3 Kirk's, and that Tahnee had been rude. I told her it was no big deal, but I could tell she was very bothered  
4 that not only did she show disrespect for her, but me as well. Kirk called me later to hear my side of  
5 things. I guess there had been a blowup at home.  
6

7 30. In 2006, shortly after the above action, Vivian and the older girls had a conflict. I heard  
8 differing versions of the story, but both indicated that while in the car together, Tahnee had been openly  
9 critical of Vivian's parenting in front of the younger girls. Whitney and the younger girls were caught in  
10 the middle. Everyone was very upset over what happened. Brooke spent the night at our home that night.  
11

12 31. Kirk and I spoke a few times after that episode. I explained that my husband and I had  
13 similar difficulties raising our children. The large spread in ages is difficult, and that when the older  
14 children are disrespectful, it is hard to get the younger children to show respect. I told him that he and  
15 Vivian needed to be a united force; most teenagers will play one parent against another. I suggested that  
16 they should make some household rules together, and then both enforce them. I explained that she needed  
17 his support. At that time, I was too involved in their family issues. I really hadn't wanted to be so  
18 involved, I had my own family and business to care for. I was just trying to help calm things down. I  
19 think maybe the older girls thought I was pulling Vivian away from the family, but I felt like I was her only  
20 support.  
21  
22

### 23 **Rylee's Health**

24 32. Late last year, I noticed that Rylee seemed to be changing. She had never been a boisterous  
25 child, but she seemed even more subdued. The change I noticed in Rylee was only slight, but she didn't  
26 seem to light up like she used to. I asked Vivian if she was doing all right. She confided in me that one of  
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28

1 her friends from dance had criticized her, and told her she shouldn't be in ballet because she looked fat in  
2 the leotard. It made Rylee sad. She seemed to lose her desire to go to ballet for a while.

3         33.     After Thanksgiving, my family celebrated Christmas early, because it was the only time we  
4 could all be together. My children had received a new XBox Kinect. They were loving it. I even played.  
5 The games were very physically active. I thought it was great. I told Vivian about it one day when we  
6 were exercising. She said Kirk already purchased Wii, but kept it at the ranch to encourage the kids to go  
7 up with him. I really felt the active game would be good for Rylee, so I decided to tell him about it myself.  
8 I thought he might enjoy being the hero on Christmas morning. I tried to tell him about it, and how much  
9 fun my kids were having. He exploded at me, and said, "I'm tired of this crap!" and walked out. I was  
10 shocked. Kirk had never treated me like that before. I was genuinely trying to do something to help Rylee,  
11 but had unknowingly hit a subject that must have been a sore one. I guess he thought Vivian had put me up  
12 to it. She didn't even know that I was going to tell him about it. They did end up getting one for Christmas.  
13 I am not sure, but I think Vivian bought it. She told me that everyone was enjoying it, and I think she said  
14 that even Kirk had played it with the girls.

15         34.     Early spring, I found myself thinking about Rylee again. Something still seemed not quite  
16 right. I asked Vivian about it, and she said that Rylee had been struggling with allergies, and was often on  
17 medication. A short time later, Vivian mentioned to me that she thought maybe Rylee was showing early  
18 signs of puberty. Vivian knows I have studied a lot of health and nutrition issues, and wanted my opinion.  
19 I told her that the hormones in food, etc., are causing earlier puberty in girls; especially if they consume a  
20 lot of products affected by hormone use in animals. Things like milk, cheese, poultry and eggs. I  
21 recommended buying organic. I also explained that hormone levels can be affected by all kinds of  
22 petrochemical products, things like shampoo, lotions, pesticides etc. I also told her I thought she should get  
23 a doctor to run a hormone panel. I explained what we had gone through when our son had thyroid

1 problems, and that the wait time for a pediatric endocrinologist can take a long time. She agreed to  
2 schedule an appointment.

3 35. A few days later, I was exercising with Vivian, when suddenly I remembered an episode of  
4 "House" I had seen entitled "Act Your Age." It was about a young girl that had started her period at age 6.  
5 In the episode, it was determined that her widowed father, who was using a testosterone cream after he  
6 showered at the gym, had accidentally passed it to both of his children. It caused aggression in the boy, but  
7 everyone had dismissed it because his mother had recently died, and they thought he was just acting out.  
8 When the girl developed prematurely, they figured it out. It hit my mind like a lightning bolt. I stopped  
9 exercising and immediately told Vivian about it. I asked her if Dr. Life had put her on the same  
10 testosterone cream he had given me. She said yes. We realized that Rylee needed to have her testosterone  
11 levels checked.  
12

13 36. I note again that when I received the prescription for the same testosterone cream as Vivian  
14 from Dr. Life, he *never* advised me that there was a danger of it rubbing on to someone else. The company  
15 that supplied the testosterone, Cenegenics, provided no warning either. The packaging that the cream came  
16 in did not have a warning of any kind that it could be transferred to others. It was only from viewing the  
17 episode from "House" that I became aware of the issue.  
18

19 37. A short time later, in mid March, I had a conversation with Kirk. I asked about Rylee. He  
20 mentioned her allergies were really bothering her, and that he was taking her to a doctor to have blood  
21 work done. I told him to ask the doctor to do a hormone panel at the same time.  
22

23 38. A few weeks later, Vivian told me about the allergy tests on Rylee. The results had shown a  
24 number of allergies. I told her of my conversation with Kirk, and asked if they had run a hormone panel.  
25 They had not, because they said that required a visit to a qualified pediatric endocrinologist. Based upon  
26 my recommendation, Vivian made an appointment with an endocrinologist for Rylee because she too  
27  
28

1 shared my concerns. Any contention by anyone that Vivian knew that the testosterone cream she was  
2 applying was damaging Rylee is false. Vivian had no knowledge that her use of the testosterone cream was  
3 affecting Rylee until I mentioned to her the "House" episode that I had seen. She followed my  
4 recommendation that she have Rylee tested for exposure to testosterone, as soon as she was able to get an  
5 appointment with a qualified doctor.  
6

7  
8 I STATE THE FOREGOING UNDER THE PENALTY OF PERJURY.  
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# **“Exhibit D”**

STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

1. I have personal knowledge of the facts contained herein, and I am competent to testify thereto.

3. Some of the best times we have had together were at a sewing school we attended three times with our daughters. The first and second times (2007 and 2009), I took my daughter, Kenadee, and Vivian took her daughter, Brooke. On our third trip (2011), we also took our younger daughters, Kamry and Rylee.

5. It is my understanding that Kirk has alleged I complained to him about Vivian and the amount of time she spent reading. I have no specific recollection of that conversation. It does not make sense to me that I would make those comments as I am not close enough to Kirk to consider him a

1 confidante. It appears that he has twisted whatever I may have said when we returned. Also, some of his  
2 statements do not make sense with what occurred in the evenings during free time.

3 6. Specifically, Kirk alleges that I spent our free time on sewing projects with Kenadee, but  
4 Vivian would not do likewise with Brooke because Vivian was too busy reading her Kindle. During our  
5 free time, the sewing machines were locked up and not even available to us. Thus, it is impossible for me  
6 (or Vivian) to have been doing sewing projects with anyone.

7  
8 7. I do remember that Vivian was reading her Kindle during free time, but I do not feel like it  
9 is appropriate to judge this behavior as I spent most of our free time watching television.

10 8. I do not believe Vivian neglected Brooke on that trip or any other I have been on with her.  
11 In fact, Vivian attended every scheduled event during the sewing school including Teacher's Night and the  
12 fashion show. I also remember activities after school which we participated in with the girls such as  
13 shopping and dinners.

14  
15 9. Certainly, the trip could not have been that bad and I could not have been "disgusted" with  
16 Vivian – I chose to attend the sewing school in 2011 with Vivian and even decided to schedule a longer stay  
17 (seven days instead of four). If I was disappointed or upset with Vivian, it is unlikely I would have chosen  
18 to do so.

19  
20 10. It is clear to me that Vivian takes these trips especially to spend time with her daughter  
21 Brooke (or both daughters, as we did this year). The majority of attendees are much older than us, so the  
22 driving force for us to be there is to help our children and to spend quality time with them.

23  
24 11. I think Vivian is a wonderful person. I have been particularly impressed with her wisdom  
25 and the good advice she gives her children. For example, my daughter Kenadee can be very strong-willed,  
26 and she and Brooke have had their frustrations with one another. Unlike some parents, who will feed into  
27  
28

1 the problems and increase them, Vivian has helped Brooke find ways to respond positively and to work  
2 through the little challenges.

3 12. I have seen Vivian teach her daughters to respect others, to stand up for themselves and their  
4 friends, how to work through problems, and how to voice their feelings.

5 13. Brooke and Rylee are amazing children. They seem happy, well-adjusted, and very closely  
6 bonded with Vivian. I believe that they have learned a great deal of empathy and many valuable life  
7 lessons from Vivian, both by her advice and the example she sets for them. She has taught them how to get  
8 along with others while still being able to stand up for themselves.  
9

10 14. Vivian has also given me great "life" and parenting advice. I have often called on Vivian as  
11 a "sounding board" for my own personal concerns. She is wise, and I can always count on her to be the  
12 voice of reason.  
13

14 15. I have not had much experience with seeing Kirk with the children, so I am unsure how he  
15 relates to them. I have seen both parents picking up and dropping off the children at dance lessons. I never  
16 noticed any obvious difference in the weight of responsibility in that regard.  
17

18 16. Vivian is a great mother and a fantastic human being. She is a very dedicated and loyal  
19 friend who would do almost anything for those she loves. She is extremely good-hearted and she always  
20 puts others' needs before her own. She is very positive, she does not like putting others down, and she  
21 chooses to see the best in everyone. I am concerned that these qualities are being distorted and used against  
22 her, which is very unfair and sad.  
23

24 17. Despite the amazing qualities that her friends see in her, I do not think Vivian sees them in  
25 herself. I have often felt that Vivian struggles with self-worth and that she is searching to add extra  
26 meaning to her life or to build her own self-esteem. She has taken on various activities (reading, sewing,  
27  
28

1 charity work), I believe, in an effort to find that extra meaning. In retrospect, I wonder if this was the result  
2 of her unhappy marriage.

3 18. I do not mean to imply that she neglected her children, or that she had any regrets related to  
4 her children. I believe she loves being a mother, and I do not believe she has sacrificed her children's  
5 interests. I know she loves her children very much.

6  
7 19. Before I ever spoke with Vivian about her case, I received a call from Kirk. He asked me if  
8 I had spoken with Vivian about their divorce. I told him I had not. He stated he had "a feeling" Vivian  
9 would try to drag their friends into the divorce, and he had asked me not to participate "for the sake of the  
10 children." I found this insincere as another mutual friend had already told me he had named us in his  
11 motion. Kirk asked me, if Vivian called, to speak to him first before making any statements or participating  
12 in the divorce case. I told him that I considered Vivian a good friend and that this request made me very  
13 uncomfortable.

14  
15 20. When I did speak with Vivian, she stressed that I did not have to give this statement if I felt  
16 uncomfortable doing so. As usual, she placed my needs above her own, which was a stark contrast to the  
17 way Kirk handled it. I have no qualms about providing this statement for Vivian, as she has been a good  
18 friend to me, and she deserves to have someone to stand up for her.

19  
20 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
21 CORRECT.

22  
23  
24 KIM BAILEY  
25  
26  
27  
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# **“Exhibit E”**

**AFFIDAVIT OF ANNETTE MAYER**

STATE OF NEVADA        )  
                                      ) ss:  
COUNTY OF CLARK        )

ANNETTE MAYER, being duly sworn, deposes and says:

1. I have personal knowledge of the facts contained herein, and I am competent to testify thereto.

2. I have lived in Boulder City, Nevada for eight years, and in Las Vegas for six years prior to that. I have one son, Kurt Engle, age 11, who attends Martha P. King Elementary School in Boulder City, Nevada. I am a full time volunteer at the school. I have never officially met Vivian Harrison ("Vivian") before I was introduced to her in December of 2010, but we have had little contact since then. I have, however, seen Vivian on many occasions at Martha P. King Elementary (which has third through fifth grade) and at Andrew J. Mitchell (which has kindergarten through second grade).

3. I would see Vivian at Parent Advisory Committee, at "open house," meet the teacher, scholastic book fairs, choir and musical presentations, and at Santa's workshop. Vivian would be with her children buying books at book fairs, and acting as a volunteer at other events. At PAC meetings she would report as a room parent (the person that schedules parties for the classroom) and also as a parent helper. Vivian was always very friendly and outgoing at the meetings. She also seems very concerned about her daughters, their education and what is going on in their classrooms.

4. I was asked by Vivian to review medication bottles that Vivian provided to me and log the information from the medications, including the date of the prescription, the amount of the prescription, and the pills or units used in the bottles. Vivian also provided me with the symptom information associated with the various medications. From that information I have prepared a chart, a true and correct copy of which is attached to this affidavit.

1           5.       I have prepared a chart showing the various medications and other information outlined  
2 above. Many of the bottles were still sealed and or appeared unused.

3  
4       I STATE THE FOREGOING UNDER PENALTY OF PERJURY.

5                               *Annette Mayer*  
6                               \_\_\_\_\_  
                              ANNETTE MAYER



# **“Exhibit F”**

1                                    **SWORN DECLARATION OF HEATHER J. ATKINSON**

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

4           HEATHER ATKINSON, being duly sworn, deposes and says:

5           1.       I have personal knowledge of the facts contained herein, and I am competent to testify  
6       thereto.

7  
8           2.       I live in Boulder City, Nevada. I have lived there since 1988. I am married to Jesse  
9       Atkinson, and we have two children, a daughter Kayla, age 11, and son Kyler, age 12. I am 31 years old.  
10      My husband and I operate a successful pool service and general maintenance company, Lakefront Pools.

11           3.       I met Vivian in 2005 through our son Kyler. At the time Kyler was in first grade with  
12      Vivian's daughter Brooke. After we met we immediately hit it off, and after that we began having play  
13      dates with the children. Our home is approximately two miles away from the Harrison home. It was easy  
14      to spend time together with the children. Brooke immediately liked Kayla, and they have become close  
15      friends. Vivian always brought her daughter Rylee whenever we were together.

16  
17           4.       The first thing anyone notices about Vivian and her children is that they are polite, well-  
18      mannered and well dressed. Vivian is very close to her daughters, and they would interact with each other  
19      affectionately. Brooke is a very sweet, quirky little girl with a great sense of humor. Rylee is an adorable  
20      child. Brooke is very nice to Rylee, and often involves her in play with the other children.

21  
22           5.       Within a month of the first play date, Kyler and Brooke began playing soccer together. At  
23      the time, Vivian was repainting the garage at her home, so I offered to take Brooke to most of the games. I  
24      would usually pick up Brooke from Vivian's house so that she could go early to the games. Vivian came to  
25      every game, even if it meant coming in painting clothes. Kirk was usually there at the games as well, but  
26      Kirk was not helping Vivian with the painting.  
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1           6.     Vivian and I started seeing each other regularly. I understand from Vivian that Kirk has  
2 alleged that she does not have friends. That statement is not true. First of all, I consider Vivian my closest  
3 friend, and anyone that knows Vivian knows that she has many friends.

4  
5           7.     Vivian and I were very active in Kyler and Brooke's school, Andrew J. Mitchell, and I  
6 became involved in the Parent Advisory Committee (the equivalent of the PTA at Andrew Mitchell). I  
7 could always rely on Vivian to help with PAC activities. She volunteered to help at the book fairs (she is a  
8 very good organizer, and she was instrumental in making it happen), make signs, act as a teacher's aide, or  
9 any other activities in which the PAC was involved. She came to all but a couple of meetings of the PAC.  
10 I was particularly grateful to her one year when PAC funds were misappropriated, and Vivian stepped up to  
11 volunteer to purchase food for the teachers during teacher appreciation week. I wanted her to be on the  
12 board of the PAC, but Vivian preferred to be the quiet organizer and aide. She did as much (actually more)  
13 than many of the committee members. I cannot recall Kirk every being involved in the PAC, or  
14 volunteering at the school during the years 2006 or 2007.  
15

16  
17           8.     Vivian also showed how gracious she was in the work that she did at the school. I can  
18 remember one particular day at the book fair when a family arrived with their baby. From their clothing,  
19 manner, and smell they appeared to be struggling financially, and the other very "proper" people at the fair  
20 ignored or shunned them. They had a baby with them, and unlike the other people in the room, Vivian, in  
21 the Vivian bubbly sweet way, went up to them and asked to hold their baby. With baby in arms, Vivian  
22 showed them around the room and made them feel comfortable. You could see their eyes light up when  
23 Vivian treated them like they belonged. I was moved.  
24

25           9.     During the summer of 2006, Vivian and I basically lived at summer camps sponsored by  
26 Michael's, a craft store. The children were with us every day -- they loved all of the different craft classes.  
27  
28

1 During that summer, we would take classes with the children, get lunch, and go back to more classes. I  
2 never saw Kirk at any of those events. The classes lasted for a period of six weeks.

3 10. A short time before the summer of 2006, Vivian bought a sewing machine. She told me at  
4 that time that she was trying to look for things to do because Kirk had just retired, and she indicated that she  
5 needed to get out of the house away from him. She indicated that she was looking for things for hobbies  
6 that would be good for her and the girls. I bought a new sewing machine, and Vivian and I sewed  
7 frequently. In both the summer 2007 and 2008, Vivian and I took Kayla and Brooke to sewing classes at  
8 JoAnn's. The classes were composed of projects (typically 4 week projects), and we would go to class once  
9 or twice per week. Vivian also took knitting classes with the children at JoAnn's and we did other craft  
10 classes at JoAnn's both in the summer and during the school year.

11 11. During the school years, Vivian has had Brooke and Rylee in dance classes since I have  
12 known them. One year Vivian helped us pay for dance classes for Kayla when times were hard, and helped  
13 sponsor several other children (for girls and boys who cannot afford dance) to dance through the "Dreams  
14 to Dance" program. Vivian has also helped with costumes and alterations. Brooke and Kyler have been  
15 dance partners for over a year.

16 12. We also started taking trips to Disneyland together with the children. Since 2006, we have  
17 been to Disneyland with the Harrisons approximately eight to ten times. Kirk has come along on most of  
18 those trips, but on at least a couple of those occasions when Kirk came he stayed at the hotel while the  
19 family went Disneyland. Kirk indicated that because of his height (he is very tall) the rides were  
20 uncomfortable. On one occasion, he and my husband Jesse went golfing while Vivian and I took the  
21 children to the park.

22 13. In 2008, Vivian and I attended fashion design classes at UNLV. At the end of the class, we  
23 put on a fashion show. Vivian put substantial effort in the class, and did a great job. She later progressed  
24

1 until she was teaching fashion design at the International Academy of Design and Technology. She taught  
2 a classes there for two years, 2008-2010.

3 14. Last year, 2010, Vivian was climbing to the base camp of Mt. Everest and running a full  
4 marathon for the Hope Foundation in the days before we planned going to Disneyland for Halloween.  
5 Brooke called me and asked me to take her and Rylee to get Halloween costumes so they could wear them  
6 on Halloween. I later asked Brooke where her dad was going and she explained to me that he was going to  
7 their ranch. Vivian dresses up every year for Halloween, and the girls were very excited to be with her in  
8 costume at Disneyland again. Rylee chose a character from Harry Potter as her costume. I gave Brooke  
9 and Rylee's costumes to Kirk, and he indicated that he would bring them with us to Disneyland. When we  
10 were getting ready for the Halloween at Disneyland, I saw that Rylee was only in a part of her costume. I  
11 asked Vivian (Kirk was not there at the park with us) where the rest of Rylee's costume was – she indicated  
12 that Kirk had forgotten it (Vivian could not have forgotten it since she met us at the park after flying home  
13 from overseas). Rylee was left wearing just the robe that Kirk had remembered to bring as a costume.

14 15. Rylee's Halloween costume is not the only thing that Kirk has forgotten. Kirk has now  
15 requested that he be part of the car pool with the other parents (the parents rotate picking and dropping off  
16 the children). He has forgotten children at school on the days he is to retrieve them, and some parents have  
17 now refused to car pool with him. I am not a part of the car pool, but on more than none occasion I have  
18 had to give children a ride home after he forgot to pick them up.

19 16. Vivian has a great relationship with Brooke and Rylee. When planning events, she is  
20 always thinking of them. For example, she took a cake decorating class (with her daughter Whitney), then  
21 made a special SpongeBob cake for Rylee for her birthday because SpongeBob was her favorite. She has  
22 always been the person that puts together Brooke and Rylee's birthdays. She usually tries to do special  
23 events. For example, for one of Brooke's birthdays, Vivian took the girls to Libby-Lu, an all girls store

1 (where the girls were pampered and had a lot of fun). One year for Rylee's birthday we went to Build-a-  
2 Bear, and last year for Brooke's we went to an amazing home in Boulder City called "the Pirate house."  
3 The home has water slides and a pirate ship and many other amenities – Brooke was thrilled to have her  
4 party there.  
5

6 17. I have personally seen that Vivian has been the parent responsible for scheduling things for  
7 Brooke and Rylee and most of the other family members. She helped her older children prepare for college,  
8 and she was with each one of them when they started school. Prior to Whitney's wedding, she helped  
9 Whitney with Whitney's dream of going to New York to buy her dress at Kleinfeld's, and in the days  
10 leading to the ceremony worked tirelessly sewing and cutting hand-woven placemats, putting together  
11 centerpieces and making signs for the non-main tables, making corsages, and doing a mountain of other  
12 things for the wedding. The wedding was absolutely beautiful. I note that even during the days that Vivian  
13 was working on the wedding at my home, when Brooke and Rylee called she would leave to take care of  
14 them, then come back a few hours later and begin working again until late into the early hours of the  
15 morning. I note that during that same time I needed help sewing a costume for Tinkerbell for my daughter  
16 for a Peter Pan dance recital – Vivian stayed late and helped sew the costume.  
17

18 18. As part of her scheduling events, Vivian took great care to ensure that her older children  
19 could participate with the family even after they were away to school. Many times we had to change plans  
20 to accommodate schedule of older children.  
21

22 19. When I first met Vivian, she had gone to Lake at Las Vegas with the children after an  
23 argument with Kirk. Nevertheless, when I asked her about Kirk, she indicated that they were having  
24 difficulties, but she was always respectful of him. I have spent thousands of hours with her and children,  
25 and I have never heard her say anything negative toward Kirk in front of the children. When they did things  
26 as a family, Vivian was respectful of Kirk, and Kirk was critical of Vivian. Vivian encourages the girls to  
27  
28

1 participate in things that Kirk likes. Vivian has supported Brooke playing golf. My daughter, who thinks  
2 playing golf sounds boring, incredulously asked Brooke why she played golf. I heard Brooke, "because my  
3 mommy told me that daddy likes golf, and it was something we could do together."

4  
5 20. Vivian is always looking for fun things to do with the girls. For example, Vivian and I took  
6 Brooke, Rylee, Kayla and Kyler and did private "hip hop" dance lessons at Dance, Etc. Rylee is now in  
7 hip-hop classes, and her dancing is very cute.

8  
9 21. When Vivian puts her effort into something, she works very hard. She takes action - she  
10 does not wait around for others to do the work for her or stew about ideas. For example, in 2007, 2008 and  
11 2009, Vivian created a haunted house in her neighborhood. Vivian provided almost all of the decorations,  
12 got people to come in and dress up, and she dressed up. The haunted house was amazing and a huge  
13 success.

14  
15 22. Brooke and Rylee get along fine with Kirk, but anytime that Vivian and Kirk are together  
16 with the children, it is obvious they are closer to Vivian. For example, Brooke and Rylee prefer to have  
17 Vivian help them with her homework. While Vivian and I were working out in her garage earlier this year  
18 (she has a lot of equipment there) the girls came out and asked Vivian to help them with their homework  
19 even though Kirk was there at the house. Kirk came into the garage and told Rylee to come into the house  
20 and that he would help her with her homework; Rylee said, "mom's helping me."

21  
22 23. Whenever Vivian would go out of town, she would call me and ask that I keep an eye on  
23 how the girls were doing. On several occasions during the days Vivian was away, I would get a call from  
24 Tahnee or Whitney asking me if I could care for Brooke and Rylee because Kirk had left the younger  
25 children with them, and they were either busy or had something else to do.

26  
27 24. Earlier this year, Brooke and Kayla auditioned for the dance recital Peter Pan that was being  
28 produced at the dance school, Dance, Etc. - they both got call backs. Vivian was out of town at the time.

1 When I went to pick up Kayla up from the auditions, Kayla was upset that Brooke didn't do the second  
2 audition. When I asked Brooke why she didn't try out, she said she wasn't prepared because no one was at  
3 home to help her prepare for it.  
4

5 25. Brooke and Rylee used to have sleepovers at our house. They would stay over about once a  
6 month during the school year, and about two or three times per month during the summer. The girls always  
7 wanted to play with our children Kayla and Kyler. In the last two months, they have only stayed over on  
8 two occasions. When the girls were at my home they have had no trouble sleeping apart or falling asleep.  
9 They do not wake up in the middle of the night. It has only been recently that Brooke has said she has to  
10 sleep with Rylee at my house because she said her father told her to.  
11

12 26. I have been at Vivian's home on many occasions and have watched her prepare food for her  
13 children. I also note that for a year or so Vivian did "Dream Dinners" through a company that would  
14 provide food that you could use to prepare meals, then bring the meals home.. During the time that I have  
15 spent with Vivian, she has never neglected to feed her girls. She would ask the children if they had eaten,  
16 were hungry, would like a snack, etc. We would often take all the children out to eat. I have not known  
17 Vivian to eat "fast-food" like McDonald's, Burger King, etc. I have been with her, however, when we  
18 have eaten at or purchased take-out meals at restaurants like Mimi's, Panera or Harvest Bread Co. When  
19 we are at restaurants, she almost always tries to get the children to eat something healthy, with, of course,  
20 the occasional treats.  
21  
22

23 27. I understand that Kirk has now indicated that I am only Vivian's friend because I am using  
24 her. That statement is absolutely false. Vivian has made me want to be a better person; she is the most  
25 caring and kind person I know. She sees the good in everyone, and she makes me want to be a better  
26 mother, wife, and person. Vivian has encouraged me to work out, and we have worked out together. About  
27 three years ago, Vivian and I did an HCG diet together (with Nyla Roberts and Vivian's daughter Whitney).  
28



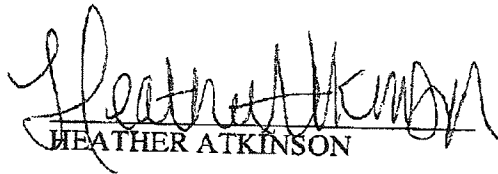
1 Vivian coached me and encouraged me to become more active and try to lose weight. She loves to see  
2 other people achieve and do well.

3  
4 28. Kirk bases his claim that we are using Vivian because Vivian has offered to help us finance  
5 the acquisition of a home. Vivian has now purchased a home with us that she intends to let us purchase  
6 from her at 1521 Sunrise Circle, Boulder City, Nevada. Vivian got wind that a home near hers was for sale  
7 at a remarkably low cost – the home was previously appraised at \$1.1M and was for sale at \$380,000.00.  
8 She knew that we were looking for something bigger, preferably something in her neighborhood. She  
9 thought of us when she learned of home, and told them it was for sale. Vivian brought this information to  
10 Kirk, and to our understanding Kirk agreed to allow the purchase. I don't believe that Vivian and Kirk have  
11 any question regarding our ability to pay for the home, but at the present time we are unable to finance the  
12 home. We intend to refinance any obligation to Vivian within a short time  
13

14 29. At the time we were preparing for Whitney's wedding, Brooke asked Vivian why she was  
15 "spending all of dad's money." When I advised Whitney, who was at my home, that I thought that was  
16 wrong for Kirk to say that in front of Brooke, Whitney immediately said "it is his money." She went on to  
17 say that she does not believe that her mother has earned any of her "dad's money" and that her mom was  
18 "crazy." She stated that her mother was spending too much of their "dad's money." I wasn't entirely  
19 surprised at this since I came to understand that Kirk controlled all of the finances at the Harrison home, and  
20 that the children went to him whenever they needed money. Whitney also curiously indicated that she did  
21 not think that her mother would speak to "any of the older children" after the divorce. This demonstrated to  
22 me how little they seem to know about their mother. After Vivian's lawyer told her that her daughter's had  
23 submitted critical affidavits to the Court in support of their father, Vivian called Whitney and told her that  
24 she did not care about the affidavit and that it didn't matter, she is sorry that she was put in the middle and  
25 that she wouldn't let it affect their relationship no matter what and she loves her with all her heart.  
26  
27  
28

1           30. I don't think that Kirk understands what a negative impact his actions have on the girls. For  
2 example, Brooke recently told me that she does not like going to the movies with her father anymore (he  
3 tried to take her and Rylee each weekend) because Brooke knows that Kirk "logs everything he does with  
4 me and Rylee." She said she had seen things on his computer about her and Rylee. Even Brooke  
5 understands that Kirk has been trying to build a case against her mother, and now Brooke has to worry  
6 about what she is doing around him or Vivian.  
7

8           I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
9 CORRECT.  
10

11   
12 HEATHER ATKINSON  
13  
14  
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28

# **“Exhibit G”**

**AFFIDAVIT OF LIZBETH CASTELAN**

STATE OF NEVADA        )  
                                      ) ss:  
COUNTY OF CLARK        )

Lizbeth Castelan, being duly sworn, deposes and says:

1. I make this Affidavit based upon facts within my own knowledge, save and except as to those matters alleged upon information and belief and, as to those matters, I believe them to be true.

2. I have been the housekeeper for the Harrison family for approximately seven years. I come to their home once per week for approximately four and a half hours. I help clean the bathrooms, the kitchen and help with other light cleaning. To the best of my knowledge, Vivian does all other cleaning and household chores.

3. During my time in the Harrison home, I have witnessed the relationship between Mr. and Mrs. Harrison and their five children.

4. From what I have seen, Mr. and Mrs. Harrison assume fairly traditional roles in the home. Mr. Harrison spends most of his time working in the home office, while Vivian takes care of the younger children and the general chores around the home.

5. I have never noticed Vivian separating herself from the family or the children. In fact, I have seen exactly the opposite. She is very involved and active within the home and with the children.

6. All of the Harrison children seem very normal to me. I have never seen anything in the home that gives me concern for their well-being. They are happy and healthy, and they seem to be well-adjusted.

7. Vivian is an excellent mother who loves her children very much. She is always thinking about the children and their needs, or she is directly involved with them. The children are very bonded with her.

8. The older three children also seem to be very normal, and they seem to have normal relationships with their parents.

9. I have never witnessed any behavior in the home that gives me concern for the children's well-being with either parent.

10. I have great respect for Vivian, and I personally like her very much. I believe she is kind and trustworthy. As a mother, she is very attentive to her children's needs, making sure they are dressed well in clean clothes, making sure they are well-fed, and that they get to school on time. Although I don't speak much English, Vivian always tries to talk with me, and she is very kind. She is very positive and she tries to make others feel happy and comfortable.

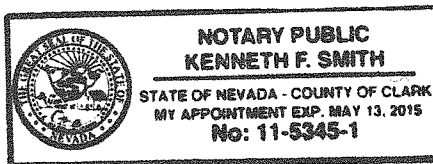
11. This Affidavit has been translated to me by a neutral third party who is not interested in this action, and who speaks both English and Spanish.

FURTHER, AFFIANT SAYETH NOT.

  
LIZBETH

Subscribed and sworn before me  
this 12<sup>th</sup> day of October, 2011.

NOTARY PUBLIC in and for  
the State of Nevada



# **“Exhibit H”**

1 SWORN DECLARATION OF JEFFRY LIFE

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

5 JEFFRY LIFE, being duly sworn, deposes and says:

6 1. I have personal knowledge of the facts contained herein, and I am competent to testify  
7 thereto.

8 2. Vivian Harrison has been my patient for several years.

9 3. On or about October 25, 2009, Vivian began testosterone cream therapy through my office.

10 4. To the best of my knowledge, Vivian was never informed by me, my office, or Cenegenics  
11 Pharmacy that applying testosterone cream to her forearms could potentially transfer testosterone to another  
12 person by physical contact (including hugging or "snuggling" with her children), or that such a transfer  
13 could be potentially harmful to her children.

14 5. Once Vivian became aware that this may be a problem with respect to her daughter, she  
15 contacted me to discuss the problem, as well as alternative treatment. I advised Vivian that it was the first  
16 instance of transference that has happened to any of my patients. We discussed her alternatives, and I  
17 prescribed testosterone injections, which cannot be transferred to any other person by physical contact.  
18

19 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND  
20 CORRECT.  
21

22   
23 JEFFRY LIFE  
24  
25  
26  
27  
28

0001

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

KIRK ROSS HARRISON,

CASE NO.: D-11-443611-D

Plaintiff,

DEPT NO.: Q

v.

VIVIAN MARIE LEE HARRISON,

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

Defendant.

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

DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY AND EXCLUSIVE POSSESSION OF MARITAL RESIDENCE; COUNTERMOTIONS FOR EXCLUSIVE POSSESSION OF MARITAL RESIDENCE, FOR PRIMARY PHYSICAL CUSTODY OF MINOR CHILDREN; FOR DIVISION OF FUNDS FOR TEMPORARY SUPPORT, AND FOR ATTORNEY'S FEES

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

**Mark correct answer with an "X"**

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

**NOTICE:**

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

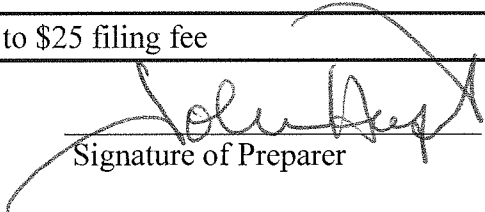
If you answered YES to any of the questions above, you are not subject to the \$25 fee.

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

Dated this 27<sup>th</sup> day of October, 2011

Jolene Hoeft

Printed Name of Preparer

  
Signature of Preparer





1 **ANSW**

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

**FILE COPY**  
NOV 28 2011

7 GARY R. SILVERMAN, ESQ.  
8 SILVERMAN, DECARIA, & KATTLEMAN  
9 Nevada State Bar No. 000409  
10 6140 Plumas St. #200  
11 Reno, NV 89519  
12 Telephone: (775) 322-3223  
13 Facsimile: (775) 322-3649  
14 Email: silverman@silverman-decaria.com

15 Attorneys for Defendant/Counterclaimant

16 **DISTRICT COURT**  
17 **CLARK COUNTY, NEVADA**

18 KIRK ROSS HARRISON,

19 Plaintiff/  
20 Counterdefendant,

CASE NO.: D-11-443611-D  
DEPT NO.: Q

**FAMILY DIVISION**

21 v.

22 VIVIAN MARIE LEE HARRISON,

23 Defendant/  
24 Counterclaimant

25 **ANSWER TO COMPLAINT FOR DIVORCE**  
26 **AND COUNTERCLAIM FOR DIVORCE**

27 COMES NOW, Defendant/Counterclaimant, VIVIAN MARIE LEE HARRISON, by and  
28 through her attorneys RADFORD J. SMITH, ESQ., of the law offices of RADFORD J. SMITH,  
CHARTERED, and GARY R. SILVERMAN, ESQ., of the law offices of SILVERMAN, DECARIA, &

1 KATTLEMAN, and sets forth her Answer to the Complaint for Divorce of Plaintiff, and her  
2 Counterclaim for Divorce as follows:

3 **ANSWER TO COMPLAINT FOR DIVORCE**

4  
5 1. Defendant denies all material allegations not specifically admitted herein.

6 2. Defendant admits all material allegations contained in Paragraphs I, II, III, IV, VI, VII,  
7 VIII, XIV and XVI of the Complaint for Divorce.

8 3. Defendant denies the allegations contained in Paragraphs V, IX, XI, XIII and XV of the  
9 Complaint.  
10

11 4. Answering Paragraph X, Defendant admits that there is community property of the  
12 parties herein to be adjudicated by the Court, but denies all remaining allegations contained in said  
13 paragraph.

14 5. Answering Paragraph XII, Defendant is without sufficient information and knowledge to  
15 form a belief as to those allegations and on this basis, denies the same.  
16

17 **COUNTERCLAIM FOR DIVORCE**

18 1. For more than six weeks immediately preceding the commencement of this action,  
19 Defendant/Counterclaimant has been, and now is, a resident of the County of Clark, State of Nevada.

20 2. That Defendant/Counterclaimant and Plaintiff/Counterdefendant were married in the City  
21 of Las Vegas, State of Nevada, on or about November 5, 1982, and have ever since been husband and  
22 wife.  
23

24 3. The parties have two minor children born the issue of this marriage, namely, EMMA  
25 BROOKE HARRISON, born June 26, 1999; and RYLEE MARIE HARRISON, born January 24, 2003.  
26 The parties also have three adult children. The parties have not adopted any children, and VIVIAN is not  
27 pregnant.  
28

1           4.       That the parties should be awarded joint legal custody of the minor children.

2           5.       That Defendant/Counterclaimant should be awarded primary physical custody of the  
3 minor children, subject to the rights of specific visitation of Plaintiff/Counterdefendant.

4           6.       That Plaintiff/Counterdefendant should be ordered to pay child support for the minor  
5 children, pursuant to NRS 125B.070 *et. seq.*, until such time as each child, respectively, reaches the age  
6 of eighteen (18) years, graduates from high school, or otherwise emancipates, whichever occurs later,  
7 but in any event no later than the age of nineteen (19) years.

8           7.       That Plaintiff/Counterdefendant should be ordered to provide medical and dental  
9 insurance for the minor children, with the parties equally dividing all deductibles and other expenses not  
10 reimbursed by insurance, until such time as each child, respectively, reaches the age of eighteen (18)  
11 years, graduates from high school, or otherwise emancipates, whichever occurs later, but in any event no  
12 later than the age of nineteen (19) years.

13           8.       That there is community property of the parties to be equitably divided by this court, the  
14 full value and extent of which has not been determined at this time.

15           9.       That there are community debts and/or obligations of the parties to be equitably divided  
16 by this Court, the full extent of which has not been determined at this time.

17           10.      That there is separate property belonging to the Defendant/Counterclaimant, which  
18 property should be confirmed to Defendant/Counterclaimant as her separate property.

19           11.      That there are separate debts and/or obligations of the Plaintiff/Counterdefendant, which  
20 debts and/or obligations should be confirmed to Plaintiff/Counterdefendant as his separate debt.

21           12.      That Defendant/Counterclaimant is entitled to receive, and Plaintiff/Counterdefendant is  
22 capable of paying, alimony and/or spousal support in a reasonable amount and for a reasonable period.

1           13.     That Defendant/Counterclaimant has been required to retain the services of counsel in  
2 this matter, and is therefore entitled to an award of attorney's fees and costs incurred as a result.

3           14.     That the parties are now incompatible in marriage, such that their likes, dislikes, and  
4 tastes have become so widely divergent that they can no longer live together as husband and wife.  
5

6           WHEREFORE, Defendant/Counterclaimant prays judgment as follows:

7           1.     That Plaintiff/Counterdefendant take nothing by way of his Complaint for Divorce;

8           2.     That the bonds of matrimony now and previously existing between Plaintiff/Counter-  
9 defendant and Defendant/Counterclaimant be forever and completely dissolved, and that each party be  
10 restored to the status of an unmarried person;  
11

12          3.     That the parties be awarded joint legal custody of the minor children, EMMA BROOKE  
13 HARRISON, born June 26, 1999; and RYLEE MARIE HARRISON, born January 24, 2003;

14          4.     That Defendant/Counterclaimant be awarded primary physical custody of the minor  
15 children, subject to the rights of specific visitation of Plaintiff/Counterdefendant;  
16

17          5.     That Plaintiff/Counterdefendant be ordered to pay child support for the minor children,  
18 pursuant to NRS 125B.070 *et. seq.*, until such time as each child, respectively, reaches the age of  
19 eighteen (18) years, graduates from high school, or otherwise emancipates, whichever occurs later, but  
20 in any event no later than the age of nineteen (19) years;  
21

22          6.     That Plaintiff/Counterdefendant should be ordered to provide medical and dental  
23 insurance for the minor children, with the parties equally dividing all deductibles and other expenses not  
24 reimbursed by insurance, until such time as each child, respectively, reaches the age of eighteen (18)  
25 years, graduates from high school, or otherwise emancipates, whichever occurs later, but in any event no  
26 later than the age of nineteen (19) years.  
27

28          7.     For an equitable division of community property of the parties;

1           8.     For an equitable division of the community debts and/or obligations of the parties;

2           9.     That Defendant/Counterclaimant's separate property be confirmed to her, free of all  
3 claims by Plaintiff/Counterdefendant;

4           10.    That Plaintiff/Counterdefendant's separate debt be confirmed to him and that Plaintiff/  
5 Counterdefendant be required to indemnify and hold Defendant/Counterclaimant harmless from those  
6 obligations;

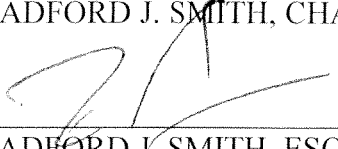
7           11.    For an award of alimony and/or spousal support in a reasonable amount and for a  
8 reasonable duration;

9           12.    For an award of Defendant/Counterclaimant's attorney's fees and costs incurred herein;

10          13.    For such other and further relief as the court finds just in the premises.

11          Dated this 2<sup>nd</sup> day of November, 2011.

12          RADFORD J. SMITH, CHARTERED

13  
14   
15  
16 \_\_\_\_\_  
17 RADFORD J. SMITH, ESQ.  
18 Nevada State Bar No. 002791  
19 64 N. Pecos Road, Suite 700  
20 Henderson, Nevada 89074  
21 *Attorney for Defendant/  
22 Counterclaimant*  
23  
24  
25  
26  
27  
28

VERIFICATION


STATE OF NEVADA            )  
COUNTY OF CLARK        ) ss:

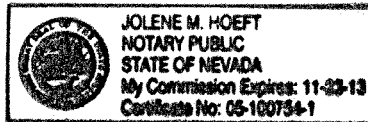
VIVIAN MARIE LEE HARRISON, having been duly sworn, deposes and says;

That I am the Defendant/Counterclaimant in the above referenced matter; that I have read the foregoing Answer to Complaint for Divorce and Counterclaim for Divorce, and that the same is true and correct to the best of my own knowledge, except for those matters stated upon information and belief, and for those matters, I believe them to be true.

  
VIVIAN MARIE LEE HARRISON

Subscribed and Sworn before me  
this 21 day of November, 2011.

  
NOTARY PUBLIC in and for  
the State of Nevada



**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 "ANSWER TO COMPLAINT FOR DIVORCE AND COUNTERCLAIM FOR DIVORCE" on this 23 day of November, 2011, to all interested parties as follows:

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

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

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

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

Thomas J. Standish, Esq.  
Jolley, Urga, Wirth, Woodbury & Standish  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, NV 89169  
[tjs@juww.com](mailto:tjs@juww.com)

Edward L. Kainen, Esq.  
Kainen Law Group, PLLC  
10091 Park Run Drive, Suite 110  
Las Vegas, NV 89145  
[ed@kainenlawgroup.com](mailto:ed@kainenlawgroup.com)



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



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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_/

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 2**

**ROBERT L. EISENBERG**  
Nevada Bar No. 0950  
Lemons, Grundy & Eisenberg  
6005 Plumas Street, Third Floor  
Reno, Nevada 89519  
775-786-6868  
[rle@lge.net](mailto:rle@lge.net)

**KIRK R. HARRISON**  
Nevada Bar No. 0861  
1535 Sherri Lane  
Boulder City, Nevada 89005  
702-271-6000  
[kharrison@harrisonresolution.com](mailto:kharrison@harrisonresolution.com)

***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***

## CHRONO INDEX

## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

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9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675

## EXHIBIT 6



## **Psychiatric Analysis**

Vivian L. Harrison

Birthdate August 16, 1962

Report dated June 9, 2011

### ***Identifying Data and Purpose***

Ms. Vivian Harrison is a 48 year-old Caucasian female presented by her husband, Mr. Kirk Harrison. Mr. Harrison sees his wife developing significant problems over the last several years. Mr. Harrison and his oldest daughters (Whitney and Tahnee) see Vivian Harrison's problems to be serious enough to impede her ability to safely parent their youngest daughters, Brooke (age 11) and Rylee (age 8). Kirk is anticipating family court proceedings toward divorce and requested this psychiatric analysis of his wife to inform the court of Vivian's mental condition and functional limitations.

### ***Limitations***

Psychiatric diagnosis is a precise procedure based on the strict criteria of the American Psychiatric Association's Diagnostic Statistical Manual current edition IV-TR (DSM IV-TR). The manual contains sections on personality disorders and requires the diagnostician to know the subject's behaviors, and thought processes over time. Collateral sources of information are critical to determine these patterns. Kirk, Whitney and Tahnee's affidavits conform to this standard. In all cases of psychological reconstruction from written materials, psychiatric opinion depends on the validity of the facts provided. The opinions rendered are preliminary and subject to change based upon a psychiatric examination of Vivian L. Harrison.

My qualifications, training and experience are documented in the curriculum vitae attached.

### ***Sources of Information***

Mr. Kirk Harrison provided me with the following:

Affidavit of Kirk R. Harrison, dated June 9, 2011

Affidavit of Tahnee L. Harrison, dated March 22, 2011

Affidavit of Whitney J. Harrison dated March 22, 2011.

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Factual averments contained in Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence Photographs of Vivian touring in Ireland

### ***Conclusions***

To a reasonable degree of medical certainty, based on the materials available, in recognition of the lack of direct psychological examination and testing, I find:

- Vivian Harrison is suffering from a Narcissistic Personality Disorder (NPD).
- Vivian's long-term use of phentermine (a stimulant appetite suppressant related to amphetamine), multiple hormone supplements combined with her antidepressants (prescribed by different physicians) exacerbate her dysfunction caused by her NPD and puts her at unnecessary health risks.
- Vivian's co-occurring disorders (NPD and substance abuse) are producing distortions of perception and behavior of such magnitude that they impede her reality testing, inhibit her capacity to empathize with her children's feelings and their needs, and place her children at risk of emotional damage.
- The quality and nature of Vivian's pathological narcissistic personality disorder is not treatable.

### ***History of the current condition***

Vivian Harrison developed symptoms early in the marriage. While the courtship went well, Vivian began acting as though the marriage, the household and the marital assets were hers rather than communal property.

She devoted attention and adequate caregiving to her first child, but peculiarities in her mental processes were apparent in relationship to traveling and the household, Vivian started using first person terms, such as, "my trip," "my house," "my office," and later "my computer" in her references. Although markers of dysfunctional thinking were encountered earlier in the marriage, these indications became more prevalent in the last several years. (KH sections 11, 25 & 76).

When Tahnee (the first child) was at an age when she started exhibiting more independence and initiative, Vivian started feeling diminished, and

## **Psychiatric Analysis**

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looked for opportunities to take the credit for Tahnee's accomplishments. Each child reflected on Vivian's tendency to do this. (KH section 15 & 16)

Vivian took advantage of her daughters' intrinsic motivation to please their parents. Tahnee perceived her role in relation to school, activities and relationships as an extension of her mother, an affront to her growing individuality. When asked at fourteen what classes she was signed up for in dance, she said she didn't know; she just did what her mother wanted her to do. (KH section 13) If Vivian could not insert herself into the accomplishment, her envy was provoked, and she'd denigrate her daughters' successes. (KH section 17).

In dealing with the normal problems of everyday life, instead of problem solving and analyzing, Vivian would quickly judge someone to be at fault. (KH section 19) She had a propensity to assign herself as the smart one in any equation. This thinking in service of her weak ego was far-fetched, grossly illogical and a tortured stretch of the facts. (KH section 19) Her interpersonal deficits were likely the cause of her impoverished interpersonal relationships and longing for her own accomplishment and esteem. Although she knew people, her relationships lacked intimacy and depth. When Vivian detects the presence of emotional closeness between others, she resents the friendships and demeans them. (KH section 20 & 27) Her social judgment and ability to bond and build rapport are often unsuccessful as her need for adoration supersedes the context and needs of others. (TH sections 16, 19, 20, & 23)

Vivian's symptoms became dramatically worse over the last 3 years. Her reality testing has loosened, and her dramatic rejections, lack of substantive parenting, materialism, and treatment of others as objects (including her children) has gotten much worse. Although her husband has indulged her in her interest in traveling, freedom of access to family assets, say-so over the children's activities, pursuit of educational and personal enrichment and freedom from family and household responsibilities, Vivian criticized her husband for not contributing more. She attributes talent and abilities to herself that have no basis in reality, and seeks satisfaction and is emotionally inflated through her affiliations, rather than her personal attributes. Since she needs to be involved with others for her esteem, she seeks ways to extend her interpersonal power,

mostly through appearance and manipulation. (KH section 21, 22, 23, 24 & 25)

During the children's early years, Vivian's efforts were largely directed to overshadow or dismiss them; but when the children started coming into their own, she would undermine and diminish their efforts. Instead of being the bigger, more mature person, she competed with them, and if she could not achieve more than they in her mind, she'd discourage, highlight flaws and weaknesses, and sometimes hit and reject them. Overall, they and their father perceived Vivian as emotionally abusive. (TH sections 7, 23, 25, 32 & 35)

Vivian always revised the narrative of her interactions with her children to the point of incredulity. (KH section 26, 27, 28 & 29) This more than any other event, alienated Kirk and Vivian from one another. While Vivian interpreted Kirk as weak, he and his children saw himself as reasonable and protective of his children's esteem and sense of fairness. Vivian apparently felt betrayed by him when he would not unconditionally take her side. (KH section 30) These fights and physical attacks and rejections by Vivian against her children was the beginning of the essential deterioration of the marriage, and the onset of Vivian's further threats of violence, separation, divorce, and competition over the community assets. There are many examples in the affidavits that represent Vivian's deteriorating mental health correlated with her decaying identity and desperate seeking of a sense of security. (TH section 4, 5, 6, 7 & 8)

With Vivian's advancing age, her focus on her own wants and needs increased. Instead of maturing into her station in the family and stage of life, she took a pathological path, trying to reverse her aging through medical interventions, behavioral choices, spiritual searches and relationships. All of this activity was in service of her inability to accept the humanity in herself and others. She became determined to have the life of her fantasies, trying to perfect herself in a conflict with reality. Because her age reversal didn't work, she entered into a self-defeating cycle of unmet expectations, and a persistent sense of personal failing and deterioration. If her personality could have accepted her limitations and were she open to feeling the love from her family and husband, it would have helped her cope with what she felt were personal failings. Instead of the multiple cosmetic, gastrointestinal, surgical and psychic quests,

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acceptance would have served her well. But the distortions in her perceptions and the lack of a personal foundation caused her to resent, reject, rebel and mistreat her children and husband.

The family affidavits contain numerous examples of her growing contempt and disregard of the needs and feelings of others (see record review).

### ***Developmental History***

Vivian was born into a highly dysfunctional family. Her father abandoned her when she was four-years-old and her stepfather committed suicide. (KH section 4) Her mother was not home much and was inattentive to her and her sibling's needs. Her mother and grandparents were obsessed with the Bingo parlor and showed little interest in the children. (KH section 6)

Vivian and her siblings had to fend for themselves, frequently eating cereal for their meals. (KH section 5) Vivian suffered from physical abuse as well, and was treated in a cold hearted and controlling fashion. Her mother and grandparents were described as treating the children and grandchildren as puppets. The family modeled a complete lack of responsibility, blaming everyone other than themselves for their problems. Rejection and threat took the place of positive modeling, support and parenting. (KH sections 7, 8 & 9)

Due to parental neglect, the authorities intervened and the children were wards of the court, assigned to group homes and alternative living situations. At one of these homes (Nike House), Vivian had her first encounter with drugs. (KH section 5) When she was in her mid teens, she lived with a man who continued her addiction, and later was involved with an out of town gambler who would provide her with cocaine.

Vivian did not graduate from high school while she was living with her mother. She later went on, after being married to Kirk, to obtain an undergraduate degree in accounting. She also received a Masters Degree in taxation.

Vivian developed an interest in philanthropy in association with her interest with the television star (Jonathan Rhys Meyers) she was involved with in her fantasy life. She devoted time and resources to ventures in

## **Psychiatric Analysis**

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India and Ireland, seeking opportunities to meet her love interest who became a focus of her personal rejuvenation, being 15 years older than he. Many of her interactions with her children and others were indications of her fantasy thinking. The affidavits reveal her interests guiding her research, time on the computer, purchases, travel and vocational interests in disregard to her husband and family (see record review for the many references)

### ***Family History***

Vivian's older half sister, Cindy, who was a drug addict, and, Vivian suspected, probably a prostitute, died of a drug overdose in her early thirties (possible suicide). Vivian's other sister has been married six or seven times and has lived with many men. Her brother has been married and divorced twice, but seems to be more stable. (KH section 10)

### ***Medical History***

As an unfortunate complication to her personality disorder and efforts to achieve perfection, Vivian was introduced to Phentermine, a weight loss drug. She went to multiple providers for various pharmaceuticals and treatments including Drs. Jason Michaels, Anthony Griffin, Jeffry Life, Warren Smith, Peter Vajtai, Florence Jameson, Carey Noorda, Geoffrey C. Hsieh, and Sean Duffy, receiving treatments for her appearance (dental improvements and cosmetic and plastic surgeries), protection from or treatment of sexually transmitted diseases, (Gardasil and Valtrex), youth enhancers (HCG and testosterone), birth control (IUD and oral contraceptives) and psychiatric interventions (unknown). (KH section 200). Her focus on health and age reversal interfered with her participation in family functions on many different occasions, becoming the exclusive focus of her mental life in preparation for meeting the television star she was obsessed with.

Several of her doctors prescribed phentermine and although, according to the package insert, it "...is indicated only as short-term monotherapy for the management of exogenous obesity," and "...Tolerance to the anorectic effect usually develops within a few weeks... the drug should be discontinued," Vivian continued to procure the medication from a variety of prescribers. Phentermine is a psychoactive drug and carries warnings that it "may impair the ability of the patient to engage in potentially

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hazardous activities such as operating machinery or driving a motor vehicle; the patient should therefore be cautioned accordingly.”

Phentermine has drug abuse potentials, in that it “is related chemically and pharmacologically to the amphetamines. Amphetamines and related stimulant drugs have been extensively abused, and the possibility of abuse of ADIPEX-P® (phentermine trade name) should be kept in mind when evaluating the desirability of including a drug as part of a weight reduction program. Abuse of amphetamines and related drugs may be associated with intense psychological dependence and severe social dysfunction.”

According to her husband, Vivian has taken phentermine for eight or nine years, which coincides with her inability to reason and at one point she thought her daughter might try to kill her. (KH sections 43 & 92: WH section 22) She was also taking some other pharmaceutical to counteract this effect, but she did not take it as often. (KH section 43)

Chronic use of this pharmaceutical can lead to serious problems. “...Manifestations of chronic intoxication with anorectic drugs include severe dermatoses, marked insomnia, irritability, hyperactivity and personality changes. The most severe manifestation of chronic intoxications is psychosis, often clinically indistinguishable from schizophrenia.”

Vivian has also been prescribed Pregnyl (HCG) since 2009, oral contraceptives and testosterone, each of which has psychoactive properties. Pregnyl (HCG) causes “Headache, irritability, restlessness, depression, fatigue...” (package insert NOVAREL - chorionic gonadotropin injection, Ferring Pharmaceuticals Inc.) Testosterone can cause “Psychiatric disorders: Depression, emotional lability, decreased libido, nervousness, hostility, amnesia, anxiety.” (AndroGel ® package insert). As exemplified in the package insert for Brevicon®, “Oral contraceptives can cause EMOTIONAL DISORDERS: Women with a history of depression should be carefully observed and the drug discontinued if depression recurs to a serious degree.”

Of serious health concerns is the prescription for Citalopram (Celexa) prescribed by Dr. Sean R. Duffy, since the serotonin antidepressants in combination with phentermine can be toxic to the heart and

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cardiopulmonary system. The combination had been used to cause faster weight loss, but was taken off the market by the FDA due to the health danger and was associated with legal action. According to the New England Journal of Medicine:

These cases arouse concern that fenfluramine-phentermine therapy may be associated with valvular heart disease. Candidates for fenfluramine-phentermine therapy should be informed about serious potential adverse effects, including pulmonary hypertension and valvular heart disease. (New England J Med 1997;337:581-8.)

This is an example of how Vivian has commandeered her medical care to her detriment and is consistent with her husband's suspicion that she is overlapping prescriptions from different providers. (KH section 203)

She is also taking an anti-cholesterolemia medication, Crestor, from Dr. Geoffrey C. Hsieh. This medication as well as Valtrex can cause emotional reactions. Given numerous providers, it is uncertain whether one knows what another is doing, and whether Vivian is susceptible to drug interactions that push blood levels up or down, or if the combinations will cause other unanticipated reactions.

### *Review of materials*

A review of the behavioral evidence depicted in Tahnee's, Whitney's and Kirk's affidavits resulted in a finding of Vivian Harrison manifesting a dominant and pervasive Narcissistic Personality Disorder (NPD). Her NPD was evident across a wide range of interactions and persisted over time. This review organizes selections from the affidavits to show the foundation for this opinion. I have also included a sense of the experts in the field specializing in NPD to illustrate that NPD is an established psychopathology of such a serious nature as to interfere with the ability to safely parent. This review also structures Vivian's behaviors in accordance with DSM IV-TR criteria

Classical theorists deriving their knowledge base from psychoanalysis did much of the early descriptive work identifying NPD. NPD identifiers, etiologies, and consequences are also contained in contemporary references.

### *Phenomenology*

Dr. James F. Masterson, a leading authority on NPD, states, "The main clinical characteristics of the narcissistic personality disorder are



grandiosity, extreme self-involvement and lack of interest in and empathy for others, in spite of the pursuit of others to obtain admiration and approval.” (appendix reference 4, p. 7). \*

Dr. Otto Kernberg, a prominent psychoanalyst specializing in NPD, describes the characteristics of persons with narcissistic personalities as follows:

These patients present an unusual degree of self-reference in their interactions with other people, a great need to be loved and admired by others, and a curious apparent contradiction between a very inflated concept of themselves and an inordinate need for tribute from others. Their emotional life is shallow. They experience little empathy for the feelings of others, they obtain very little enjoyment from life other than from the tributes they receive from others or from their own grandiose fantasies, and they feel restless and bored when external glitter wears off and no new sources feed their self-regard. They envy others, tend to idealize some people from whom they expect narcissistic supplies and to depreciate and treat with contempt those from whom they do not expect anything (often their former idols). In general, their relationships with other people are clearly exploitive and sometimes parasitic. It is as if they feel they have the right to control and possess others and to exploit them without guilt feelings—and, behind a surface, which very often is charming and engaging, one senses coldness and ruthlessness. (appendix, reference 5, p. 227)

Dr. Kernberg further describes narcissistic personalities as:

...presenting excessive self-absorption usually coinciding with a superficially smooth and effective social adaptation, but with serious distortions in their internal relationships with other people. They present various combinations of intense ambitiousness, grandiose fantasies, feelings of inferiority, and overdependence on external admiration and acclaim. Along with feelings of boredom and emptiness, and continuous search for gratification of strivings for brilliance, wealth, power and beauty, there are serious deficiencies in their capacity to love and to be concerned about others. This lack of capacity for empathic understanding of others often comes as a surprise considering their superficially

appropriate social adjustment. Chronic uncertainty and dissatisfaction about themselves, conscious or unconscious exploitiveness and ruthlessness toward others are also characteristics of these patients. (appendix, reference 5, p. 264)

While NPD does not qualify as a psychosis or a mania, the disorder shares some of those characteristics. The fantasies and needs of these people overwhelm rational thinking and distort reality. The behaviors and interactions are generated from extreme psychological deficiencies and no amount of talking to them will overcome the need states.

*NPD origins and impact*

Dr. Alexander Lowen, a respected psychoanalyst states, "Psychoanalysts recognize that NPD develops in early childhood." (appendix, reference 1, p. 6) and that it stems from a "disturbance in the parent-child relationship." (appendix, reference 1, p.12) Dr. Masterson explains:

...in early development, the child first learns to feel [her] own unique, individual thoughts, wishes, and strivings mediated by the mother's *mirroring*. [She] learns to feel entitled to these strivings and to have support for them; only after the child has made them [her] own in this fashion can [she] go on to shape them into reality through ideals. If the former function, which derives from the mother, remains impaired, it has to also impair the latter function. (appendix, reference 4, p. 21)

Lowen opines that, "the basic disturbance in the narcissistic personality is the denial of feeling." (appendix, reference 1, p 8)

"[C]hronically cold parental figures (usually the mother) with covert but intense aggression are a very frequent feature of the background of [narcissistic personalities]." (appendix, reference 5, p. 234)

The cold and exploitive mothers treat their children as physical objects and ignore their children's separation-individuation needs:

Some of the mothers in narcissistic personality disorders are basically emotionally cold and exploitive. They ignore their children's separation-individuation needs in order to mold them into objects that will justify their own perfectionistic, emotional

needs. The child's real individuation needs suffer as [she] resonates with the mother's idealizing projections. This identification with the mother's idealization leads to preservation of the grandiose self, which defends against the perception of the mother's failures and the child's associated depression. (appendix, reference 5, p. 13)

The pathological influence passes on from parent to child. Mr. Harrison expressed his concern that not only did Vivian receive pathogenic parenting, but that Vivian, afflicted with NPD, now will have a pathological impact on Rylee and Brooke. I agree.

In the first several sections of his affidavit, Kirk brings forth Vivian's childhood history showing deprivations, inconsistencies, and trauma she underwent. According to Kirk (KH affidavit sections 6, 7, 8 & 9), Vivian's mother was controlling and cold-hearted. When Vivian and her siblings could no longer be totally controlled, they were kicked out of their home and discarded. (KH section 9). Vivian and her siblings became wards of the court as a consequence of parental neglect and abuse. (KH section 5). The material in the affidavits present Vivian as afflicted with the same social blindness and exploitative tendency as she received with her tendency to be inconsistent, ignore, deny, indulge, and not appreciate the sensibilities of her children or their developmental needs.

*Diagnostic criteria*

The American Psychiatric Association is the universally accepted diagnostic system for all mental disorders including NPD, an Axis II diagnosis (such as persisting disorders of personality and character, intellectual functioning, and learning disabilities). The phenomenology reflected by the psychoanalysts and experts in the field are consolidated into the diagnostic criteria. Narcissistic Personality Disorder is one of several characterological distortions addressed by contemporary psychiatry.

In general, a personality disorder is a longstanding, immutable pattern of behavior that manifests in every domain of a person's functioning. The Narcissistic type (NPD) involves a pervasive pattern of grandiosity (in fantasy and behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts.

*Vivian's NPD arose in early adulthood*

Based on the available information, evidence points to Vivian's narcissistic personality disorder beginning in early adulthood as evidenced by her threats to Kirk early in their marriage "not to ruin her trip." (KH section 11) He noted her use of her children to draw attention to herself, taking credit for their successes (KH sections 12, 13, 15 & 16), and always having to be the center of attention. (KH section 18)

In addition to the age of onset and the pervasive nature of the disorder, diagnostic criteria are set forth in the Diagnostic and Statistical Manual of Mental Disorders (4th ed. 2000) ("DSM-IV") and distinguish features of day-to-day functioning:

- Criterion 1    Has *grandiose sense of self-importance* (e.g., exaggerates achievement and talents, expects to be recognized as superior without commensurate achievements)
- Criterion 2    Is *preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love*
- Criterion 3    *Believes that [she] is "special" and unique* and can only be understood by, or should be associated with, other special or high-status people (or institutions)
- Criterion 4    Requires *excessive admiration*
- Criterion 5    Has a sense of *entitlement*, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations
- Criterion 6    Is interpersonally *exploitive*, i.e., takes advantage of others to achieve his or her own ends
- Criterion 7    *Lacks empathy*; is unwilling to recognize or identify with the feelings and needs of others
- Criterion 8    Is often *envious* of others or believes that others are envious of him or her

**Criterion 9**    *Shows arrogant, haughty behaviors or attitudes*

Vivian Harrison's disorder meets the criteria represented in the many references from the affidavits. Although there are numerous examples of the behavioral manifestations of the narcissistic functioning in the materials reviewed, I organized some of the affidavit excerpts in accordance with the criteria. Some of her behaviors qualify for more than one of the criteria, and are repeated when necessary.

**Criterion 1**    *Has a grandiose sense of self-importance.* According to Elsa F. Ronningstam, in *Identifying and Understanding the Narcissistic Personality* (2005), "Grandiosity refers to an unrealistic sense of superiority, a sustained view of oneself as better than others that cause the narcissistic person to view others with disdain or as different or inferior. It also refers to a sense of uniqueness, the belief that few others have much in common with oneself and that one can only be understood by a few or very special people... [A]ttitudes and behaviors ...include admiring attention seeking, boastful and pretentious attitudes, and unrestrained self-centered and self-referential behavior. Grandiose fantasies ... focus on being different and exceptional. (appendix, reference 3, page 78)

Mr. Harrison and his older daughters point out many of Vivian's behaviors as subtle and overt indications of her extreme, distorted self-absorbed grandiose mindset:

Vivian frequently stating her positions on issues while discounting others' points of view. (KH section 40)

Vivian told Kirk, "You just don't have the vision I do." (KH section 49).

Vivian (then 47 years old) asked her daughter Tahnee, (then 24 years old), "Do you think we'll attract a couple of hot young guys?" (TH section 19; KH section 59)

Vivian telling people that Jonathan Rhys Meyers, a 32-year-old actor she never met is her "soul mate." (TH section 23; KH section 72).

Vivian told Tahnee that she was concerned about Jonathan Rhys Meyers seeing her on the reality television show as though she convinced herself that he'd be watching her. (TH section 22; KH section 69).

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Vivian told Kirk she was going to spend most of the summer in Ireland because the Hope Foundation in Ireland needed her "financial talents." (KH section 116).

Vivian bought Brooke a book about Mother Teresa and told Brooke that she was going to go to India to do what Mother Teresa did. (KH section 81).

Vivian constantly criticizes others, placing herself in a superior position by judging them. (KH section 96).

Vivian taught draping classes for a short time. Vivian couldn't understand why the school didn't appreciate what a great teacher she was, she no longer teaches because the administrator apparently didn't agree with her. (KH section 226).

**Criterion 2 Is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love.** Mr. Harrison provided many examples of her infatuation with her fantasy image of herself and the actor, evidenced by a pattern of behaviors focused on this other man, in blatant disregard for her husband and her family. She spared no expense, using her husband's money to prepare herself and her wardrobe for meeting the actor she believed was her destiny soul mate. Despite being 47 and married, Vivian acted as though she was a lovesick teenager, preparing herself to be taken by her fantasy man. Her ability to accept the reality of her age and her station were obscured by her preoccupation and obsession. Examples derived from the affidavits:

Vivian resisted a real relationship with her husband, replacing it instead with her fantasy love with a man she never met. (KH section 64).

Vivian's indulgent fantasies of Jonathan Rhys Meyers are represented by the following excerpts:

- Referring to Jonathan Rhys Meyers as her "soul mate," immersing herself in fantasy while watching episodes of the Tudors (starring Jonathan Rhys Meyers) by herself with the door closed.
- Dressing up as Anne Boleyn, a tragic character from the Tudors television program. (KH section 65)
- Playing music from the Tudors. (KH section 65)

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- Buying all the movie and television shows that Jonathan Rhys Meyers acted in.
- Installing Jonathan Rhys Meyers' image on the family's computers. (TH sections 17, 18 & 23, WH section 14, KH sections 65, 71 & 72)

In response to her fantasy obsession for youth and beauty, Vivian sought age reversal and enhancements from many medical providers. (KH section 200) Vivian had plastic surgery:

- Dr. Griffin, using liposuction, removed fat, inserting it into her buttocks and face. (KH section 92)
- Dr. Clement inserted new silicone breast implants and performed a face-lift from her nose down to her chin and neck. (KH section 96)
- Dr. Griffin, liposuction (KH section 118 & 121)
- Dr. Clement performed a tummy tuck. (KH section 123)
- Dr. Griffin performed plastic surgery on her eyelids, around her eyes. (KH section 182)

Vivian went to Dr. Jeffry Life for aging control with hormones (testosterone and gonadotropin, both psychoactive) to advance her fantasy love affair with the actor. (KH sections 60 & 63).

Before The Hope Foundation Gala (KH section 180)

- Vivian retained a personal trainer who came to the home twice a week at \$90.00 per hour
- Vivian injected herself with HGC
- Vivian did yoga and cardiovascular workouts daily

Obsessively searching the web for information about the actor (TH section 22, 26; KH section 79) she spent a lot of time on the Jonathan Rhys Meyers fan site searching for a way to get his attention and admiration, ignoring the relative value of her decisions and purchases.

- Seeing that he wore PRP brand, Vivian spent \$1,875 on a jacket and two pairs of jeans of the same brand. (TH section 27 and 30; KH section 81 and 98)
- Vivian bought a pair of Christian Louboutin Spartenvol Strass suede dress shoes for \$1,395.00 to wear at the Hope Foundation Ball in

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Ireland after reading that Jonathan Rhys Meyers said "I think every girl should have two pairs of Christian Louboutin shoes."

- Vivian ordered new clothes including several very expensive sequined dresses, six or seven pairs of extremely expensive shoes, as well as other expensive clothing, such as True Religion jeans for \$319.00. (KH sections 206 & 222)

Vivian asked Tahnee to write music that Vivian could use to impress Jonathan Rhys Meyers. (KH section 124).

Vivian fantasized that Jonathan Rhys Meyers would be watching her appearance on a reality television show as the way of meeting him. (TH section 22; KH section 69). This is a stretch of reality.

**Criterion 3** *Believes that [she] is "special" and unique and can only be understood by, or should be associated with, other special or high-status people (or institutions).* This criterion overlaps with grandiosity, entitlement, lack of empathy, and a craving to be the center of attention. The affidavits give a few examples specifically attuned to this criterion, but the other entries include this qualification:

Vivian's threats to Kirk of "don't ruin my trip" when his work jeopardized the traveling they were planning together, indicating that in Vivian's mind she is special, separate and apart from him, and his needs and duties were not important. (KH section 11).

Vivian told Kirk, "You just don't have the vision I do." (KH section 49)

Vivian told Kirk about her conversations with the telephone psychic. Vivian believed her psychic, who said she would get involved with a foundation that would use her "financial expertise." (KH section 96) She told Vivian that she was a "Master Soul" meaning that she is advanced and would not have to undergo the same kind of reincarnation that others would. (TH section 24; KH section 75),

**Criterion 4** *Requires excessive admiration.* Vivian used her children and their successes as though they were her possessions to draw attention to herself to such an extreme that the oldest children would complain to Kirk that their mother tried to take credit for their achievements. (KH sections 12, 13, 15 16, 18 & 19)



Vivian “hollers” during her children’s dance classes, drawing attention to herself. (KH section 165) Similarly, Vivian screams when she walks into a room at home. (KH sections 172 & 223)

At first excited about meeting Marie Osmond, when she found out that one of the couples that would be there had a lot of wealth, Vivian said she didn’t want to go “because they would get all of the attention.” (KH section 27 & 71).

Vivian became distraught when she perceived that Kirk was “trying to steal all of the attention” by barbequing for Whitney’s fiancé. (KH section 36).

When Vivian was bidding at a charity auction, she hollered out that Justin Timberlake was a “bum.” Vivian commented afterwards that she had a great time, but thought Tahnee was jealous of her getting all the attention. (TH section 19; KH section 59).

Unable to tolerate her daughter being the center of attention in the reality television trip, Vivian inserted herself, telling her companions (including future in-laws) about her special love with the actor, her plans to spend the summer in Europe, wanting to visit the sex museum, disturbing facts about her sister, her plastic surgery and she showed her companions her thong underwear. (KH section 72)

Vivian’s attachment to reward, admiration and credit overshadowing the needs of her youngest children. (WH section 17; KH section 79)

Vivian’s propensity to criticize others, thereby placing the focus on herself. (KH section 96 & 223)

**Criterion 5** *Has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations.*

Vivian’s personal trainer only has time to train 3 or 4 people and Vivian is one of them. (KH section 167).

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Vivian demanded that Whitney change her wedding date to accommodate Vivian's plastic surgeries she needed to complete before her trip to Ireland and attract the actor. (KH section 104).

Vivian's jealousy when the Google Alert indicated that Jonathan Rhys Meyers went to dinner with his girlfriend. (TH section 22; KH section 69)

Vivian's threat "don't ruin my trip" is consistent with her sense of ownership over something she never earned. (KH section 11).

Kirk senses Vivian's behavior within their relationship indicates no sense of duty or obligation to do anything a spouse or partner normally would such as working, buying groceries, and preparing meals, washing laundry (which he said she does only when she runs out of clothes) or cleaning the home. Vivian feels no responsibility to contribute to the family and uses family assets and home as a platform for the life she desires. (KH sections 22, 23 & 24)

Vivian's reference to the family home even to her family as "my" (not "our") home is indicative of her privileged attitude. (KH section 25).

[ There are several issues surrounding Vivian sleeping with her children that represent a lack of empathy for their psychological needs and how her needs displace theirs. A parent sleeping with their children in this culture is disruptive to the separation and individualization of the child. Boundaries are harder to develop and enforce and persistent anxiety is a frequent outcome. ]

Vivian wants Brooke and Rylee to sleep with her for her own needs, even though she knows it's not in Brooke and Rylee's best interest to sleep with her. Vivian threatened Brooke that if she didn't sleep with her and Rylee the following night, then Brooke would be forced to sleep by herself from that point on. Vivian resisted all attempts to stop sleeping with Brooke and Rylee. (KH sections 51, 80, 87, 102 & 111)

Kirk tried to get Vivian to stop sleeping with Brooke and Rylee. She'd say in front of the children that she'll do whatever she wants since she's their mother. (KH section 107)

Vivian has been irresponsible, indulging her own obsessions on the computer at night after falling asleep with them. Vivian refused to help her daughter with her fear and danger expecting Rylee to find her if she wanted to, even though it required her to descend stairs at night, while half asleep. (KH sections 33 & 199)

As a consequence of Vivian sleeping with Brooke and Rylee at night, Brooke and Rylee are frantic when Vivian is not home. When Vivian stays out late, the girls cry and worry. (KH sections 197, 209 & 215) As a consequence of Vivian's choices, Rylee is fearful of waking up in a bed by herself, even in the morning. (KH section 195)

As a consequence of this sleep disruption, Rylee falls asleep at the breakfast table. (KH section 198).

After Vivian added a bright night light in the bedroom where she sleeps with the girls, Rylee gets up more often, confronting the fear described above four to five nights out of seven. Kirk believes Vivian is intentionally manipulating the girls to make them insecure, afraid of the dark, needy, and dependent to gratify her own need to be needed and wanted (KH section 181)

Even though Kirk has asked Vivian on several occasions to close Brooke's bedroom door when she gets up in the night so Rylee will not wake up and go down the stairs, she hasn't done so except once when a medical assistant came to the house for a blood draw. As Kirk expected, Rylee did not get up that night, which means to him Vivian is undermining Rylee, showing her knowledge of what will help Rylee, and an intentional, conscious refusal to do so, indicating the overriding importance of Vivian's emotional forces. (KH section 191)

There have been issues involving all the children showing Vivian's propensity to place herself and her desires above her children's.

Vivian took Brooke and Rylee away from Kirk for six weeks without considering the impact of the separation from their father. (KH section 32).

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Vivian twice took money that Joseph mostly saved by working summers and at school, because she "needed it." (KH section 112)

Vivian is entitled to criticize everything other family members do and say. (KH section 96)

Vivian does almost nothing for anyone but herself. (KH section 186)

When Kirk had to drive to San Diego for Joseph (unexpectedly), Vivian was angered because that interfered with her colonic appointment and accused Kirk of making plans "and leaving someone else to pick up the pieces." (KH section 192)

Vivian was controlling and exploitative causing her to do things not in Tahnee's best interest, but would draw attention to Vivian. Sections 13, 14 & 15)

When Tahnee, Whitney and Joseph were younger, Vivian took credit for their successes at their expense. (KH sections 13, 14 & 15)

Vivian created an atmosphere in the family home in which the dominant theme was to please her. (KH section 17).

When there was a "big blow up" between Vivian and one of the children, Vivian would lie to Kirk in an effort to make herself look good and the child look bad. (KH section 28).

Kirk pleaded with Vivian to let their children back into the house after she kicked them out of the house. Once she detected this as a "weakness," Vivian repeatedly threatened Kirk to take his children from him if she didn't get her way. (KH section 30).

Vivian, tired of being pregnant, even though Vivian's obstetrician refused to induce labor, drank a bottle of castor oil to induce her labor and putting Rylee at risk. (KH section 31).

Vivian belittled Whitney for her intelligence and weight in front of Brooke, Rylee, and Tahnee. When Tahnee tried to defend Whitney, Vivian

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attacked Tahnee. When Whitney was trying to get Brooke and Rylee away from the aggression, Vivian hit Whitney in the head. (TH section 7)

Vivian screams and swears at Kirk in front of Brooke and Rylee, as a way to coerce him to give in. (KH section 85)

Vivian promised to pick up her daughters at 7:00 p.m. but didn't show up. When she called at 9:45 p.m., she said she met a man on the plane, drove him to his hotel, and was having drinks with him in the bar. (KH section 93)

Vivian told Brooke that she wanted to take her to the Muze concert, but there were no tickets, which was not true. (TH section 34; WH section 23; KH section 117)

Vivian disrupted Kirk's busy schedule to pick up contact lenses just because she wanted to work out. (KH section 176)

While Tahnee was out of town, she took Tahnee's DVDs without permission. (KH section 182)

When Joseph got a new lap top computer, Vivian offered to give his old computer to someone else without discussing it with him. (KH section 183).

Despite knowing Rylee was encouraged to swim and dance to maintain a level of physical activity, Vivian indulged her wish to quit, being the "good guy" half of the parental structure and to win her over. (KH section 194)

Mr. Harrison gave several examples depicting Vivian as manipulating, falsifying information, and trying to wedge the children away from his influence.

Vivian told Rylee not to answer the home phone when Kirk calls putting Rylee in the middle, afraid she'll get in trouble from one or the other parent. (KH section 89)

Vivian made false accusations and inappropriate statements to Kirk in front of Brooke and Rylee to keep him from staying with them during their last few days in Ireland. (KH section 132).

When Kirk explained he could not do a lot of flying in a short period of time by saying he had "too much on his plate" to do that, Vivian told Brooke, "Hopefully Brooke, Whitney and Joseph won't have too much on their plate." (KH section 135).

Vivian rejected Brooke and Rylee from late 2005 to November 2010, knowing divorce was imminent, Vivian started spending more time with them, even though she is not aware of their needs, going to bed before they do, unconcerned about their meals, bedtimes, projects or homework. She rarely spends time with them on weekends. (KH sections 186, 190 & 202)

Vivian accused Kirk, in front of Joseph, saying he needs to stop treating him like a child in an effort to make Joseph feel angry at his father. (KH section 201)

There were several incidents of Vivian pulling the children away from Kirk, indulging their wishes, despite dangers. Vivian perpetrated irrational conflict with Kirk in front of the children. (KH section 210 and 211)

**Criterion 7 *Lacks empathy; is unwilling to recognize or identify with the feelings and needs of others.*** The following entries represent subtle and overt actions that track lack of empathy. Since an absence of empathy is a core component of NPD, many of these examples were mentioned under other criteria and often have devastating impacts on children.

When Vivian told Kirk not to "ruin my trip" she had no concern for her husband that his trip might be ruined as well. (KH section 11)

There are matters of nighttime parenting:

- Vivian sleeps with her children and is insensitive to Rylee when she feels abandoned at night and looks for her mother to reassure her. (KH sections 33, 160, 179, 191 & 199)

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- The bright nightlight that wakes Rylee up frightened causing her to her search for Vivian down the stairs in the middle of the night. (KH sections 181 & 191)
- Rylee is so tired in the morning she falls asleep at breakfast. (KH section 198).
- Because she always sleeps with them, the children have grown dependent on her. When Vivian stays out late, they are fearful.
- Vivian is not concerned about Brooke and Rylee being fearful about sleeping alone. (KH section 197)
- Even though Kirk has asked Vivian to close the door to discourage Rylee getting up to look for her, she refuses.
- Kirk believes Vivian likes the routine of Rylee's nighttime desperation for her. (KH sections 168 & 191)
- Kirk is convinced Vivian is aware that she could do something about her children's distress because once she closed the door (when a medical assistant came to the house to draw her blood) and she chose not to have the children come down, and they didn't. (KH section 191)
- Kirk believes Vivian's behavior is determined by her need to be needed by her children, and is gratified by Rylee's fear at night and in the morning panics when she finds Vivian is gone (KH section 195) as well as their emotional pain when Vivian is absent at night. (KH sections 209 & 215)

There is a lack of concern in relationship to meals for the children:

- Vivian does not feed Brooke and Rylee dinner when Kirk is not at home. They fear Vivian's reactions if they were to tell their father and contradict their mother's claims. (TH section 21; WH section 11; KH sections 57, 88 & 146).
- Vivian goes to bed before Brooke and Rylee apparently not caring whether Brooke and Rylee have had dinner or have done their homework. (KH sections 168 & 186)
- Vivian will go months without cooking a meal. (KH section 16; WH section 26)
- When the older Harrison children were younger, they hoarded food because of how rarely Vivian would prepare meals. (KH section 116)

Vivian demonstrates a disregard for her children's sense of security and abandonment:

- When Vivian travels, she sets up her schedule from place to place without seeing Brooke and Rylee in between trips that last up to six weeks at a time. (KH section 116)
- Vivian changed her itinerary for a trip to Asia, so that she would be gone from Brooke and Rylee for 40 days instead of 30 days. (KH section 149).
- She'll place her daughters at friend's homes for up to two days before her trips start. (KH sections 101 & 129).
- She told them once the reason she was doing this was because she had a lot of things to do to get ready for her trip. (KH section 151)
- When she is gone she rarely calls Brooke and Rylee.
- Once she Skype'd the children from Ireland, which permitted them to see her "snuggled up" with a twenty-year-old girl. (KH sections 113 & 134)
- Vivian spoke about spending months in Europe in front of Brooke and Rylee, leaving them behind. She also spoke about moving to LA to get her PhD without them. (KH section 66; TH section 15; WH section 13)
- Vivian said she wanted to move in with Tahnee and leave Brooke and Rylee. (WH section 15)
- Vivian wanted to send Whitney to boarding school because Vivian did not like the way Whitney looked at her. (KH section 26)
- Vivian threw Whitney, Joseph and Tahnee out of the house in their early teens without concern for their well being. (KH section 29)
- During the few months before the divorce, Vivian helped in Rylee's class two or three times. But for these and a few other appearances, she hasn't been involved with their schooling or activities until recently.
- Vivian will leave all day and will not return until late at night without telling anyone where she goes. (KH section 202)
- Vivian told Brooke that she was going to Ireland for a couple of weeks in 2011 to be with her friends. Vivian said she was leaving earlier this year than last year because she wants to be in Ireland for St. Patrick's Day, talking as though Ireland was her home instead of Las Vegas. (KH section 184)



There is a lack of appreciation of the children's feelings and needs when she is at home.

- Vivian denies Brooke and Rylee any real consistent interaction while she is at home. (KH section 150).
- She rarely spends any time with Brooke and Rylee, does almost nothing with them and rarely eats a meal with her daughters. (KH sections 111, 176 & 178; TH section 33; WH section 26)
- She spends most of each day in the office with the door closed.
- When Brooke and Rylee ask to do something with her, Vivian usually tells them she has work to do. Vivian spends the bulk of her time on the internet buying things for herself or reading. (KH sections 132, 176 & 178; WH section 26)
- Vivian screams and swears at Kirk in front of Brooke and Rylee, insensitive to the children's feelings. (KH sections 39 & 85)
- Vivian criticized Whitney about her intelligence and her weight. (KH section 41; Tahnee section 7)
- Vivian told Tahnee, "Chloe is such a great dancer, I wish she was my daughter." (Tahnee section 16; KH section 56)
- When Brooke wants to go the mall, Vivian responds, "Going to town is pointless." (KH section 66).
- Vivian rebuffs or snubs Brooke almost every time Brooke asks Vivian for anything. (KH section 67)
- Whenever Brooke does anything, Vivian says something negative about it. (KH section 68)
- Vivian complained about Kirk buying a \$40 winter coat for Rylee even though Vivian is always shopping for herself several times each week spending thousands of dollars on herself. (KH section 74)
- When Rylee was six-years-old, Vivian told her to untangle her hair or else she wasn't allowed to go to bed. There was no way Rylee could untangle her own hair. It took Tahnee 20 minutes to brush the tangles out of Rylee's hair. (KH section 83)
- Vivian told Kirk not to pay Joseph's college tuition for the fall of 2010. Joseph's dream was to play college golf and be on the PGA tour and had Kirk not paid the tuition, Joseph would have been dropped from the golf team. (KH section 95)
- Vivian twice took money from Joseph's account without telling him. (KH section 133)

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- Vivian always said she was too busy to listen to Brooke play her violin. (KH section 163)
- She is obsessed with physical appearance and tells her children what their physical defects are. (WH section 26; KH section 227)

Vivian repeatedly violates the sanctity of the marriage in front of the children and will talk about adult matters that children find confusing.

- Vivian flirted with the man sitting next to her when she was with Tahnee at Brooke's basketball game, giving the man the impression she was not married. (TH section 31; KH section 99)
- Vivian will talk about getting a divorce in front of Brooke and Rylee. (KH section 118)
- Vivian talks with Brooke and Rylee about having fat injected into her buttocks and her multiple plastic surgeries. (TH section 32; KH sections 103, 218 & 126)
- Vivian scheduled a "Harrison family trip" to Ireland so that she, Brooke and Rylee could stay with Vivian's presumed lover, unconcerned about their perceptions of the structure of the family (KH sections 137, 137 & 139)
- Vivian told Brooke and Rylee in the presence of their father, that she is filing for divorce and they'd have to choose who they would live with, assuring them that either she would get the house or it would be sold. (KH section 210)

There were many entries indicative of parental neglect and abuse perpetrated by Vivian:

- Brooke pointed out that Rylee, who was seven at the time, "has really never had a mom." (KH section 151)
- Vivian didn't take Brooke to a scheduled orthodontist appointment because she was on the telephone with her psychic. Later that day, Brooke had to go to dance practice without dinner because Vivian was on her Facebook account modifying her photo for a couple of hours. (TH section 36; KH section 145)
- Vivian took Brooke to the optometrist for her eye exam, at which time he told Vivian that Brooke should return in two months and if her vision hadn't improved, she'd have to be referred to a pediatric ophthalmologist. Vivian never took her back. (KH section 154)
- Despite Brooke's semester exams the week of January 17, 2011, Vivian scheduled surgeries in California (KH section 182)

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- When Rylee was seven years old Vivian was mistaken about her age (KH sections 182 & 187)
- Vivian is oblivious to Brooke and Rylee's existence the vast majority of the time. (KH section 186; WH section 26)
- Although Brooke pleaded with Vivian to take her for tap shoes, she refused, even after she promised to do so. Vivian told Kirk to take her, but ultimately just ordered them online. (KH section 188)
- Rylee is developing prematurely based on the physical examination and signs of puberty.
- In response to the doctor's questions, Vivian acknowledged, that she used exogenous testosterone, and allowed the doctor to think the transfer was from Rylee touching the water faucet after Vivian shut the water off after applying testosterone to herself.
- Vivian allowed the doctor to assume this route which minimized her complicity until Kirk told the doctor how she puts testosterone on her forearms at night and then snuggles with Rylee.
- Based on this history, Rylee had to undergo blood tests to medically determine her testosterone level, which turned out to be 32 where it should be between 2.5 and 10. (KH section 234)
- Vivian was likely exposed to three different kinds of warning about exposing her child to the testosterone (package insert, pharmacy and physician warning). As a consequence of Vivian's lack of cooperation to figure out if the exogenous testosterone is Rylee's problem (as indicated in a warning in the package insert\*), Rylee may have to have a regulator device inserted into her arm annually until she is 12 years old. (KH sections 221 & 224)

### \*Package insert AndroGel ®

#### 5.2 Potential for Secondary Exposure to Testosterone

Secondary exposure to testosterone in children and women can occur with testosterone gel use in men [see Clinical Studies (14.3)]. Cases of secondary exposure resulting in virilization of children have been reported in postmarketing surveillance. Signs and symptoms have included enlargement of the penis or clitoris, development of pubic hair, increased erections and libido, aggressive behavior, and advanced bone age. In most cases, these signs and symptoms regressed with removal of the exposure to testosterone gel ... The risk of transfer was increased in some of these cases by not adhering to precautions for the appropriate use of testosterone gel... Testosterone gel should be promptly discontinued until the cause of virilization has been identified.

Signs of puberty that are not expected have happened in young children who were accidentally exposed to testosterone through contact with men using AndroGel ®. AndroGel can transfer from your body to others. This can happen if other people come into contact with the area where the AndroGel was applied to your skin.

Women and children should avoid contact with the unwashed or unclothed area where AndroGel has been applied.

To lower the risk of transfer of AndroGel:

- Apply AndroGel only to areas that will be covered by a short sleeve T-shirt. These areas are your shoulders and upper arms, or stomach area (abdomen), or shoulders, upper arms and stomach area.
- Wash your hands right away with soap and water after applying AndroGel.
- After the gel has dried, cover the application area with clothing. Keep the area covered until you have washed the application area well or have showered
- If you expect to have skin-to-skin contact with another person, first wash the application area well with soap and water.

If a woman or child makes contact with the AndroGel application area, that area on the woman or child should be washed well with soap and water right away.

Stop using AndroGel and call your healthcare provider right away if you see any signs and symptoms of puberty in a child, or changes in body hair or increased acne in a woman, that may have occurred through accidental exposure to AndroGel.

Reference: AndroGel [package insert]. Abbott Park, IL : Abbott Laboratories.

**Criterion 8** *Is often envious of others or believes that others are envious of him or her.* Envy differs from jealousy in that it entails a destructive wish toward the object they are obsessed with.

Kirk maintains that Vivian has been envious of his every success and he perceives her as resentful and jealous of the relationship Kirk has with his friends. (Kirk section 20)

Vivian was envious of Kirk for organizing the get-together for Whitney's boyfriend, telling a friend that Kirk was "trying to steal all of the attention." (KH section 36)

Vivian refused to sign a birthday card or attend Rylee's seventh birthday dinner, apparently envious of Rylee who was getting the attention and envious of Kirk because he made all the arrangements for the party, dinner and Disney On Ice activity. (KH section 91)

Vivian demonstrates overt efforts to draw attention as evidenced by hollering comments while attending Brooke's dance class at parent's day, while all other parents were respectfully quiet. Kirk has observed her discomfort when others, including her own children, are getting the attention. (KH sections 165 & 219)

**Criterion 9** *Shows arrogant, haughty behaviors or attitudes.* Explained further by Elsa F. Ronningstam, "people with high narcissism tend to have strong aggressive and violent reactions to threats to their sense of superiority or self-esteem." (appendix reference 3, p. 82) Vivian's approach to life and interpersonal interactions is marked by an arrogance and haughty superiority, present on most of the affidavit entries. The most obvious are excerpted below:

When problems arise, Vivian reacts by blaming someone else for them. (KH section 19).

Although Kirk has always supported Vivian's lavish lifestyle, she is critical of Kirk for not working hard enough. (KH section 21)

Vivian's character pattern is to hold a position on an issue, unwilling to give countenance to or listen to another point of view. (KH section 40)

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Vivian displays the belief that she is never at fault and someone else is always to blame. (KH section 119)

Vivian took Brooke and Rylee away from Kirk for six weeks during the summer of 2005 without telling him where they were. (KH section 32)

Vivian aggressively shouted at Justin Timberlake's charity auction, calling him a bum. (KH section 59)

Vivian's haughty altitude about Whitney's refusal to change her wedding date to accommodate Vivian's plastic surgeries and deadline to meet the actor in Ireland. (KH section 104)

When Rylee was 7, she chose to play with a friend rather than go with her father to pick up Vivian from the airport. Vivian said, "I'll remember this." (KH section 105)

Vivian refused to work with her husband in parenting decisions, informing him that she is the mother and she will do what she wants. (KH section 107)

Vivian took money out of Joseph's account on two occasions "because she needed it." (KH section 112)

Vivian told Kirk he doesn't know what he is doing when he said he was going to change the time for a dance lesson for Brooke. (KH section 147)

When Kirk went to the ranch to work, Vivian criticized him for not arranging for other parents to take Brooke and Rylee to and from school and dance classes and depending instead on her, even though Vivian doesn't have a job, spends most of the day and part of the night in the home office on Facebook and buying things on the internet for herself, or reading. (KH section 149).

Vivian accused Kirk of "leaving someone else to pick up the pieces" when he suddenly had to drive to San Diego for Joseph. (KH section 192).

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Vivian refused to help Brooke clean a spill on her dress before school. Although she usually wakes them up, she does not parent them in the morning, instead retreating into the office to use the internet. (KH section 196)

Vivian has fits of rage during which time she screams at or in front of the children, throws things (sometimes at people), curses, disrespects the children's father, and focuses only on herself, her wishes and her needs. She lacks shame or remorse. This level of engagement qualifies for Pathological Narcissism (appendix, reference 4, pages 72-73)

### ***Discussion***

Based on the preponderance of data, the range, scope, nature, and persistence of symptoms, given the limitations of a reconstructive analysis, I am reasonably medically certain Vivian Harrison manifests the criteria for a severe Narcissistic Personality Disorder with obsessive compulsive features. The diagnosis is consistent with her upbringing, placements, early irregular relationships and the conduct depicted by her family members. Although she compensated for her propensities during the courtship and early stages of her marriage, she was unable to deal with the increasing complexity and intimacy of family life. When she started perceiving the ill effects of her aging, her symptoms became much worse. Having experienced abandonment, rejection and lack of commitment from her family of origin, she knew about emotional pain and punishment. Feeling down on herself and powerless, in the face of her decompensation, she resorted to what she experienced in her childhood to control her relationship with her husband and children.

Ms. Harrison's dysfunction markedly worsened in 2005. She tried to reverse her aging, which likely triggered her decline, but was fighting a losing battle. She should have sought psychotherapy instead of multiple medical and cosmetic procedures in an obsessional fashion. Her unsuccessful efforts to restore her youth and frustration trying to fulfill her romantic fantasies lead to further deterioration of her character and errant parenting.

Ms. Harrison's dysfunctions were amplified by the drugs she took and cosmetic and plastic procedures. These quick-fixes did not take the place of the self discipline of regular exercise and diet control to deal with her

weight and appearance naturally, combined with graceful acceptance of her inevitable aging process and stage of life. Her denial and projection became thick and crude as evidenced in her reactions to her family. Her decompensation has been devastating to every member of the family, most especially her youngest children. Her drug use amplified her underlying psychopathology and worsened her obsessions and compulsive shopping for things she didn't need, such as thousands of dollars on clothes and sewing materials she never used, and insatiable thirst for information and affiliation with the actor, all of which was driven by illusions and distortions of reality.

Vivian's pathological narcissistic personality disorder is near impossible to treat and her prognosis is very poor. Characterological disorders are notoriously intractable, and Vivian has invested so deeply in hers, she will likely suffer from it for the rest of her life. She has left so much shame and damage in her wake, she would have to take stock of it and accept her responsibility for the past and her future in order to improve. She would have to face her guilt feelings for the ruination of the family and her moral departures without excuses or justifications, even if other family members, including her husband, played a role in the problems.

If her character were stronger, she might have a shot at it, but unfortunately, she is shallow and critical, and lacks internal structure. She can intimidate, manipulate and engage in power plays, and is blustery in her exterior, but when it comes to herself, she isn't defined as a person of substance or capacity, completely dependent on outward appearances. Consistent with her diagnosis, narcissism is a love of attributes, not of one's self. Persons afflicted feel exceedingly lonely because they don't recognize love and intimacy, and when they experience the adoration they seek, they always believe it is because of what they are wearing or how they look, instead of the person they are.

Narcissists repel offers of intimacy. Their minds rush to "what's wrong with this picture." Instead of accepting the imperfect feelings of intimacy, they pick it apart. Although they cause other people the pain of rejection and criticism, the biggest target of their vicious attacks is their own self, which propel them forward to try again to be more beautiful, to have the best, and to deny their vulnerabilities. A therapist can measure the declining esteem by the purchases and efforts to modify their appearance.

Vivian doesn't have enough personality structure to cope with dissonance and uncomfortable feelings that are natural in family life. In lieu of accepting how things are and making the best of them, she reacts with vengeance, and strikes out, attacking even her own children in an unhappy attempt to find the problem (outside of herself) and fix it, resorting to rejection, threats, manipulation or abandonment to try to cause them to do what she can't do for herself. Instead of patience, support, understanding, gentle guidance and faith, she uses denegation and attack.

The narcissist seeks flattery and adulation in lieu of psychological substance. They aspire for what they see on television and movie screens, and believe in their hearts such refinement and perfection is sustainable in everyday life. Under the enhancement of perfect lighting, directors, coaches and editors, the appearance of perfection can be contrived for a couple of hours, although it requires a legion of experts, wardrobe and makeup artists and writers shaping the image. The narcissist buys it, which leads to their frustration with real life because perfection in fleeting appearances can't be a lifestyle. Her pursuit of perfection took the place of building and enhancing her affiliation and esteem with those who loved her. Many people would give anything to have what she took for granted, stressed and destroyed. For her to realize the aftermath of her misguided choices and actions is not likely. Instead she will likely perpetuate her characterological pattern, deriving her identity from attack and vitriol, and use the children as a weapon and her psychological crutch. The divorce will very likely cause a pathological exacerbation as her perception of herself as a victim can justify further neglect, abuse and retaliation. Vivian is a child psychologically, and no amount of therapy will help her grow up.

Dr. Kernberg states, "Many experienced clinicians consider these narcissistic personalities as unlikely candidates for analysis, but at the same time as hopeless candidates for any method of treatment other than psychoanalysis." (appendix reference 5, p. 243) "The overall prognosis of narcissistic personalities is guarded. The rigidity and smoothness in functioning of this character structure are great obstacles to analytic progress." (appendix reference 5, p. 248)



## Psychiatric Analysis

Vivian L. Harrison

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Of added concern is the pathogenic effect her characterological dysfunction will have on her young children. Vivian's choices in parenting reward dysfunction and discourage personal responsibility and psychological growth. She fails as a role model for her girls. Intimidation, threats and retaliation do not pass for parenting and since these are powerful, will tend to impress her children as interpersonal power, as they impressed Vivian. Their tendency will be to resort to these dysfunctional coping mechanisms when challenged. Further, Vivian's incapacity for empathy is devastating to a child who needs a parent to accurately reflect their feelings, understand and accept their emotional pain, and help guide them through difficult times. Since, in the world of the narcissist, it's "all about me," there's no space left for the child's self. The child becomes an accessory to the self-involved parent. The obliviousness to their own feelings displaced by those of the parent perpetuates a cycle of social and emotional blindness.

Unfortunately, the only viable option for the health and well-being of children is to visit with their mother only. They should not be controlled or directed by her. She should not try to reinsert herself into their lives as their parent. She is too unstable and volatile, and uses the children for her own psychological needs. The narcissist is an emotional vampire, seducing others, and then taking what they need most. The kids do love her and are attached, but instead of giving back, Vivian feeds off of them. It is clear that Brooke is showing severe identity problems, stress and anxiety as her mother tried to get back into her life, and reinstitute the dysfunctional nighttime parenting. Brooke's growth and independence has been undermined, and she has lost her sense of personal space and security after her father set and reinforced boundaries that were good for her.

Vivian, is in many ways, like a troubled older sister or friend, rather than a parent. Vivian discounts the children's feelings. If they visit her, instead of being parented by her, they stand a chance of understanding what is going on because they'll have a firm base and home to return to after their visits, and more easily tolerate Vivian's inconsistencies and lack of social and interpersonal skills.

Vivian has exhibited an adversarial behavior towards everyone in the Harrison family, and has targeted Brooke especially for several years. In addition, she has little self regulation, indulging her fantasies, showing little responsibility for anyone's needs other than her own, allowing

## **Psychiatric Analysis**

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herself to project blame onto anyone for her discordant feelings, replacing function with obsession. Shopping seems to organize her, but models very poorly for her children. Many of the items purchased were just objects rather than serving any function, such as her sewing equipment and supplies, or the inflated prices she paid for clothing that seemed driven by psychological need connected to a fantasy and image reflected for her in the eyes of an actor she never met. The acquisition of material items and status needs are not in and of themselves so much of a problem as the fact that they are not balanced by effort, actual achievement, independence and functionality. Material acquisition and possession in itself is not psychologically nutritional. Her children need to be guided through values and pragmatic application of functional effort so that in the end, they can have what they worked for.

Although not a formal departure from reality in the sense of schizophrenia, Vivian's powerful fantasy life is nevertheless as pathological, especially compounded with her isolation, poor attachment, vulgarity and insecurity. Living in her mind has overridden reality concerns, as exemplified by her childish indulgence in the impossible, living out her fantasies in a costume that matches her television program with a sound track in relation with her fantasy lover. Her distortions and indulgences drove her into a medically dependent mindset. She could not gather the self-determination to improve her health and well-being through implementing well conceived plans for eating and exercise. Instead of pills, peels, surgeries, injections and colonics, proper modeling for her children would have been to take control of herself (exercise and diet) from the inside, instead of employing doctors to perfect her image, in a foreshortened time frame to make it seem, as though, she had what it takes. Instead of procedures, that haven't worked to perfect her image, and a lifetime of chasing youth, she should have worked on herself to find the determination and strength to propel her forward, guided by values and loyalty. This would have made her a substantial parent to help guide her children through their own developmental challenges.

Her obsession with the actor violates the morality of the marital union, and is also toxic to the children. She likely exposed them to her lovers as she has in the past. Being party to her violation of the marriage is not good for them, nor are her repeated vacations.

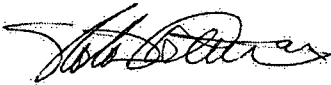
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Vivian's behaviors betray a disturbance in her psychological functioning that will harm her children. She will never be able to give the girls what they need most, which is consistent mature mothering, delivered not just when Vivian feels like it, but whenever they need it, given in the right dose and manner young girls require.



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**Appendix (Not all of these were referenced in this report)**

1. Alexander Lowen, Narcissism – Denial of the True Self (1985)
2. Diagnostic and Statistical Manual of Mental Disorders; American Psychiatric Association (4TH ed. 1994, 2000)
3. Elsa F. Ronningstam, Identifying and Understanding the Narcissistic Personality (2005)
4. James F. Masterson, The Narcissistic and Borderline Disorders – An Integrated Developmental Approach (1981)
5. Otto F. Kernberg, Borderline Conditions and Pathological Narcissism (1975)
6. Otto F. Kernberg, Severe Personality Disorders – Psychotherapeutic Strategies (1984)
7. Stephanie Donaldson-Pressman & Robert M. Pressman, The Narcissistic Family – Diagnosis and Treatment (1994)
8. ADIPEX-P® (brand name Phentermine) package insert
9. Brevicon® OC package insert
10. Novarel® HCG package insert
11. AndroGel® (testosterone gel) package insert
12. PREGNYL® package insert
13. VALVULAR HEART DISEASE ASSOCIATED WITH FENFLURAMINE-PHENTERMINE HEIDI M. CONNOLLY, M.D., et al (N Engl J Med 1997;337:581-8.)

## HIGHLIGHTS OF PRESCRIBING INFORMATION

These highlights do not include all the information needed to use AndroGel safely and effectively. See full prescribing information for AndroGel.

AndroGel® (testosterone gel) 1% for topical use CIII

Initial U.S. Approval: 1953

### WARNING: SECONDARY EXPOSURE TO TESTOSTERONE

See full prescribing information for complete boxed warning

- Virilization has been reported in children who were secondarily exposed to testosterone gel (5.2, 6.2).
- Children should avoid contact with unwashed or unclothed application sites in men using testosterone gel (5.2).
- Healthcare providers should advise patients to strictly adhere to recommended instructions for use (5.2).

### RECENT MAJOR CHANGES

- **Boxed Warning** 9/2009
- **WARNINGS AND PRECAUTIONS (5.2)** 9/2009

### INDICATIONS AND USAGE

AndroGel is an androgen indicated for replacement therapy in males for conditions associated with a deficiency or absence of endogenous testosterone:

- Primary Hypogonadism (Congenital or Acquired) (1.1)
- Hypogonadotropic Hypogonadism (Congenital or Acquired) (1.1)

### DOSAGE AND ADMINISTRATION

- Recommended starting dose: 5 g for adult males, applied topically once daily (2.1).
- Apply to clean, dry, intact skin of shoulders and upper arms and/or abdomen. Do NOT apply AndroGel to the genitals (2.1).
- Dose adjustment for adult males: If serum testosterone level is below the normal range, adjust dose from 5 g to 7.5 g and from 7.5 g to 10 g (2.3).

### DOSAGE FORMS AND STRENGTHS

AndroGel (testosterone gel) 1% for topical use is available as:

- 2 x 75 g pumps (each pump dispenses 60 metered 1.25 g doses) (3)
- 2.5 g packet or 5 g packet (3)

### CONTRAINDICATIONS

- Men with carcinoma of the breast or known or suspected prostate cancer (4, 5.1).
- Pregnant or breast feeding women. Testosterone may cause fetal harm (4).

### WARNINGS AND PRECAUTIONS

- Patients with benign prostatic hyperplasia (BPH) treated with androgens are at an increased risk for worsening of signs and symptoms of BPH (5.1).
- Secondary exposure to testosterone in children and women can occur with use of testosterone gel (5.2). Cases of secondary exposure resulting in virilization of children have been reported (6.2).
  - Children and women should avoid contact with unwashed or unclothed application site(s) in men using testosterone gel.
- To minimize the potential for transfer to others, patients using AndroGel should apply the product as directed and strictly adhere to the following (5.2):
  - Wash hands with soap and water after application.
  - Cover the application site with clothing after the gel has dried.
  - Wash the application site thoroughly with soap and water prior to any situation where skin-to-skin contact of the application site with another person is anticipated.

- Signs of virilization in children and women and the possibility of secondary exposure to testosterone gel should be brought to the attention of the healthcare provider. Testosterone gel should be promptly discontinued until the cause of the virilization is identified (5.2).
- Due to lack of controlled evaluations in women and potential virilizing effects, AndroGel is not indicated for use in women (5.3).
- Exogenous administration of androgens may lead to azoospermia (5.4).
- Edema may be a complication in patients with preexisting cardiac, renal, or hepatic disease (5.6, 6.2).
- Gynecomastia, enlargement of breast, may develop (5.7).
- Sleep apnea may occur in those with risk factors (5.8).
- Monitor serum testosterone, prostatic specific antigen, hemoglobin, hematocrit, liver function test, and lipid levels periodically (2.3, 5.1, 5.9).
- Alcohol-based gels are flammable until dry (5.10).

### ADVERSE REACTIONS

Most common adverse reactions (incidence  $\geq 5\%$ ) are acne, application site reaction, abnormal lab tests, and prostatic disorders (6).

Cases of testosterone secondary exposure resulting in virilization of children have been reported (6.2). Reported signs and symptoms have included enlargement of the penis or clitoris, premature development of pubic hair, increased erections and libido, aggressive behavior, and advanced bone age. In most cases with a reported outcome, these signs and symptoms were reported to have regressed with removal of the exposure to testosterone gel (5.2, 6.2). In a few cases, however, enlarged genitalia did not fully return to age-appropriate normal size and bone age remained modestly greater than chronological age.

To report SUSPECTED ADVERSE REACTIONS, contact Abbott Laboratories at 1-800-241-1643 or FDA at 1-800-FDA-1088 or [www.fda.gov/medwatch](http://www.fda.gov/medwatch).

### DRUG INTERACTIONS

- Androgens may decrease blood glucose, and therefore insulin requirement in diabetic patients (7.1).
- Use of testosterone with ACTH or corticosteroids may result in increased fluid retention. Use with caution, particularly in patients with cardiac, renal, or hepatic disease (7.2).
- Changes in anticoagulant activity may be seen with androgens. More frequent monitoring of INR and prothrombin time is recommended (7.3).

### USE IN SPECIFIC POPULATIONS

- Pregnancy: AndroGel may cause teratogenic effects. AndroGel should not be used in pregnant women (4, 8.1).
- Nursing mothers should not use AndroGel (4, 8.3).
- Safety and efficacy of AndroGel in males  $< 18$  years old has not been established (8.4).
- There have not been sufficient numbers of geriatric patients involved in controlled clinical studies utilizing AndroGel to determine whether efficacy in those  $> 65$  differs from younger subjects. Additionally, there is insufficient long-term safety data in geriatric patients to assess the potential risks of cardiovascular disease and prostate cancer (8.5).
- No formal studies were conducted involving patients with renal or hepatic insufficiencies (8.6).

See 17 for PATIENT COUNSELING INFORMATION and FDA-approved Medication Guide

Revised: 03/2011

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**16 HOW SUPPLIED/STORAGE AND HANDLING****17 PATIENT COUNSELING INFORMATION**

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17.3 Potential Adverse Reactions with Androgens

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\* Sections or subsections omitted from the full prescribing information are not listed

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## FULL PRESCRIBING INFORMATION

R<sub>x</sub> only**WARNING: SECONDARY EXPOSURE TO TESTOSTERONE**

- Virilization has been reported in children who were secondarily exposed to testosterone gel (5.2, 6.2).
- Children should avoid contact with any unwashed or unclothed application sites in men using testosterone gel (5.2).
- Healthcare providers should advise patients to strictly adhere to recommended instructions for use (5.2).

**1 INDICATIONS AND USAGE****1.1 Testosterone Replacement Therapy**

AndroGel, an androgen, is indicated for replacement therapy in adult males for conditions associated with a deficiency or absence of endogenous testosterone:

- Primary Hypogonadism (Congenital or Acquired) - testicular failure due to cryptorchidism, bilateral torsion, orchitis, vanishing testis syndrome, orchiectomy, Klinefelter's syndrome, chemotherapy, or toxic damage from alcohol or heavy metals. These men usually have low serum testosterone levels and gonadotropins (FSH, LH) above the normal range.
- Hypogonadotropic Hypogonadism (Congenital or Acquired) - idiopathic gonadotropin or luteinizing hormone-releasing hormone (LHRH) deficiency or pituitary-hypothalamic injury from tumors, trauma, or radiation. These men have low testosterone serum levels but have gonadotropins in the normal or low range.

**2 DOSAGE AND ADMINISTRATION****2.1 General Dosing**

The recommended starting dose of AndroGel is 5 g once daily (preferably in the morning) to clean, dry, intact skin of the shoulders and upper arms and/or abdomen (area of application should be limited to the area that will be covered by the patient's short sleeve t-shirt). AndroGel must not be applied to the genitals. AndroGel is supplied as either a pump or in individual packets. After applying the gel, the application site should be allowed to dry for a few minutes prior to dressing. Avoid fire, flames or smoking until the gel has dried since alcohol based products, including AndroGel, are flammable. Hands should be washed with soap and water after AndroGel has been applied. [see Warnings and Precautions (5.2, 5.10)].

**2.2 Administration****Multi-Dose Pump**

Patients should be instructed to prime the pump before using it for the first time by fully depressing the pump mechanism (actuation) 3 times and discard this portion of the product to assure precise dose delivery. After the priming procedure, patients should completely depress the pump one time (actuation) for every 1.25 g (AndroGel Pump) of product required to achieve the daily prescribed dosage. The product may be delivered directly into the palm of the hand and then applied to the desired application sites, either one pump actuation at a time or upon completion of all pump actuations required for the daily dose. Alternatively, the product can be applied directly to the application sites. Application directly to the sites may prevent loss of product that may occur during transfer from the palm of the hand onto the application sites. Table 1 has specific dosing guidelines for adult males when the 75 g AndroGel Pump is used.

**Table 1: Specific Dosing Guidelines for Using the Adult Multi-Dose Pump**

Prescribed Daily Dose	Number of Pump Actuations in 75 g Pump
5 g	4 (once daily)
7.5 g	6 (once daily)
10 g	8 (once daily)

### **Packets**

The entire contents should be squeezed into the palm of the hand and immediately applied to the application sites. Alternately, patients may squeeze a portion of the gel from the packet into the palm of the hand and apply to application sites. Repeat until entire contents have been applied.

### **2.3 Dose Adjustment and Patient Assessments**

- To ensure proper dosing, serum testosterone levels should be measured at intervals and replaced to serum testosterone levels in the normal range. If the serum testosterone concentration is below the normal range, the daily AndroGel dose may be increased from 5 g to 7.5 g and from 7.5 g to 10 g for adult males as instructed by the physician. If the serum testosterone concentration exceeds the normal range, the daily AndroGel dose may be decreased. If the serum testosterone concentration consistently exceeds the normal range at a daily dose of 5 g, AndroGel therapy should be discontinued.

The following is general advice for treating and monitoring adult patients on AndroGel. No specific recommendations can be made.

- Prescribers should be aware that testosterone is contraindicated in men with known or suspected prostate cancer. Therefore, evaluation for prostate cancer prior to initiation of AndroGel therapy is appropriate [see *Contraindications* (4)].
- Based on results from controlled studies, serum PSA may rise when taking AndroGel. Therefore, periodic assessment of serum PSA is recommended in patients taking AndroGel [see *Adverse Reactions* (6.1)].
- Based on results from controlled studies, worsening of BPH may occur in patients taking AndroGel [see *Adverse Reactions* (6.1)]. Therefore, periodic assessments for signs and symptoms of BPH are recommended in patients taking AndroGel.
- Hematocrit, serum lipid profile, and liver function test should be monitored in patients taking AndroGel [see *Warnings and Precautions* (5.9)].

## **3 DOSAGE FORMS AND STRENGTHS**

AndroGel (testosterone gel) 1% for topical use is available in either unit-dose packets or multiple-dose pumps. The 75 g (60 metered-dose) pump delivers 1.25 g of product when the pump mechanism is fully depressed once.

AndroGel is available in the following three package containers:

- 2 x 75 g pumps (each pump dispenses 60 metered 1.25 g doses)
- 2.5 g packet
- 5 g packet

## **4 CONTRAINDICATIONS**

AndroGel should not be used in any of the following patients:

- Men with carcinoma of the breast or known or suspected carcinoma of the prostate [see *Warnings and Precautions* (5.1), *Adverse Reactions* (6.1), and *Nonclinical Toxicology* (13.1)].
- Women who are or may become pregnant, or who are breastfeeding. AndroGel can cause fetal harm when administered to a pregnant woman. AndroGel may cause serious adverse reactions in nursing infants. Exposure of a female fetus or nursing infant to androgens may result in varying degrees of virilization. Pregnant women or those who may become pregnant need to be aware of the potential for transfer of testosterone from men treated with AndroGel [see *Warnings and Precautions* (5.2) and *Use in Specific Populations* (8.1, 8.3)].
- Men with known hypersensitivity to any of its ingredients, including alcohol and soy products.

## **5 WARNINGS AND PRECAUTIONS**

### **5.1 Benign Prostatic Hyperplasia and Potential Risk of Prostate Cancer**

- Patients with BPH treated with androgens are at an increased risk for worsening of signs and symptoms of BPH.
- Patients treated with androgens may be at increased risk for prostate cancer. Evaluation of the patient for prostate cancer prior to initiating and during treatment with androgens is appropriate.
- Increases in serum PSA from baseline values were seen in approximately 18% of individuals in an open label study of 162 hypogonadal men treated with AndroGel for up to 42 months. Most of these increases were seen within the first year of therapy [see *Contraindications* (4), *Warnings and Precautions* (5.9), *Adverse Reactions* (6.1), and *Nonclinical Toxicology* (13.1)].

### **5.2 Potential for Secondary Exposure to Testosterone**

Secondary exposure to testosterone in children and women can occur with testosterone gel use in men [see *Clinical Studies* (14.3)]. Cases of secondary exposure resulting in virilization of children have been reported in postmarketing surveillance. Signs and symptoms have included enlargement of the penis or clitoris, development of pubic hair, increased erections and libido, aggressive behavior, and advanced bone age. In most cases, these signs and symptoms regressed with removal of the exposure to testosterone gel. In a few cases, however, enlarged genitalia did not fully return to age-appropriate normal size, and bone age remained modestly greater than chronological age. The risk of transfer was increased in some of these cases by not adhering to precautions for the appropriate use of testosterone gel.

Inappropriate changes in genital size or development of pubic hair or libido in children, or changes in body hair distribution, significant increase in acne, or other signs of virilization in adult women should be brought to the attention of a physician and the possibility of secondary exposure to testosterone gel should also be brought to the attention of a physician. Testosterone gel should be promptly discontinued until the cause of virilization has been identified.

Testosterone may cause fetal harm in a pregnant woman due to virilization of a female fetus [see *Use in Specific Populations* (8.1)].



Strict adherence to the following precautions is advised in order to minimize the potential for secondary exposure to testosterone from AndroGel-treated skin:

- Children and women should avoid contact with unwashed or unclothed application site(s) of men using testosterone gel.
- AndroGel should only be applied to the shoulders, upper arms, and/or abdomen (area of application should be limited to the area that will be covered by the patient's short sleeve t-shirt).
- Patients should wash their hands immediately with soap and water after applying AndroGel.
- Patients should cover the application site(s) with clothing (e.g., a shirt) after the gel has dried.
- Prior to any situation in which skin-to-skin contact with the application site is anticipated, patients should wash the application site(s) thoroughly with soap and water to remove any testosterone residue.
- In the event that unwashed or unclothed skin to which AndroGel has been applied comes in direct contact with the skin of another person, the general area of contact on the other person should be washed with soap and water as soon as possible. Studies show that residual testosterone is removed from the skin surface by washing with soap and water.

### 5.3 Use in Women

Due to lack of controlled evaluations in women and potential virilizing effects, AndroGel is not indicated for use in women [see *Use in Specific Populations* (8.1, 8.3)].

### 5.4 Potential for Adverse Effects on Spermatogenesis

At large doses of exogenous androgens, spermatogenesis may be suppressed through feedback inhibition of pituitary follicle-stimulating hormone (FSH) which could possibly lead to adverse effects on semen parameters including sperm count.

### 5.5 Hepatic Adverse Effects

Prolonged use of high doses of orally active 17-alpha-alkyl androgens (e.g., methyltestosterone) has been associated with serious hepatic adverse effects (peliosis hepatis, hepatic neoplasms, cholestatic hepatitis, and jaundice). Peliosis hepatis can be a life-threatening or fatal complication. Long-term therapy with intramuscular testosterone enanthate has produced multiple hepatic adenomas. AndroGel is not known to produce these adverse effects.

There are rare reports of hepatocellular carcinoma in patients receiving long-term oral therapy with androgens in high doses. Withdrawal of the drugs did not lead to regression of the tumors in all cases.

### 5.6 Edema

Drugs in the androgen class may promote retention of sodium and water. Edema with or without congestive heart failure may be a serious complication in patients with preexisting cardiac, renal, or hepatic disease [see *Adverse Reactions* (6.2)].

### 5.7 Gynecomastia

Gynecomastia may develop and may persist in patients being treated with androgens, including AndroGel, for hypogonadism.

### 5.8 Sleep Apnea

The treatment of hypogonadal men with testosterone products may potentiate sleep apnea in some patients, especially those with risk factors such as obesity or chronic lung diseases [see *Adverse Reactions* (6.2)].

### 5.9 Laboratory Tests

- Increases in hematocrit, reflective of increases in red blood cell mass, may require lowering or discontinuation of testosterone. Increase in red blood cell mass may increase the risk for a thromboembolic event.
- Changes in serum lipid profile may require dose adjustment or discontinuation of testosterone therapy.
- Androgens may decrease levels of thyroxin-binding globulin, resulting in decreased total T4 serum levels and increased resin uptake of T3 and T4. Free thyroid hormone levels remain unchanged, however, and there is no clinical evidence of thyroid dysfunction.
- Androgens should be used with caution in cancer patients at risk of hypercalcemia (and associated hypercalciuria). Regular monitoring of serum calcium concentrations is recommended in these patients.

### 5.10 Flammable until Dry

- Alcohol Based Products including AndroGel are flammable; therefore avoid fire, flame or smoking until the gel has dried.

## 6 ADVERSE REACTIONS

### 6.1 Clinical Trial Experience

Because clinical trials are conducted under widely varying conditions, adverse reaction rates observed in the clinical trials of a drug cannot be directly compared to rates in the clinical trials of another drug and may not reflect the rates observed in practice.

#### Clinical Trials in Hypogonadal Men

Table 2 shows the incidence of all adverse events judged by the investigator to be at least possibly related to treatment with AndroGel and reported by >1% of patients in a 180 Day, Phase 3 study.

**Table 2: Adverse Events Possibly, Probably or Definitely Related to Use of AndroGel in the 180-Day Controlled Clinical Trial**

Adverse Event	Dose of AndroGel		
	5 g N = 77	7.5 g N = 40	10 g N = 78
Acne	1%	3%	8%
Alopecia	1%	0%	1%
Application Site Reaction	5%	3%	4%
Asthenia	0%	3%	1%
Depression	1%	0%	1%
Emotional Lability	0%	3%	3%
Gynecomastia	1%	0%	3%
Headache	4%	3%	0%
Hypertension	3%	0%	3%
Lab Test Abnormal*	6%	5%	3%
Libido Decreased	0%	3%	1%
Nervousness	0%	3%	1%
Pain Breast	1%	3%	1%
Prostate Disorder**	3%	3%	5%
Testis Disorder***	3%	0%	0%

\**Lab test abnormal* occurred in nine patients with one or more of the following events reported: elevated hemoglobin or hematocrit, hyperlipidemia, elevated triglycerides, hypokalemia, decreased HDL, elevated glucose, elevated creatinine, elevated total bilirubin.

\*\**Prostate disorders* included five patients with enlarged prostate, one with BPH, and one with elevated PSA results.

\*\*\**Testis disorders* were reported in two patients: one with left varicocele and one with slight sensitivity of left testis.

Other less common adverse reactions, reported in fewer than 1% of patients included: amnesia, anxiety, discolored hair, dizziness, dry skin, hirsutism, hostility, impaired urination, paresthesia, penis disorder, peripheral edema, sweating, and vasodilation.

In this 180 day clinical trial, skin reactions at the site of application were reported with AndroGel, but none was severe enough to require treatment or discontinuation of drug.

Six patients (4%) in this trial had adverse events that led to discontinuation of AndroGel. These events included: cerebral hemorrhage, convulsion (neither of which were considered related to AndroGel administration), depression, sadness, memory loss, elevated prostate specific antigen, and hypertension. No AndroGel patient discontinued due to skin reactions.

In a separate uncontrolled pharmacokinetic study of 10 patients, two had adverse events associated with AndroGel; these were asthenia and depression in one patient and increased libido and hyperkinesia in the other.

In a 3 year, flexible dose, extension study, the incidence of all adverse events judged by the investigator to be at least possibly related to treatment with AndroGel and reported by > 1% of patients is shown in Table 3.

**Table 3: Adverse Events Possibly, Probably or Definitely Related to Use of AndroGel in the 3 Year, Flexible Dose, Extension Study**

Adverse Event	Percent of Subjects (N = 162)
Lab Test Abnormal+	9.3
Skin dry	1.9
Application Site Reaction	5.6
Acne	3.1
Pruritus	1.9
Enlarged Prostate	11.7
Carcinoma of Prostate	1.2
Urinary Symptoms*	3.7
Testis Disorder**	1.9
Gynecomastia	2.5
Anemia	2.5

+*Lab test abnormal* occurred in 15 patients with one or more of the following events reported: elevated AST, elevated ALT, elevated testosterone, elevated hemoglobin or hematocrit, elevated cholesterol, elevated cholesterol/LDL ratio, elevated triglycerides, elevated HDL, elevated serum creatinine.

\**Urinary symptoms* included nocturia, urinary hesitancy, urinary incontinence, urinary retention, urinary urgency and weak urinary stream.

\*\**Testis disorders* included three patients. There were two with a non-palpable testis and one with slight right testicular tenderness.

Two patients reported serious adverse events considered possibly related to treatment: deep vein thrombosis (DVT) and prostate disorder requiring a transurethral resection of the prostate (TURP).

Discontinuation for adverse events in this study included: two patients with application site reactions, one with kidney failure, and five with prostate disorders (including increase in serum PSA in 4 patients, and increase in PSA with prostate enlargement in a fifth patient).

#### Increases in Serum PSA Observed in Clinical Trials of Hypogonadal Men

During the initial 6-month study, the mean change in PSA values had a statistically significant increase of 0.26 ng/mL. Serum PSA was measured every 6 months thereafter in the 162 hypogonadal men on AndroGel in the 3-year extension study. There was no additional statistically significant increase observed in mean PSA from 6 months through 36 months. However, there were increases in serum PSA observed in approximately 18% of individual patients. The overall mean change from baseline in serum PSA values for the entire group from month 6 to 36 was 0.11 ng/mL.

Twenty-nine patients (18%) met the per-protocol criterion for increase in serum PSA, defined as >2X the baseline or any single serum PSA >6 ng/mL. Most of these (25/29) met this criterion by at least doubling of their PSA from baseline. In most cases where PSA at least doubled (22/25), the maximum serum PSA value was still <2 ng/mL. The first occurrence of a pre-specified, post-baseline increase in serum PSA was seen at or prior to Month 12 in most of the patients who met this criterion (23 of 29; 79%).

Four patients met this criterion by having a serum PSA >6 ng/mL and in these, maximum serum PSA values were 6.2 ng/mL, 6.6 ng/mL, 6.7 ng/mL, and 10.7 ng/mL. In two of these patients, prostate cancer was detected on biopsy. The first patient's PSA levels were 4.7 ng/mL and 6.2 ng/mL at baseline and at Month 6/Final, respectively. The second patient's PSA levels were 4.2 ng/mL, 5.2 ng/mL, 5.8 ng/mL, and 6.6 ng/mL at baseline, Month 6, Month 12, and Final, respectively.

## 6.2 Postmarketing Experience

The following adverse reactions have been identified during post approval use of AndroGel. Because the reactions are reported voluntarily from a population of uncertain size, it is not always possible to reliably estimate their frequency or establish a causal relationship to drug exposure.

### Secondary Exposure to Testosterone in Children

Cases of secondary exposure to testosterone resulting in virilization of children have been reported in postmarket surveillance. Signs and symptoms of these reported cases have included enlargement of the clitoris (with surgical intervention) or the penis, development of pubic hair, increased erections and libido, aggressive behavior, and advanced bone age. In most cases with a reported outcome, these signs and symptoms were reported to have regressed with removal of the testosterone gel exposure. In a few cases, however, enlarged genitalia did not fully return to age appropriate normal size, and bone age remained modestly greater than chronological age. In some of the cases, direct contact with the sites of application on the skin of men using testosterone gel was reported. In at least one reported case, the reporter considered the possibility of secondary exposure from items such as the testosterone gel user's shirts and/or other fabric, such as towels and sheets [see *Warnings and Precautions* (5.2)].

### Hypogonadal Men

Table 4 includes adverse reactions that have been identified postmarketing.

**Table 4: Adverse Drug Reactions from Postmarketing Experience of AndroGel by MedDRA System Organ Class**

Blood and the lymphatic system disorders:	Elevated Hgb, Hct (polycythemia)
Endocrine disorders:	Hirsutism
Gastrointestinal disorders:	Nausea
General disorders and administration site reactions:	Asthenia, edema, malaise
Genitourinary disorders:	Impaired urination
Hepatobiliary disorders:	Abnormal liver function tests (e.g. transaminases, elevated GGTP, bilirubin)
Investigations:	Elevated PSA, electrolyte changes (nitrogen, calcium, potassium, phosphorus, sodium), changes in serum lipids (hyperlipidemia, elevated triglycerides, decreased HDL), impaired glucose tolerance, fluctuating testosterone levels, weight increase
Neoplasms benign, malignant and unspecified (cysts and polyps):	Prostate cancer
Nervous system:	Headache, dizziness, sleep apnea, insomnia
Psychiatric disorders:	Depression, emotional lability, decreased libido, nervousness, hostility, amnesia, anxiety
Reproductive system and breast disorders:	Gynecomastia, mastodynia, prostatic enlargement, testicular atrophy, oligospermia, priapism (frequent or prolonged erections)
Respiratory disorders:	Dyspnea
Skin and subcutaneous tissue disorders:	Acne, alopecia, application site reaction (pruritus, dry skin, erythema, rash, discolored hair, paresthesia), sweating
Vascular disorders:	Hypertension, vasodilation (hot flushes)

## 7 DRUG INTERACTIONS

### 7.1 Insulin

Changes in insulin sensitivity or glycemic control may occur in patients treated with androgens. In diabetic patients, the metabolic effects of androgens may decrease blood glucose and, therefore, insulin requirements.

### 7.2 Corticosteroids

The concurrent use of testosterone with ACTH or corticosteroids may result in increased fluid retention and should be monitored cautiously, particularly in patients with cardiac, renal or hepatic disease.

### 7.3 Oral Anticoagulants

Changes in anticoagulant activity may be seen with androgens. More frequent monitoring of INR and prothrombin time are recommended in patients taking anticoagulants, especially at the initiation and termination of androgen therapy.

## 8 USE IN SPECIFIC POPULATIONS

### 8.1 Pregnancy

Pregnancy Category X: AndroGel is contraindicated during pregnancy or in women who may become pregnant. It is teratogenic and may cause fetal harm [see *Contraindications (4)*]. Exposure of a female fetus to androgens may result in varying degrees of virilization. If this drug is used during pregnancy, or if the patient becomes pregnant while taking this drug, the patient should be apprised of the potential hazard to a fetus.

### 8.3 Nursing Mothers

Although it is not known how much testosterone transfers into human milk, AndroGel is contraindicated in nursing women because of the potential for serious adverse reactions in nursing infants [see *Contraindications (4)*].

Testosterone and other androgens may adversely affect lactation.

### 8.4 Pediatric Use

Safety and efficacy of AndroGel in males < 18 years old has not been established. Improper use may result in acceleration of bone age and premature closure of epiphyses.

### 8.5 Geriatric Use

There have not been sufficient numbers of geriatric patients involved in controlled clinical studies utilizing AndroGel to determine whether efficacy in those over 65 years of age differs from younger subjects. Additionally, there is insufficient long-term safety data in geriatric patients to assess the potential risks of cardiovascular disease and prostate cancer.

### 8.6 Renal or Hepatic Impairment

No formal studies were conducted involving patients with renal or hepatic insufficiencies.

## 9 DRUG ABUSE AND DEPENDENCE

### 9.1 Controlled Substance

AndroGel contains testosterone, a Schedule III controlled substance as defined by the Anabolic Steroids Control Act.

Oral ingestion of AndroGel will not result in clinically significant serum testosterone concentrations due to extensive first-pass metabolism.

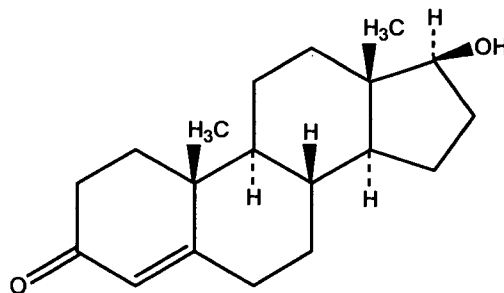
## 10 OVERDOSAGE

There is one report of acute overdosage with use of an approved injectable testosterone product: this subject had serum testosterone levels of up to 11,400 ng/dL with a cerebrovascular accident. Treatment of overdosage would consist of discontinuation of AndroGel together with appropriate symptomatic and supportive care.

## 11 DESCRIPTION

AndroGel (testosterone gel) 1% is a clear, colorless hydroalcoholic gel containing 1% testosterone. Topical administration of AndroGel 5 g, 7.5 g, or 10 g contains 50 mg, 75 mg, or 100 mg of testosterone, respectively, is to be applied daily to the skin's surface. Approximately 10% of the applied testosterone dose is absorbed across skin of average permeability during a 24-hour period.

The active pharmacologic ingredient in AndroGel is testosterone. Testosterone USP is a white to practically white crystalline powder chemically described as 17-beta hydroxyandrost-4-en-3-one. The structural formula is:



Testosterone

$C_{19}H_{28}O_2$

MW 288.42

Inactive ingredients in AndroGel are carbomer 980, ethanol 67.0%, isopropyl myristate, purified water, and sodium hydroxide. These ingredients are not pharmacologically active.

## 12 CLINICAL PHARMACOLOGY

### 12.1 Mechanism of Action

Endogenous androgens, including testosterone and dihydrotestosterone (DHT), are responsible for the normal growth and development of the male sex organs and for maintenance of secondary sex characteristics. These effects include the growth and maturation of prostate, seminal vesicles, penis and scrotum; the development of male hair distribution, such as facial, pubic, chest and axillary hair; laryngeal enlargement, vocal chord thickening, alterations in body musculature and fat distribution. Testosterone and DHT are necessary for the normal development of secondary sex characteristics. Male hypogonadism results from insufficient secretion of testosterone and is characterized by low serum testosterone concentrations. Signs/symptoms associated with male hypogonadism include erectile dysfunction and decreased sexual desire, fatigue and loss of energy, mood depression, regression of secondary sexual characteristics and osteoporosis.

Male hypogonadism has two main etiologies. Primary hypogonadism is caused by defects of the gonads, such as Klinefelter's Syndrome or Leydig cell aplasia, whereas secondary hypogonadism is the failure of the hypothalamus (or pituitary) to produce sufficient gonadotropins (FSH, LH).

### 12.3 Pharmacokinetics

#### Adult Males

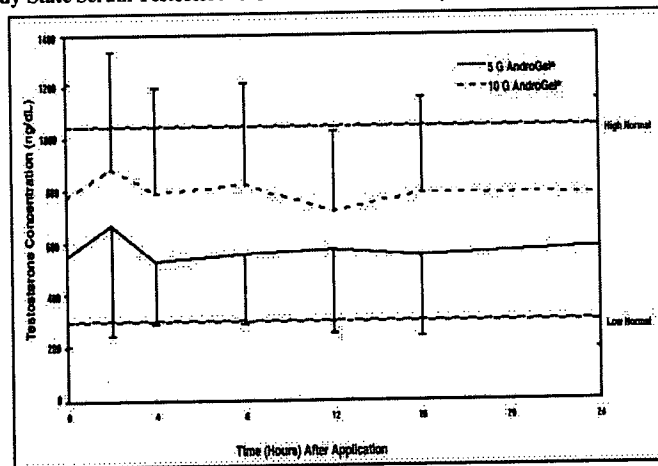
##### *Absorption*

AndroGel delivers physiologic amounts of testosterone, producing circulating testosterone concentrations that approximate normal levels (298 – 1043 ng/dL) seen in healthy men. AndroGel provides continuous transdermal delivery of testosterone for 24 hours following a single application to intact, clean, dry skin of the shoulders, upper arms and/or abdomen.

AndroGel is a hydroalcoholic formulation that dries quickly when applied to the skin surface. The skin serves as a reservoir for the sustained release of testosterone into the systemic circulation. Approximately 10% of the testosterone dose applied on the skin surface from AndroGel is absorbed into systemic circulation. Therefore, 5 g and 10 g of AndroGel systemically deliver approximately 5 mg and 10 mg of testosterone, respectively. In a study with 10 g of AndroGel, all patients showed an increase in serum testosterone within 30 minutes, and eight of nine patients had a serum testosterone concentration within normal range by 4 hours after the initial application. Absorption of testosterone into the blood continues for the entire 24-hour dosing interval. Serum concentrations approximate the steady-state level by the end of the first 24 hours and are at steady state by the second or third day of dosing.

With single daily applications of AndroGel, follow-up measurements 30, 90 and 180 days after starting treatment have confirmed that serum testosterone concentrations are generally maintained within the eugonadal range. Figure 1 summarizes the 24-hour pharmacokinetic profiles of testosterone for hypogonadal men (<300 ng/dL) maintained on 5 g or 10 g of AndroGel for 30 days. The average ( $\pm$  SD) daily testosterone concentration produced by AndroGel 10 g on Day 30 was 792 ( $\pm$  294) ng/dL and by AndroGel 5 g 566 ( $\pm$  262) ng/dL.

**Figure 1: Mean ( $\pm$  SD) Steady-State Serum Testosterone Concentrations on Day 30 in Patients Applying AndroGel Once Daily**



When AndroGel treatment is discontinued after achieving steady state, serum testosterone levels remain in the normal range for 24 to 48 hours but return to their pretreatment levels by the fifth day after the last application.

##### *Distribution*

Circulating testosterone is primarily bound in the serum to sex hormone-binding globulin (SHBG) and albumin. Approximately 40% of testosterone in plasma is bound to SHBG, 2% remains unbound (free) and the rest is bound to albumin and other proteins.

##### *Metabolism*

There is considerable variation in the half-life of testosterone as reported in the literature, ranging from 10 to 100 minutes. Testosterone is metabolized to various 17-keto steroids through two different pathways. The major active metabolites of testosterone are estradiol and DHT.

DHT concentrations increased in parallel with testosterone concentrations during AndroGel treatment. After 180 days of treatment in adult males, mean DHT concentrations were within the normal range with 5 g AndroGel and were about 7% above the normal range after a 10 g dose. The mean steady-state DHT/T ratio during 180 days of AndroGel treatment remained within normal limits and ranged from 0.23 to 0.29 (5 g/day) and from 0.27 to 0.33 (10 g/day).

##### *Excretion*

About 90% of a dose of testosterone given intramuscularly is excreted in the urine as glucuronic and sulfuric acid conjugates of testosterone and its metabolites; about 6% of a dose is excreted in the feces, mostly in the unconjugated form. Inactivation of testosterone occurs primarily in the liver.

## 13 NONCLINICAL TOXICOLOGY

### 13.1 Carcinogenesis, Mutagenesis, Impairment of Fertility

Testosterone has been tested by subcutaneous injection and implantation in mice and rats. In mice, the implant induced cervical-uterine tumors, which metastasized in some cases. There is suggestive evidence that injection of testosterone into some strains of female mice increases their susceptibility to hepatoma. Testosterone is also known to increase the number of tumors and decrease the degree of differentiation of chemically induced carcinomas of the liver in rats.

## 14 CLINICAL STUDIES

### 14.1 Clinical Trials in Adult Hypogonadal Males

AndroGel was evaluated in a multi-center, randomized, parallel-group, active-controlled, 180-day trial in 227 hypogonadal men. The study was conducted in 2 phases. During the Initial Treatment Period (Days 1-90), 73 patients were randomized to AndroGel 5 g daily, 78 patients to AndroGel 10 g daily, and 76 patients to a non-scrotal testosterone transdermal system. The study was double-blind for dose of AndroGel but open-label for active control. Patients who were originally randomized to AndroGel and who had single-sample serum testosterone levels above or below the normal range on Day 60 were titrated to 7.5 g daily on Day 91. During the Extended Treatment Period (Days 91-180), 51 patients continued on AndroGel 5 g daily, 52 patients continued on AndroGel 10 g daily, 41 patients continued on a non-scrotal testosterone transdermal system (5 mg daily), and 40 patients received AndroGel 7.5 g daily. Upon completion of the initial study, 163 enrolled and 162 patients received treatment in an open-label extension study of AndroGel for an additional period of up to 3 years.

Mean peak, trough and average serum testosterone concentrations within the normal range (298-1043 ng/dL) were achieved on the first day of treatment with doses of 5 g and 10 g. In patients continuing on AndroGel 5 g and 10 g, these mean testosterone levels were maintained within the normal range for the 180-day duration of the original study. Figure 2 summarizes the 24-hour pharmacokinetic profiles of testosterone administered as AndroGel for 30, 90 and 180 days. Testosterone concentrations were maintained as long as the patient continued to properly apply the prescribed AndroGel treatment.

Figure 2: Mean Steady-State Testosterone Concentrations in Patients with Once-Daily AndroGel Therapy

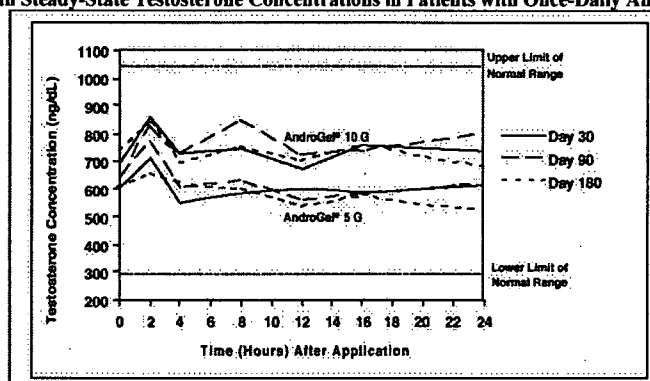


Table 5 summarizes the mean testosterone concentrations on Treatment Day 180 for patients receiving 5 g, 7.5 g, or 10 g of AndroGel. The 7.5 g dose produced mean concentrations intermediate to those produced by 5 g and 10 g of AndroGel.

Table 5: Mean ( $\pm$  SD) Steady-State Serum Testosterone Concentrations During Therapy (Day 180)

	5 g N = 44	7.5 g N = 37	10 g N = 48
Cavg	555 $\pm$ 225	601 $\pm$ 309	713 $\pm$ 209
Cmax	830 $\pm$ 347	901 $\pm$ 471	1083 $\pm$ 434
Cmin	371 $\pm$ 165	406 $\pm$ 220	485 $\pm$ 156

Of 129 hypogonadal men who were appropriately titrated with AndroGel and who had sufficient data for analysis, 87% achieved an average serum testosterone level within the normal range on Treatment Day 180.

In patients treated with AndroGel, there were no observed differences in the average daily serum testosterone concentrations at steady-state based on age, cause of hypogonadism, or body mass index.

AndroGel 5 g/day and 10 g/day resulted in significant increases over time in total body mass and total body lean mass, while total body fat mass and the percent body fat decreased significantly. These changes were maintained for 180 days of treatment during the original study. Changes in the 7.5 g dose group were similar. Bone mineral density in both hip and spine increased significantly from Baseline to Day 180 with 10 g AndroGel.

AndroGel treatment at 5 g/day and 10 g/day for 90 days produced significant improvement in libido (measured by sexual motivation, sexual activity and enjoyment of sexual activity as assessed by patient responses to a questionnaire). The degree of penile erection as subjectively estimated by the patients, increased with AndroGel treatment, as did the subjective score for "satisfactory duration of erection." AndroGel treatment at 5 g/day and 10 g/day produced positive effects on mood and fatigue. Similar changes were seen after 180 days of treatment and in the group treated with the 7.5 g dose. DHT concentrations increased in parallel with testosterone concentrations at AndroGel doses of 5 g/day and 10 g/day, but the DHT/T ratio stayed within the normal range, indicating enhanced availability of the major physiologically active androgen. Serum estradiol (E2) concentrations increased significantly within 30 days of starting treatment with AndroGel 5 or 10 g/day and remained elevated throughout the treatment period but remained within the normal range for eugonadal men. Serum levels of SHBG decreased very slightly (1 to 11%) during AndroGel treatment. In men with hypergonadotropic hypogonadism, serum levels of LH and FSH fell in a dose- and time-dependent manner during treatment with AndroGel.

### 14.2 Phototoxicity in Humans

The phototoxic potential of AndroGel was evaluated in a double-blind, single-dose study in 27 subjects with photosensitive skin types. The Minimal Erythema Dose (MED) of ultraviolet radiation was determined for each subject. A single 24 (+1) hour application of duplicate patches containing test articles (placebo gel, testosterone gel, or saline) was made to naive skin sites on Day 1. On Day 2, each subject received five exposure times of ultraviolet radiation, each exposure being 25% greater than the previous one. Skin evaluations were made on Days 2 to 5. Exposure of test and control article application sites to ultraviolet light did not produce increased inflammation relative to non-irradiated sites, indicating no phototoxic effect.

#### 14.3 Testosterone Transfer from Male Patients to Female Partners

The potential for dermal testosterone transfer following AndroGel use was evaluated in a clinical study between males dosed with AndroGel and their untreated female partners. Two (2) to 12 hours after AndroGel (10 g) application by the male subjects, the couples (N = 38 couples) engaged in daily, 15-minute sessions of vigorous skin-to-skin contact so that the female partners gained maximum exposure to the AndroGel application sites. Under these study conditions, all unprotected female partners had a serum testosterone concentration >2 times the baseline value at some time during the study. When a shirt covered the application site(s), the transfer of testosterone from the males to the female partners was completely prevented.

## 16 HOW SUPPLIED/STORAGE AND HANDLING

AndroGel is supplied in non-aerosol, metered-dose pumps. The pump is composed of plastic and stainless steel and an LDPE/aluminum foil inner liner encased in rigid plastic with a polypropylene cap. Each 88 g AndroGel Pump in the twin package is capable of dispensing 75 g or 60 metered 1.25 g doses.

AndroGel is also supplied in unit-dose aluminum foil packets in cartons of 30. Each packet of 2.5 g or 5 g gel contains 25 mg or 50 mg testosterone, respectively.

<u>NDC Number</u>	<u>Package Size</u>
0051-8488-88	2 x 75 g pumps (each pump dispenses 60 metered 1.25 g doses)
0051-8425-30	30 packets (2.5 g per packet)
0051-8450-30	30 packets (5 g per packet)

**Keep AndroGel out of the reach of children.**

#### **Storage**

Store at 25°C (77°F); excursions permitted to 15° to 30°C (59° to 86°F) [see USP Controlled Room Temperature].

#### **Disposal**

Used AndroGel pumps or used AndroGel packets should be discarded in household trash in a manner that prevents accidental application or ingestion by children or pets.

## 17 PATIENT COUNSELING INFORMATION

### See FDA-Approved Medication Guide (17.5)

#### 17.1 Men with known or suspected prostate or breast cancer should not use AndroGel.

#### 17.2 Potential for Secondary Exposure to Testosterone and Steps to Prevent Secondary Exposure

Secondary exposure to testosterone in children and women can occur with the use of testosterone gel in men. Cases of secondary exposure to testosterone have been reported in children with signs and symptoms including enlargement of the penis or clitoris, premature development of pubic hair, increased erections, and aggressive behavior.

- Physicians should advise patients of the reported signs and symptoms of secondary exposure which may include the following:
  - In children; unexpected sexual development including inappropriate enlargement of the penis or clitoris, premature development of pubic hair, increased erections, and aggressive behavior
  - In women; changes in hair distribution, increase in acne, or other signs of testosterone effects
- The possibility of secondary exposure to testosterone gel should be brought to the attention of a healthcare provider
- Testosterone gel should be promptly discontinued until the cause of virilization is identified

Strict adherence to the following precautions is advised to minimize the potential for secondary exposure to testosterone from testosterone gel in men [see FDA-Approved Medication Guide (17.5)]:

- **Children and women should avoid contact with unwashed or unclothed application site(s)** of men using testosterone gel
- **To minimize the potential for transfer** to others, patients using AndroGel should apply the product as directed and strictly adhere to the following:
  - **Wash hands** with soap and water after application
  - **Cover the application site(s)** with clothing after the gel has dried

- **Wash the application site(s) thoroughly** with soap and water prior to any situation where skin-to-skin contact of the application site with another person is anticipated
- In the event that unwashed or unclothed skin to which testosterone gel has been applied comes in contact with the skin of another person, the general area of contact on the other person should be washed with soap and water as soon as possible.

### 17.3 Potential Adverse Reactions with Androgens

Patients should be informed that treatment with androgens may lead to adverse reactions which include:

- Changes in urinary habits such as increased urination at night, trouble starting your urine stream, passing urine many times during the day, having an urge that you have to go to the bathroom right away, having a urine accident, being unable to pass urine and weak urine flow.
- Breathing disturbances, including those associated with sleep, or excessive daytime sleepiness.
- Too frequent or persistent erections of the penis.
- Nausea, vomiting, changes in skin color, or ankle swelling.

### 17.4 Patients Should Be Advised:

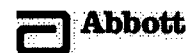
- **To read the Medication Guide before starting AndroGel therapy and to reread it each time the prescription is renewed**
- **Of the appropriate application and use of AndroGel to maximize the benefits and to minimize the risk of secondary exposure in children and women**
- To keep AndroGel out of the reach of children
- **That AndroGel is an alcohol based product and is flammable; therefore avoid fire, flame or smoking until the gel has dried**
- Of the importance of adhering to all recommended monitoring
- To report any changes in their state of health, such as changes in urinary habits, breathing, sleep, and mood
- To wait 5 hours before showering or swimming. This will ensure that the greatest amount of AndroGel is absorbed into their system.

Marketed By:  
Abbott Laboratories  
North Chicago, IL 60064, U.S.A.

U.S. Patent No. 6,503,894

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500122/500127 4E Rev March 2011



### 17.5 FDA-Approved Medication Guide

#### MEDICATION GUIDE

#### **AndroGel® (AN DROW JEL) CHH (testosterone gel) 1%**

Read the Medication Guide that comes with AndroGel before you start taking it and each time you get a refill. There may be new information. This Medication Guide does not take the place of talking to your healthcare provider about your medical condition or your treatment.

**What is the most important information I should know about AndroGel?**

Reference ID: 2916005



Signs of puberty that are not expected (for example, pubic hair) have happened in young children who were accidentally exposed to testosterone through contact with men using AndroGel.

AndroGel can transfer from your body to others. This can happen if other people come into contact with the area where the AndroGel was applied to your skin.

- Women and children should avoid contact with the unwashed or unclothed area where AndroGel has been applied.
- To lower the risk of transfer of AndroGel from your body to others, you should follow these important instructions:
  - Apply AndroGel **only** to areas that will be covered by a short sleeve T-shirt. These areas are your shoulders and upper arms, or stomach area (abdomen), or shoulders, upper arms and stomach area.
  - Wash your hands **right away** with soap and water after applying AndroGel.
  - After the gel has dried, **cover the application area with clothing**. Keep the area covered until you have washed the application area well or have showered.
  - If you expect to have skin-to-skin contact with another person, first wash the application area well with soap and water.
  - If a woman or child makes contact with the AndroGel application area, that area on the woman or child should be washed well with soap and water right away.

Stop using AndroGel and call your healthcare provider right away if you see any signs and symptoms in a child or a woman that may have occurred through accidental exposure to AndroGel:

Signs and symptoms in **children** may include:

- enlarged penis or clitoris
- early development of pubic hair
- increased erections or sex drive
- aggressive behavior

Signs and symptoms in **women** may include:

- changes in body hair
- a large increase in acne

### What is AndroGel?

AndroGel is a prescription medicine that contains testosterone. AndroGel is used to treat adult males who have low or no testosterone.

It is not known if AndroGel is safe or effective in children younger than 18 years old. Improper use of AndroGel may affect bone growth in children.

AndroGel is a controlled substance (CIII) because it contains testosterone that can be a target for people who abuse prescription medicines. Keep your AndroGel in a safe place to protect it. Never give your AndroGel to anyone else, even if they have the same symptoms you have. Selling or giving away this medicine may harm others and is against the law.

AndroGel is not meant for use in women.

### Who should not use AndroGel?

Do not use AndroGel if you:

- have breast cancer
- have or might have prostate cancer
- are pregnant or may become pregnant or breast-feeding. AndroGel may harm your unborn or breast-feeding baby.

Women who are pregnant or who may become pregnant should avoid contact with the area of skin where AndroGel has been applied.

- are allergic to testosterone or any of the ingredients in AndroGel including soy. See the end of this Medication Guide for a complete list of ingredients in AndroGel.

Talk to your healthcare provider before taking this medicine if you have any of the above conditions.

### **What should I tell my healthcare provider before using AndroGel?**

#### **Before you use AndroGel, tell your healthcare provider if you:**

- have breast cancer or prostate cancer
- have urinary problems due to an enlarged prostate
- have heart problems
- have liver or kidney problems
- have problems breathing while you sleep (sleep apnea)
- have any other medical conditions

Tell your healthcare provider about all the medicines you take, including prescription and non-prescription medicines, vitamins, and herbal supplements.

Using AndroGel with certain other medicines can affect each other.

Especially, tell your healthcare provider if you take:

- insulin
- corticosteroids
- medicines that decrease blood clotting

Ask your healthcare provider or pharmacist for a list of these medicines, if you are not sure.

Know the medicines you take. Keep a list of them and show it to your healthcare provider and pharmacist when you get a new medicine.

### **How should I use AndroGel?**

- It is important that you apply AndroGel exactly as prescribed by your healthcare provider. Your healthcare provider will tell you how much AndroGel to apply and when to apply it.
- Your healthcare provider may change your AndroGel dose. Do not change your AndroGel dose without talking to your healthcare provider.
- AndroGel is for skin use only.
- **Do not allow others to apply AndroGel to your body.**
- Applying AndroGel:

AndroGel comes in a pump or in packets.

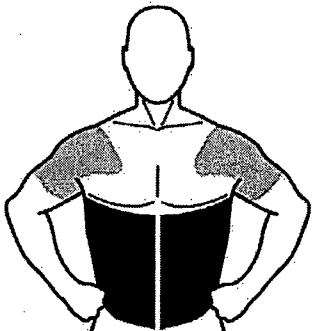
#### **If you are using the AndroGel pump:**

- Before using the pump for the first time, you will need to prime the pump. To prime AndroGel, fully push down on the pump 3 times. Do not use any AndroGel that came out while priming. Wash it down the sink or throw it in the trash to avoid accidental exposure to others. Your AndroGel pump is ready to use now.
- Your healthcare provider will tell you the number of times to press the pump for each dose.

#### **If you are using AndroGel packets:**

- Tear open the packet completely at the dotted line.
- Squeeze all of the AndroGel out of the packet into the palm of your hand. Squeeze from the bottom of the packet to the top.
- Throw away the packet in the trash out of the reach of children to avoid accidental exposure.

- Squeeze the medicine into the palm of your hand and apply to clean dry, intact skin at the same time each day.
- You may also apply AndroGel from the pump or packet directly to your skin.
- **Apply AndroGel only to areas that will be covered by a short sleeve t-shirt, as shown in the shaded areas in the figure below. These areas are your shoulders and upper arms, or stomach area, or shoulders, upper arm and stomach area.**



- **Do not apply AndroGel to your penis or scrotum.**
- **Wash your hands with soap and water right after you apply AndroGel.**
- Let the application areas dry for a few minutes before putting on a shirt.
- To prevent transfer of AndroGel to others, clothes (such as a t-shirt) should **always** be worn to cover the AndroGel application areas until you have washed the application areas well with soap and water.
- **Wait 5 hours before showering or swimming. This will ensure that the greatest amount of AndroGel is absorbed into your system.**
- **AndroGel is flammable until dry. Let the gel dry before smoking or going near an open flame.**

Your healthcare provider will test your blood before you start and while you take AndroGel.

#### **What are the possible side effects of AndroGel?**

**AndroGel can cause serious side effects including:**

- See “What is the most important information I should know about AndroGel?”
  - **If you already have enlargement of your prostate gland your signs and symptoms can get worse while using AndroGel. This can include:**
    - increased urination at night
    - trouble starting your urine stream
    - having to pass urine many times during the day
    - having an urge that you have to go to the bathroom right away
    - having a urine accident
    - being unable to pass urine or weak urine flow
- **Possible increased risk of prostate cancer.** Your healthcare provider should check you for prostate cancer or any other prostate problems before you start and while you use AndroGel.
- **In large doses AndroGel may lower your sperm count.**
- **Swelling of your ankles, feet, or body, with or without heart failure.**
- **Enlarged or painful breasts.**

- **Have problems breathing while you sleep (sleep apnea).**
- **Blood clots in the legs.** This can include pain, swelling or redness of your legs.

**Call your healthcare provider right away if you have any of the serious side effects listed above.**

**The most common side effects of AndroGel include:**

- acne
- skin irritation where AndroGel is applied
- increased cholesterol levels
- increased prostate specific antigen (a test used to screen for prostate cancer)
- increased red blood cell count
- increased liver function tests

**Other side effects include** more erections than are normal for you or erections that last a long time.

Tell your healthcare provider if you have any side effect that bothers you or that does not go away.

These are not all the possible side effects of AndroGel. For more information, ask your healthcare provider or pharmacist.

Call your doctor for medical advice about side effects. You may report side effects to FDA at 1-800-FDA-1088.

**How should I store AndroGel?**

- Store AndroGel between 59°F to 86°F (15°C to 30°C).
- Safely throw away used AndroGel in household trash. Be careful to prevent accidental exposure of children or pets.
- Keep AndroGel away from fire.

**Keep AndroGel and all medicines out of the reach of children.**

**General information about AndroGel**

Medicines are sometimes prescribed for purposes other than those listed in a Medication Guide. Do not use AndroGel for a condition for which it was not prescribed. Do not give AndroGel to other people, even if they have the same symptoms you have. It may harm them.

This Medication Guide summarizes the most important information about AndroGel. If you would like more information, talk to your healthcare provider. You can ask your pharmacist or healthcare provider for information about AndroGel that is written for health professionals.

For more information, go to [www.ANDROGEL.com](http://www.ANDROGEL.com) or call 1-800-241-1643.

**What are the ingredients in AndroGel?**

**Active ingredient:** testosterone

**Inactive ingredients:** carbomer 980, ethyl alcohol 67.0%, isopropyl myristate, purified water and sodium hydroxide.

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Marketed by:

Abbott Laboratories

North Chicago, IL 60064, U.S.A.

500122/500127 3E Rev March 2011

This Medication Guide has been approved by the U.S. Food and Drug Administration.

Issued March 2011



Reference ID: 2916005

NORINYL® 1+50 - norethindrone and mestranol  
BREVICON® - norethindrone and ethinyl estradiol  
NORINYL® 1+35 - norethindrone and ethinyl estradiol  
Watson Pharma, Inc.

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**WATSON PHARMA**

Revised: June 2006

IN-5313/S

**PHYSICIAN LABELING**

***Brevicon®***

(Norethindrone and Ethinyl Estradiol Tablets USP, 0.5 mg/0.035 mg)

***Norinyl® 1+35***

(Norethindrone and Ethinyl Estradiol Tablets USP, 1 mg/0.035 mg)

***Norinyl® 1+50***

(Norethindrone and Mestranol Tablets USP, 1 mg/0.05 mg)

Rx Only

Patients should be counseled that this product does not protect against HIV infection (AIDS) and other sexually transmitted diseases.

**ORAL CONTRACEPTIVE AGENTS**

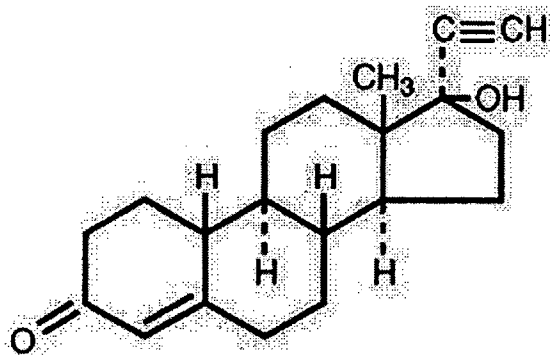
**DESCRIPTION**

***Brevicon®*** Tablets provide a continuous oral contraceptive regimen consisting of 21 blue tablets containing norethindrone 0.5 mg and ethinyl estradiol 0.035 mg and 7 orange tablets containing inert ingredients.

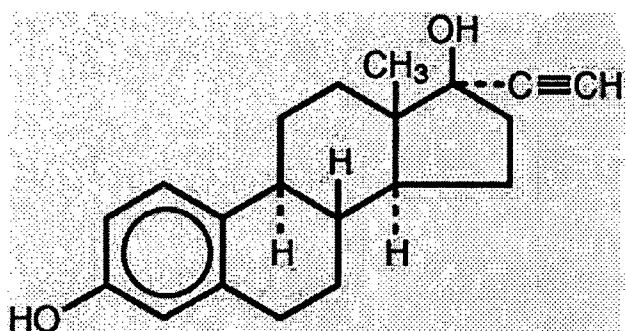
***Norinyl® 1+35*** Tablets provide a continuous oral contraceptive regimen consisting of 21 yellow-green tablets containing norethindrone 1 mg and ethinyl estradiol 0.035 mg and 7 orange tablets containing inert ingredients.

***Norinyl® 1+50*** Tablets provide a continuous oral contraceptive regimen consisting of 21 white tablets containing norethindrone 1 mg and mestranol 0.05 mg and 7 orange tablets containing inert ingredients.

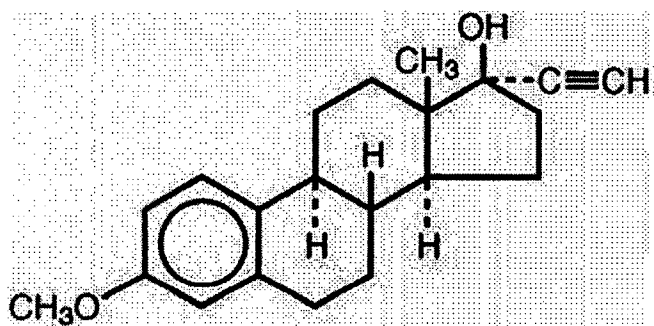
Norethindrone is a potent progestational agent with the chemical name 17-Hydroxy-19-Nor-17 $\alpha$ -pregn-4-en-20-yn-3-one. Ethinyl estradiol is an estrogen with the chemical name 19-nor-17 $\alpha$ -pregna-1,3,5(10)-trien-20-yne-3,17-diol. Mestranol is an estrogen with the chemical name 3-Methoxy-19-nor-17 $\alpha$ -pregna-1,3,5(10)-trien-20-yn-17-ol. Their structural formulae follow:



NORETHINDRONE



ETHINYL ESTRADIOL



MESTRANOL

The blue BREVICON tablets contain the following inactive ingredients: FD&C Blue No. 1, lactose, magnesium stearate, povidone, and starch.

The yellow-green NORINYL 1+35 tablets contain the following inactive ingredients: D&C Green No. 5, D&C Yellow No. 10, lactose, magnesium stearate, povidone, and starch.

The white NORINYL 1+50 tablets contain the following inactive ingredients: lactose, magnesium stearate, povidone, and starch.

The inactive orange tablets in the 28-day regimens of BREVICON, NORINYL 1+35 and NORINYL 1+50 contain the following ingredients: FD&C Yellow No. 6, lactose, microcrystalline cellulose, and magnesium stearate.

## CLINICAL PHARMACOLOGY

Combination oral contraceptives act by suppression of gonadotrophins. Although the primary mechanism of this action is inhibition of ovulation, other alterations include changes in the cervical mucus (which increase the difficulty of sperm entry into the uterus) and the endometrium (which may reduce the likelihood of implantation).

## INDICATIONS AND USAGE

Oral contraceptives are indicated for the prevention of pregnancy in women who elect to use this product as a method of contraception.

Oral contraceptive products such as Norinyl 1+50, which contain 50 mcg of estrogen, should not be used unless medically indicated.

Oral contraceptives are highly effective. Table 1 lists the typical accidental pregnancy rates for users of combination oral contraceptives and other methods of contraception.<sup>1</sup> The efficacy of these contraceptive methods, except sterilization, depends upon the reliability with which they are used. Correct and consistent use of methods can result in lower failure rates.

**Table 1: Percentage of women experiencing an unintended pregnancy during the first year of typical use and the first year of perfect use of contraception and the percentage continuing use at the end of the first year. United States.**

Method (1)	% of Women Experiencing an Unintended Pregnancy within the First Year of Use		% of Women Continuing Use at One Year <sup>3</sup> (4)
	Typical Use <sup>1</sup> (2)	Perfect Use <sup>2</sup> (3)	
Chance <sup>4</sup>	85	85	
Spermicides <sup>5</sup>	26	6	40
Periodic abstinence	25		63
Calendar		9	
Ovulation method		3	
Sympto-thermal <sup>6</sup>		2	
Post-ovulation		1	
Withdrawal	19	4	
Cap <sup>7</sup>			
Parous women	40	26	42
Nulliparous women	20	9	56
Diaphragm <sup>7</sup>	40	20	42
Parous women	20	9	56
Nulliparous women	20	9	56
Condom <sup>8</sup>	20	6	56

Female (Reality)	21	5	56
Male	14	3	61
Pill	5		71
Progestin only		0.5	
Combined		0.1	
IUD			
Progesterone T	2.0	1.5	81
Copper T 380A	0.8	0.6	78
LNg 20	0.1	0.1	81
Depo-Provera	0.3	0.3	70
Norplant and Norplant-2	0.05	0.05	88
Female sterilization	0.5	0.5	100
Male sterilization	0.15	0.10	100

Emergency Contraceptive Pills: Treatment initiated within 72 hours after unprotected intercourse reduces the risk of pregnancy by at least 75%.<sup>9</sup>

Lactational Amenorrhea Method: LAM is a highly effective, *temporary* method of contraception.<sup>10</sup>

Source: Trussell J. Contraceptive Efficacy Table from Hatcher RA, Trussell J, Stewart F, Cates W, Stewart GK, Kowal D, Guest F, in *Contraceptive Technology: Seventeenth Revised Edition*. New York, NY: Irvington Publishers, 1998.

<sup>1</sup> Among *typical* couples who initiate use of a method (not necessarily for the first time), the percentage who experience an accidental pregnancy during the first year if they do not stop use for any other reason.

<sup>2</sup> Among couples who initiate use of a method (not necessarily for the first time) and who use it *perfectly* (both consistently and correctly), the percentage who experience an accidental pregnancy during the first year if they do not stop use for any other reason.

<sup>3</sup> Among couples attempting to avoid pregnancy, the percentage who continue to use a method for one year.

<sup>4</sup> The percents becoming pregnant in columns (2) and (3) are based on data from populations where contraception is not used and from women who cease using contraception in order to become pregnant. Among such populations, about 89% become pregnant within one year. This estimate was lowered slightly (to 85%) to represent the percent who would become pregnant within one year among women now relying on reversible methods of contraception if they abandoned contraception altogether.

<sup>5</sup> Foams, creams, gels, vaginal suppositories, and vaginal film.

<sup>6</sup> Cervical mucus (ovulation) method supplemented by calendar in the pre-ovulatory and basal body temperature in the post-ovulatory phases.

<sup>7</sup> With spermicidal cream or jelly.

<sup>8</sup> Without spermicides.

<sup>9</sup> The treatment schedule is one dose within 72 hours after unprotected intercourse and a second dose 12 hours after the first dose. The Food and Drug Administration has declared the following brands of oral contraceptives to be safe and effective for emergency contraception: Ovral (1 dose



is 2 white pills), Aleese (1 dose is 5 pink pills), Nordette or Levlen (1 dose is 2 light-orange pills), Lo/Ovral (1 dose is 4 white pills), Triphasil or Tri-Levlen (1 dose is 4 yellow pills).

<sup>10</sup> However, to maintain effective protection against pregnancy, another method of contraception must be used as soon as menstruation resumes, the frequency or duration of breastfeeds is reduced, bottle feeds are introduced, or the baby reaches six months of age.

## CONTRAINDICATIONS

Oral contraceptives should not be used in women who have the following conditions:

- Thrombophlebitis and thromboembolic disorders
- A past history of deep vein thrombophlebitis or thromboembolic disorders
- Cerebral vascular or coronary artery disease
- Known or suspected carcinoma of the breast
- Carcinoma of the endometrium or other known or suspected estrogen-dependent neoplasia
- Undiagnosed abnormal genital bleeding
- Cholestatic jaundice of pregnancy or jaundice with prior pill use
- Hepatic adenomas, carcinomas or benign liver tumors
- Known or suspected pregnancy

## WARNINGS

**Cigarette smoking increases the risk of serious cardiovascular side effects from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives are strongly advised not to smoke.**

The use of oral contraceptives is associated with increased risks of several serious conditions including myocardial infarction, thromboembolism, stroke, hepatic neoplasia, and gallbladder disease, although the risk of serious morbidity or mortality is very small in healthy women without underlying risk factors. The risk of morbidity and mortality increases significantly in the presence of other underlying risk factors such as hypertension, hyperlipidemias, hypercholesterolemia, obesity and diabetes.<sup>2-5</sup>

Practitioners prescribing oral contraceptives should be familiar with the following information relating to these risks.

The information contained in this package insert is principally based on studies carried out in patients who used oral contraceptives with higher formulations of both estrogens and progestogens than those in common use today. The effect of long-term use of the oral contraceptives with lower formulations of both estrogens and progestogens remains to be determined.

Throughout this labeling, epidemiological studies reported are of two types: retrospective or case control studies and prospective or cohort studies. Case control studies provide a measure of the

relative risk of a disease. Relative risk, the *ratio* of the incidence of a disease among oral contraceptive users to that among non-users, cannot be assessed directly from case control studies, but the odds ratio obtained is a measure of relative risk. The relative risk does not provide information on the actual clinical occurrence of a disease. Cohort studies provide not only a measure of relative risk but a measure of attributable risk, which is the *difference* in the incidence of disease between the oral contraceptive users and non-users. The attributable risk does provide information about the actual occurrence of a disease in the population (adapted from ref. 12 and 13 with the author's permission). For further information, the reader is referred to a text on epidemiological methods.

1. THROMBOEMBOLIC DISORDERS AND OTHER VASCULAR PROBLEMS

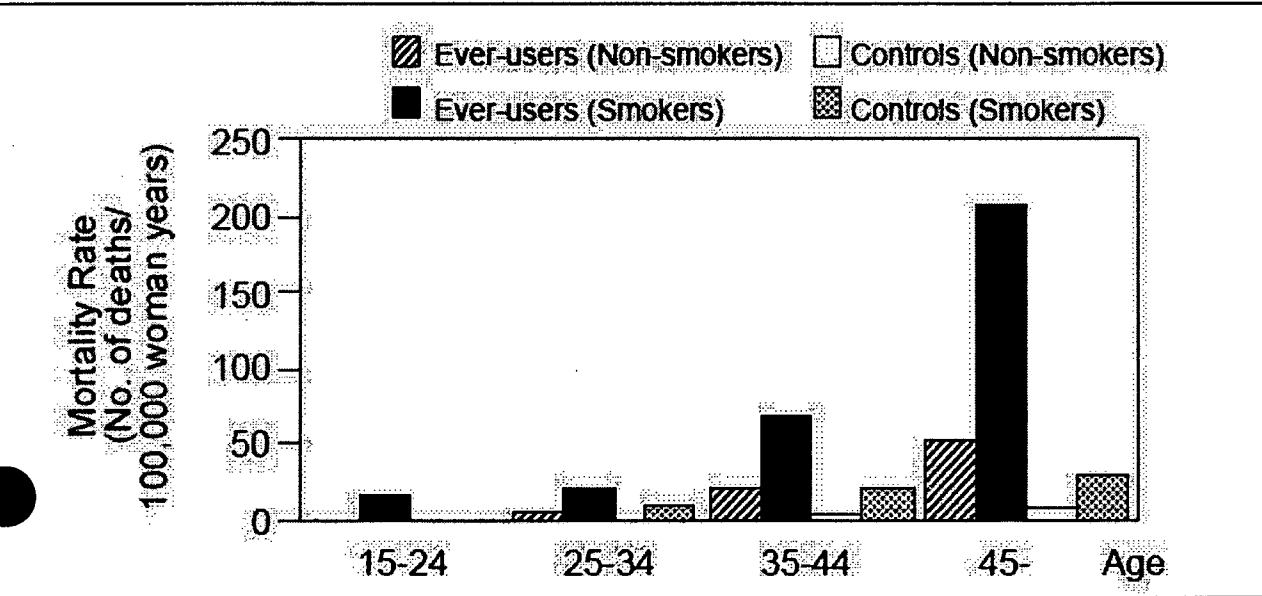
a. Myocardial Infarction

An increased risk of myocardial infarction has been attributed to oral contraceptive use. This risk is primarily in smokers or women with other underlying risk factors for coronary artery disease such as hypertension, hypercholesterolemia, morbid obesity and diabetes.<sup>2-5, 13</sup> The relative risk of heart attack for current oral contraceptive users has been estimated to be 2 to 6.<sup>2,14-19</sup> The risk is very low under the age of 30. However, there is the possibility of a risk of cardiovascular disease even in very young women who take oral contraceptives.

Smoking in combination with oral contraceptive use has been shown to contribute substantially to the incidence of myocardial infarctions in women in their mid-thirties or older, with smoking accounting for the majority of excess cases.<sup>20</sup>

Mortality rates associated with circulatory disease have been shown to increase substantially in smokers over the age of 35 and non-smokers over the age of 40 among women who use oral contraceptives (see TABLE II).<sup>16</sup>

TABLE II: CIRCULATORY DISEASE MORTALITY RATES PER 100,000 WOMAN YEARS BY AGE, SMOKING STATUS AND ORAL CONTRACEPTIVE USE



Adapted from P.M. Layde and V. Beral, Table V <sup>16</sup>

Oral contraceptives may compound the effects of well-known risk factors such as hypertension, diabetes, hyperlipidemias, hypercholesterolemia, age and obesity.<sup>3, 13, 21</sup> In particular, some progestogens are known to decrease HDL cholesterol and cause glucose intolerance, while estrogens may create a state of hyperinsulinism.<sup>21-25</sup> Oral contraceptives have been shown to increase blood pressure among users (see **WARNINGS**, section 9). Similar effects on risk factors have been associated with an increased risk of heart disease. Oral contraceptives must be used with caution in women with cardiovascular disease risk factors.

#### b. Thromboembolism

An increased risk of thromboembolic and thrombotic disease associated with the use of oral contraceptives is well established. Case control studies have found the relative risk of users compared to non-users to be 3 for the first episode of superficial venous thrombosis, 4 to 11 for deep vein thrombosis or pulmonary embolism, and 1.5 to 6 for women with predisposing conditions for venous thromboembolic disease.<sup>12, 13, 26-31</sup> Cohort studies have shown the relative risk to be somewhat lower, about 3 for new cases and about 4.5 for new cases requiring hospitalization.<sup>32</sup> The risk of thromboembolic disease due to oral contraceptives is not related to length of use and disappears after pill use is stopped.<sup>12</sup>

A 2- to 6-fold increase in relative risk of post-operative thromboembolic complications has been reported with the use of oral contraceptives. The relative risk of venous thrombosis in women who have predisposing conditions is twice that of women without such medical conditions.<sup>83</sup> If feasible, oral contraceptives should be discontinued at least 4 weeks prior to and for 2 weeks after elective surgery and during and following prolonged immobilization. Since the immediate postpartum period also is associated with an increased risk of thromboembolism, oral contraceptives should not be started no earlier than 4 to 6 weeks after delivery in women who elect not to breast feed.<sup>33</sup>

#### c. Cerebrovascular diseases

An increase in both the relative and attributable risks of cerebrovascular events (thrombotic and hemorrhagic strokes) has been shown in users of oral contraceptives. In general, the risk is greatest among older (>35 years), hypertensive women who also smoke. Hypertension was found to be a risk factor for both users and non-users for both types of strokes while smoking interacted to increase the risk for hemorrhagic strokes.<sup>34</sup>

In a large study, the relative risk of thrombotic strokes has been shown to range from 3 for normotensive users to 14 for users with severe hypertension.<sup>35</sup> The relative risk of hemorrhagic stroke is reported to be 1.2 for non-smokers who used oral contraceptives, 2.6 for smokers who did not use oral contraceptives, 7.6 for smokers who used oral contraceptives, 1.8 for normotensive users, and 25.7 for users with severe hypertension.<sup>35</sup> The attributable risk also is greater in women in their mid-thirties or older and among smokers.<sup>13</sup>

#### d. Dose-related risk of vascular disease from oral contraceptives

A positive association has been observed between the amount of estrogen and progestogen in oral contraceptives and the risk of vascular disease.<sup>36-38</sup> A decline in serum high density lipoproteins (HDL) has been reported with many progestational agents.<sup>22-24</sup> A decline in serum high density lipoproteins has been associated with an increased incidence of ischemic heart disease.<sup>39</sup> Because estrogens increase HDL cholesterol, the net effect of an oral contraceptive depends on a balance achieved between doses of estrogen and progestogen and the nature and absolute amount of progestogens used in the contraceptives. The amount of both hormones is important. A App. 280

should be considered in the choice of an oral contraceptive.<sup>37</sup>

Minimizing exposure to estrogen and progestogen is in keeping with good principles of therapeutics. For any particular estrogen/progestogen combination, the dosage regimen prescribed should be one which contains the least amount of estrogen and progestogen that is compatible with a low failure rate and the needs of the individual patient. New acceptors of oral contraceptive agents should be started on preparations containing the lowest estrogen content that produces satisfactory results for the individual.

Products containing 50 mcg estrogen should be used only when medically indicated.

#### e. Persistence of risk of vascular disease

There are three studies which have shown persistence of risk of vascular disease for ever-users of oral contraceptives.<sup>17, 34, 40</sup> In a study in the United States, the risk of developing myocardial infarction after discontinuing oral contraceptives persists for at least 9 years for women 40-49 years who had used oral contraceptives for 5 or more years, but this increased risk was not demonstrated in other age groups.<sup>17</sup> In another study in Great Britain, the risk of developing cerebrovascular disease persisted for at least 6 years after discontinuation of oral contraceptives, although excess risk was very small.<sup>40</sup> There is a significantly increased relative risk of subarachnoid hemorrhage after termination of use of oral contraceptives.<sup>34</sup> However, these studies were performed with oral contraceptive formulations containing 50 mcg or higher of estrogen.

## 2. ESTIMATES OF MORTALITY FROM CONTRACEPTIVE USE

The study gathered data from a variety of sources which have estimated the mortality rates associated with different methods of contraception at different ages (see Table III).<sup>41</sup> These estimates include the combined risk of death associated with contraceptive methods plus the risk attributable to pregnancy in the event of method failure. Each method of contraception has its specific benefits and risks. The study concluded that with the exception of oral contraceptive users 35 and older who smoke and 40 and older who do not smoke, mortality associated with all methods of birth control is low and below that associated with childbirth. The observation of a possible increase in risk of mortality with age for oral contraceptive users is based on data gathered in the 1970s - but not reported in the U.S. until 1983.<sup>16, 41</sup> However, current clinical practice involves the use of lower estrogen dose formulations combined with careful restriction of oral contraceptive use to women who do not have the various risk factors listed in this labeling.

Because of these changes in practice and, also, because of some limited new data which suggest that the risk of cardiovascular disease with the use of oral contraceptives may now be less than previously observed,<sup>78, 79</sup> the Fertility and Maternal Health Drugs Advisory Committee was asked to review the topic in 1989. The Committee concluded that although cardiovascular disease risks may be increased with oral contraceptive use after age 40 in healthy non-smoking women (even with the newer low-dose formulations), there are greater potential health risks associated with pregnancy in older women and with the alternative surgical and medical procedures which may be necessary if such women do not have access to effective and acceptable means of contraception.

Therefore, the Committee recommended that the benefits of oral contraceptive use by healthy non-smoking women over 40 may outweigh the possible risks. Of course, older women, as all women who take oral contraceptives, should take the lowest possible dose formulation that is effective.<sup>80</sup>

## RELATED OR METHOD-RELATED DEATHS ASSOCIATED WITH CONTROL OF FERTILITY PER 100,000 NONSTERILE WOMEN, BY FERTILITY CONTROL METHOD ACCORDING TO AGE

Method of control and outcome	15-19	20-24	25-29	30-34	35-39	40-44
No fertility control methods *	7.0	7.4	9.1	14.8	25.7	28.2
Oral contraceptives non-smoker **	0.3	0.5	0.9	1.9	13.8	31.6
Oral contraceptives smoker **	2.2	3.4	6.6	13.5	51.1	117.2
IUD **	0.8	0.8	1.0	1.0	1.4	1.4
Condom *	1.1	1.6	0.7	0.2	0.3	0.4
Diaphragm/Spermicide*	1.9	1.2	1.2	1.3	2.2	2.8
Periodic abstinence *	2.5	1.6	1.6	1.7	2.9	3.6

\* Deaths are birth-related

\*\* Deaths are method-related

Estimates adapted from H.W. Ory, Table 3<sup>41</sup>

### 3. CARCINOMA OF THE BREAST AND REPRODUCTIVE ORGANS

Numerous epidemiological studies have been performed on the incidence of breast, endometrial, ovarian, and cervical cancer in women using oral contraceptives. The overwhelming evidence in the literature suggests that use of oral contraceptives is not associated with an increase in the risk of developing breast cancer, regardless of the age and parity of first use or with most of the marketed brands and doses.<sup>42-44</sup> The Cancer and Steroid Hormone (CASH) study also showed no latent effect on the risk of breast cancer for at least a decade following long-term use.<sup>43</sup> A few studies have shown a slightly increased relative risk of developing breast cancer,<sup>44-47</sup> although the methodology of these studies, which included differences in examination of users and non-users and differences in age at start of use, has been questioned.<sup>47-49</sup> Some studies have reported an increased relative risk of developing breast cancer, particularly at a younger age. This increased relative risk appears to be related to duration of use.<sup>81, 82</sup>

Some studies suggest that oral contraceptive use has been associated with an increase in the risk of cervical intraepithelial neoplasia in some populations of women.<sup>50-53</sup> However, there continues to be controversy about the extent to which such findings may be due to differences in sexual behavior and other factors.

In spite of many studies of the relationship between oral contraceptive use and breast or cervical cancers, a cause and effect relationship has not been established.

### 4. HEPATIC NEOPLASIA

Benign hepatic adenomas are associated with oral contraceptive use although the incidence of benign tumors is rare in the United States. Indirect calculations have estimated the attributable risk to be in the range of 3.3 cases per 100,000 for users, a risk that increases after 4 or more years of use.<sup>54</sup> Rupture of rare, benign, hepatic adenomas may cause death through intra-abdominal hemorrhage.<sup>55-56</sup>

Studies in the United States and Britain have shown an increased risk of developing hepatocellular carcinoma in long-term (>8 years) oral contraceptive users.<sup>57-59</sup> However, these cancers are rare in the U.S.

## **5. OCULAR LESIONS**

There have been clinical case reports of retinal thrombosis associated with the use of oral contraceptives. Oral contraceptives should be discontinued if there is unexplained partial or complete loss of vision; onset of proptosis or diplopia; papilledema; or retinal vascular lesions. Appropriate diagnostic and therapeutic measures should be undertaken immediately.

## **6. ORAL CONTRACEPTIVE USE BEFORE OR DURING EARLY PREGNANCY**

Extensive epidemiological studies have revealed no increased risk of birth defects in women who have used oral contraceptives prior to pregnancy.<sup>60-62</sup> Studies also do not suggest a teratogenic effect, particularly insofar as cardiac anomalies and limb reduction defects are concerned, when taken inadvertently during early pregnancy.<sup>60, 61, 63, 64</sup>

The administration of oral contraceptives to induce withdrawal bleeding should not be used as a test for pregnancy. Oral contraceptives should not be used during pregnancy to treat threatened or habitual abortion.

It is recommended that for any patient who has missed 2 consecutive periods, pregnancy should be ruled out before continuing oral contraceptive use. If the patient has not adhered to the prescribed schedule, the possibility of pregnancy should be considered at the first missed period. Oral contraceptive use should be discontinued if pregnancy is confirmed.

## **7. GALLBLADDER DISEASE**

Earlier studies have reported an increased lifetime relative risk of gallbladder surgery in users of oral contraceptives and estrogens.<sup>65-66</sup> More recent studies, however, have shown that the relative risk of developing gallbladder disease among oral contraceptive users may be minimal.<sup>67</sup> The recent findings of minimal risk may be related to the use of oral contraceptive formulations containing lower hormonal doses of estrogens and progestogens.<sup>68</sup>

## **8. CARBOHYDRATE AND LIPID METABOLIC EFFECTS**

Oral contraceptives have been shown to cause glucose intolerance in a significant percentage of users.<sup>25</sup> Oral contraceptives containing greater than 75 mcg of estrogen cause hyperinsulinism, while lower doses of estrogen cause less glucose intolerance.<sup>70</sup> Progestogens increase insulin secretion and create insulin resistance, this effect varying with different progestational agents.<sup>25, 71</sup> However, in the non-diabetic woman, oral contraceptives appear to have no effect on fasting blood glucose.<sup>69</sup> Because of these demonstrated effects, prediabetic and diabetic women should be carefully observed while taking oral contraceptives.

Some women may develop persistent hypertriglyceridemia while on the pill.<sup>72</sup> As discussed earlier (see **WARNINGS**, sections 1a. and 1d.), changes in serum triglycerides and lipoprotein levels have been reported in oral contraceptive users.<sup>23</sup>

## **9. ELEVATED BLOOD PRESSURE**

An increase in blood pressure has been reported in women taking oral contraceptives and this

increase is more likely in older oral contraceptive users and with continued use.<sup>73, 84</sup> Data from the Royal College of General Practitioners and subsequent randomized trials have shown that the incidence of hypertension increases with increasing concentrations of progestogens.

Women with a history of hypertension or hypertension-related diseases or renal disease should be encouraged to use another method of contraception. If women elect to use oral contraceptives, they should be monitored closely and if significant elevation of blood pressure occurs oral contraceptives should be discontinued. For most women, elevated blood pressure will return to normal after stopping oral contraceptives and there is no difference in the occurrence of hypertension among ever- and never-users.<sup>73-75</sup>

## **10. HEADACHE**

The onset or exacerbation of migraine or development of headache with a new pattern which is recurrent, persistent or severe requires discontinuation of oral contraceptives and evaluation of the cause.

## **11. BLEEDING IRREGULARITIES**

Breakthrough bleeding and spotting are sometimes encountered in patients on oral contraceptives, especially during the first 3 months of use. Non-hormonal causes should be considered and adequate diagnostic measures taken to rule out malignancy or pregnancy in the event of breakthrough bleeding, as in the case of any abnormal vaginal bleeding. If pathology has been excluded, time or a change to another formulation may solve the problem. In the event of amenorrhea, pregnancy should be ruled out.

Some women may encounter post-pill amenorrhea or oligomenorrhea, especially when such a condition was pre-existent.

## **PRECAUTIONS**

### **General**

**Patients should be counseled that this product does not protect against HIV infection (AIDS) and other sexually transmitted diseases.**

### **1. PHYSICAL EXAMINATION AND FOLLOW-UP**

It is good medical practice for all women to have annual history and physical examinations, including women using oral contraceptives. The physical examination, however, may be deferred until after initiation of oral contraceptives if requested by the woman and judged appropriate by the clinician. The physical examination should include special reference to blood pressure, breasts, abdomen and pelvic organs, including cervical cytology, and relevant laboratory tests. In case of undiagnosed, persistent or recurrent abnormal vaginal bleeding, appropriate measures should be conducted to rule out malignancy. Women with a strong family history of breast cancer or who have breast nodules should be monitored with particular care.

### **2. LIPID DISORDERS**

Women who are being treated for hyperlipidemias should be followed closely if they elect to use oral contraceptives. Some progestogens may elevate LDL levels and may render the control of hyperlipidemias more difficult.

### **3. LIVER FUNCTION**

If jaundice develops in any woman receiving oral contraceptives the medication should be discontinued. Steroid hormones may be poorly metabolized in patients with impaired liver function.

### **4. FLUID RETENTION**

Oral contraceptives may cause some degree of fluid retention. They should be prescribed with caution, and only with careful monitoring, in patients with conditions which might be aggravated by fluid retention.

### **5. EMOTIONAL DISORDERS**

Women with a history of depression should be carefully observed and the drug discontinued if depression recurs to a serious degree.

### **6. CONTACT LENSES**

Contact lens wearers who develop visual changes or changes in lens tolerance should be assessed by an ophthalmologist.

### **7. DRUG INTERACTIONS**

Reduced efficacy and increased incidence of breakthrough bleeding and menstrual irregularities have been associated with concomitant use of rifampin. A similar association though less marked, has been suggested with barbiturates, phenylbutazone, phenytoin sodium, and possibly with griseofulvin, ampicillin and tetracyclines.<sup>76</sup>

### **8. INTERACTIONS WITH LABORATORY TESTS**

Certain endocrine and liver function tests and blood components may be affected by oral contraceptives:

- a. Increased prothrombin and factors VII, VIII, IX, and X; decreased antithrombin 3; increased norepinephrine-induced platelet aggregability.
- b. Increased thyroid binding globulin (TBG) leading to increased circulating total thyroid hormone, as measured by protein-bound iodine (PBI), T<sub>4</sub> by column or by radioimmunoassay. Free T<sub>3</sub> resin uptake is decreased, reflecting the elevated TBG. Free T<sub>4</sub> concentration is unaltered.
- c. Other binding proteins may be elevated in serum.
- d. Sex steroid binding globulins are increased and result in elevated levels of total circulating sex steroids and corticoids; however, free or biologically active levels remain unchanged.
- e. Triglycerides may be increased.
- f. Glucose tolerance may be decreased.
- g. Serum folate levels may be depressed by oral contraceptive therapy. This may be of clinical significance if a woman becomes pregnant shortly after discontinuing oral contraceptives.

### **9. CARCINOGENESIS**

See WARNINGS section.



## 10. PREGNANCY

Pregnancy Category X. See CONTRAINDICATIONS and WARNINGS sections.

## 11. NURSING MOTHERS

Small amounts of oral contraceptive steroids have been identified in the milk of nursing mothers and a few adverse effects on the child have been reported, including jaundice and breast enlargement. In addition, oral contraceptives given in the postpartum period may interfere with lactation by decreasing the quantity and quality of breast milk. If possible, the nursing mother should be advised not to use oral contraceptives but to use other forms of contraception until she has completely weaned her child.

## 12. PEDIATRIC USE

Safety and efficacy have been established in women of reproductive age. Safety and efficacy are expected to be the same for postpubertal adolescents under the age of 16 and for users 16 years and older. Use of the product before menarche is not indicated.

## INFORMATION FOR THE PATIENT

See PATIENT LABELING printed below.

## ADVERSE REACTIONS

An increased risk of the following serious adverse reactions has been associated with the use of oral contraceptives (see WARNINGS section):

- Thrombophlebitis
- Arterial thromboembolism
- Pulmonary embolism
- Myocardial infarction
- Cerebral hemorrhage
- Cerebral thrombosis
- Hypertension
- Gallbladder disease
- Hepatic adenomas, carcinomas or benign liver tumors

There is evidence of an association between the following conditions and the use of oral contraceptives, although additional confirmatory studies are needed:

- Mesenteric thrombosis
- Retinal thrombosis

The following adverse reactions have been reported in patients receiving oral contraceptives and are believed to be drug-related:

- Nausea
- Vomiting
- Gastrointestinal symptoms (such as abdominal cramps and bloating)

- Gastrointestinal symptoms (such as abdominal cramps and bloating)
- Breakthrough bleeding
- Spotting
- Change in menstrual flow
- Amenorrhea
- Temporary infertility after discontinuation of treatment
- Edema
- Melasma which may persist
- Breast changes: tenderness, enlargement, secretion
- Change in weight (increase or decrease)
- Change in cervical erosion and secretion
- Diminution in lactation when given immediately postpartum
- Cholestatic jaundice
- Migraine
- Rash (allergic)
- Mental depression
- Reduced tolerance to carbohydrates
- Vaginal candidiasis
- Change in corneal curvature (steepening)
- Intolerance to contact lenses

The following adverse reactions have been reported in users of oral contraceptives and the association has been neither confirmed nor refuted:

- Pre-menstrual syndrome
- Cataracts
- Changes in appetite
- Cystitis-like syndrome
- Headache
- Nervousness
- Dizziness
- Hirsutism
- Loss of scalp hair
- Erythema multiforme
- Erythema nodosum
- Hemorrhagic eruption
- Vaginitis
- Porphyria
- Impaired renal function
- Hemolytic uremic syndrome
- Budd-Chiari syndrome
- Acne
- Changes in libido

- Colitis

## OVERDOSAGE

Serious ill effects have not been reported following acute ingestion of large doses of oral contraceptives by young children. Overdosage may cause nausea, and withdrawal bleeding may occur in females.

## NON-CONTRACEPTIVE HEALTH BENEFITS

The following non-contraceptive health benefits related to the use of oral contraceptives are supported by epidemiological studies which largely utilized oral contraceptive formulations containing estrogen doses exceeding 0.035 mg of ethinyl estradiol or 0.05 mg of menstranol.<sup>6-11</sup>

Effects on menses:

- Increased menstrual cycle regularity
- Decreased blood loss and decreased incidence of iron deficiency anemia
- Decreased incidence of dysmenorrhea

Effects related to inhibition of ovulation:

- Decreased incidence of functional ovarian cysts
- Decreased incidence of ectopic pregnancies

Effects from long-term use:

- Decreased incidence of fibroadenomas and fibrocystic disease of the breast
- Decreased incidence of acute pelvic inflammatory disease
- Decreased incidence of endometrial cancer
- Decreased incidence of ovarian cancer

Keep this and all medication out of the reach of children.

## DOSAGE AND ADMINISTRATION

To achieve maximum contraceptive effectiveness, oral contraceptives must be taken exactly as directed and at intervals not exceeding 24 hours.

**28-Day Schedule:** For a DAY 1 START, count the first day of menstrual flow as Day 1 and the first tablet (white or yellow-green or blue) is then taken on Day 1. For a SUNDAY START when menstrual flow begins on or before Sunday, the first tablet (white or yellow-green or blue) is taken on that day. With either a Day 1 START or SUNDAY START, 1 tablet (white or yellow-green or blue) is taken each day at the same time for 21 days. Then the orange tablets are taken for 7 days, whether bleeding has stopped or not. After all 28 tablets have been taken, whether bleeding has stopped or not, the same dosage schedule is repeated beginning on the following day.

## INSTRUCTIONS TO PATIENTS

- To achieve maximum contraceptive effectiveness, the oral contraceptive pill must be taken exactly as directed and at intervals not exceeding 24 hours.

exactly as directed and at intervals not exceeding 24 hours.

- Important: Women should be instructed to use an additional method of protection until after the first 7 days of administration *in the initial cycle*.
- Due to the normally increased risk of thromboembolism occurring postpartum, women should be instructed not to initiate treatment with oral contraceptives earlier than 4-6 weeks after a full-term delivery. If pregnancy is terminated in the first 12 weeks, the patient should be instructed to start oral contraceptives immediately or within 7 days. If pregnancy is terminated after 12 weeks, the patient should be instructed to start oral contraceptives after 2 weeks.<sup>33, 77</sup>
- If spotting or breakthrough bleeding should occur, the patient should continue the medication according to the schedule. Should spotting or breakthrough bleeding persist, the patient should notify her physician.
- If the patient misses 1 pill, she should be instructed to take it as soon as she remembers and then take the next pill at the regular time. The patient should be advised that missing a pill can cause spotting or light bleeding and that she may be a little sick to her stomach on the days she takes the missed pill with her regularly scheduled pill. If the patient has missed more than one pill, see DETAILED PATIENT LABELING: HOW TO TAKE THE PILL, WHAT TO DO IF YOU MISS PILLS.
- Use of oral contraceptives in the event of a missed menstrual period:
  1. If the patient has not adhered to the prescribed dosage regimen, the possibility of pregnancy should be considered after the first missed period and oral contraceptives should be withheld until pregnancy has been ruled out.
  2. If the patient has adhered to the prescribed regimen and misses 2 consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen.

## HOW SUPPLIED

Brevicon® (norethindrone and ethinyl estradiol tablets USP) are packaged in cartons of 3 tablet dispensers. Each dispenser contains 21 blue active tablets, round in shape with **Watson** debossed on one side and **254** on the other side and 7 orange inert tablets. The 7 orange inert tablets are round in shape with **Watson** debossed on one side and **P1** on the other side.

Norinyl®1+35 (norethindrone and ethinyl estradiol tablets USP) are packaged in cartons of 3 and 6 tablet dispensers. Each dispenser contains 21 yellow-green active tablets, round in shape with **Watson** debossed on one side and **259** on the other side and 7 orange inert tablets. The 7 orange inert tablets are round in shape with **Watson** debossed on one side and **P1** on the other side.

Norinyl®1+50 (norethindrone and mestranol tablets USP) are packaged in cartons of 3 and 6 tablet dispensers. Each dispenser contains 21 white active tablets, round in shape with **Watson** debossed on one side and **265** on the other side and 7 orange inert tablets. The 7 orange inert tablets are round in shape with **Watson** debossed on one side and **P1** on the other side.

Store at controlled room temperature 15-25°C (59-77°F).

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## DETAILED PATIENT LABELING

**This product (like all oral contraceptives) is intended to prevent pregnancy. It does not protect against HIV infection (AIDS) and other sexually transmitted diseases.**

## INTRODUCTION

You should not use Norinyl 1+50, which contains higher doses of estrogen than other oral contraceptives, unless specifically recommended by your health care provider.

Any woman who considers using oral contraceptives ("birth control pills" or "the pill") should understand the benefits and risks of using this form of birth control. This leaflet will give you much of the information you will need to make this decision and also will help you determine if you are at risk of developing any of the serious side effects of the pill. It will tell you how to use the pill properly so that it will be as effective as possible. However, this leaflet is not a replacement for a careful discussion between you and your health care provider. You should discuss the information provided in this leaflet with him or her, both when you first start taking the pill and during your regular visits. You also should follow the advice of your health care provider with regard to regular checkups while you are on the pill.

## EFFECTIVENESS OF ORAL CONTRACEPTIVES

Oral contraceptives are used to prevent pregnancy and are more effective than other non-surgical methods of birth control. When they are taken correctly, without missing any pills, the chance of becoming pregnant is less than 1% (1 pregnancy per 100 women per year of use). Typical failure rates are actually 3% per year. The chance of becoming pregnant increases with each missed pill during a menstrual cycle.

In comparison, typical failure rates for other nonsurgical methods of birth control during the first year are as follows:

**Table I: Percentage of women experiencing an unintended pregnancy during the first year of typical use and the first year of perfect use of contraception and the percentage continuing use at the end of the first year. United States.**

% of Women Experiencing an Unintended

% of Women

Pregnancy within the First Year of Use

A. App. 292  
Continued on T122

Method (1)			at One Year <sup>3</sup>
	Typical Use <sup>1</sup> (2)	Perfect Use <sup>2</sup> (3)	(4)
Coitus interruptus <sup>4</sup>	85	85	
Spermicides <sup>5</sup>	26	6	40
Periodic abstinence	25		63
Calendar		9	
Ovulation method		3	
Sympto-thermal <sup>6</sup>		2	
Post-ovulation		1	
Withdrawal	19	4	
Cap <sup>7</sup>			
Parous women	40	26	42
Nulliparous women	20	9	56
Sponge			
Parous women	40	20	42
Nulliparous women	20	9	56
Diaphragm <sup>7</sup>	20	6	56
Condom <sup>8</sup>			
Female (Reality)	21	5	56
Male	14	3	61
Pill	5		71
Progestin only		0.5	
Combined		0.1	
IUD			
Progesterone T	2.0	1.5	81
Copper T 380A	0.8	0.6	78
LNg 20	0.1	0.1	81
Depo-Provera	0.3	0.3	70
Norplant and Norplant-2	0.05	0.05	88
Female sterilization	0.5	0.5	100
Male sterilization	0.15	0.10	100

Emergency Contraceptive Pills: Treatment initiated within 72 hours after unprotected intercourse reduces the risk of pregnancy by at least 75%.<sup>9</sup>

Lactational Amenorrhea Method: LAM is a highly effective, *temporary* method of contraception.<sup>10</sup>

Source: Trussell J. Contraceptive Efficacy Table from Hatcher R.A., Trussell J, Stewart F, Cates

Stewart GK, Kowal D, Guest F, in Contraceptive Technology: Seventeenth Revised Edition. New York, NY: Irvington Publishers, 1998.

<sup>1</sup> Among *typical* couples who initiate use of a method (not necessarily for the first time), the percentage who experience an accidental pregnancy during the first year if they do not stop use for any other reason.



any other reason.

<sup>2</sup> Among couples who initiate use of a method (not necessarily for the first time) and who use it *perfectly* (both consistently and correctly), the percentage who experience an accidental pregnancy during the first year if they do not stop use for any other reason.

Among couples attempting to avoid pregnancy, the percentage who continue to use a method for one year.


<sup>4</sup> The percents becoming pregnant in columns (2) and (3) are based on data from populations where contraception is not used and from women who cease using contraception in order to become pregnant. Among such populations, about 89% become pregnant within one year. This estimate was lowered slightly (to 85%) to represent the percent who would become pregnant within one year among women now relying on reversible methods of contraception if they abandoned contraception altogether.

<sup>5</sup> Foams, creams, gels, vaginal suppositories, and vaginal film.

<sup>6</sup> Cervical mucus (ovulation) method supplemented by calendar in the pre-ovulatory and basal body temperature in the post-ovulatory phases.

<sup>7</sup> With spermicidal cream or jelly.

<sup>8</sup> Without spermicides.

<sup>9</sup> The treatment schedule is one dose within 72 hours after unprotected intercourse and a second dose 12 hours after the first dose. The Food and Drug Administration has declared the following brands of oral contraceptives to be safe and effective for emergency contraception: Ovral (1 dose is 2 white pills), Aleese (1 dose is 5 pink pills), Nordette or Levlen (1 dose is 2 light-orange pills), /Ovral (1 dose is 4 white pills), Triphasil or Tri-Levlen (1 dose is 4 yellow pills).

<sup>10</sup> However, to maintain effective protection against pregnancy, another method of contraception must be used as soon as menstruation resumes, the frequency or duration of breastfeeds is reduced, bottle feeds are introduced, or the baby reaches six months of age.

## WHO SHOULD NOT TAKE ORAL CONTRACEPTIVES

**Cigarette smoking increases the risk of serious cardiovascular side effects from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives are strongly advised not to smoke.**

Some women should not use the pill. For example, you should not take the pill if you are pregnant or think you may be pregnant. You also should not use the pill if you have any of the following conditions:

- A history of heart attack or stroke
- Blood clots in the legs (thrombophlebitis), brain (stroke), lungs (pulmonary embolism) or eyes
- A history of blood clots in the deep veins of your legs
- Chest pain (angina pectoris)

- Known or suspected breast cancer or cancer of the lining of the uterus, cervix or vagina
- Unexplained vaginal bleeding (until a diagnosis is reached by your doctor)
- Yellowing of the whites of the eyes or of the skin (jaundice) during pregnancy or during previous use of the pill
- Liver tumor (benign or cancerous)
- Known or suspected pregnancy

Tell your health care provider if you have ever had any of these conditions. Your health care provider can recommend a safer method of birth control.

## **OTHER CONSIDERATIONS BEFORE TAKING ORAL CONTRACEPTIVES**

Tell your health care provider if you have or have had:

- Breast nodules, fibrocystic disease of the breast, an abnormal breast x-ray or mammogram
- Diabetes
- Elevated cholesterol or triglycerides
- High blood pressure
- Migraine or other headaches or epilepsy
- Mental depression
- Gallbladder, heart, or kidney disease
- History of scanty or irregular menstrual periods

Women with any of these conditions should be checked often by their health care provider if they choose to use oral contraceptives.

Also, be sure to inform your doctor or health care provider if you smoke or are on any medications.

## **RISKS OF TAKING ORAL CONTRACEPTIVES**

### **1. Risk of developing blood clots**

Blood clots and blockage of blood vessels are the most serious side effects of taking oral contraceptives. In particular, a clot in the legs can cause thrombophlebitis and a clot that travels to the lungs can cause a sudden blocking of the vessel carrying blood to the lungs. Rarely, clots occur in the blood vessels of the eye and may cause blindness, double vision, or impaired vision.

If you take oral contraceptives and need elective surgery, need to stay in bed for a prolonged illness or have recently delivered a baby, you may be at risk of developing blood clots. You should consult your doctor about stopping oral contraceptives three to four weeks before surgery and not taking oral contraceptives for two weeks after surgery or during bed rest. You should also not take oral contraceptives soon after delivery of a baby. It is advisable to wait for at least four weeks after delivery if you are not breast feeding. If you are breast feeding, you should wait until you have weaned your child before using the pill (see GENERAL PRECAUTIONS , While Breast Feeding ).

### **2. Heart attacks and strokes**

Oral contraceptives may increase the tendency to develop strokes (stoppage or rupture of blood vessels in the brain) and angina pectoris and heart attacks (blockage of blood vessels in the heart). Any of these conditions can cause death or temporary or permanent disability. Smoking greatly increases the possibility of suffering heart attacks and strokes. Furthermore,

smoking and the use of oral contraceptives greatly increase the chances of developing and dying of heart disease.

### 3. **Gallbladder disease**

Oral contraceptive users may have a greater risk than non-users of having gallbladder disease, although this risk may be related to pills containing high doses of estrogen.

### 4. **Liver tumors**

In rare cases, oral contraceptives can cause benign but dangerous liver tumors. These benign liver tumors can rupture and cause fatal internal bleeding. In addition, a possible but not definite association has been found with the pill and liver cancers in 2 studies in which a few women who developed these very rare cancers were found to have used oral contraceptives for long periods. However, liver cancers are extremely rare. The change of developing liver cancer from using the pill is thus even rarer.

### 5. **Cancer of the breast and reproductive organs**

There is, at present, no confirmed evidence that oral contraceptives increase the risk of cancer of the reproductive organs in human studies. Several studies have found no overall increase in the risk of developing breast cancer. However, women who use oral contraceptives and have a strong family history of breast cancer or who have breast nodules or abnormal mammograms should be followed closely by their doctors. Some studies have reported an increase in the risk of developing breast cancer, particularly at a younger age. This increased risk appears to be related to duration of use.

Some studies have found an increase in the incidence of cancer of the cervix in women who use oral contraceptives. However, this finding may be related to factors other than the use of oral contraceptives.

## **ESTIMATED RISK OF DEATH FROM A BIRTH CONTROL METHOD OR PREGNANCY**

All methods of birth control and pregnancy are associated with a risk of developing certain diseases which may lead to disability or death. An estimate of the number of deaths associated with different methods of birth control and pregnancy has been calculated and is shown in the following table:

**TABLE II: ESTIMATED ANNUAL NUMBER OF BIRTH-RELATED OR METHOD-RELATED DEATHS ASSOCIATED WITH CONTROL OF FERTILITY PER 100,000 NONSTERILE WOMEN, BY FERTILITY CONTROL METHOD ACCORDING TO AGE**

Method of control and outcome	15-19	20-24	25-29	30-34	35-39	40-44
No fertility control methods *	7.0	7.4	9.1	14.8	25.7	28.2
Oral contraceptives non-smoker **	0.3	0.5	0.9	1.9	13.8	31.6
Oral contraceptives smoker **	2.2	3.4	6.6	13.5	51.1	117.2
IUD **	0.8	0.8	1.0	1.0	1.4	1.4
Condom *	1.1	1.6	0.7	0.2	0.3	0.4
Diaphragm/Spermicide*	1.9	1.2	1.2	1.3	2.2	2.8

Periodic abstinence *	2.5	1.6	1.6	1.7	2.9	3.6
Deaths are birth-related						

\*\* Deaths are method-related

Estimates adapted from H.W. Ory, Table 3<sup>41</sup>

In the above table, the risk of death from any birth control method is less than the risk of childbirth except for oral contraceptive users over the age of 35 who smoke and pill users over the age of 40 even if they do not smoke. It can be seen from the table that for women aged 15 to 39 the risk of death is highest with pregnancy (7-26 deaths per 100,000 women, depending on age). Among pill users who do not smoke the risk of death is always lower than that associated with pregnancy for any age group, although over the age of 40 the risk increases to 32 deaths per 100,000 women compared to 28 associated with pregnancy at that age. However, for pill users who smoke and are over the age of 35 the estimated number of deaths exceeds those for other methods of birth control. If a woman is over the age of 40 and smokes, her estimated risk of death is 4 times higher (117/100,000 women) than the estimated risk associated with pregnancy (28/100,000 women) in that age group.

The suggestion that women over 40 who don't smoke should not take oral contraceptives is based on information from older high-dose pills and on less selective use of pills than is practiced today. An Advisory Committee of the FDA discussed this issue in 1989 and recommended that the benefits of oral contraceptive use by healthy, non-smoking women over 40 years of age may outweigh the possible risks. However, all women, especially older women, are cautioned to use the lowest dose pill that is effective.

## WARNING SIGNALS

If any of these adverse effects occur while you are taking oral contraceptives, call your doctor immediately:

- Sharp chest pain, coughing of blood or sudden shortness of breath (indicating a possible clot in the lung)
- Pain in the calf (indicating a possible clot in the leg)
- Crushing chest pain or heaviness in the chest (indicating a possible heart attack)
- Sudden severe headache or vomiting, dizziness or fainting, disturbances of vision or speech, weakness or numbness in an arm or leg (indicating a possible stroke)
- Sudden partial or complete loss of vision (indicating a possible clot in the eye)
- Breast lumps (indicating possible breast cancer or fibrocystic disease of the breast: ask your doctor or health care provider to show you how to examine your breasts)
- Severe pain or tenderness in the stomach area (indicating a possible ruptured liver tumor)
- Difficulty in sleeping, weakness, lack of energy, fatigue or change in mood (possibly indicating severe depression)
- Jaundice or a yellowing of the skin or eyeballs, accompanied frequently by fever, fatigue, loss of appetite, dark colored urine or light colored bowel movements (indicating possible liver problems)

## SIDE EFFECTS OF ORAL CONTRACEPTIVES

### 1. Vaginal bleeding

Irregular vaginal bleeding or spotting may occur while you are taking the pill. Irregular bleeding may vary from light staining between menstrual periods to breakthrough bleeding.

bleeding may vary from slight staining between menstrual periods to breakthrough bleeding

which is a flow much like a regular period. Irregular bleeding occurs most often during the first few months of oral contraceptive use but may also occur after you have been taking the pill for some time. Such bleeding may be temporary and usually does not indicate any serious problem. It is important to continue taking your pills on schedule. If the bleeding occurs in more than 1 cycle or lasts for more than a few days, talk to your doctor or health care provider.

**2. Contact lenses**

If you wear contact lenses and notice a change in vision or an inability to wear your lenses, contact your doctor or health care provider.

**3. Fluid retention**

Oral contraceptives may cause edema (fluid retention) with swelling of the fingers or ankles and may raise your blood pressure. If you experience fluid retention, contact your doctor or health care provider.

**4. Melasma (Mask of Pregnancy)**

A spotty darkening of the skin is possible, particularly of the face.

**5. Other side effects**

Other side effects may include change in appetite, headache, nervousness, depression, dizziness, loss of scalp hair, rash, and vaginal infections.

If any of these side effects occur, contact your doctor or health care provider.

## GENERAL PRECAUTIONS

**1. Missed periods and use of oral contraceptives before or during early pregnancy**

At times you may not menstruate regularly after you have completed taking a cycle of pills. If you have taken your pills regularly and miss 1 menstrual period, continue taking your pills for the next cycle but be sure to inform your health care provider before doing so. If you have not taken the pills daily as instructed and miss 1 menstrual period, or if you miss 2 consecutive menstrual periods, you may be pregnant. Check with your health care provider immediately to determine whether you are pregnant. Do not continue to take oral contraceptives until you are sure you are not pregnant, but continue to use another method of birth control. There is no conclusive evidence that oral contraceptive use is associated with an increase in birth defects when taken inadvertently during early pregnancy. Previously, a few studies had reported that oral contraceptives might be associated with birth defects but these studies have not been confirmed. Nevertheless, oral contraceptives or any other drugs should not be used during pregnancy unless clearly necessary and prescribed by your doctor. You should check with your doctor about risks to your unborn child from any medication taken during pregnancy.

**2. While breast feeding**

If you are breast feeding, consult your doctor before starting oral contraceptives. Some of the drug will be passed on to the child in the milk. A few adverse effects on the child have been reported, including yellowing of the skin (jaundice) and breast enlargement. In addition, oral contraceptives may decrease the amount and quality of your milk. If possible, do not use oral contraceptives and use another method of contraception while breast feeding. You should consider starting oral contraceptives only after you have weaned your child completely.

**3. Laboratory tests**

If you are scheduled for any laboratory tests, tell your doctor you are taking birth control pills. Certain blood tests may be affected by birth control pills.

#### 4. Drug interactions

Certain drugs may interact with birth control pills to make them less effective in preventing pregnancy or cause an increase in breakthrough bleeding. Such drugs include rifampin; drugs used for epilepsy such as barbiturates (for example phenobarbital) and phenytoin (Dilantin is one brand of this drug); phenylbutazone (Butazolidin is one brand of this drug) and possibly certain antibiotics. You may need to use additional contraception when you take drugs which can make oral contraceptives less effective.

5. **This product (like all oral contraceptives) is intended to prevent pregnancy. It does not protect against transmission of HIV (AIDS) and other sexually transmitted diseases such as chlamydia, genital herpes, genital warts, gonorrhea, hepatitis B, and syphilis.**

#### HOW TO TAKE THE PILL

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#### IMPORTANT POINTS TO REMEMBER

##### BEFORE YOU START TAKING YOUR PILLS:

1. **BE SURE TO READ THESE DIRECTIONS:**

Before you start taking your pills.  
Anytime you are not sure what to do.

2. **THE RIGHT WAY TO TAKE THE PILLS IS TO TAKE ONE PILL EVERY DAY AT THE SAME TIME.**

If you miss pills you could get pregnant. This includes starting the pack late. The more pills you miss, the more likely you are to get pregnant.

3. **MANY WOMEN HAVE SPOTTING OR LIGHT BLEEDING, OR MAY FEEL SICK TO THEIR STOMACH DURING THE FIRST 1-3 PACKS OF PILLS.**

If you feel sick to your stomach, do not stop taking the Pill. The problem will usually go away. If it doesn't go away, check with your doctor or clinic.

4. **MISSING PILLS CAN ALSO CAUSE SPOTTING OR LIGHT BLEEDING, even when you make up these missed pills.**

On the days you take 2 pills to make up for missed pills, you could also feel a little sick to your stomach.

5. **IF YOU HAVE VOMITING OR DIARRHEA, for any reason, or if you take some medicines, including some antibiotics, your pills may not work as well.**

Use a back-up method (such as condoms, foam, or sponge) until you check with your doctor or clinic.

6. **IF YOU HAVE TROUBLE REMEMBERING TO TAKE THE PILL, talk to your doctor or clinic about how to make pill-taking easier or about using another method of birth control.**

7. **IF YOU HAVE ANY QUESTIONS OR ARE UNSURE ABOUT THE INFORMATION IN THIS LEAFLET, call your doctor or clinic.**

---

##### BEFORE YOU START TAKING YOUR PILLS

1. **DECIDE WHAT TIME OF DAY YOU WANT TO TAKE YOUR PILL.**

It is important to take it at about the same time every day.

## 2. LOOK AT YOUR PILL PACK:

The 28-pill pack has 21 "active" white or yellow-green or blue pills (with hormones) to take for 3 weeks, followed by 1 week of reminder orange pills (without hormones).

## 3. ALSO FIND:

1. where on the pack to start taking pills,
2. in what order to take the pills (follow the arrows).

## 4. BE SURE YOU HAVE READY AT ALL TIMES:

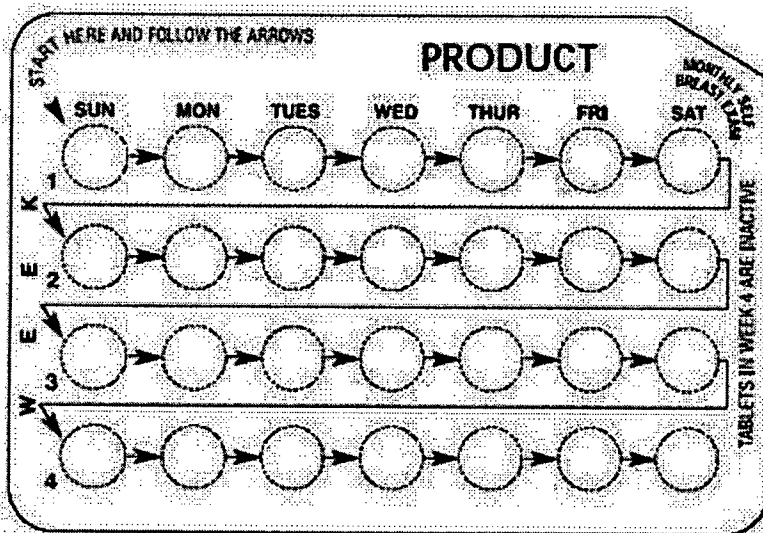
ANOTHER KIND OF BIRTH CONTROL (such as condoms, foam, or sponge) to use as a back-up in case you miss pills.

AN EXTRA, FULL PILL PACK.

**Brevicon, Norinyl 1+35, Norinyl 1+50**

**Active Pill Colors: White or Yellow-Green or Blue**

**Reminder Pill Color: Orange**



\*

For use of day labels, see **WHEN TO START THE FIRST PACK OF PILLS** below.

## **WHEN TO START THE FIRST PACK OF PILLS**

You have a choice of which day to start taking your first pack of pills. Decide with your doctor or clinic which is the best day for you. Pick a time of day which will be easy to remember.

### **DAY 1 START:**

1. Pick the day label strip that starts with the first day of your period. Place this day label strip over the area that has the days of the week (starting with Sunday) pre-printed on the tablet dispenser.

Note: if the first day of your period is a Sunday, you can skip step #1.

2. Take the first "active" white or yellow-green or blue pill of the first pack during the first 24

2. Take the first "active" white or yellow-green or blue pill of the first pack during the next 24 hours of your period.
3. You will not need to use a back-up method of birth control, since you are starting the pill at the beginning of your period.

### **SUNDAY START:**

1. Take the first "active" white or yellow-green or blue pill of the first pack on the Sunday after your period starts, even if you are still bleeding. If your period begins on Sunday, start the pack that same day.
2. Use another method of birth control as a back-up method if you have sex anytime from the Sunday you start your first pack until the next Sunday (7 days). Condoms, foam, or the sponge are good back-up methods of birth control.

---

### **WHAT TO DO DURING THE MONTH**

1. **TAKE ONE PILL AT THE SAME TIME EVERY DAY UNTIL THE PACK IS EMPTY.**  
Do not skip pills even if you are spotting or bleeding between monthly periods or feel sick to your stomach (nausea).  
Do not skip pills even if you do not have sex very often.
2. **WHEN YOU FINISH A PACK OR SWITCH YOUR BRAND OF PILLS:**  
28 pills: Start the next pack on the day after your last "reminder" pill. Do not wait any days between packs.

---

### **WHAT TO DO IF YOU MISS PILLS**

If you **MISS 1** white or yellow-green or blue "active" pill:

1. Take it as soon as you remember. Take the next pill at your regular time. This means you may take 2 pills in 1 day.
2. You do not need to use a back-up birth control method if you have sex.

If you **MISS 2** white or yellow-green or blue "active" pills in a row in **WEEK 1 OR WEEK 2** of your pack:

1. Take 2 pills on the day you remember and 2 pills the next day.
2. Then take 1 pill a day until you finish the pack.
3. You **MAY BECOME PREGNANT** if you have sex in the 7 days after you miss pills. You **MUST** use another birth control method (such as condoms, foam, or sponge) as a back-up for those 7 days.

If you **MISS 2** white or yellow-green or blue "active" pills in a row in **THE 3rd WEEK:**

1. ***If you are a Day 1 Starter:***

THROW OUT the rest of the pill pack and start a new pack that same day.

***If you are a Sunday Starter:***

Keep taking 1 pill every day until Sunday.

On Sunday, **THROW OUT** the rest of the pack and start a new pack of pills that same day.



- On Sunday, THROW OUT the rest of the pack and start a new pack of pills that same day.
2. You may not have your period this month but this is expected. However, if you miss your period 2 months in a row, call your doctor or clinic because you might be pregnant.
  3. You MAY BECOME PREGNANT if you have sex in the 7 days after you miss pills. You MUST use another birth control method (such as condoms, foam, or sponge) as a back-up for those 7 days.

If you **MISS 3 OR MORE** white or yellow-green or blue "active" pills in a row (during the first 3 weeks):

1. ***If you are a Day 1 Starter:***

THROW OUT the rest of the pill pack and start a new pack of pills that same day.

***If you are a Sunday Starter:***

Keep taking 1 pill every day until Sunday.

On Sunday, THROW OUT the rest of the pack and start a new pack of pills that same day.

2. You may not have your period this month but this is expected. However, if you miss your period 2 months in a row, call your doctor or clinic because you might be pregnant.
3. You MAY BECOME PREGNANT if you have sex in the 7 days after you miss pills. You MUST use another birth control method (such as condoms, foam, or sponge) as a back-up for those 7 days.

---

**REMINDER:**

If you forget any of the 7 orange "reminder" pills in Week 4:

THROW AWAY the pills you missed.

Keep taking 1 pill each day until the pack is empty.

You do not need a back-up method.

**FINALLY, IF YOU ARE STILL NOT SURE WHAT TO DO ABOUT THE PILLS YOU HAVE MISSED:**

Use a BACK-UP METHOD anytime you have sex.

KEEP TAKING ONE "ACTIVE" PILL EACH DAY until you can reach your doctor or clinic.

**6. Missed periods, spotting or light bleeding**

At times, you may not have a period after you have completed a pack of pills. If you miss 1 period but you have taken the pills exactly as you were supposed to, continue as usual into the next cycle. If you have not taken the pills correctly, and have missed a period, you may be pregnant and you should stop taking the Pill until your doctor or clinic determines whether or not you are pregnant. Until you can talk to your doctor or clinic, use an appropriate back-up birth control method. If you miss 2 consecutive periods, you should stop taking the Pill until it is determined that you are not pregnant.

Even if spotting or light bleeding should occur, continue taking the Pill according to the schedule. Should spotting or light bleeding persist, you should notify your doctor or clinic.

**Stopping the pill before surgery or prolonged bed rest**

If you are scheduled for surgery or you need to stay in bed for a long period of time you should tell your doctor that you are on the Pill. You should stop taking the Pill four weeks before your operation to avoid an increased risk of blood clots. Talk to your doctor about when you may start

taking the Pill again.

## 8. Starting the pill after pregnancy

After you have a baby it is advisable to wait 4-6 weeks before starting to take the Pill. Talk to your doctor about when you may start taking the Pill after pregnancy.

## 9. Pregnancy due to pill failure

When the Pill is taken correctly, the expected pregnancy rate is approximately 1% (i.e., 1 pregnancy per 100 women per year). If pregnancy occurs while taking the Pill, there is little risk to the fetus. The typical failure rate of large numbers of pill users is less than 3% when women who have missed pills are included. If you become pregnant, you should discuss your pregnancy with your doctor.

## 10. Pregnancy after stopping the pill

There may be some delay in becoming pregnant after you stop taking the Pill, especially if you had irregular periods before you started using the Pill. Your doctor may recommend that you delay becoming pregnant until you have had one or more regular periods.

There does not appear to be any increase in birth defects in newborn babies when pregnancy occurs soon after stopping the Pill.

## 11. Overdosage

There are no reports of serious illness or side effects in young children who have swallowed a large number of pills. In adults, overdosage may cause nausea and/or bleeding in females. In case of overdosage, contact your doctor, clinic or pharmacist.

## 12. Other information

Your doctor or clinic will take a medical and family history and will examine you before prescribing the Pill. The physical examination may be delayed to another time if you request it and the health care provider believes that it is a good medical practice to postpone it. You should be reexamined at least once a year. Be sure to inform your doctor or clinic if there is a family history of any of the conditions listed previously in this leaflet. Be sure to keep all appointments with your doctor or clinic because this is a time to determine if there are early signs of side effects from using the Pill.

Do not use the Pill for any condition other than the one for which it was prescribed. The Pill has been prescribed specifically for you, do not give it to others who may want birth control pills.

If you want more information about birth control pills, ask your doctor or clinic. They have a more technical leaflet called **PHYSICIAN LABELING** which you might want to read.

## NON-CONTRACEPTIVE HEALTH BENEFITS

In addition to preventing pregnancy, use of oral contraceptives may provide certain non-contraceptive health benefits:

- Menstrual cycles may become more regular
- Blood flow during menstruation may be lighter and less iron may be lost. Therefore, anemia due to iron deficiency is less likely to occur
- Pain or other symptoms during menstruation may be encountered less frequently
- Ectopic (tubal) pregnancy may occur less frequently
- Non-cancerous cysts or lumps in the breast may occur less frequently
- Acute pelvic inflammatory disease may occur less frequently

- Acute pelvic inflammatory disease may occur less frequently
- Oral contraceptive use may provide some protection against developing two forms of cancer: cancer of the ovaries and cancer of the lining of the uterus
- If you want more information about birth control pills, ask your doctor or pharmacist. They have a more technical leaflet called the Professional Labeling, which you may wish to read.

Store at controlled room temperature 15-25°C (59-77°F).

Keep this and all medication out of the reach of children.

## BRIEF SUMMARY PATIENT PACKAGE INSERT

**This product (like all oral contraceptives) is intended to prevent pregnancy. It does not protect against HIV infection (AIDS) and other sexually transmitted diseases.**

Oral contraceptives, also known as "birth control pills" or "the pill," are taken to prevent pregnancy and, when taken correctly, have a failure rate of about 1% per year when used without missing any pills. The typical failure rate of large numbers of pill users is less than 3% per year when women who miss pills are included. For most women, oral contraceptives are also free of serious or unpleasant side effects. However, forgetting to take oral contraceptives considerably increases the chances of pregnancy.

For the majority of women, oral contraceptives can be taken safely, but there are some women who are at high risk of developing certain serious diseases that can be life-threatening or may cause temporary or permanent disability. The risks associated with taking oral contraceptives increase significantly if you:

- Smoke
- Have high blood pressure, diabetes or high cholesterol
- Have or have had clotting disorders, heart attack, stroke, angina pectoris, cancer of the breast or sex organs, jaundice or malignant or benign liver tumors

You should not take the pill if you suspect you are pregnant or have unexplained vaginal bleeding.

**Cigarette smoking increases the risk of serious cardiovascular side effects from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives are strongly advised not to smoke.**

Most side effects of the pill are not serious. The most common such effects are nausea, vomiting, bleeding between menstrual periods, weight gain, breast tenderness and difficulty wearing contact lenses. These side effects, especially nausea and vomiting, may subside within the first 3 months of use.

The serious side effects of the pill occur very infrequently, especially if you are in good health and are young. However, you should know that the following medical conditions have been associated with or made worse by the pill:

1. Blood clots in the legs (thrombophlebitis) or lungs (pulmonary embolism), stoppage of

rupture of a blood vessel in the brain (stroke), blockage of blood vessels in the heart (heart attack or angina pectoris), eye or other organs of the body. As mentioned above, smoking increases the risk of heart attacks and strokes and subsequent serious medical consequences.

2. Liver tumors, which may rupture and cause severe bleeding. A possible but not definite association has been found with the pill and liver cancer. However, liver cancers are extremely rare. The chance of developing liver cancer from using the pill is thus even rarer.
3. High blood pressure, although blood pressure usually returns to normal when the pill is stopped.

The symptoms associated with these serious side effects are discussed in the detailed leaflet given to you with your supply of pills. Notify your doctor or health care provider if you notice any unusual physical disturbances while taking the pill. In addition, drugs such as rifampin, as well as some anti-convulsants and some antibiotics, may decrease oral contraceptive effectiveness.

Studies to date of women taking the pill have not shown an increase in the incidence of cancer of the breast or cervix. There is, however, insufficient evidence to rule out the possibility that the pill may cause such cancers. Some studies have reported an increase in the risk of developing breast cancer, particularly at a younger age. This increased risk appears to be related to duration of use.

Taking the pill provides some important non-contraceptive health benefits. These include less painful menstruation, less menstrual blood loss and anemia, fewer pelvic infections and fewer cancers of the ovary and the lining of the uterus.

Be sure to discuss any medical condition you may have with your health care provider. Your health care provider will take a medical and family history before prescribing oral contraceptives and will examine you. The physical examination may be delayed to another time if you request it and the health care provider believes that it is a good medical practice to postpone it. You should be re-examined at least once a year while taking oral contraceptives. The detailed patient information leaflet gives you further information which you should read and discuss with your health care provider.

## **HOW TO TAKE THE PILL**

*See full text of HOW TO TAKE THE PILL which is printed in full in the Detailed Patient Labeling.*

*Address medical inquiries to:*

*Watson Pharma, Inc.*

*Medical Communications*

*P.O. Box 1953*

*Morristown, NJ 07962-1953*

*800-272-5525*

*Distributed by: WATSON PHARMA, INC.*

*A subsidiary of Watson Pharmaceuticals, Inc.*

*Corona, CA 92880 USA*

*Manufactured by: Patheon, Inc.*

*Mississauga, Ontario L5N 7K9*

*CANADA*

*IN-5313/S*

**Brevicon®**

(Norethindrone and Ethinyl Estradiol Tablets USP, 0.5 mg/0.035 mg)

**Norinyl® 1+35**

(Norethindrone and Ethinyl Estradiol Tablets USP, 1 mg/0.035 mg)

**Norinyl® 1+50**

(Norethindrone and Mestranol Tablets USP, 1 mg/0.05 mg)

**NORINYL® 1+50**

norethindrone and mestranol tablet

**Product Information**

**Product Type**

HUMAN PRESCRIPTION DRUG

**NDC Product Code (Source)**

52544-265

**Packaging**

**# NDC**

**Package Description**

**Multilevel Packaging**

1 52544-265-31

3 BLISTER PACK In 1 CARTON

None

2 52544-265-28

6 BLISTER PACK In 1 CARTON

None

**QUANTITY OF PARTS**

**Part # Package Quantity**

**Total Product Quantity**

Part 1 NaN BLISTER PACK

Part 2 NaN BLISTER PACK

**Part 1 of 2**

**NORINYL®1+50**

norethindrone and mestranol tablet

**Product Information**

**Route of Administration**

ORAL

**DEA Schedule**

**INGREDIENTS**

**Name (Active Moiety)**

**Type**

**Strength**

norethindrone (norethindrone)

Active

1 MILLIGRAM In 1 TABLET

mestranol (mestranol)

Active

0.05 MILLIGRAM In 1 TABLET

lactose  
magnesium stearate

Inactive  
Inactive

polyvidone

Inactive

starch

Inactive

### Product Characteristics

Color

WHITE

Score

no score

Shape

ROUND

Size

5mm

Flavor

Imprint Code

WATSON;265

Contains

Coating

false

Symbol

false

### Packaging

# NDC

Package Description

Multilevel Packaging

1	21 TABLET In 1 BLISTER PACK	None
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## Part 2 of 2

### NORINYL®1+50

norethindrone and mestranol tablet

### Product Information

Route of Administration

ORAL

DEA Schedule

### INGREDIENTS

Name (Active Moiety)

Type

Strength

FD&C Yellow No. 6

Inactive

lactose

Inactive

microcrystalline cellulose

Inactive

magnesium stearate

Inactive

### Product Characteristics

Color

ORANGE

Score

no score

Shape

ROUND

Size

5mm

A.App.307

Flavor  
Contains

Imprint Code

WATSON;P1

Coating

false

Symbol

false

### Packaging

# NDC

Package Description

Multilevel Packaging

1

7 TABLET In 1 BLISTER PACK

None

## BREVICON®

norethindrone and ethinyl estradiol tablet

### Product Information

Product Type

HUMAN PRESCRIPTION DRUG

NDC Product Code (Source)

52544-254

### Packaging

# NDC

Package Description

Multilevel Packaging

1

52544-254-28

3 BLISTER PACK In 1 CARTON

None

## QUANTITY OF PARTS

Part # Package Quantity

Total Product Quantity

Part 1 NaN BLISTER PACK

Part 2 NaN BLISTER PACK

## Part 1 of 2

## BREVICON®

norethindrone and ethinyl estradiol tablet

### Product Information

Route of Administration

ORAL

DEA Schedule

A.App.308

**INGREDIENTS**

Name (Active Moiety)	Type	Strength
norethindrone (norethindrone)	Active	0.5 MILLIGRAM In 1 TABLET
ethinyl estradiol (ethinyl estradiol)	Active	0.035 MILLIGRAM In 1 TABLET
lactose	Inactive	
magnesium stearate	Inactive	
providone	Inactive	
starch	Inactive	
FD&C Blue No. 1	Inactive	

**Product Characteristics**

Color	BLUE	Score	no score
Shape	ROUND	Size	5mm
Flavor		Imprint Code	WATSON;254
Contains			
Coating	false	Symbol	false

**Packaging**

# NDC	Package Description	Multilevel Packaging
1	21 TABLET In 1 BLISTER PACK	None

**Part 2 of 2****BREVICON®**

norethindrone and ethinyl estradiol tablet

**Product Information**

Route of Administration	ORAL	DEA Schedule	
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**INGREDIENTS**

Name (Active Moiety)	Type	Strength
FD&C Yellow No. 6	Inactive	
lactose	Inactive	
microcrystalline cellulose	Inactive	



magnesium stearate	Inactive	
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### Product Characteristics

Color	ORANGE	Score	no score
Shape	ROUND	Size	5mm
Flavor		Imprint Code	WATSON;P1
Contains			
Coating	false	Symbol	false

### Packaging

# NDC	Package Description	Multilevel Packaging
1	7 TABLET In 1 BLISTER PACK	None

## NORINYL® 1+35

norethindrone and ethinyl estradiol tablet

### Product Information

Product Type	HUMAN PRESCRIPTION DRUG	NDC Product Code (Source)	52544-259
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### Packaging

# NDC	Package Description	Multilevel Packaging
1 52544-259-31	3 BLISTER PACK In 1 CARTON	None
2 52544-259-28	6 BLISTER PACK In 1 CARTON	None

### QUANTITY OF PARTS

Part #	Package Quantity	Total Product Quantity
Part 1	NaN BLISTER PACK	
Part 2	NaN BLISTER PACK	

### Part 1 of 2

NORINYL® 1+35

A.App.310

**NORINYL® 1+35**

norethindrone and ethinyl estradiol tablet

**Product Information**

Route of Administration

ORAL

DEA Schedule

**INGREDIENTS****Name (Active Moiety)****Type****Strength**

norethindrone (norethindrone)

Active

1 MILLIGRAM In 1 TABLET

ethinyl estradiol (ethinyl estradiol)

Active

0.035 MILLIGRAM In 1 TABLET

lactose

Inactive

magnesium stearate

Inactive

providone

Inactive

starch

Inactive

D&amp;C Green No. 5

Inactive

D&amp;C Yellow No. 10

Inactive

**Product Characteristics**

Color

GREEN, YELLOW

Score

no score

Shape

ROUND

Size

5mm

Flavor

Imprint Code

WATSON;259

Contains

Coating

false

Symbol

false

**Packaging**

# NDC

Package Description

Multilevel Packaging

1

21 TABLET In 1 BLISTER PACK

None

**Part 2 of 2****NORINYL® 1+35**

norethindrone and ethinyl estradiol tablet

**Product Information**

Route of Administration

ORAL

DEA Schedule

**INGREDIENTS****Name (Active Moiety)****Type****Strength**

FD&amp;C Yellow No. 6

Inactive

lactose

Inactive

microcrystalline cellulose

Inactive

magnesium stearate

Inactive

**Product Characteristics****Color**

ORANGE

**Score**

no score

**Shape**

ROUND

**Size**

5mm

**Flavor****Imprint Code**

WATSON;P1

**Contains****Coating**

false

**Symbol**

false

**Packaging****NDC****Package Description****Multilevel Packaging**

1

7 TABLET In 1 BLISTER PACK

None

Watson Pharma, Inc.

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## VALVULAR HEART DISEASE ASSOCIATED WITH FENFLURAMINE-PHENTERMINE

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### ABSTRACT

**Background** Fenfluramine and phentermine have been individually approved as anorectic agents by the Food and Drug Administration (FDA). When used in combination the drugs may be just as effective as either drug alone, with the added advantages of the need for lower doses of each agent and perhaps fewer side effects. Although the combination has not been approved by the FDA, in 1996 the total number of prescriptions in the United States for fenfluramine and phentermine exceeded 18 million.

**Methods** We identified valvular heart disease in 24 women treated with fenfluramine-phentermine who had no history of cardiac disease. The women presented with cardiovascular symptoms or a heart murmur. As increasing numbers of these patients with similar clinical features were identified, there appeared to be an association between these features and fenfluramine-phentermine therapy.

**Results** Twenty-four women (mean  $\pm$ SD age,  $44 \pm 8$  years) were evaluated  $12.3 \pm 7.1$  months after the initiation of fenfluramine-phentermine therapy. Echocardiography demonstrated unusual valvular morphology and regurgitation in all patients. Both right-sided and left-sided heart valves were involved. Eight women also had newly documented pulmonary hypertension. To date, cardiac surgical intervention has been required in five patients. The heart valves had a glistening white appearance. Histopathological findings included plaque-like encasement of the leaflets and chordal structures with intact valve architecture. The histopathological features were identical to those seen in carcinoid or ergotamine-induced valve disease.

**Conclusions** These cases arouse concern that fenfluramine-phentermine therapy may be associated with valvular heart disease. Candidates for fenfluramine-phentermine therapy should be informed about serious potential adverse effects, including pulmonary hypertension and valvular heart disease. (N Engl J Med 1997;337:581-8.)

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FENFLURAMINE and phentermine are prescription medications that have been individually approved by the Food and Drug Administration (FDA) as appetite suppressants for the treatment of obesity. When used in combination they may be just as effective as either drug alone, with the added advantages of the need for lower doses of each agent, fewer side effects, and improved patient tolerance.<sup>1</sup> Even though the FDA has not approved the use of the combination, in 1996 the total number of prescriptions for fenfluramine and phentermine in the United States exceeded 18 million.<sup>2</sup>

Pulmonary hypertension has been reported in association with treatment with fenfluramine<sup>3,4</sup> or phentermine<sup>5</sup> alone. The *d*-isomer of fenfluramine, dexfenfluramine, also increases the risk of pulmonary hypertension,<sup>6</sup> particularly when patients receive high doses for more than three months. These drugs may cause pulmonary hypertension through the vasoconstrictor action of serotonin or by altering the depolarization of pulmonary vascular smooth-muscle membrane.<sup>7</sup>

Valvular disease has been reported after exposure to serotonin-like drugs such as ergotamine and methysergide<sup>8</sup> and with increased serotonin levels associated with carcinoid disease.<sup>9,10</sup> Valvular heart disease has not been reported in patients taking anorectic agents. We report 24 cases of unusual valvular disease in patients taking fenfluramine-phentermine.

### METHODS

All the patients (Table 1) were identified during the course of routine evaluation for various clinical problems. No attempt was

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TABLE 1. CLINICAL CHARACTERISTICS OF THE PATIENTS.\*

PATIENT NO.	AGE (YR)/SEX	BEFORE APPETITE SUPPRESSANTS					APPETITE SUPPRESSANTS		
		WEIGHT	HEIGHT	BODY-MASS INDEX†	MEDICATIONS	CARDIO-VASCULAR EXAMINATION	MAXIMAL DOSE OF PHEN-TERMINE	MAXIMAL DOSE OF FENFLURAMINE	DURATION OF THERAPY
		kg	cm				mg/day		mo
1	41/F	108	165	39.7	None	Normal	48	120	25
2	44/F	91	160	35.5	Lisinopril, conjugated estrogens, theophylline	Normal	30	60	12
3	48/F	85	157	34.5	Sertraline, hydrochlorothiazide	Normal	30	60	9
4	52/F	69	158	27.6	Fluoxetine	Normal	15	40	12
5	49/F	96	158	38.5	Nortriptyline, propylthiouracil	Normal	30	60	11
6	51/F	133	153	56.8	Conjugated estrogens, med-roxyprogesterone acetate, hydrochlorothiazide-benazepril	Normal	30	60	7
7	44/F	85	167	30.5	None	Normal	60	220	12
8	41/F	100	161	38.6	None	Normal	15	60	6
9	50/F	92	158	36.9	None	Normal	30	40	4
10	50/F	84	152	36.4	None	Normal	15	40	6
11	42/F	67	150	29.8	Bronchodilators	Normal	30	60	1
12	41/F	124	157	50.3	Sertraline	Normal	30	40	6
13	48/F	93	158	37.3	None	Normal	30	20	15
14	34/F	152	163	57.2	None	1/6 SEM	30	60	15
15	35/F	91	157	36.9	None	Normal	30	40	14
16	63/F	68	153	29.0	Fluoxetine	Normal	30	60	8
17	38/F	101	165	37.1	None	Normal	30	40	6
18	43/F	78	150	34.7	None	Normal	30	20	28
19	56/F	62	150	27.6	None	Normal	30	40	17
20	44/F	98	165	36.0	None	Normal	30	40	17
21	41/F	94	162	35.8	Sertraline	1/6 SEM	30	40	7
22	33/F	122	170	42.2	None	Normal	30	40	2
23	30/F	70	165	25.7	None	Normal	30	60	20
24	38/F	NA	NA	NA	None	Normal	30	40	4
Mean ±SD	44±8	96±22.1	159±5.8	37.9±7.9			30.8±8.5	56.5±40.7	11±6.9

TABLE 1. CONTINUED.

PRESENTATION	CARDIOVASCULAR FINDINGS		SURGERY		
	ECHOCARDIOGRAPHY	CARDIAC CATHETERIZATION	PROCEDURE	GROSS PATHOLOGICAL FINDINGS	MICROSCOPICAL PATHOLOGICAL FINDINGS
Murmur, dyspnea	Severe MR, thickened MV	Severe MR, normal coronary arteries	MV repair	Glistening white, thickened, tethered leaflets	NA
CHF, dyspnea, murmur	Severe AR and MR; moderate TR; EF, 40%	Severe AR and MR; PAP, 55/31 mm Hg	AVR, MVR, tricuspid-valve repair	No chordal rupture or flail segment; tri-leaflet aortic valve	"Stuck-on" appearance of plaque on leaflets†
Dyspnea, edema	Severe MR, moderate AR	Severe MR; normal coronary arteries; PAP, 35/16 mm Hg	MVR	No prolapse or chordal rupture	"Stuck-on" appearance of plaque on leaflets†
CHF, murmur, dyspnea	RVSP, 75 mm Hg; severe MR	Normal coronary arteries	MV repair	Distinctly unusual; posterior leaflet thickened, tethered	NA
Dyspnea	RVSP, 52 mm Hg; severe MR	Moderate MR; EF, 50%	MVR	Glistening white, thickened leaflets and chordae	"Stuck-on" appearance of plaque on leaflets†
Murmur, dyspnea, edema	Moderate AR and TR, severe MR	Not done			
Dyspnea	RVSP, 74 mm Hg; moderate AR	PAP, 75/30 mm Hg			
CHF	Severe TR and MR; moderate AR; RVSP, 75 mm Hg; EF, 65%	Not done			
Dyspnea	Moderate MR; RVSP, 60 mm Hg	Not done			
Murmur, palpitations	Moderate AR, mild MR	Not done			
Murmur, edema	Moderate AR; severe MR and TR; RVSP, 72 mm Hg	Not done			
Murmur	Moderate MR; mild AR and TR; RVSP, 23 mm Hg; normal EF	Not done			
Murmur, edema	Moderate MR, TR, and AR; RVSP, 54 mm Hg; normal EF	Not done			
Murmur, edema, dyspnea	Severe MR; moderate AR and TR; RVSP, 93 mm Hg	Not done			
Murmur	Moderate AR; mild MR; EF, 75%	Not done			
Murmur, edema	Moderate AR, TR, and MR; EF, 65%	Not done			
Palpitations	Moderate AR; mild MR; EF, 70%	Not done			
Murmur	Moderate AR, mild MR and TR	Not done			
Supraventricular tachycardia	Mild MR and TR, normal left ventricle	Not done			
Dyspnea	Moderate AR; EF, 66%	Not done			
Murmur	Mild MR, AR, and TR	Not done			
Chest pain	Mild MR, TR, and AR; normal EF	Not done			
Murmur, dyspnea, edema	Severe AR and MR; RVSP, 45 mm Hg	Not done			
Palpitations, chest pain	Mild AR	Not done			

\*MR denotes mitral regurgitation, MV mitral valve, NA not available, CHF congestive heart failure, AR aortic regurgitation, TR tricuspid regurgitation, EF ejection fraction, PAP pulmonary-artery pressure, AVR aortic-valve replacement, MVR mitral-valve replacement, RVSP right ventricular systolic pressure, and SEM systolic ejection murmur.

†Body-mass index is the weight in kilograms divided by the square of the height in meters.

‡"Stuck-on" refers to the fact that the valve architecture was intact.

made to identify patients by reviewing data bases, conducting cross-index searches of patient files, or soliciting reports of suspected cases from clinical practices. As increasing numbers of patients were identified with similar clinical features, a perceived association between these features and previous or current use of fenfluramine-phentermine evolved. The serendipitous connection between these individual cases was identified as a result of communication among several physicians beginning in May 1996.

#### May 1996

In May 1996, Patient 1 underwent mitral-valve repair at the Mayo Clinic for the treatment of severe mitral regurgitation. Intraoperatively, the valve was noted to have a glistening white appearance, suggesting ergotamine-induced valvular injury as observed in previous patients,<sup>8</sup> but the patient had no history of ergotamine ingestion.

#### July 1996

In July 1996, Patient 1 was evaluated by another physician for severe symptomatic tricuspid regurgitation. Echocardiography confirmed severe tricuspid regurgitation and thickening of the valve leaflets. These findings were similar to those seen in patients with carcinoid or ergotamine-induced valve disease. A history was obtained indicating fenfluramine-phentermine use for 25 months until 1 month before mitral-valve surgery. A 24-hour urinary 5-hydroxyindoleacetic acid value was normal.

#### January 1997

In January 1997, a woman (Patient 7) with pulmonary hypertension was evaluated at the Mayo Clinic, and echocardiography demonstrated thickened aortic-valve leaflets and aortic regurgitation. An echocardiogram obtained two years previously revealed no abnormalities. The patient had taken fenfluramine-phentermine for one year before the more recent echocardiographic examination.

Also in January 1997, a physician from MeritCare Medical Center (Fargo, N.D.) contacted the Mayo Clinic and inquired whether there was a recognized association between diet medications and valvular heart disease. The inquiry was precipitated by the physician's awareness that his echocardiographic sonographers had identified a cohort of 12 patients (Patients 2, 3, 6, and 10 through 18) with valvular heart disease who had a peculiar valvular mor-

phology. A further review of the patients' records revealed that all 12 patients had taken fenfluramine-phentermine. The patients' records and echocardiograms were sent to the Mayo Clinic. The echocardiograms disclosed valve lesions very similar to those noted in Patients 1 and 7. Excised valve tissue was obtained from two patients (Patients 2 and 3), and slides prepared with elastic-van Gieson stain were reviewed by a cardiac pathologist. Histopathological examination revealed features identical to those of ergotamine-induced and carcinoid valve disease.

#### March 1997

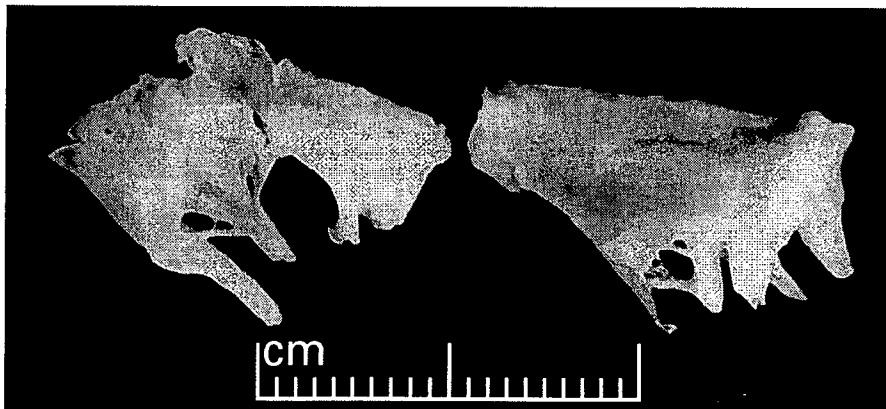
In March 1997, a surgeon at the Mayo Clinic was contacted by one of his patients (Patient 4) who had undergone mitral-valve repair in 1996. The patient informed him that she had aortic regurgitation and pulmonary hypertension. A review of the surgical records showed that the appearance of the valve was distinctly unusual and not consistent with a history of rheumatic heart disease. Further inquiry revealed that the patient had taken fenfluramine-phentermine for 12 months before mitral-valve surgery.

Also in March 1997, valve tissue from a cardiac surgical patient (Patient 5) operated on at another institution was received by the Mayo Clinic for a pathological opinion. The morphologic features of the explanted valve (Fig. 1) were identical to those of valves from Patients 1 and 4 at the time of surgical inspection. Gross pathological features included thickening of the leaflets and chordae and a glistening white appearance. The histopathological features were identical to those in Patients 2 and 3. Patient 5 had been treated with fenfluramine-phentermine for 11 months.

#### April 1997

In April 1997, a patient (Patient 8) with a six-month history of fenfluramine-phentermine use was evaluated for dyspnea by a Mayo Clinic cardiologist consulting in another city. Multivalvular heart disease and pulmonary hypertension were identified. The cardiologist, unaware of the previous cases, asked a colleague whether he knew of an association between fenfluramine-phentermine therapy and valvular heart disease. Echocardiography revealed valvular morphology similar to that noted in the other patients.

Seven other patients (Patients 9 and 19 through 24) with similar clinical histories and echocardiographic findings were identified during clinical evaluations at MeritCare Medical Center from January through April 1997.



**Figure 1.** Explanted Mitral Valve from Patient 5, Demonstrating Glistening White Leaflets and Chordae with Mild-to-Moderate Irregular but Diffuse Thickening.

## CASE REPORTS

## Patient 1

Patient 1 was a 41-year-old woman (body-mass index [the weight in kilograms divided by the square of the height in meters] before treatment with appetite suppressants, 39.7) who was referred to the Mayo Clinic for mitral-valve surgery three months after a systolic murmur was first noted. She had taken fenfluramine-phentermine (fenfluramine, 40 mg three times per day, and phentermine hydrochloride, 16 mg three times per day) for 25 months. Therapy had been discontinued one month before cardiac surgery because of the reported potentially catastrophic catecholamine-depleting effect of fenfluramine.<sup>11</sup> Echocardiography and cardiac catheterization confirmed the presence of severe mitral regurgitation.

During mitral-valve repair, unusual morphologic features were noted: the posterior and anterior leaflets were tethered, and the chordae were shortened. The valve was glistening white, had no rheumatic calcification or yellowish discoloration, and resembled valves affected by ergot alkaloid derivatives.<sup>8</sup> The patient had not used ergot preparations. Intraoperative transesophageal echocardiography demonstrated severe mitral regurgitation (Fig. 2) and mild tricuspid regurgitation.

After hospital discharge, symptomatic tricuspid valve regurgitation developed. Echocardiography demonstrated that the mitral-valve repair was intact without regurgitation. The tricuspid valve was thickened and failed to coapt; tricuspid regurgitation was severe. With medical management, symptoms of right ventricular failure improved despite the persistence of severe tricuspid regurgitation.

## Patient 2

Patient 2 was a 44-year-old woman (pretreatment body-mass index, 35.5) who was treated with fenfluramine-phentermine (fenfluramine, 20 mg three times daily, and phentermine, 30 mg per day) for one year before dyspnea and a heart murmur were noted. Echocardiography demonstrated thickened aortic, mitral, and tricuspid valves with regurgitation. Because of progressive symptoms, mitral-valve and aortic-valve replacement and tricuspid-valve repair were performed at MeritCare Medical Center six months after fenfluramine-phentermine therapy was stopped. Histopathological examination of the resected mitral valve dem-

onstrated intact valve architecture, with a plaque-like process that extended along the leaflet surfaces and encased the chordae tendineae (Fig. 3). Lesions on the aortic valve were similar but less extensive.

## Patient 3

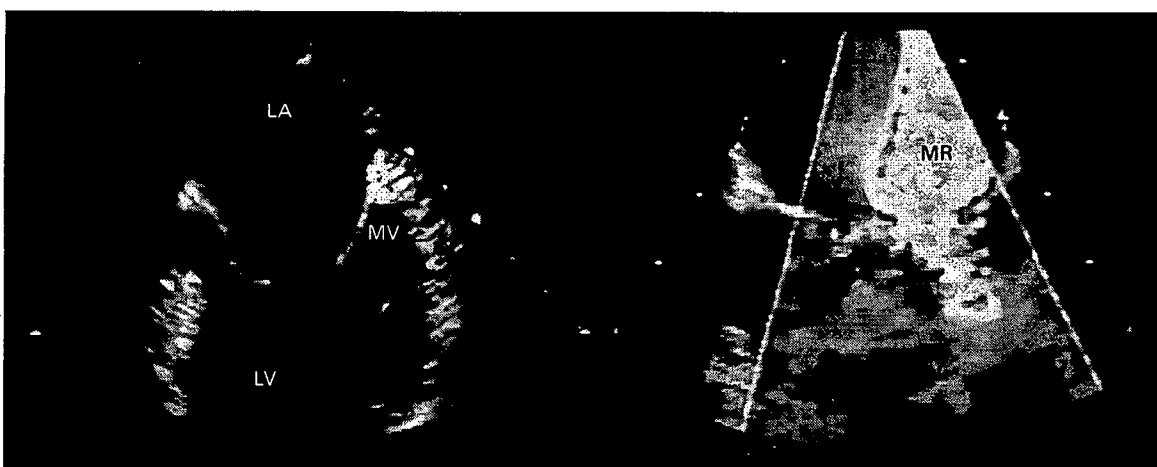
Patient 3 was a 48-year-old woman (pretreatment body-mass index, 34.5) with no previous cardiac disease who was treated with fenfluramine-phentermine (fenfluramine, 20 mg three times daily, and phentermine, 30 mg per day) for nine months. Therapy was discontinued when a murmur was noted, and symptoms of edema and breathlessness were reported. At echocardiography, the mitral valve was thickened and severely regurgitant. Three months later, the patient underwent mitral-valve replacement at MeritCare Medical Center for symptomatic mitral regurgitation. Histopathological examination demonstrated intact valve architecture and plaque-like lesions of apparent myofibroblasts in an abundant extracellular matrix of glycosaminoglycans and collagen (Fig. 4).

## Patient 6

Patient 6 was a 51-year-old woman (pretreatment body-mass index, 56.8) with normal findings on cardiac examination who was treated with fenfluramine-phentermine (fenfluramine, 20 mg three times daily, and phentermine, 30 mg per day in divided doses). Seven months after this treatment was initiated, dyspnea and edema developed and a new murmur was noted. Transthoracic and transesophageal echocardiography at MeritCare Medical Center demonstrated thickened valves with severe mitral regurgitation and moderate aortic-valve and tricuspid-valve regurgitation. Fenfluramine-phentermine therapy was discontinued, and medical therapy for heart failure was instituted. Echocardiography performed three months later demonstrated minimal improvement in the valvular disease. The patient continues to be observed medically and has persistent symptoms of dyspnea.

## Patient 7

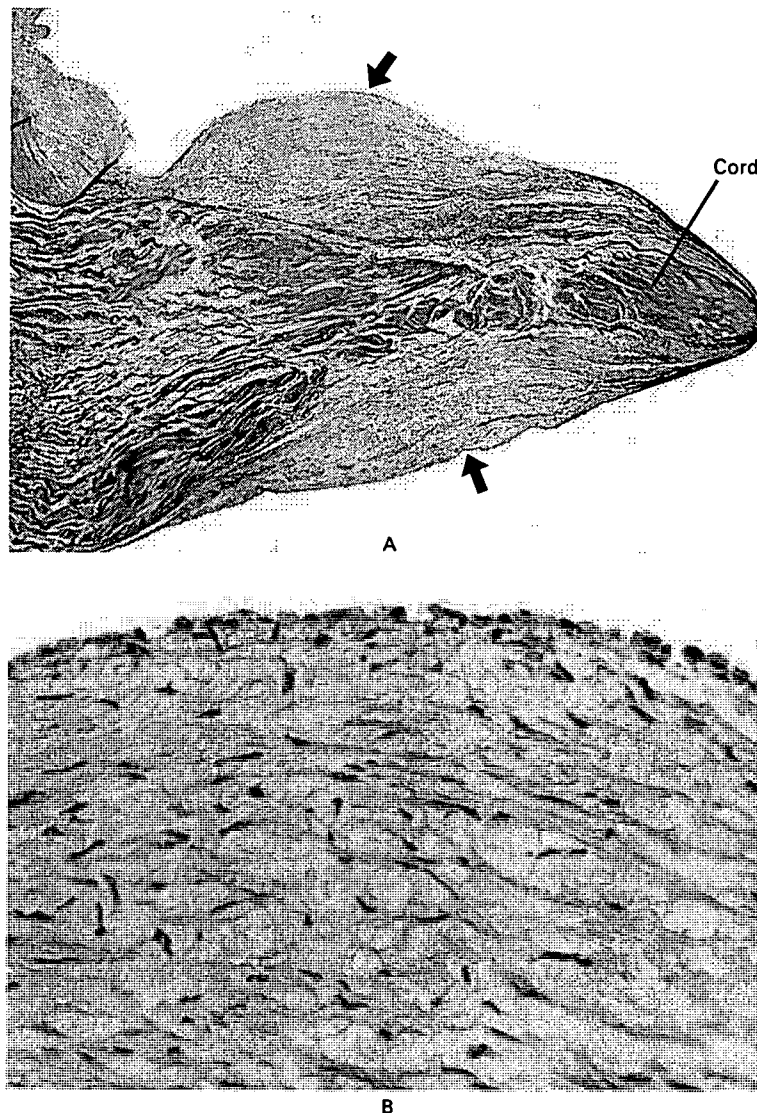
Patient 7 was a 44-year-old woman who began receiving fenfluramine-phentermine for a pretreatment body-mass index of 30.5. Two years earlier, echocardiography had revealed normal valves. The initial dose was 60 mg of fenfluramine per day in divided doses and 30 mg of phentermine per day. Under medical



**Figure 2.** Intraoperative Transesophageal Echocardiograms in Patient 1.

The image on the left shows a thickened mitral valve (MV) during diastole. With the addition of color flow, the image on the right demonstrates severe mitral regurgitation (MR) during systole. LA denotes left atrium, and LV left ventricle.





**Figure 3.** Photomicrographs of Resected Mitral Valve from Patient 2. In Panel A, a low-power view (elastic-van Gieson stain, X36) shows intact valve architecture with "stuck-on" plaques (arrows). In Panel B, a high-power view (hematoxylin and eosin, X360) shows proliferative myofibroblasts in an abundant extracellular matrix.

direction, the daily doses were gradually increased to 220 mg of fenfluramine and 60 mg of phentermine.

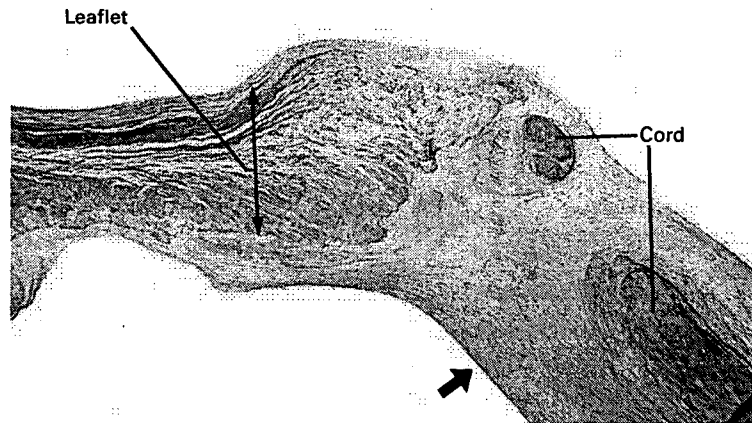
Twelve months after fenfluramine-phentermine treatment was initiated, dyspnea developed on exertion. Echocardiography demonstrated a thickened trileaflet aortic valve with moderate regurgitation. Pulmonary-artery systolic pressure measured by cardiac catheterization was 75 mm Hg. Treatment with fenfluramine-phentermine was discontinued.

### RESULTS

Table 1 summarizes the clinical features of the patients. Except for systemic hypertension, all of the

patients were thought to be free of cardiovascular disease at the onset of weight-reduction therapy. The physicians who prescribed the anorectic agents for the patients were not the ones who evaluated the cardiovascular changes. The patients were evaluated a mean ( $\pm$ SD) of  $12.3 \pm 7.1$  months after the initiation of fenfluramine-phentermine treatment. The actual durations of drug therapy are shown in Table 1. Twenty patients presented with cardiovascular symptoms, and four patients had only a new murmur.

All patients underwent comprehensive two-dimen-



**Figure 4.** Photomicrograph of Resected Mitral Valve from Patient 3.

A low-power view (elastic-van Gieson stain,  $\times 36$ ) shows intact leaflet and tendinous cord, with encasement by proliferative plaque (arrow).

sional echocardiography, pulsed- and continuous-wave Doppler imaging, and color-flow examination according to previously described techniques.<sup>12,13</sup> Valve morphology was noted by two examiners to be atypical for rheumatic, congenital, or degenerative lesions. The mitral and aortic valves exhibited echocardiographic features similar to those seen in patients with chronic rheumatic involvement; however, there was no evidence of valve obstruction. Thickening and diastolic doming of the anterior mitral leaflet, with preserved mobility and thickening, and immobility of the posterior leaflet were typical findings (Fig. 2). Subvalvular involvement was characterized by thickening and shortening of the chordae tendineae, causing tethering of the posterior leaflet. The combination of abnormalities resulted in malcoaptation and central regurgitation. The aortic valve was characterized by thickening and mild retraction of the leaflets. With tricuspid-valve involvement, the septal leaflet was thickened and variably fixed to the septum. The anterior leaflet appeared thickened and exhibited decreased mobility, diastolic doming, and loss of coaptation visible on two-dimensional imaging. Color-flow imaging demonstrated variable degrees of regurgitation in all patients. The echocardiographic appearance of the valves was similar in the medically treated and the surgically treated patients.

Eight patients had Doppler echocardiographic or catheter evidence of pulmonary hypertension (right ventricular systolic pressure,  $>50$  mm Hg; range, 52 to 93) that had not been documented previously. Tricuspid regurgitation of moderate or greater severity was present in five of the eight patients with pulmonary hypertension.

## DISCUSSION

Fenfluramine is a sympathomimetic amine that has an anorectic action mediated through the activation of serotonergic pathways in the brain. Fenfluramine promotes the rapid release of serotonin, inhibits its reuptake, and may have receptor-agonist activity,<sup>14</sup> thus making serotonin more susceptible to metabolism and breakdown. The *d*-isomer of fenfluramine, dexfenfluramine, appears to be relatively selective for the central serotonergic system. Phentermine is a noradrenergic agent. Commonly used doses of these medications are 20 to 120 mg of fenfluramine per day and 18.75 to 37.5 mg of phentermine resin per day or 15 to 30 mg of phentermine hydrochloride per day.

Patients with malignant carcinoid syndrome have high levels of circulating serotonin. Associated cardiac disease is characterized by fibroplasia that involves primarily the valvular endocardium on the right side of the heart.<sup>10,15</sup> The mechanism of valve injury in patients with carcinoid syndrome has not been determined but is believed to be serotonin-mediated, because such patients have higher circulating levels of serotonin than do their counterparts without cardiac involvement.<sup>10</sup> The predilection for right-sided valve disease in carcinoid syndrome is most likely related to the serotonin-rich blood that enters the right atrium directly from the liver and the subsequent partial pulmonary degradation of serotonin. In our patients both left-sided and right-sided valvular lesions were seen, and multiple valves were often involved in individual patients.

The pathophysiologic mechanism in patients with ergot-alkaloid-induced valve disease has not been established, but the similar chemical structures of se-

rotonin, methysergide, and ergotamine may provide a clue.<sup>16</sup> Ergotamine-induced and carcinoid valve disease are microscopically identical, with fibrotic endocardial changes.<sup>8</sup> The pathological, surgical, and echocardiographic features of carcinoid and ergotamine-induced valve disease are indistinguishable from the features noted in our patients.

Fenfluramine alters serotonin metabolism in the brain.<sup>14</sup> Phentermine interferes with the pulmonary clearance of serotonin, which may explain its association with primary pulmonary hypertension.<sup>17</sup> Although serotonin levels were not measured in our patients, we postulate that the combination of fenfluramine and phentermine may potentiate the effect or concentration of circulating serotonin and result in valvular injury similar to that seen in patients with carcinoid syndrome or in those taking ergot preparations. However, the precise process by which this might occur is not known. No studies examining the effect of the combination of fenfluramine and phentermine in animals have been reported. Five of the 24 patients included in this series were taking either sertraline or fluoxetine while receiving fenfluramine-phentermine.

This description of patients is limited by the absence of pathological confirmation in the majority of cases. Many of the patients continue to be treated medically and have not undergone invasive or interventional procedures. Consequently, neither direct inspection nor histopathological evaluation has been carried out in most of the patients. Because no patient had symptomatic or clinical evidence of cardiovascular disease before the initiation of therapy with appetite suppressants, no routine pretreatment echocardiographic base-line studies were obtained. Only one patient had had an incidental echocardiographic study two years before treatment, and it showed no abnormalities. In the aggregate, however, these patients and those who underwent operative intervention had similar clinical and echocardiographic features. The mean age at the initiation of treatment, body-mass index, and duration of treatment before symptoms developed were similar in the medically and surgically treated groups.

In the absence of a control group or a case-control study, definitive statements about a true association of valvular disease with fenfluramine-phentermine therapy cannot be made. However, the appearance of clinically significant left-sided regurgitant valvular heart disease in a population less than 50 years old is rare.<sup>18</sup> Thus, the association of valvular regurgitation with fenfluramine-phentermine treatment is not likely to be due to chance. Moreover, the unusual echocardiographic morphology of the lesions further diminishes the likelihood of a coincidental observation.

These cases should arouse concern that this combination of appetite suppressants has important implications regarding valvular heart disease. Prospective studies of this association will be required to validate the possibility that this combination of medications may cause valvular heart disease. The mechanism of valve injury and the frequency of the association have yet to be determined. Candidates for fenfluramine-phentermine therapy should be informed about serious potential adverse effects, including pulmonary hypertension and valvular heart disease.

*We are indebted to Pam Ruff, B.S., R.D.C.S., for identification of the patients, to Jeanne Beare, R.N., for data acquisition, and to Julie Klemmensen and Ann McCullough, M.D., for assistance in the preparation of the manuscript.*

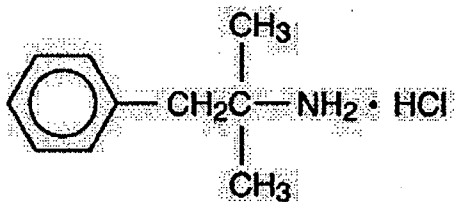
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**ADIPEX-P - phentermine hydrochloride tablet**  
**ADIPEX-P - phentermine hydrochloride capsule**  
Gate Pharmaceuticals

**DESCRIPTION**

Phentermine hydrochloride USP has the chemical name of  $\alpha, \alpha$ -Dimethylphenethylamine hydrochloride. The structural formula is as follows:



$C_{10}H_{15}N \cdot HCl$  M.W. 185.7

Phentermine hydrochloride is a white, odorless, hygroscopic, crystalline powder which is soluble in water and lower alcohols, slightly soluble in chloroform and insoluble in ether.

ADIPEX-P<sup>®</sup>, an anorectic agent for oral administration, is available as a capsule or tablet containing 37.5 mg of phentermine hydrochloride (equivalent to 30 mg of phentermine base).

ADIPEX-P<sup>®</sup> Capsules contain the inactive ingredients Corn Starch, Gelatin, Lactose Monohydrate, Magnesium Stearate, Titanium Dioxide, Black Iron Oxide, FD&C Blue #1, FD&C Red #40 and D&C Red #33.

ADIPEX-P<sup>®</sup> Tablets contain the inactive ingredients Corn Starch, Lactose (Anhydrous), Magnesium Stearate, Microcrystalline Cellulose, Pregelatinized Starch, Sucrose, and FD&C Blue #1.

**CLINICAL PHARMACOLOGY**

ADIPEX-P<sup>®</sup> is a sympathomimetic amine with pharmacologic activity similar to the prototype drugs of this class used in obesity, the amphetamines. Actions include central nervous system stimulation and elevation of blood pressure. Tachyphylaxis and tolerance have been demonstrated with all drugs of this class in which these phenomena have been looked for.

Drugs of this class used in obesity are commonly known as "anorectics" or "anorexigenics." It has not been established that the action of such drugs in treating obesity is primarily one of appetite suppression. Other central nervous system actions, or metabolic effects, may be involved, for example.

Adult obese subjects instructed in dietary management and treated with "anorectic" drugs lose more weight on the average than those treated with placebo and diet, as determined in relatively short-term clinical trials.

The magnitude of increased weight loss of drug-treated patients over placebo-treated patients is only a fraction of a pound a week.

The rate of weight loss is greatest in the first weeks of therapy for both drug and placebo subjects and tends to decrease in succeeding weeks. The possible origins of the increased weight loss due to the various drug effects are not established. The amount of weight loss associated with the use of an "anorectic" drug varies from trial to trial, and the increased weight loss appears to be related in part to variables other than the drugs prescribed, such as the physician-investigator, the population treated and the diet prescribed. Studies do not permit conclusions as to the relative importance of the drug and non-drug factors on weight loss.

The natural history of obesity is measured in years, whereas the studies cited are restricted to a few weeks' duration; thus, the total impact of drug-induced weight loss over that of diet alone must be considered clinically limited.

**INDICATIONS AND USAGE**

ADIPEX-P<sup>®</sup> (phentermine hydrochloride) is indicated as a short-term (a few weeks) adjunct in a regimen of weight reduction based on exercise, behavioral modification and caloric restriction in the management of exogenous obesity for patients with an initial body mass index  $\geq 30 \text{ kg/m}^2$ , or  $\geq 27 \text{ kg/m}^2$  in the presence of other risk factors (e.g., hypertension, diabetes, hyperlipidemia).

Below is a chart of Body Mass Index (BMI) based on various heights and weights.

BMI is calculated by taking the patient's weight, in kilograms (kg), divided by the patient's height, in meters (m), squared. Metric conversions are as follows: pounds  $\div 2.2 = \text{kg}$ ; inches  $\times 0.0254 = \text{meters}$ .

Weight (pounds)	BODY MASS INDEX (BMI), kg/m <sup>2</sup>					
	Height (feet, inches)					
	5'0"	5'3"	5'6"	5'9"	6'0"	6'3"
140	27	25	23	21	19	18
150	29	27	24	22	20	19
160	31	28	26	24	22	20
170	33	30	28	25	23	21
180	35	32	29	27	25	23
190	37	34	31	28	26	24
200	39	36	32	30	27	25
210	41	37	34	31	29	26
220	43	39	36	33	30	28
230	45	41	37	34	31	29
240	47	43	39	36	33	30
250	49	44	40	37	34	31

The limited usefulness of agents of this class (see **CLINICAL PHARMACOLOGY**) should be measured against possible risk factors inherent in their use such as those described below.

### CONTRAINDICATIONS

Advanced arteriosclerosis, cardiovascular disease, moderate to severe hypertension, hyperthyroidism, known hypersensitivity or idiosyncrasy to the sympathomimetic amines, glaucoma.

Agitated states.

Patients with a history of drug abuse.

During or within 14 days following the administration of monoamine oxidase inhibitors (hypertensive crises may result).

### WARNINGS

**ADIPEX-P<sup>®</sup>** is indicated only as short-term monotherapy for the management of exogenous obesity. The safety and efficacy of combination therapy with phentermine and any other drug products for weight loss, including selective serotonin reuptake inhibitors (e.g., fluoxetine, sertraline, fluvoxamine, paroxetine), have not been established. Therefore, coadministration of these drug products for weight loss is not recommended.

**Primary Pulmonary Hypertension (PPH)** – a rare, frequently fatal disease of the lungs – has been reported to occur in patients receiving a combination of phentermine with fenfluramine or dexfenfluramine. The possibility of an association between PPH and the use of phentermine alone cannot be ruled out; there have been rare cases of PPH in patients who reportedly have taken phentermine alone. The initial symptom of PPH is usually dyspnea. Other initial symptoms include: angina pectoris, syncope or lower extremity edema. Patients should be advised to report immediately any deterioration in exercise tolerance. Treatment should be discontinued in patients who develop new, unexplained symptoms of dyspnea, angina pectoris, syncope or lower extremity edema.

**Valvular Heart Disease:** Serious regurgitant cardiac valvular disease, primarily affecting the mitral, aortic and/or tricuspid valves, has been reported in otherwise healthy persons who had taken a combination of phentermine with fenfluramine or dexfenfluramine for weight loss. The etiology of these valvulopathies has not been established and their course in individuals after the drugs are stopped is not known. The possibility of an association between valvular heart disease and the use of phentermine alone cannot be ruled out; there have been rare cases of valvular heart disease in patients who reportedly have taken phentermine alone.

Tolerance to the anorectic effect usually develops within a few weeks. When this occurs, the recommended dose should not be exceeded in an attempt to increase the effect; rather, the drug should be discontinued.

ADIPEX-P<sup>®</sup> may impair the ability of the patient to engage in potentially hazardous activities such as operating machinery or driving a motor vehicle; the patient should therefore be cautioned accordingly.

**DRUG ABUSE AND DEPENDENCE:** ADIPEX-P<sup>®</sup> is related chemically and pharmacologically to the amphetamines.

Amphetamines and related stimulant drugs have been extensively abused, and the possibility of abuse of ADIPEX-P<sup>®</sup> should be kept in mind when evaluating the desirability of including a drug as part of a weight reduction program. Abuse of amphetamines and related drugs may be associated with intense psychological dependence and severe social dysfunction. There are reports of patients who have increased the dosage to many times that recommended. Abrupt cessation following prolonged high dosage administration results in extreme fatigue and mental depression; changes are also noted on the sleep EEG. Manifestations of chronic intoxication with anorectic drugs include severe dermatoses, marked insomnia, irritability, hyperactivity and personality changes. The most severe manifestation of chronic intoxications is psychosis, often clinically indistinguishable from schizophrenia.

**Usage with Alcohol:** Concomitant use of alcohol with ADIPEX-P<sup>®</sup> may result in an adverse drug interaction.

## PRECAUTIONS

### General

Caution is to be exercised in prescribing ADIPEX-P® (phentermine hydrochloride) for patients with even mild hypertension. Insulin requirements in diabetes mellitus may be altered in association with the use of ADIPEX-P® and the concomitant dietary regimen.

ADIPEX-P® may decrease the hypotensive effect of guanethidine.

The least amount feasible should be prescribed or dispensed at one time in order to minimize the possibility of overdosage.

**Carcinogenesis, Mutagenesis, Impairment of Fertility:** Studies have not been performed with ADIPEX-P® (phentermine hydrochloride) to determine the potential for carcinogenesis, mutagenesis or impairment of fertility.

**Pregnancy—Teratogenic Effects:** Pregnancy Category C. Animal reproduction studies have not been conducted with ADIPEX-P®. It is also not known whether ADIPEX-P® can cause fetal harm when administered to a pregnant woman or can affect reproductive capacity. ADIPEX-P® should be given to a pregnant woman only if clearly needed.

### Nursing Mothers

Because of the potential for serious adverse reactions in nursing infants, a decision should be made whether to discontinue nursing or to discontinue the drug, taking into account the importance of the drug to the mother.

### Pediatric Use

Safety and effectiveness in pediatric patients have not been established.

## ADVERSE REACTIONS

**Cardiovascular:** Primary pulmonary hypertension and/or regurgitant cardiac valvular disease (see **WARNINGS**), palpitation, tachycardia, elevation of blood pressure.

**Central Nervous System:** Overstimulation, restlessness, dizziness, insomnia, euphoria, dysphoria, tremor, headache; rarely psychotic episodes at recommended doses.

**Gastrointestinal:** Dryness of the mouth, unpleasant taste, diarrhea, constipation, other gastrointestinal disturbances.

**Allergic:** Urticaria.

**Endocrine:** Impotence, changes in libido.

## OVERDOSAGE

Manifestations of acute overdosage with phentermine include restlessness, tremor, hyperreflexia, rapid respiration, confusion, assaultiveness, hallucinations, panic states. Fatigue and depression usually follow the central stimulation. Cardiovascular effects include arrhythmia, hypertension or hypotension, and circulatory collapse. Gastrointestinal symptoms include nausea, vomiting, diarrhea and abdominal cramps. Fatal poisoning usually terminates in convulsions and coma.

Management of acute phentermine intoxication is largely symptomatic and includes lavage and sedation with a barbiturate.

Experience with hemodialysis or peritoneal dialysis is inadequate to permit recommendations in this regard. Acidification of the urine increases phentermine excretion. Intravenous phentolamine (Regitine®, CIBA) has been suggested for possible acute, severe hypertension, if this complicates phentermine overdosage.

## DOSAGE AND ADMINISTRATION

**Exogenous Obesity:** Dosage should be individualized to obtain an adequate response with the lowest effective dose.

The usual adult dose is one capsule or tablet (37.5 mg) daily, administered before breakfast or 1-2 hours after breakfast. For tablets, the dosage may be adjusted to the patient's need. For some patients ½ tablet (18.75 mg) daily may be adequate, while in some cases it may be desirable to give ½ tablet (18.75 mg) two times a day.

Late evening medication should be avoided because of the possibility of resulting insomnia.

Phentermine is not recommended for use in patients sixteen (16) years of age and under.

## HOW SUPPLIED

Available in tablets and capsules containing 37.5 mg phentermine hydrochloride (equivalent to 30 mg phentermine base). Each blue and white, oblong, scored tablet is debossed with "ADIPEX-P" and "9"- "9". The #3 capsule has an opaque white body and an opaque bright blue cap. Each capsule is imprinted with "ADIPEX-P" - "37.5" on the cap and two stripes on the body using dark blue ink.

Tablets are packaged in bottles of 30 (NDC 57844-009-56); 100 (NDC 57844-009-01); and 1000 (NDC 57844-009-10).

Capsules are packaged in bottles of 100 (NDC 57844-019-01).

Store at 20° to 25°C (68° to 77°F) [See USP Controlled Room Temperature].

Dispense in a tight container as defined in the USP, with a child-resistant closure (as required).


Manufactured for:

**GATE PHARMACEUTICALS**

Div. of Teva Pharmaceuticals USA

Sellersville, PA 18960  
Manufactured by:  
**TEVA PHARMACEUTICALS USA**  
Sellersville, PA 18960  
Rev. S 7/2005

**PRINCIPAL DISPLAY PANEL**

NDC 57844-009-01	
<b>ADIPEX-P® 37.5 mg</b> (phentermine hydrochloride tablets USP)	<b>IV</b>
<b>Rx only</b> USUAL ADULT DOSAGE: See package insert for full prescribing information.	Each blue and white tablet contains phentermine hydrochloride 37.5 mg (equivalent to 30 mg of phentermine base). Store at 20° to 25°C (68° to 77°F) (see USP Controlled Room Temperature). Dispense in a tight container as defined in the USP/NF. KEEP THIS AND ALL MEDICATIONS OUT OF THE REACH OF CHILDREN. Manufactured by: GATE PHARMACEUTICALS div. of TEVA PHARMACEUTICALS USA Sellersville, PA 18960 Manufactured by: TEVA PHARMACEUTICALS USA Sellersville, PA 18960 L21585 Rev. E 7/2005
 <b>100 TABLETS</b>	

**Adipex-P Tablets 37.5 mg 100s Label Text**  
NDC 57844-009-01

**ADIPEX-P® 37.5 mg CIV**  
(phentermine hydrochloride tablets USP)


**Rx only**  
**USUAL ADULT DOSAGE:**

See package insert for full  
prescribing information.

**100 TABLETS**

**GATE**

**PRINCIPAL DISPLAY PANEL**

NDC 57844-019-01	
<b>ADIPEX-P® 37.5 mg</b> (phentermine hydrochloride capsules USP)	<b>IV</b>
<b>Rx only</b> USUAL ADULT DOSAGE: See package insert for full prescribing information.	Each blue and white capsule contains phentermine hydrochloride 37.5 mg (equivalent to 30 mg of phentermine base). Store at 20° to 25°C (68° to 77°F) (see USP Controlled Room Temperature). Dispense in a tight container as defined in the USP/NF. KEEP THIS AND ALL MEDICATIONS OUT OF THE REACH OF CHILDREN. Manufactured by: GATE PHARMACEUTICALS div. of TEVA PHARMACEUTICALS USA Sellersville, PA 18960 Manufactured by: TEVA PHARMACEUTICALS USA Sellersville, PA 18960 L21587 Rev. E 7/2005
 <b>100 CAPSULES</b>	

**Adipex-P Capsules 37.5 mg 100s Label Text**  
NDC 57844-019-01

**ADIPEX-P® 37.5 mg CIV**  
(phentermine hydrochloride capsules USP)

**Rx only**  
**USUAL ADULT DOSAGE:**

See package insert for full  
prescribing information.

**100 CAPSULES**

**GATE**



**INDICATIONS   CONTRA-INDICATIONS   DOSAGE   SIDE-EFFECTS   PREGNANCY   OVERDOSE**  
**IDENTIFICATION   PATIENT INFORMATION**

# **PREGNYL®**

RA 2400 ZA S1 (ref 1.0).

## **SCHEDULING STATUS:**

S4

## **PROPRIETARY NAME**

(and dosage form):

# **PREGNYL®**

**Pregnyl® 1 500 IU** powder for solution for injection, provided with Solvent for Pregnyl

**Pregnyl® 5 000 IU** powder for solution for injection, provided with Solvent for Pregnyl

## **COMPOSITION**

PREGNYL contains 1 500 and 5 000 I.U. **Chorionic Gonadotrophin** per ampoule

Each 1 mL ampoule of Solvent for Pregnyl contains 0,9% m/v sodium chloride in water for injection

## **PHARMACOLOGICAL CLASSIFICATION**

/21.10/Trophic hormones

## **PHARMACOLOGICAL ACTION**

### **Pharmacodynamics**

Pregnyl contains human Chorionic Gonadotrophin (hCG) which has luteotrophic (LH) activity.

In the female Pregnyl substitutes the endogenous mid-cycle LH surge to induce the final phase of follicular maturation, leading to ovulation.

In the male Pregnyl stimulates Leydig cells to promote the production of testosterone.

### **Pharmacokinetics**

Maximal plasma hCG levels will be reached in males approximately 6 and 16 hours after a single intramuscular or subcutaneous injection of hCG, respectively and in females after approximately 20 hours. HCG is approximately 80 per cent metabolized, predominantly in the kidneys. Intramuscular and subcutaneous administration of hCG were found to be bioequivalent regarding the extent of absorption and the apparent elimination half-lives of approximately 33 hours. On basis of the recommended dose regimens and elimination half-life, cumulation is not expected to occur.

### **Preclinical safety data**

No particulars.

## **INDICATIONS**

### **In the female as part of a regimen to induce:**

- Ovulation induction in subfertility due to anovulation or impaired follicle-ripening.
- Preparation of follicles for puncture in controlled ovarian hyperstimulation programs (for medically assisted reproductive techniques).
- Luteal phase support.

### **In the male:**

Hypogonadotrophic hypogonadism. Cases of idiopathic dysspermias have also shown a positive response to gonadotrophins.

- Delayed puberty associated with insufficient gonadotrophic pituitary function.
- Cryptorchidism, not due to anatomical obstruction.

## **CONTRA-INDICATIONS**

- Hypersensitivity to human gonadotrophins or any of the substances of Pregnyl.
- Known or suspected androgen-dependent tumours, such as prostatic carcinoma or breast carcinoma in the male.
- *Pregnancy and lactation:* Pregnyl may be used for luteal phase support. It must not be used during lactation.

## **WARNINGS**

### **In the female:**

- In pregnancies occurring after induction of ovulation with gonadotrophic preparations, there is an increased risk of multiples.
- Since infertile women undergoing assisted reproduction, and particularly IVF (in vitro fertilisation), often have tubal abnormalities the incidence of ectopic pregnancies might be increased. Early ultrasound confirmation that a pregnancy is intrauterine is therefore important.
- Rates of pregnancy loss in women undergoing Assisted Reproductive Technologies (ART) are higher than in the normal population.
- The presence of uncontrolled non-gonadal endocrinopathies (e.g. thyroid, adrenal or pituitary disorders) should be ruled out.

### **- Unwanted ovarian hyperstimulation:**

In patients treated for subfertility due to anovulation or impaired follicular ripening, the prior administration of an FSH-containing preparation may lead to unwanted ovarian hyperstimulation. Therefore ultrasonic assessment of follicular development and determinations of oestradiol levels should be performed prior to FSH-treatment and at regular intervals during FSH-treatment. Oestradiol levels may rise very rapidly, e.g. more than a daily doubling for two or three consecutive days, and possibly reach excessively high values. The diagnosis of unwanted ovarian hyperstimulation may be confirmed by ultrasound examination. If this unwanted ovarian hyperstimulation occurs (i.e. not as part of a treatment preparing for IVF/ET, GIFT or ICSI), the administration of the FSH-containing preparation should be discontinued immediately. In that case pregnancy should be avoided and Pregnyl must not be given, because the administration of an LH-active gonadotrophin at this stage may induce, in addition to multiple ovulations, the ovarian hyperstimulation syndrome. This warning is particularly important with respect to patients with polycystic ovarian disease. Clinical symptoms of mild ovarian hyperstimulation syndrome are gastro-intestinal problems (pain, nausea and diarrhoea), painful breasts and mild to moderate enlargement of ovaries and ovarian cysts. In rare cases severe ovarian hyperstimulation syndrome occurs, which may be life-threatening. This is characterized by large ovarian cysts (prone to rupture), ascites, weight gain, often hydrothorax and occasionally thrombo-embolic phenomena.

- Women with generally recognised risk factors for thrombosis, such as a personal or family history, severe obesity (Body Mass Index  $> 30 \text{ kg/m}^2$ ) or thrombophilia, may have an increased risk of venous or arterial thromboembolic events, during or following treatment with gonadotrophins. In these women the benefits of IVF treatment need to be weighed against the risks. It should be noted, however, that pregnancy itself also carries an increased risk of thrombosis.
- Pregnyl should not be used for body weight reduction. HCG has no effect on fat metabolism, fat distribution or appetite.

### **In the male:**

Treatment with hCG leads to increased androgen production. Therefore:

- Patients with latent or overt cardiac failure, renal dysfunction, hypertension, epilepsy or migraine (or a history of these conditions) should be warned and kept under close medical supervision, since aggravation or recurrence may occasionally be induced as a result of increased androgen production.
- hCG should be used cautiously in prepubertal boys to avoid premature epiphyseal closure or precocious sexual development. Skeletal maturation should be monitored regularly.

## **Interactions**

### **Interaction with other medicaments and other forms of interaction:**

No interactions of clinical relevance are known.

## **PREGNANCY AND LACTATION**

Pregnyl may be used for luteal phase support. It must not be used during lactation. See **Contra-indications**.

## **DOSAGE AND DIRECTIONS FOR USE**

### **Dosage in the female:**

#### *ovulation induction or preparation of follicles for puncture*

Usually, one injection of 5 000-10 000 I.U. Pregnyl, to complete treatment with an FSH-containing preparation.

#### *Luteal phase support*

Two to three repeat injections of 1000 to 3000 I.U. each may be given within nine days following ovulation or embryo transfer (for example on day 3, 6 and 9 after ovulation induction).

**Dosage in the male:*****Hypogonadotropic hypogonadism***

1000-2000 I.U. Pregnyl, two to three times per week. If the main complaint is subfertility, additional doses of an FSH-containing preparation (75 I.U. FSH) daily or two to three times a week, may be given. This treatment should be continued for at least three months before any improvement in spermatogenesis can be expected. During this treatment testosterone replacement therapy should be suspended. Once achieved, the improvement may sometimes be maintained by hCG alone.

***Delayed puberty***

1500 I.U. two to three times a week for at least six months.

***Cryptorchidism:***

- under 2 years of age: 250 I.U. twice weekly for six weeks
- under 6 years of age: 500-1000 I.U. twice weekly for six weeks
- over 6 years of age: 1500 I.U. twice weekly for six weeks

If necessary, this treatment can be repeated.

See Warnings.

**Method of administration:**

After addition of the solvent to the freeze-dried substance, the reconstituted Pregnyl solution should be slowly administered intramuscularly or subcutaneously.

**SIDE-EFFECTS AND SPECIAL PRECAUTIONS**

Reactions at the site of injection, such as bruising, pain, redness, swelling and itching, have been reported with the use of urinary gonadotrophin preparations. Occasionally allergic reactions have been reported, mostly manifesting as pain and/or rash at the injection site. In rare cases generalized rash or fever may occur.

**In the female:**

Unwanted ovarian hyperstimulation, ovarian hyperstimulation syndrome. Characteristic symptoms of unwanted ovarian hyperstimulation and the ovarian hyperstimulation syndrome are included above, under "Warnings".

**In the male:**

Water and sodium retention is occasionally seen after administration of high dosages; this is regarded as a result of excessive androgen production.

hCG treatment may sporadically cause gynaecomastia.

**Effects on ability to drive and use machines:**

As far as known this medicine has no influence on alertness and concentration.

**KNOWN SYMPTOMS OF OVERDOSAGE AND PARTICULARS OF ITS TREATMENT**

The acute toxicity of urinary gonadotrophin preparations has been shown to be very low. There are no symptoms of an acute parenteral overdose known in humans.

**IDENTIFICATION**

PREGNYL 1500 IU: 2-mL ampoules, marked in the neck with two blue rings and containing a white to almost white dry cake or powder.

PREGNYL 5000 IU: 2-mL ampoules, marked in the neck with one yellow ring and containing a white to almost white dry cake or powder.

Solvent for Pregnyl: 1-mL ampoules, marked in the neck with one green ring and containing a clear, colourless, aqueous solvent (9 mg sodium chloride in 1 mL water for injection).

**PRESENTATION**

PREGNYL 1500 IU: 3 x 2-mL ampoules and 3 x 1-mL ampoules of Solvent for Pregnyl containing 0,9% m/v sodium chloride in water for injection, packed in a ply-carton box.

PREGNYL 5000 IU: 3 x 2-mL ampoules and 3 x 1-mL ampoules of Solvent for Pregnyl containing 0,9% m/v sodium chloride in water for injection, packed in a ply-carton box.

**STORAGE INSTRUCTIONS**

Store in a refrigerator between 2°-8°C. Protect from light. Keep out of reach of children.

**REFERENCE NUMBERS**

Pregnyl 1500 I.U. & Solvent for Pregnyl.: G 3202 (Act 101/1965)

Pregnyl 5000 I.U. & Solvent for Pregnyl: G 3203 (Act 101/1965)

**NAME AND BUSINESS ADDRESS OF THE APPLICANT**

Donmed Pharmaceuticals (Pty) Limited  
Donmed House  
Cambridge Place  
cnr Kirkby & Oxford Roads  
Bedfordview 2007

**DATE OF PUBLICATION OF THE PACKAGE INSERT**

4 November 2003

*Under license of NV Organon, The Netherlands*

RA 2400 ZA S1 (ref 1.0).

*Updated on this site: March 2004*

*Source: Pharmaceutical Industry*

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**[SAEPI HOME PAGE](#)**   **[TRADE NAME INDEX](#)**   **[GENERIC NAME INDEX](#)**   **[FEEDBACK](#)**

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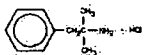
## PHENTERMINE HYDROCHLORIDE - phentermine hydrochloride tablet

TAGI Pharma, Inc.

Rx only

### DESCRIPTION

Phentermine hydrochloride USP has the chemical name of  $\alpha,\alpha$ -Dimethylphenethylamine hydrochloride. The structural formula is as follows:



$C_{10}H_{15}N \cdot HCl$

M.W. 185.7

Phentermine hydrochloride is a white, odorless, hygroscopic, crystalline powder which is soluble in water and lower alcohols, slightly soluble in chloroform and insoluble in ether.

Phentermine hydrochloride, an anorectic agent for oral administration, is available as a tablet containing 37.5 mg of phentermine hydrochloride (equivalent to 30 mg of phentermine base).

Each tablet contains the following inactive ingredients: croscarmellose sodium, lactose monohydrate, magnesium stearate, microcrystalline cellulose and blue sugar spheres.

### CLINICAL PHARMACOLOGY

Phentermine hydrochloride is a sympathomimetic amine with pharmacologic activity similar to the prototype drugs of this class used in obesity, the amphetamines. Actions include central nervous system stimulation and elevation of blood pressure. Tachyphylaxis and tolerance have been demonstrated with all drugs of this class in which these phenomena have been looked for.

Drugs of this class used in obesity are commonly known as "anorectics" or "anorexigenics." It has not been established that the action of such drugs in treating obesity is primarily one of appetite suppression. Other central nervous system actions, or metabolic effects, may be involved, for example.

Adult obese subjects instructed in dietary management and treated with "anorectic" drugs lose more weight on the average than those treated with placebo and diet, as determined in relatively short-term clinical trials.

The magnitude of increased weight loss of drug-treated patients over placebo-treated patients is only a fraction of a pound a week.

The rate of weight loss is greatest in the first weeks of therapy for both drug and placebo subjects and tends to decrease in succeeding weeks. The possible origins of the increased weight loss due to the various drug effects are not established. The amount of weight loss associated with the use of an "anorectic" drug varies from trial to trial, and the increased weight loss appears to be related in part to variables other than the drugs prescribed, such as the physician-investigator, the population treated and the diet prescribed. Studies do not permit conclusions as to the relative importance of the drug and non-drug factors on weight loss.

The natural history of obesity is measured in years, whereas the studies cited are restricted to a few weeks' duration; thus, the total impact of drug-induced weight loss over that of diet alone must be considered clinically limited.

### INDICATIONS AND USAGE

Phentermine hydrochloride is indicated as a short-term (a few weeks) adjunct in a regimen of weight reduction based on exercise, behavioral modification and caloric restriction in the management of exogenous obesity for patients with an initial body mass index  $\geq 30 \text{ kg/m}^2$ , or  $\geq 27 \text{ kg/m}^2$  in the presence of other risk factors (e.g., hypertension, diabetes, hyperlipidemia).

Below is a chart of Body Mass Index (BMI) based on various heights and weights.

BMI is calculated by taking the patient's weight, in kilograms (kg), divided by the patient's height, in meters (m), squared. Metric conversions are as follows: pounds  $\div 2.2 = \text{kg}$ ; inches  $\times 0.0254 = \text{meters}$ .

BODY MASS INDEX (BMI),  $\text{kg/m}^2$

Weight (pounds)	Height (feet, inches)					
	5#0#	5#3#	5#6#	5#9#	6#0#	6#3#
140	27	25	23	21	19	18
150	29	27	24	22	20	19
160	31	28	26	24	22	20
170	33	30	28	25	23	21
180	35	32	29	27	25	23
190	37	34	31	28	26	24
200	39	36	32	30	27	25
210	41	37	34	31	29	26
220	43	39	36	33	30	28

A.App.330

230	45	41	37	34	31	29
240	47	43	39	36	33	30
250	49	44	40	37	34	31

The limited usefulness of agents of this class (see **CLINICAL PHARMACOLOGY**) should be measured against possible risk factors inherent in their use such as those described below.

### CONTRAINDICATIONS

Advanced arteriosclerosis, cardiovascular disease, moderate to severe hypertension, hyperthyroidism, known hypersensitivity or idiosyncrasy to the sympathomimetic amines, glaucoma.

Agitated states.

Patients with a history of drug abuse.

During or within 14 days following the administration of monoamine oxidase inhibitors (hypertensive crises may result).

### WARNINGS

**Phentermine hydrochloride is indicated only as short-term monotherapy for the management of exogenous obesity. The safety and efficacy of combination therapy with phentermine and any other drug products for weight loss, including selective serotonin reuptake inhibitors (e.g., fluoxetine, sertraline, fluvoxamine, paroxetine), have not been established. Therefore, coadministration of these drug products for weight loss is not recommended.**

**Primary Pulmonary Hypertension (PPH)** – a rare, frequently fatal disease of the lungs – has been reported to occur in patients receiving a combination of phentermine with fenfluramine or dexfenfluramine. The possibility of an association between PPH and the use of phentermine alone cannot be ruled out; there have been rare cases of PPH in patients who reportedly have taken phentermine alone. The initial symptom of PPH is usually dyspnea. Other initial symptoms include: angina pectoris, syncope or lower extremity edema. Patients should be advised to report immediately any deterioration in exercise tolerance. Treatment should be discontinued in patients who develop new, unexplained symptoms of dyspnea, angina pectoris, syncope or lower extremity edema.

**Valvular Heart Disease:** Serious regurgitant cardiac valvular disease, primarily affecting the mitral, aortic and/or tricuspid valves, has been reported in otherwise healthy persons who had taken a combination of phentermine with fenfluramine or dexfenfluramine for weight loss. The etiology of these valvulopathies has not been established and their course in individuals after the drugs are stopped is not known. The possibility of an association between valvular heart disease and the use of phentermine alone cannot be ruled out; there have been rare cases of valvular heart disease in patients who reportedly have taken phentermine alone.

Tolerance to the anorectic effect usually develops within a few weeks. When this occurs, the recommended dose should not be exceeded in an attempt to increase the effect; rather, the drug should be discontinued.

Phentermine hydrochloride may impair the ability of the patient to engage in potentially hazardous activities such as operating machinery or driving a motor vehicle; the patient should therefore be cautioned accordingly.

### DRUG ABUSE AND DEPENDENCE

Phentermine hydrochloride is related chemically and pharmacologically to the amphetamines. Amphetamines and related stimulant drugs have been extensively abused, and the possibility of abuse of phentermine hydrochloride should be kept in mind when evaluating the desirability of including a drug as part of a weight reduction program. Abuse of amphetamines and related drugs may be associated with intense psychological dependence and severe social dysfunction. There are reports of patients who have increased the dosage to many times that recommended. Abrupt cessation following prolonged high dosage administration results in extreme fatigue and mental depression; changes are also noted on the sleep EEG. Manifestations of chronic intoxication with anorectic drugs include severe dermatoses, marked insomnia, irritability, hyperactivity and personality changes. The most severe manifestation of chronic intoxications is psychosis, often clinically indistinguishable from schizophrenia.

### Usage with Alcohol

Concomitant use of alcohol with phentermine hydrochloride may result in an adverse drug interaction.

### PRECAUTIONS

#### General

Caution is to be exercised in prescribing phentermine hydrochloride Tablets USP for patients with even mild hypertension.

Insulin requirements in diabetes mellitus may be altered in association with the use of phentermine hydrochloride and the concomitant dietary regimen.

Phentermine hydrochloride may decrease the hypotensive effect of guanethidine.

The least amount feasible should be prescribed or dispensed at one time in order to minimize the possibility of overdosage.

### **Carcinogenesis, Mutagenesis, Impairment of Fertility**

Studies have not been performed with phentermine hydrochloride to determine the potential for carcinogenesis, mutagenesis or impairment of fertility.

### **Pregnancy**

#### **Teratogenic Effects**

#### **Pregnancy Category C**

Animal reproduction studies have not been conducted with phentermine hydrochloride. It is also not known whether phentermine hydrochloride can cause fetal harm when administered to a pregnant woman or can affect reproductive capacity. Phentermine hydrochloride should be given to a pregnant woman only if clearly needed.

#### **Nursing Mothers**

Because of the potential for serious adverse reactions in nursing infants, a decision should be made whether to discontinue nursing or to discontinue the drug, taking into account the importance of the drug to the mother.

#### **Pediatric Use**

Safety and effectiveness in pediatric patients have not been established.

### **ADVERSE REACTIONS**

#### **Cardiovascular**

Primary pulmonary hypertension and/or regurgitant cardiac valvular disease (see **WARNINGS**), palpitation, tachycardia, elevation of blood pressure.

#### **Central Nervous System**

Overstimulation, restlessness, dizziness, insomnia, euphoria, dysphoria, tremor, headache; rarely psychotic episodes at recommended doses.

#### **Gastrointestinal**

Dryness of the mouth, unpleasant taste, diarrhea, constipation, other gastrointestinal disturbances.

#### **Allergic**

Urticaria.

#### **Endocrine**

Impotence, changes in libido.

### **OVERDOSAGE**

Manifestations of acute overdosage with phentermine include restlessness, tremor, hyperreflexia, rapid respiration, confusion, assaultiveness, hallucinations, panic states. Fatigue and depression usually follow the central stimulation. Cardiovascular effects include arrhythmia, hypertension or hypotension, and circulatory collapse. Gastrointestinal symptoms include nausea, vomiting, diarrhea and abdominal cramps. Fatal poisoning usually terminates in convulsions and coma.

Management of acute phentermine intoxication is largely symptomatic and includes lavage and sedation with a barbiturate.

Experience with hemodialysis or peritoneal dialysis is inadequate to permit recommendations in this regard. Acidification of the urine increases phentermine excretion. Intravenous phentolamine (Regitine<sup>®</sup>, CIBA) has been suggested for possible acute, severe hypertension, if this complicates phentermine overdosage.

### **DOSAGE AND ADMINISTRATION**

#### **Exogenous Obesity**

Dosage should be individualized to obtain an adequate response with the lowest effective dose.

The usual adult dose is one tablet (37.5 mg) daily, administered before breakfast or 1 to 2 hours after breakfast. For tablets, the dosage may be adjusted to the patient's need. For some patients ½ tablet (18.75 mg) daily may be adequate, while in some cases it may be desirable to give ½ tablet (18.75 mg) two times a day.

Late evening medication should be avoided because of the possibility of resulting insomnia.

Phentermine is not recommended for use in patients sixteen (16) years of age and under.

### **HOW SUPPLIED**

Phentermine Hydrochloride Tablets USP, 37.5 mg are white with blue speckles, capsule-shaped tablets, bisected and debossed with "c" to the left of bisect and "16" to the right of bisect on one side, and plain on the other side, available in bottles of 100's and 1000's.

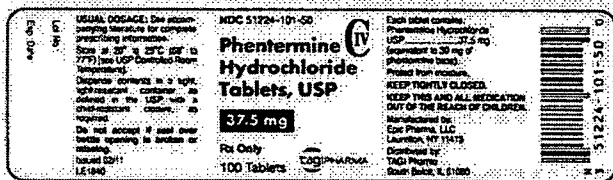
A.App.332

Store at 20° to 25°C (68° to 77°F) [See USP Controlled Room Temperature].  
Dispense in a tight container as defined in the USP, with a child-resistant closure (as required).  
Manufactured by:  
Elite Laboratories, Inc.  
Northvale, NJ 07647  
Distributed by:  
TAGI Pharma  
South Beloit, IL 61080  
OE1021  
MF016ISS11/10  
Issued 11/10

**PRINCIPAL DISPLAY PANEL - 37.5 MG/100 TABLET BOTTLE LABEL**

NDC 51224-101-50

**Phentermine**  
**Hydrochloride**  
**Tablets, USP**  
**CIV**  
**37.5 mg**  
**Rx Only**  
100 Tablets  
Tagi PHARMA





**NOVAREL - chorionic gonadotropin injection**  
Ferring Pharmaceuticals Inc.

**DESCRIPTION**

Human chorionic gonadotropin (HCG), a polypeptide hormone produced by the human placenta, is composed of an alpha and a beta sub-unit. The alpha sub-unit is essentially identical to the alpha sub-units of the human pituitary gonadotropins, luteinizing hormone (LH) and follicle-stimulating hormone (FSH), as well as to the alpha sub-unit of human thyroid-stimulating hormone (TSH). The beta sub-units of these hormones differ in amino acid sequence.

Chorionic Gonadotropin is a water soluble glycoprotein derived from human pregnancy urine. The sterile lyophilized powder is stable. When reconstituted with Bacteriostatic Water for Injection preserved with benzyl alcohol 0.9%, the solution should be refrigerated and used within 30 days.

Each vial contains:

Chorionic Gonadotropin **10,000** USP Units, Mannitol 100 mg, Dibasic Sodium Phosphate 16 mg, and Monobasic Sodium Phosphate 4 mg.

**CLINICAL PHARMACOLOGY**

The action of HCG is virtually identical to that of pituitary LH, although HCG appears to have a small degree of FSH activity as well. It stimulates production of gonadal steroid hormones by stimulating the interstitial cells (Leydig cells) of the testis to produce androgens and the corpus luteum of the ovary to produce progesterone. Androgen stimulation in the male leads to the development of secondary sex characteristics and may stimulate testicular descent when no anatomical impediment to descent is present. This descent is usually reversible when HCG is discontinued. During the normal menstrual cycle, LH participates with FSH in the development and maturation of the normal ovarian follicle, and the mid-cycle LH surge triggers ovulation. HCG can substitute for LH in this function. During a normal pregnancy, HCG secreted by the placenta maintains the corpus luteum after LH secretion decreases, supporting continued secretion of estrogen and progesterone, and preventing menstruation. HCG HAS NO KNOWN EFFECT ON FAT MOBILIZATION, APPETITE OR SENSE OF HUNGER, OR BODY FAT DISTRIBUTION.

**INDICATIONS AND USAGE**

HCG HAS NOT BEEN DEMONSTRATED TO BE EFFECTIVE ADJUNCTIVE THERAPY IN THE TREATMENT OF OBESITY. THERE IS NO SUBSTANTIAL EVIDENCE THAT IT INCREASES WEIGHT LOSS BEYOND THAT RESULTING FROM CALORIC RESTRICTION, THAT IT CAUSES A MORE ATTRACTIVE OR "NORMAL" DISTRIBUTION OF FAT, OR THAT IT DECREASES THE HUNGER AND DISCOMFORT ASSOCIATED WITH CALORIE-RESTRICTED DIETS.

1. Prepubertal cryptorchidism not due to anatomic obstruction. In general, HCG is thought to induce testicular descent in situations when descent would have occurred at puberty. HCG thus may help to predict whether or not orchiopexy will be needed in the future. Although, in some cases, descent following HCG administration is permanent, in most cases the response is temporary. Therapy is usually instituted between the ages of 4 and 9.
2. Selected cases of hypogonadotropic hypogonadism (hypogonadism secondary to a pituitary deficiency) in males.
3. Induction of ovulation and pregnancy in the anovulatory, infertile woman in whom the cause of anovulation is secondary and not due to primary ovarian failure, and who has been appropriately pretreated with human menopausal gonadotropins.

**CONTRAINDICATIONS**

Precocious puberty, prostatic carcinoma or other androgen-dependent neoplasm, prior allergic reaction to HCG. HCG may cause fetal harm when administered to a pregnant woman. Combined HCG/PMS (pregnant mare's serum) therapy has been noted to induce high incidences of external congenital anomalies in the offspring of mice, in a dose-dependent manner. The potential extrapolation to humans has not been determined.

**WARNINGS**

HCG should be used in conjunction with human menopausal gonadotropins only by physicians experienced with infertility problems who are familiar with the criteria for patient selection, contraindications, warnings, precautions, and adverse reactions described in the package insert for menopausal gonadotropins. The principal serious adverse reactions during this use are: (1) Ovarian hyperstimulation, a syndrome of sudden ovarian enlargement, ascites with or without pain, and/or pleural effusion; (2) Enlargement of preexisting ovarian cysts or rupture of ovarian cysts with resultant hemoperitoneum; (3) Multiple births, and (4) Arterial thromboembolism.

The recommended diluent for reconstitution is Bacteriostatic Water for Injection preserved with benzyl alcohol 0.9%. Benzyl alcohol has been reported to be associated with a fatal "Gasping Syndrome" in premature infants.

## PRECAUTIONS

### General

1. Induction of androgen secretion by HCG may induce precocious puberty in patients treated for cryptorchidism. Therapy should be discontinued if signs of precocious puberty occur.
2. Since androgens may cause fluid retention, HCG should be used with caution in patients with cardiac or renal disease, epilepsy, migraine, or asthma.

### Drug/Laboratory test

HCG can crossreact in the radioimmunoassay of gonadotropins, especially luteinizing hormone. Each individual laboratory should establish the degree of crossreactivity with their gonadotropin assay. Physicians should make the laboratory aware of patients on HCG if gonadotropin levels are requested.

### Carcinogenesis, Mutagenesis, Impairment of Fertility

There have been sporadic reports of testicular tumors in otherwise healthy young men receiving HCG for secondary infertility. A causative relationship between HCG and tumor development in these men has not been established. Defects of forelimbs and of the central nervous system, as well as alterations in sex ratio, have been reported in mice on combined gonadotropin and HCG regimens. The dose of gonadotropin used was intended to induce superovulation. No mutagenic effect has been clearly established in humans. Fertility—see “Indications and Usage.”

### Pregnancy

#### Teratogenic Effects

*Category X:* See “Contraindications” section. Combined HCG/PMS (pregnant mare’s serum) therapy has been noted to induce high incidences of external congenital anomalies in the offspring of mice, in a dose-dependent manner. The potential extrapolation to humans has not been determined.

### Nursing Mothers

It is not known whether this drug is excreted in human milk. Because many drugs are excreted in human milk, caution should be exercised when HCG is administered to a nursing woman.

### Pediatric Use

Safety and effectiveness in children below the age of 4 have not been established.

## ADVERSE REACTIONS

(See WARNINGS) Headache, irritability, restlessness, depression, fatigue, edema, precocious puberty, gynecomastia, pain at the site of injection. Hypersensitivity reactions both localized and systemic in nature, including erythema, urticaria, rash, angioedema, dyspnea and shortness of breath, have been reported. The relationship of these allergic-like events to the polypeptide hormone or the diluent containing benzyl alcohol is not clear.

## DOSAGE AND ADMINISTRATION

(Intramuscular Use Only): The dosage regimen employed in any particular case will depend upon the indication for use, the age and weight of the patient, and the physician’s preference. The following regimens have been advocated by various authorities.

Prepubertal cryptorchidism not due to anatomical obstruction:

- (1) 4,000 USP Units three times weekly for three weeks.
- (2) 5,000 USP Units every second day for four injections.
- (3) 15 injections of 500 to 1,000 USP Units over a period of six weeks.
- (4) 500 USP Units three times weekly for four to six weeks. If this course of treatment is not successful, another is begun one month later, giving 1,000 USP Units per injection.

Selected cases of hypogonadotropic hypogonadism in males:

- (1) 500 to 1,000 USP Units three times a week for three weeks, followed by the same dose twice a week for three weeks.
- (2) 4,000 USP Units three times weekly for six to nine months, following which the dosage may be reduced to 2,000 USP Units three times weekly for an additional three months.

Induction of ovulation and pregnancy in the anovulatory, infertile woman in whom the cause of anovulation is secondary and not due to primary ovarian failure and who has been appropriately pre-treated with human menopausal gonadotropins (See prescribing information for menopausal gonadotropins for dosage and administration for that drug product).

5,000 to 10,000 USP Units one day following the last dose of menopausal gonadotropins. (A dosage of 10,000 USP Units is recommended in the labeling for menopausal gonadotropins).

Parenteral drug products should be inspected visually for particulate matter and discoloration prior to administration, whenever solution and container permit.

**HOW SUPPLIED**

Chorionic Gonadotropin for Injection, USP, is available as individually packaged vials containing 10,000 USP Units per vial (NDC 55566-1501-0).

Store dry product at controlled room temperature 15° - 30° C (59° - 86° F).

AFTER RECONSTITUTION WITH BACTERIOSTATIC WATER FOR INJECTION PRESERVED WITH BENZYL ALCOHOL 0.9%, REFRIGERATE THE PRODUCT AT 2° - 8° C (36° - 46° F) AND USE WITHIN 30 DAYS.

Product No.: 0126-10

Mfd. for:

Ferring Pharmaceuticals Inc.

Suffern, NY 10901

Mfd. by:

Steris Laboratories, Inc.

Phoenix, AZ 85043 USA

# Norton A. Roitman, MD, DFAPA

*Distinguished Fellow of  
the American Psychiatric Association*

BOARD CERTIFIED SPECIALIST  
CHILD AND ADOLESCENT  
GENERAL PSYCHIATRY  
FORENSIC TESTIMONY  
CLINICAL PROFESSOR PEDIATRICS/PSYCHIATRY  
U OF NEVADA MEDICAL SCHOOL

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## Curriculum Vitae

January 2011

### Professional Activities

- 2010 to present** Boys Town of Nevada Advisory Board of Directors  
Nevada Deputy Representative to the American Psychiatric Association  
Psychiatric consultant, Federal Bureau of Prisons in conjunction with Bridge Counseling Associates
- 2009 to present** Chairman, Ethics Committee, Nevada Psychiatric Association  
*Pediatric Psychiatry Rounds*, University Medical Center Children's Hospital
- 2008 to present** Psychiatrist for Caliente Youth Center, Nevada Division of Child and Family Services  
Psychiatric Consultant, advanced to Medical Director, Maple Star Nevada Foster Care Program
- 2006 to present** Adjunct Clinical Professor/Clinical Faculty Supervisor, Touro University College of Osteopathic Medicine  
Medical Director, Boys Town of Nevada  
Competency Evaluator, Specialty Court, Eighth Judicial Court District
- 2005 to present** Clinical Professor of Psychiatry, University of Nevada School of Medicine
- 2002 to present** Psychiatric Examiner for competency, certification, diagnosis and treatment planning for the Office of the Juvenile Public Defender, Nevada Youth Parole and Childrens Attorney Project, Nv Legal Aid
- 1998 to present** Distinguished Fellow, American Psychiatric Association
- 1995 to present** Sunrise Hospital Medical Staff Affiliate
- 1992 to present** Forensic assessments and testimony on competency, causality, *mens rea*, need for guardianship, certification, causation, mitigation and other criminal and civil matters for the Office of the Special Public Defender, Department of Family Services, Nevada Youth Parole, and the private sector
- 1990 to present** Assistant Clinical Professor, Department of Pediatrics U of Nevada, School of Medicine  
Director, Medical Consultant Clinic, Clark County School District  
Psychiatric Examiner for the Clark County Juvenile Courts
- 1989 to present** Consultant, Nevada State Board of Medical Examiners
- 1988 to present** Private practice and forensic diagnostician (child, adolescent, adult, geriatric and family psychiatry)  
Las Vegas, Nevada.

Notable forensic cases include Mike Tyson's appeal to the Nevada Athletic Commission, Joshua Jenkins, (family annihilator), testimony in Binion, Ibeabucchi, Edward Preciado and consultation on Margaret Rudin and Darrin Mack. Guilt and penalty phase preparation and testimony in capital and other criminal matters.

Written and court testimony in civil matters pertaining to: impairment of medical, osteopathic, dental and legal professionals before the Boards of Medical Examiners, Osteopathic Medicine, Dentistry, the Nevada Gaming Control Board, and the Nevada Bar Association; federal security clearance (military contractors); workplace danger and fitness for duty (private sector, State of Nevada and USPS); testamentary and contractual competence in elder population (prospective and retrospective analysis); chemical and psychotropic medication effects and side effects; psychiatric factors complicit in tax evasion charges; IME and forensic study of authenticity of psychiatric conditions; psychiatric complications of head and other injuries and matters of causality in federal, district, (Nevada, Oregon and California); custody and parental fitness before family court and drug court assessments of impairment and psychiatric monitorship; Juvenile Justice second opinion consultations.

## Certifications, Honors and Licenses

2010	Certificate of Appreciation for service to the Nevada Psychiatric Association
2009	Selection for the <u>Guide to America's Top Psychiatrists</u> , Consumers' Research Council of America
2007	Delegate to 103rd annual Meeting NSMA Annual Meeting April 27-29 2007 Reno
2006	Qualification under Drug Addiction Treatment Act of 2000, Waiver to Prescribe for Opioid Addiction
2004	Las Vegas Life Magazine's " Best Doctors in Las Vegas "
2000	Nomination for Nurses Choice Award, March of Dimes
1998	Elected to Distinguished Fellow, American Psychiatric Association
1997	Board Eligibility in Forensic Psychiatry, American Board of Psychiatry and Neurology
1994	Exemplary Psychiatrist Award, National Alliance for the Mentally Ill
1991	Commendation, Las Vegas Chapter, National Association of School Psychologists
1987	Certification in Child and Adolescent Psychiatry, American Board of Psychiatry and Neurology
1985	Nevada Board of Medical Examiners, License 5342, DEA BRO300018, Board of Pharmacy NR4084
1982	Board Certification in General Psychiatry by the American Board of Psychiatry and Neurology
1980	Clinical Research Center San Diego (CRC) Fellowship Grant, National Institute of Mental Health
1979	Parvin Fellow, Reiss-Davis Child Study Center, Albert Parvin Foundation
1977	Physician and Surgeons Certificate, California License G35003

## Education

1981 to 1983	Fellowship, Administrative Psychiatry, Reiss-Davis Child Study Center, Los Angeles
1979 to 1984	Psychoanalysis (training type)
1979 to 1981	Fellowship, Child Psychiatry, Intensive treatment of disturbed children (Psychoanalytic and other therapies) Reiss-Davis Child Study Center, Los Angeles, California
1978 to 1979	Residency, General Psychiatry, University of California, San Diego
1977 to 1978	Fellowship, Clinical Psychopharmacology Research under Drs. David Janowski, Lewis Judd and Arnold Mandel, University of California, San Diego
1976 to 1977	Internship/Residency, General Psychiatry, University of California, San Diego
1972 to 1976	Medical Degree, University of Illinois, School of Medicine, Chicago
1968 to 1972	Bachelors of Science Psychology, University of Wisconsin, Madison
1968 to 1970	Kemper K. Knapp Scholarship, University of Wisconsin

## Experience

1998 to 2010	Consultant, Physician Reviewer Panel, Health Insights, Inc, (formerly Nevada Peer Review)
2005 to 2009	Consultant to Director and Program Committee, Boys Hope/Girls Hope of Nevada
2007 to 2010	Member, Diversion Committee, Nevada Health Professionals Assistance Foundation
2009	Presentation on behalf of inmate Rakers, Board of Pardons Commissioners November 19, 2009
2007 to 2008	Desert Canyon Rehabilitation Hospital Active Medical Staff (resigned due to inactivity)
2006 to 2010	Delegate and Core Legislative Group Member, Nevada State Medical Association NSMA Joint Commission on Governmental Affairs Clark County Medical Society Governmental Affairs Commission
2005-2009	Member, then Board Member (2007) National Association of Counsel for Children
2005 to 2007	Consultant to Physician Diversion Committee
2003 to 2006	Steering Committee and Psychiatric Consultant to Safe Schools/Healthy Students Initiative (federal grant), Clark County School District
2005-2006	Preceptor for Psychiatric Clerkship, University of Des Moines, College of Osteopathic Medicine and Touro University, College of Osteopathic Medicine, Nevada
2003-2004	Psychiatric advisor to the Division of Child and Family Services, State of Nevada Contract Services to Southern Nevada Adult Mental Health, State of Nevada
2003	ADHD Consultants Meeting, Shire Pharmaceuticals, Sundance, Utah, June 6-8. 2003

**Experience continued**

2002 to 2005 Nevada Team Leader, (federal grant program) of Child Treatment/Trauma Network administrated through Primary Children's Hospital and the University of Utah, Salt Lake City, Utah

1999 Clark County Classroom Teachers Association, Panel Consultant to Integrated Medical Behavioral Care Clinical Site Preceptor and Leader, Ambulatory Psychiatric Grand Rounds, Department of Internal Medicine Panel Utilization Reviewer, Physicians' Review Network

1998 to 2003 Board of Directors and Psychiatric Advisor to Programs, Boys Hope/Girls Hope of Nevada Professional Advisory Panel, New Horizons Academy, a private non-profit school for learning disabled students

1999 Clark County Classroom Teachers Association, Panel Consultant to Integrated Medical Behavioral Care Clinical Site Preceptor and Leader, Ambulatory Psychiatric Grand Rounds, Department of Internal Medicine Panel Utilization Reviewer, Physicians' Review Network

1998 Field Experience Preceptor, Department of Psychology, UNLV Consultant, Clark County Classroom Teachers Association

1998 Clark County Medical Society Board of Directors, Chairman, Bylaws Committee Member, Legislation Study Committee, Americans for Mental Health, Nevada Public Testimony to the Nevada Athletic Commission on behalf of Michael Tyson (fitness to fight) Member, Board of Directors, MEDPAC Member, Medical Staff, Summerlin Hospital Medical Center

1997 to 1999 Chief of Psychiatry, Sunrise Hospital and Medical Center Member, Internal Medicine Committee, Sunrise Hospital and Medical Center

1996 to 2000 Trustee, Clark County Medical Society

1996 to 1997 Member, Allied Health Providers Committee, Sunrise Hospital and Medical Center Surveillance Task Force, Munchausen's Syndrome by Proxy, Sunrise Hospital

1994 to 2000 Editorial Board, *The Journal of Psychosocial Nursing & Mental Health Services*

1993 to 1996 Participant, PAYBAC Clark County School District partnership program

1992 to 2003 Founder and Director, Psychiatric Clinic for Helen J. Stewart and Variety Schools, a free clinic for mentally disabled and physically challenged elementary students with emotional/ and behavioral disorders Faculty, Department of Family Practice, University of Nevada School of Medicine

1990 to 1996 Founder and CEO, Harmony Healthcare Systems, Inc, a comprehensive outpatient mental health clinic and employee-assistance program serving 40,000 Nevadans contracted with Boyd Gaming, Aladdin, Showboat and MGM Grand, Inc.

1995 ABPN Team member for Part II General Psychiatry Examination, Denver, October 13-15 Nevada Campaign Assistant (President & Vice President elect, American Psychiatric Association) Co-Founder and Medical Director, Las Vegas Center for Children, Day Treatment program for children

1993 to 2000 Balint Group Leader, Family-Practice Residency, University of Nevada School of Medicine

1993 to 1995 Member, United Business and Provider Network, a coalition of businesses and providers, placing emphasis on responsible managed care for employees and their families Medical Director, Southern Nevada Child and Adolescent Services, State of Nevada

1993 Participant, Physicians Aid Committee North-South Conference; Reno, Nevada

1992 to 1994 Medical Director to Boyd Group's Lifestyles Employee Assistance Program Associate Editor of "The Psychiatric Resident" (Journal)

**Experience continued**

1992 to 1998      Member, Medical Staff, HeathSouth (formerly Rehabilitation Hospital of Las Vegas)  
Consultant, Nevada Appellate and Post-Conviction Project

1992      Expert Panelist, Department of Veterans Affairs Study to Determine the Reliability and Validity of the InterQual  
ISD-A (Intensity, Severity, Discharge-Appropriateness) used in VA Medical Centers  
Faculty, National Judicial College  
Member, Medical Executive Panel, Hemophilia Foundation of Nevada

1991 to 2006      Psychiatric program consultant and counseling supervisor, Boys Town of Nevada

1991 to 1998      Examiner, American Board of Psychiatry and Neurology  
Member, Subcommittee on Peer Review, Clark County Medical Society

1991 to 1999      Psychiatric Consultant to Children's Resource Bureau, State of Nevada.

1991 to 1993      Psychiatric Consultant to Desertview, a nonprofit organization serving mentally retarded adults  
Member, State Health Planning Commission Task Force on Health Status and Prevention, Plan Development  
Committee, State of Nevada  
Psychiatric Consultant, Children's Behavioral Services, State of Nevada

1991 - 1992      Consultant, Sunrise Children's Hospital

1990 - 1992      Medical Review Board, State of Nevada

1990 - 1992      Co-chairperson, Founding Board and Professional Advisory Committee; and Chairman, Steering Committee, Las  
Vegas Center for Children (private, non-profit day treatment center for child)  
1989 to 2001 Member of Medical Staffs, University Medical Center, Valley Hospital Medical Center

1989 to 1991      Member, Board of Directors, Bridge Counseling Associates (private, non-profit family behavioral health center)

1989      Representative for the American Psychiatric Association to the American Medical Student Association

1989 to 1998      Charter Hospital Medical Staff membership

1989 to 1995      Member, Physicians Aid Committee, Clark County Medical Society (consulting member as of Dec 1995)

1988 to 2005      Clinical Assistant Professor, University of Nevada, School of Medicine, Department of Psychiatry

1988 to 1991      Member, Committee of Early Career Psychiatrists, American Psychiatric Association Examiner in Psychiatry,  
Nevada State Board of Medical Examiners

1988 to 1993      Medical Staff, CareUnit Hospital

1988 to 1989      Clinical Director (Adolescent Unit), Medical Staff Quality Assurance, Medical Executive, Utilization Review,  
Bylaws, P & T Committees. Montevista Hospital, Las Vegas

1988 to 1997      Medical Staff, Montevista Hospital

1987 to 1993      Representative, Assembly of the American Psychiatric Association, Nevada District Branch (Deputy  
Representative from 1992 to 1993)

1987 to 1988      Member, LCME Self Study Sub-Committee on Objectives, Governance, and Administration, University of  
Nevada, School of Medicine  
Private practice, Northern Nevada  
Consultant, Washoe County School Psychologists  
Vice-President, Nevada Association of Psychiatric Physicians, Northern Chapter  
Member, University of Nevada, School of Medicine, Department of Psychiatry; Committee on Residency  
Feasibility; Committee on Faculty Service Standards

## Experience continued

- 1986 Recipient, Official Commendation from the Commission on Mental Health/Mental Retardation, State of Nevada  
Member, Western Interstate Commission for Higher Education Program Planning Committee
- 1985 to 1988 Chief Faculty Supervisor, medical student clerkship, Nevada Mental Health Institute, University of Nevada,  
School of Medicine, Department of Psychiatry  
Assistant Clinical Professor (Compensated), University of Nevada-Reno, School of Medicine, Department of  
Psychiatry. Duties included Medical Director and Chief Administrator, Nevada Mental Health Institute, 98-bed  
acute adult and geriatric psychiatric state hospital and extensive outpatient, residential, case management and  
day treatment program
- 1985 Psychiatrist, Adolescent Program, Medical Quality Assurance Committee, Napa State Hospital. California  
Secretary and Treasurer, North Bay Chapter of the Northern California Psychiatric Society, Napa, California
- 1983 to 1984 Consultant and founder, Quality Assurance Program, San Diego Center for Children
- 1981 to 1985 Assistant Medical Director, Reiss-Davis Child Study Center (JCAHO accredited out-patient clinic), Los Angeles  
Responsibilities included administration of all aspects of accreditation, crisis management of patients referred  
from the outpatient program, and supervision of child fellows, post-doctorate psychologists and social workers  
Private practice, Santa Monica, California
- 1981 to 1985 Psychiatric Consultant, Vista Del Mar Day Treatment and Residential Program Los Angeles, California
- 1981 to 1982 Psychiatric Consultant, Pasadena Child Guidance Clinic, California
- 1977 to 1983 Clinical Consultant, San Diego Center for Children, residential treatment

## Memberships

Child Welfare Network  
American Psychiatric Association  
Nevada Psychiatric Association  
Clark County Medical Society  
Nevada State Medical Association  
American College of Legal Medicine  
Las Vegas Pediatric Society

## Notable Continuing Education

2011 ACLM Annual Meeting, Medicine and Law for Healthcare Professionals, February 2011  
Civil Court Judicial Forum, NBI, March 2010,  
Recertification Nv Division of Mental Health and Developmental Services, October 2010, Las Vegas  
Ethical Treatment of Patients: The Many Forms of Good Communication, November 2009  
Juveniles' Competence to Stand Trial; Legal/Clinical Issues, Eighth Judicial Court, Thomas Grisso, PhD, December 11, 2009  
Recertification Nv Division of Mental Health and Developmental Services training Psychosis and the Diagnosis of Psychosis  
as a barrier to competency to proceed with adjudication. October 17, 2008, Las Vegas  
American College of Legal Medicine 49<sup>th</sup> Annual Meeting and Conference, Las Vegas, February 28, 2009  
9<sup>th</sup> Annual Public Defender's Las Vegas Retreat March 27-29, 2009  
Mastering the science and Trial Strategies, Brain Injury Litigation Strategies, April 3-4, 2008  
Faculty Development Workshop Touro University College of Osteopathic Medicine, January 2008  
Las Vegas Certification by the Nv Division of Mental Health and Developmental Services as an Examiner for Competency to  
Stand Trial, Las Vegas December 2007  
AMA Basic Disaster Life Support (BDLS) December 2008  
Risk Management for Nv Physicians Improving Patient Care: Ethics, Communication and Litigation Las Vegas, April 12, 2008  
Child Maltreatment Forum for Health Care Professionals, October 30, 2007, Las Vegas  
Techniques of Assessing Malingering in Forensic Evaluations, March 9, 2007  
The Specialized Practice of Juvenile Law, NACC 29th National Children's Law Conference October 12-15, 2006



### **Notable Continuing Education *continued***

*7th Annual Public Defender Las Vegas Retreat* April 13-15 2007  
*The Cutting Edge, American College of Legal Medicine*, March 2006  
*Buprenorphine and Office-based Treatment of Opioid Dependency*, APA, February 2006  
*Pain Management and the Care and Rx of the Terminally Ill, Nevada Psychiatric Association Annual Meeting*, February 2006  
*Competency to Stand Trial Workshop, Lake's Crossing Center for the Mentally Disordered Offender*, August 2005  
*What Judges Want You to Know About Nevada Family Court*, September 2005  
*State of the Art Advocacy for Children, Youth and Families*, National Association of Counsel for Children, August 2005  
*Representing Children, Families and Agencies in Child Welfare, Juvenile Justice, Custody and Adoption Proceedings*, National Association of Counsel for Children, September 2004  
*Autism Spectrum Disorders*, Peter Tanguay, MD, January 2004  
*21st Annual Symposium in Forensic Psychiatry*, American College of Forensic Psychiatry, April 2003  
*The "Americans with Disabilities Act" in Nevada*, August 2002  
*Annual Meeting, American College of Legal Medicine*, April 2002  
*Homicide: Behaviors, Motives and Psychology*, Specialized Training Seminars, March 2002  
*Legal and Medical Ethical Considerations of Futile Care*, March 21, 2002  
*Introduction to Bioterrorism Preparedness for Physicians*, November 1, 2001  
*Pain Management and Nevada Law*, November 17, 2001  
*Guilt and Regret: Exposing the Blame and Remorse Cycle*, November 2001  
*Workman's Compensation in Nevada*, February 8, 2001  
*18th Annual Symposium in Forensic Psychiatry*, American College of Forensic Psychiatry, April 2000  
*The Criminal Trial from Start to Finish in Nevada*, April 25, 2001  
*Family Law in Nevada*, April 8, 1999  
*Update HIV/AIDS*, February 1999  
*Regulatory Issues Surrounding the Legitimate Prescribing of Opioids for Chronic Pain*, February 1999  
*Jury Selection*, December 1998  
*Psychiatric Malpractice Risk Management, Volume 5*, December 1998  
*Domestic Law in Nevada*, February 1998  
*Managing Difficult Pain Patients*, February - March 1997  
*Child Custody and Visitation in Nevada*, November 1996  
*Evolution of Psychotherapy Conference*, December 1995  
*Annual Meeting, Salishan Lodge, Organization of State Physician Impairment Committees*, February 1995  
*A New Dawn of Awakening*, Autism Society of America, July 6-9, 1994  
*Authority, Diversity and Change*, Tavistock Group Relations Conference sponsored by A K Rice Institute & UCLA Center for the Study of Organizational and Group Dynamics, 1994  
*Safety Workshop for State-Agency Supervisors*, State of Nevada Division of Prevention, 1994  
*Work-Performance Standards - Employee Appraisal*, State of Nevada Department of Personnel, 1994  
*Physicians in Management I & II*, American College of Physician Executives, January, 1986  
*Post Graduate Course in Administrative Psychiatry*, Wright State University, Dayton, Ohio, 1984  
*JCAH Accreditation Course*, San Diego, California, 1982

### **Presentations**

- 2010     *William S. Boyd School of Law, Fundamentals of Psychiatric Evaluations and Preparation of children and adolescents for psychiatric evaluations, case consultations and didactics*, April  
           *Clark County School District School Nurses conference, Psychodiagnostics and psychopharmacology basics*, November  
           *Teen Screen, Department of Pediatrics in-service training on assessment of suicide risk*
- 2009     *Guest Speaker, mental Illness, Attitude and Support, American Heart Association, Stroke Support Group*, September 2  
           *Nevada Behavioral Health Check-up Teen-Screen suicide detection / prevention seminar for primary care providers*, April 8  
           *Leadership Las Vegas, Healthcare Systems, Health and Addiction Panel* April  
           *Recession Rx, Prescriptions to deal with the recession* PBS, May

Presentations continued

- 2009 *Face to Face*, "Easy Way Out," Las Vegas One, John Ralston, April  
*Face to Face*, "Foster Children's Needs," Las Vegas One, John Ralston, October 19
- 2009 Testimony regarding SB 293 before the sub Committee, Nevada State Senate, March 28
- 2007 Center for Health and Learning Psychiatric Faculty, Case consultant April 25,  
Physician Practice in the Changing Economic Environment, Student AMA Conference, Las Vegas January
- 2007 *NACC 30th National Children's Law Conference August 15-18*,  
"Psychological Evaluation in Juvenile and Family Cases: Essentials of Mental Health Assessment" with  
Kathleen Faller and PhD. Thomas Lyon, JD, PhD  
"Psychological Evaluations: Putting Theory Into Court Practice with Henry Plum, JD
- 2006 "Ask the Doctor" Annual Conference, National Association of Counsel for Children, September  
"Psychiatric conditions co-occurring with cardiovascular disease" UNSOM Department of Internal Medicine, March  
"Psychiatric Aspects of Pediatric Dentistry" University of Nevada School of Dentistry, February  
System of Care Implementation, Safe Schools Healthy Kids  
"Psychiatric Aspects of Pain Management" UNSOM Department of Internal Medicine
- 2005 "Psychiatric Medication in Children and Teens, Critical Skills and Issues" National Association of School Psychologist, July  
"Diagnosis and Practical Management of the Troubled Employee" US Postal Service Management Seminar, September  
"Universal integrated Mental Health Assessment and its Implications on Treatment Planning and Accountability"  
Children's Mental Health Consortium and Clark County Division of Family Services  
"Medical illness and Psychiatry" and "Psychiatric Assessments" Residents and Students case conferences,  
University of Nevada, School of Medicine, Department of Psychiatry  
"Childhood Psychiatric Disorders" Family Practice Residency Conference Schedule, December 15, 2005  
"Child Psychiatry" seminar, UNSOM Pediatric Residency Program, March
- 2004 "Psychotropic Medication for Children," National Association of Counsel for Children, September
- 2003 "Psychiatric Factors and Psychiatric Confusion in Women and Families" Temple Beth Shalom, November  
"Disorders of Behavior, Emotion and Attention, The Need for a Multidisciplinary Approach", Keynote speaker,  
A VISION FOR THE FUTURE, Annual Conference for special education professionals,  
Clark County School District, March  
"Aspects of Psychiatric Conditions in Foster Care", Olive Crest Foster Care Agency, September  
"An Update of Psychiatric Disorders and Treatment in Children", Special Clinical Services Division of DCFS, September
- 2002 "Psychiatric Diagnosis and Treatment Planning", William S. Boyd School of Law, Child Welfare Clinic, June  
"Stress and Terrorism" panel on Medical Consultant Channel 8 broadcast
- 2000 "Conflict Resolution" Clark County School Nurses, April
- 1999 "Overview of Psychiatric Diagnosis" Clark County School Psychologists, February  
"Differential Diagnosis: Attention Deficit Disorder" Special Children's Clinic, State of Nevada multidisciplinary team
- 1998 "Privacy Matters" interview All News Network, Channel One and 39, Las Vegas, Nevada  
"ADHD: What It Is, and What It Is Not" Laughlin Nevada, Family Resource Bureau  
"An Overview of Psychiatric Disorders in Children" Children's Resource Bureau  
"An Overview of Psychiatric Disorders in Children" Special Clinical Services Division of DCFS  
"False Psychiatric Diagnosis and Hospitalizations" appearance on Leeza Gibbons Show (CBS), November  
"Complementary & Alternative Medicine in Health Care Settings" *HealthInsight*, Health Quality Forum, Panel  
"Pediatric psychopharmacology and ADHD Differential Diagnosis" pediatric residents, U of Nevada School of Medicine  
"Mental Health Issues in the School Setting" Clark County School District, School Nurse Staff Development Program  
"Ask the Experts Attention Deficit Disorder" call-in show on Channel 10, Public Television

**Presentations continued**

- 1997 "A Case of Missed Diagnosis: The Criminal Trial of Joshua Jenkins" staff and administration, Boys Town Of Nevada  
"Attention Deficit Disorder" Parent/Teacher Association, Riverside Hotel. Laughlin, Nevada  
"Attention Deficit Disorder Amongst Juvenile Offenders" Clark County Court Treatment Services  
"Mental Health Economics and Future Clinical Opportunities" UNLV, Department of Psychology, Graduate Practicum
- 1996 "A Vision for the Future" keynote speaker to Clark County School District, Summer Institute '96  
"Update on Las Vegas Center for Children" Channel 13, AM LAS VEGAS, November  
"What ADD is NOT", Las Vegas Day School Faculty, October  
"Foundations of Psychiatric Care with Children and Adolescents" Boys Town of Nevada, September  
"The Myth of Attention Deficit Disorder" UNLV Department of Social Work  
"DSM IV, and Introduction to Methods of Differential Diagnosis and the Medical Model"  
"The Psychoses — Definition and Etiological Factors"
- 1995 "Ask the Experts" call in show on Depression, Channel 10, Public Television
- 1994 "Medication Management" Clark County School District, Special Student Services Division, In-service Training  
"Psychiatric Standards for Inpatient Management" Nevada Peer Review staff, Las Vegas  
"Behavioral Problems in School-age Kids" Las Vegas Day School Faculty, March  
"God, Gays and Society" Panel Participant, National Conference of Christians and Jews, April  
"Attention Deficit and other Disorders of Childhood" Lummis Elementary School PTA, April  
"Breaking the Cycle of Child Abuse" Panelist. KNPR, Public Radio, April 29  
"Complicated Grief Issues and their Effects on Children" Nathan Adelson Hospice Nursing Staff, May 9  
"Attention Deficit and Other Disorders of Childhood" Southern Nevada Youth Education Centers (SNYEC)  
"Psychiatric Disorders in Children, Autism and Other Disabling Conditions" Staff of Special Children's Clinic  
State of Nevada Department of Human Resources, June  
"Psychiatric Illness in Children" Professional Staff of Community Health Center, nonprofit health-care clinic  
Psychiatry Clerkship Seminars, University of Nevada School of Medicine, Department of Psychiatry  
"Learning more about Mental Illness" Keynote Speaker, Southern Nevada Alliance for the Mentally Ill, October  
"Using Experts" Death Penalty Defense Seminar, Nevada Appellate Post-Conviction Project March  
"Incompetence, Incapacity and Eccentricity; Understanding the Difference" Nevada Area Health Education Conference  
on Crises in Health Care, Las Vegas, Nevada, April  
"Panic, The Medical Masquerader" Cebu Institute of Medicine, Las Vegas, Nevada, June  
"Ethical/Legal Consequences of Aging" Nevada Area Health Education Center conference Crises in Health Care  
Psychiatry Clerkship Seminars, University of Nevada School of Medicine, Department of Psychiatry  
"A Systematic Approach to the Depressed Patient in Primary Care" Moderator, Las Vegas, Nevada  
"Hyperactivity in the Classroom" M. J. Christensen Elementary School
- 1994 "Psychiatry in Primary Care" Presented to the Las Vegas Society of Osteopathic Physicians Presentation to primary care  
physicians, Las Vegas, Nevada, June  
"Depression in Primary Care" Nevada Society of Addiction Medicine, Las Vegas, Nevada
- 1992 "Responsible Use of Psychiatric Medication in Children" presentation to school psychologists, nurses and special  
education teachers at Sunrise Variety School. Funded by state grant, May 1  
"Child Psychiatry" Psychiatry Clerkship Seminars, Southern Nevada Adult Mental Health Services, University of Nevada,  
School of Medicine, August  
"Attention Deficit Hyperactivity Disorder" Clark County School District Conference, September  
"ADHD and Medical Interventions" Behavioral Management, Clark County School District Conference, November  
"Psychiatric Specialization", Career-planning workshop, University of Nevada School of Medicine, November  
"Anxiety Disorders" Resident Conference, Family Practice Residency Program, University of Nevada School of Medicine  
"How To Help Your Child Be Successful In School" Hebrew Academy, March  
"Conduct Disorders and Effective Interventions" In-service Presentation, Southwest Area Professional Development

**Presentations continued**

- 1992 Center Advisory Board, February  
"Addictive Behavior", The National Judicial College Traffic Court Proceedings, April
- 1991 "Traditional and Novel Agents for the Treatment of Depression in Family and General Practice" Las Vegas  
"Psychosis in School-Aged Children" Clark County School Psychologist, Las Vegas  
Sexual Trauma Workshop Discussant: Cottonwood Center presentation, Las Vegas, Nevada  
"Managing Anxiety Disorders" Moderator Video Teleconference Program through Pacific Presbyterian Medical Center, University Medical Center, Las Vegas, Nevada  
"Psychiatric Problems and Medications for Alzheimer Patients" public workshop for care-givers and professionals, North Las Vegas Care Center, Las Vegas, Nevada
- 1990 "Responsible Use of Medication in Children" Clark County School Psychologists, Council for Exceptional Children, S.U.C.E.S.S. Seminar, Las Vegas, Nevada  
"Childhood Depression" NASW, Nevada Chapter annual meeting, Las Vegas, Nevada  
"Depression and Suicide in the Pediatric Patient" Department of Pediatrics Grand Rounds, Sunrise Children's Hospital  
"Children in Disaster" Valley Hospital Emergency Preparedness Public Seminar, Las Vegas  
"What is Mental Illness?" Nevada Alliance for the Mentally Ill, Bridging the Gap public seminar, Las Vegas  
"Trends and Issues in School Nursing: Identification and Management" Union Plaza Hotel  
"Long-Term Effects of Post Traumatic Stress Disorder" Valley Hospital Nursing In service  
"Making the Grade" Invited Participant, United Way Community Project
- 1989 PANEL: "Childhood Psychopathology" Meadows School, Las Vegas, Nevada  
"Placing Kids of the Eighties in Perspective" Teachers, Brinley Junior High School  
"Medications and Other Elements of Recovery" Children's Behavioral Services staff  
"Panic Disorder - The Inner Child" Human Resource Group, Laughlin, Nevada  
"The Process of Recovery" Key note address, Nevada Alliance for the Mentally Ill, Bridging the Gap Annual Conference, LV  
"Childhood Depression" Valley Hospital, Department of Nursing continuing education  
"Introduction to Child Psychiatric Illness" Clark County Schools, Department of Nursing
- 1988 "Children in Crisis" HCA Monte Vista Hospital, Las Vegas, Nevada
- 1987 "Integrated Child Development" Delivered to the freshman class, University of Nevada, School of Medicine and the Nevada Mental Health Institute  
Life Span, Montevista Hospital Continuing Education Meeting, Las Vegas, Nevada  
"Future Directions of the Nevada Mental Health Institute" Nevada Psychiatric Association, Annual Meeting
- 1986 "Experience of a Newly Surveyed Hospital" Western Interstate Conference for Higher Education, Mental Health and Human Services Program, Seattle, Washington

**Publications and Papers**

- Roitman, Norton SB 293 Testimony March 28, 2009, County Line, Publication for the Clark County medical Center, May 2009
- Roitman, Norton *Ask the Psychiatrist* ABA Child Law Practice, a publication of the American Bar Association Center on Children and the Law 2007- to 2009
- Roitman, Norton *Practical Advice for Referring Clients to Mental Health Assessments - What to Expect and What to Reject* Children's Law Manual, NACC annual publication in conjunction with its National Conference.
- Roitman, Norton, and Dickson, Lesley Psychiatric Medicine in Southern Nevada, Clark County Medical Society Newsletter, November
- Roitman, Norton, Health and Interactive Risk of Psychotropic Medication in Children, The Guardian Vol. 28 No. 1 Winter
- Roitman, Norton, A Practitioner's Guide to the Use of Psychotropic Medication in Children, NACC Children's Law Manual – 2004 Edition Paper and PowerPoint presentation
- Roitman, N.: Hopkins, R. *Beyond Behavior: Getting to Know Your Child* (work in progress)
- Roitman, N.: *Proposal for pediatric residency clinical site activities*, Harmony Counseling Center, 1994
- Roitman, N.: Monthly articles for *Kidz* magazine and employee newsletters for the Aladdin and Showboat

**Publications and Papers continued**

- Roitman, N.: *What ADD is...NOT!* Selected for publication, compendium on Attention Deficit Disorder, a Practical Parenting Publication, William Wagonseiler, Ph D UNLV Department of Education, May, 1995
- Roitman, N.: *Carving in Behavioral Health*, June, 1995 (unpublished)
- Roitman, N.: *Psychiatry in Primary Care*, June, 1992 (unpublished)
- Roitman, N.: *Report to the Interim Study Committee, Nevada State Legislature - Mental Health/Mental Retardation*, January 22, 1988,
- Roitman, N.: *Survey is Opportunity, Not a Burden*. Physician Executive Journal of Management, March-April, 1988, p.9-11
- Huey, L., Janowski, D., Judd, L., Roitman, N., and Clopton, P.: *The effects of naloxone on methylphenidate-induced mood and behavior--a negative study*. Psychopharmacology, 1979
- Janowski, D., Judd, L., Huey, L., Roitman, N., Parker, D., and Segal, D.: *Naloxone effects on serum growth hormone and prolactin in man*. Psychopharmacology, 65:95-97, 1979
- Janowski, D., Judd, L., Huey, L., Roitman, N., Parker, D., and Segal, D.: *Naloxone effects on manic symptoms and growth hormone levels*. Letter to the Editor, Lancet, August 5, 1978, p. 320
- Janowski, D., Judd, L., Huey, L., Roitman, N., Parker, D., and Segal, D.: *Negative naloxone effects on serum prolactin*. Letter to the Editor, Lancet, ii. p. 637, 1978

NR 010111

## EXHIBIT 7

**SUPPLEMENTAL AFFIDAVIT OF KIRK R. HARRISON**  
**filed in Support of Plaintiff's Motion for Primary Custody and Exclusive Possession of**  
**Marital Residence**

STATE OF NEVADA                    )  
  )     ss.  
COUNTY OF CLARK                )

KIRK R. HARRISON, declares and says:

242. The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

243. On Wednesday afternoon, June 1, 2011, Vivian came into the pool room to tell me about an offer she made on the Robinson house for \$368,000.00. Vivian also set a paper on my desk later that day which shows her continual use of phentermine from January 18, 2006 forward. A few days later, Vivian later told me that the A.s actually made the offer on the Robinson house and identified Vivian as providing the financing for the purchase.

244. On Thursday afternoon, June 9, 2011, Whitney told me that she earlier heard Michelle and Chloe W. thank Vivian for money. Apparently, according to Vivian, enough money to pay for Chloe's fall semester, spring semester, and possibly, the next fall semester, at BYU. Vivian's pattern of attempting to buy loyalty continues. On Friday morning, June 10, 2011, Vivian asked me to take Rylee to the W.'s. Rylee is taking \$100 to buy leotards at Gymkats for both Rylee and Anna. The W.s have found their meal ticket.

245. Vivian took Brooke to stay the night at the A.'s on Sunday evening, June 12, 2011. Brooke will be up until the early morning hours with Kayla and Kyler – not a good situation. Vivian slept with Rylee in Whitney's room. When I got up this morning, the door was open to Whitney's room, the bright night light was on, the hall light was on, Rylee was sleeping on the couch in the home office, and Vivian was sleeping on the chair/ottoman in the great room. Undoubtedly, Vivian got up in the middle of the night, left the bright night light on and the bedroom door open. Just as Vivian planned, Rylee wakes up scared and looks for Vivian. At that point, Vivian would still be in the office on the internet and Rylee would go there.

1           246. Vivian has been claiming recently she has been getting out of the bed with Brooke  
2 and Rylee before they go to sleep the last couple of weeks. She has not. Vivian is still in bed with  
3 them when they go to sleep. I picked the girls up from the A.'s on my way back from the ranch  
4 on Thursday, June 16, 2011. Vivian, Brooke and Rylee went to bed shortly after 11:00 p.m. I  
5 couldn't sleep. Vivian got up and out of the bed with Brooke and Rylee after 1:30 a.m. Rylee  
6 woke me up about 3:30 a.m. crying and scared as she woke up and Brooke had already gone  
7 downstairs to be with Vivian.

8           247. I was up working until about 1:20 a.m. on Monday morning, June 20, 2011. Vivian  
9 was still in bed with Brooke and Rylee – they were all sound asleep.

10          248. On Tuesday, June 21, 2011, I spent the day with Joseph at Cascata playing golf and  
11 taking him to the airport. Vivian had Rylee at the B.'s playing with Kamry and then at the W.'s  
12 playing with Anna. Heather A. picked up Brooke after dance and then Vivian took Rylee directly  
13 to the A.'s after Rylee finished playing with Anna. Both Brooke and Rylee spent the night at the  
14 A.'s.

15          249. Sometime around June 22 or June 23, 2011, Vivian told me she is taking a cruise  
16 of the Mediterranean with Michelle W., Chloe W. and Mrs. B., Michelle's mother, from August  
17 14, 2011 through August 27, 2011. Vivian is paying for both Michele and Chloe's trips. Vivian  
18 tries to buy loyalty, and with the W.s, she has found a very willing seller.

19          250. Rylee has been wearing head gear for her teeth for a couple of months. It is  
20 important Rylee wears her head gear everyday. Rylee left her head gear at the A.'s when Vivian  
21 picked her up Wednesday morning, June 22, 2011. When I was driving home on Friday evening,  
22 June 24, 2011, from the ranch, I asked Brooke if Vivian had gotten Rylee's head gear yet. Brooke  
23 said she had not. Apparently, Brooke said something to Vivian and Rylee had her head gear the  
24 next morning. During the last couple of months, with the divorce imminent, Vivian has been doing  
25 things for Brooke and Rylee she hasn't really done with them for many many years. The next  
26 morning Vivian criticized me for asking Brooke whether Rylee had gotten her head gear yet.  
27 Vivian said we agreed not to use the children for messages. I responded I wasn't trying to send a  
28 message to Vivian, that I only asked a question, and I had intended to go get the head gear that



1 morning. When I spoke with Brooke on the telephone on Friday evening, June 24, 2011, at about  
2 9:20 p.m., she and Rylee had not eaten dinner. The next morning, I noticed to empty containers of  
3 Cup of Noodles in the kitchen trash. On the other hand, for herself, Vivian has been receiving food  
4 in insulated containers from "Bistro MD – Doctor designed gourmet meals"

5 251. When I checked on Brooke and Rylee at about 11:30 p.m. on Saturday night, June  
6 25, 2011, Vivian was still in bed with them and they were all asleep.

7 252. Brooke was sick all day Sunday, June 26, 2011, and slept most of the day. I took  
8 Rylee to the K.'s to play at about 2:15 p.m. and they did not bring her home until about 9:00 p.m.  
9 Brooke was feeling better by then and I made them both a peanut butter and honey sandwich.  
10 Rylee had been swimming at the K.'s and was visibly tired. I took her to bed shortly after 10:00  
11 p.m. Vivian was already in the bed. The three of them have been sleeping in Whitney's room for  
12 several weeks as Vivian is redecorating Brooke's room, although they could have started sleeping  
13 in Brooke's room over a week ago. Having slept most of the day, Brooke was not tired so she and  
14 I watched the movie "Sweet Home Alabama" until a little after 11:30 p.m. When I walked Brooke  
15 to bed about 11:45 p.m., Vivian was sound asleep in bed with Rylee. Brooke got in the same bed.  
16 By the time I got into bed it was after midnight. The headboard of my bed is against the same wall  
17 as the headboard of Whitney's bed and there is no insulation in the wall. You can therefore, quite  
18 easily, hear through the wall. I could hear Vivian snoring very loudly through the wall. So loudly,  
19 I could not go to sleep. Sometime, shortly after 12:30 a.m., I heard a thud and Rylee crying and  
20 knew she had fallen out of bed. I ran into Whitney's room to find Rylee on the floor crying with  
21 Vivian standing over her. Rylee refused to get up, so I went over to help her back in bed. When  
22 I started to help her up, I noticed a lot of blood on her legs and all over the floor. When I saw the  
23 size of the gash on Rylee's arm, I told Vivian I was taking her to the emergency room. I turned to  
24 Vivian and said you have to stop sleeping with these girls. Vivian lied, saying she was sleeping  
25 on the chair. I responded saying, "No you were not." I noticed a chandelier from Whitney's  
26 wedding was very close to the bed. Dr. Fagan was the emergency room doctor at the Boulder City  
27 Hospital. He asked how it happened. I explained Rylee fell out of bed and probably cut her arm  
28 on a chandelier that was on the floor next to the bed. Dr. Fagan said the way the skin was torn, it

1 looked like it had been cut on a chandelier. Dr. Fagan had to put seven stitches in Rylee's arm in  
2 an attempt to close the wound. However, because the way it was torn, I fear Rylee will have a  
3 fairly bad scar. With Vivian, Brooke and Rylee sleeping in Brooke's bed, there have been several  
4 prior incidents where either Brooke or Rylee fell out of the bed. Rylee is victimized again by  
5 Vivian's sleeping with Brooke and Rylee. As with the testosterone exposure or contamination, this  
6 never should have happened. Despite knowing that Rylee has fallen out of the bed before, it  
7 obviously did not occur to Vivian to remove the glass chandeliers from the side of the bed. When  
8 Rylee and I got home from the emergency room at about 2:00 a.m., Vivian and Brooke were asleep  
9 upstairs. Our eight year old had to go to the emergency room and Vivian didn't care enough to stay  
10 up until we returned. It took me about 15 minutes using peroxide to get all of the blood off of  
11 Rylee's legs and feet.

12 253. On Monday morning, June 27, 2011, Vivian was sitting in the living room having  
13 coffee. I explained how bad the gash was, that it required seven stitches, and I was making an  
14 appointment with Dr. Warren Smith for Tuesday. I told Vivian she has to stop sleeping with the  
15 girls. She said she had nothing to do with it. I said I was awake when it happened and could hear  
16 her snoring through the wall. Vivian responded that I was a narcissist and a sick person and I  
17 needed to go away. I said you think I am a narcissist because it is not good for you to sleep with  
18 the girls and I am concerned about their safety? She did not answer and got up and walked into  
19 another room. Vivian has been reading a book on narcissism entitled, "The Object of My Affection  
20 Is In My Reflection." I talked to Brooke later in the day and she confirmed she has fallen out of  
21 the bed with the three of them sleeping in it two or three times in the last year and Rylee has fallen  
22 out of the bed once before.

23 254. After the injury to Rylee at about 12:30 a.m. on Monday morning, June 27, 2011,  
24 Vivian, Brooke and Rylee were back to sleeping in Brooke's room. Vivian moved the bright night  
25 light back into Brooke's room. When I got up Wednesday morning, June 29, 2011, Brooke was  
26 sleeping on the couch in the living room and Vivian was sleeping on the chair/ottoman in the living  
27 room. It is pretty well established that light exposure is one of the strongest regulators of the  
28

1 biological clock. The artificial light from the bright night light suppresses melatonin and disrupts  
2 circadian rhythms.

3 255. Vivian came to me on Thursday, June 30, 2011, and said she was frustrated. She  
4 said that Raylene, her sister, had recently broken up with her latest boyfriend and needed a place  
5 to live. Vivian said she offered to buy Raylene a condominium in Boulder City. Raylene had just  
6 texted her back saying that she was supposed to start with the school district in the fall working  
7 with kids and needed a place in the valley and proposed a condominium at a development in the  
8 valley. I believe Vivian said it was in Henderson. I told Vivian she should just rent an apartment  
9 for a while – at least until Raylene knows whether she is going to get the job with the school  
10 district. This is really scary. Vivian did not even invite Raylene or her brother, Harold, to  
11 Whitney's wedding on April 2, 2011. Vivian goes years and doesn't speak with Raylene. Now  
12 Vivian wants to buy her a condominium. Joseph and I had dinner at Johnny Mac's later that day.  
13 I asked him how it came about that Vivian bought this new Toyota Venza for him. He said that  
14 Vivian wanted a new car and he had checked out this car and recommended it to Vivian. She was  
15 not interested and wanted an Avalon. However, she offered to buy it for him. He refused the first  
16 day she offered. The next day, Vivian assured Joseph that all of the money for the new car was  
17 coming solely from her money and not mine. Joseph relented.

18 256. I received emails from Tahnee early morning on Monday, July 5, 2011. Vivian,  
19 using Tahnee's old email address and a password Vivian created, signed Tahnee up to be a  
20 distributor for NuSkin without ever talking to Tahnee. Later that day, Joseph said Vivian had  
21 signed him up to be a distributor for NuSkin. This morning while Vivian was in the same room,  
22 I told Rylee she needed to take a shower as she had not showered since she hurt her arm. I have  
23 been telling Rylee for the past two days she needed to take a shower. I told Rylee to leave her  
24 bandage on during the shower and I would put a new one on when she was through. Later, when  
25 I was stepping into the shower, Rylee called on the intercom. I walked to where I could see Rylee  
26 and Vivian. Rylee said she was ready to take her shower. I said I was just getting in the shower  
27 and it would just be a few minutes. Vivian then accused me of bullying Rylee, in front of Rylee.  
28 I said it wasn't important and told Rylee to go ahead and shower and I would wait. Later, in the

1 afternoon, I was watching television. Vivian came and sat next to me and showed me a  
2 condominium for \$124,000 on her computer screen saying she was going to buy it for her sister,  
3 Raylene. I cautioned her against it. I asked, "What will you do if she fails to make the payments?"  
4 I advised her to talk to Bob Dickerson about it before she did anything. Later that day Vivian said  
5 she had called Jesse A.'s realtor and they were going to see the condominium at 2:30 p.m.

6 257. I talked to our neighbor, Kyle L., on Tuesday evening, November 16, 2010. I told  
7 him I was going to miss having him as a neighbor and asked if he was having any luck selling his  
8 house. Kyle said Cam W. approached him about Vivian buying his home. Cam told Kyle not to  
9 tell me about it. I believe this somewhat confirms my suspicion that Michelle W. has told Vivian  
10 to get more involved with Brooke or Rylee otherwise she is going to lose them. Cam and Michelle  
11 W. live in a nicer neighborhood than we do. Many months prior to this, Vivian had asked me why  
12 I didn't spend any time with Cam W. any more. I told her that I determined that Cam W's strategy  
13 to improve his lot in life was not to work hard and smart, but rather, to use his "friends'" money,  
14 and I don't care for those type of people. Several months after that conversation with Vivian, she  
15 approached me several times about investing in a printing business with Cam W. saying what a  
16 great opportunity it was. I thereafter had a conversation with Cam W. just outside our front door  
17 about this "great opportunity." I asked him to explain what it was about. Cam talked about what  
18 a great business it was, all the additional business he could get for the company if he had it, and  
19 how the current owner did not know what he was doing. I asked Cam to tell me the proposal to  
20 Vivian and I. Cam responded that Vivian and I would put up most of the money to buy the  
21 business and a cpa he knew would put up some money. I asked Cam if he was going to put up any  
22 money. He said not really. However, Cam would own the majority of the business and would be  
23 paid a regular salary to run the business. I asked him if he had any experience running a printing  
24 business. He said he did not. What a guy. I told Cam that he knew that Vivian and I were having  
25 marital problems and his pushing Vivian about buying this printing business was causing  
26 additional stress in our relationship. I also told him that there was something wrong with Vivian.  
27 I told Cam to back off, that under no circumstances would Vivian and I invest in the printing  
28 business, and I told him not to broach the subject with Vivian again. It was on Wednesday

1 evening, January 27, 2010, that Cam W. learned that Vivian had met a man on a plane from  
2 Phoenix to Las Vegas, that Vivian had given this man a ride to his hotel, and that Vivian was  
3 having drinks with the man in the bar of his hotel when Vivian learned that the man was the  
4 President of McCarthy Construction and Cam W.'s boss, as Vivian telephoned Cam from the bar  
5 and told him what had happened.

6 258. As of November of 2009, Michelle W. knew first hand there is something wrong  
7 with Vivian. It was while Michelle was in New York with Vivian that Vivian told Michelle that  
8 Jonathan Rhys Meyers was Vivian's soul mate, that Vivian was going to spend the summer in  
9 Europe without Brooke and Rylee, and that Vivian wanted to go to the sex museum while they  
10 were in New York. On different occasions, Tahnee, Whitney and Joseph have all told me they do  
11 not care for Michelle W. It was after Michelle W. knew first hand there is something wrong with  
12 Vivian and after I told Cam Walker there is something wrong with Vivian, that money I earned  
13 paid for Chloe W.'s pageants, a Mediterranean cruise for Michelle W. and Chloe W., and college  
14 for Chloe W. for a year and a half. I believe that money I earned also paid for Michelle W.'s airfare  
15 to New York, her hotel room, and her meals. I am also aware that Vivian has given Michelle W.  
16 clothes that were Brooke and Rylee's that Brooke and Rylee still wore and that still fit. I know, for  
17 example, that Vivian gave Michelle new Ug boots that still fit Brooke and Rylee. I have seen both  
18 Brooke and Rylee crying over the loss of their own clothes that were given to Michelle W. I  
19 believe that money I earned paid for clothing from GymKats for Anna W. and based upon the  
20 credit card statements I have paid, I probably also paid the cost of Anna W. going to GymKats.  
21 I suspect there are other benefits which Cam and Michelle W. have received as a result of the  
22 expenditure of money I earned.

23 259. During a ride to the airport with Vivian on Saturday night, July 16, 2011, Vivian  
24 said she was going on a trip to Salt Lake City with Teresa Giroux for NuSkin, a trip to Spain with  
25 Teresa Giroux in August or September; and possibly a trip to South Africa for some philanthropic  
26 endeavor which NuSkin has some involvement.  
27  
28

1           260. On Sunday night, July 17, 2011, Vivian threatened me that if I did not return a hand  
2 gun to her by the following afternoon, she was going to take an axe to the door of the closet where  
3 she thought the handgun was located.

4           261. I had to work at the ranch Friday, July 29, 2011 and Saturday, July 30, 2011. Vivian  
5 had Brooke and Rylee both stay at Heather A's both nights. It never ceases to amaze me how  
6 Vivian tries almost every weekend I am away to get rid of Brooke and Rylee.

7           262. Vivian slept in the same bed as Brooke and Rylee Sunday night, July 31, 2011, in  
8 Brooke's room. When I got up this morning, Brooke was asleep on the couch in the living room  
9 and Rylee was asleep on the chair and ottoman in the living room. Vivian was asleep on the couch  
10 in the home office.

11           263. On Thursday afternoon, August 4, 2011, Vivian asked me again where her handgun  
12 was. I told her that the first trip to the ranch after she threw the coffee cup and book at me, I took  
13 the handguns to the ranch. Vivian said she wanted her handgun back. I said she would get both  
14 her handguns back after we were separated. I said that I removed the handguns a year to a year and  
15 a half ago – whenever she threw the coffee cup and book at me. Vivian adamantly said, "I never  
16 threw a coffee cup at you." (Tahnee was there when Vivian did it) Vivian then said I was stealing  
17 and she was going to report it to the police.

18           264. I got a call from Vivian on, I believe, Tuesday, August 2, 2011, wherein she said  
19 she had taken Rylee to Dr. DeWan (Vivian never told me about the appointment) and Rylee's  
20 testosterone level is now normal.

21           265. Vivian had known for weeks that I was taking Brooke and Rylee to my family  
22 reunion in Cedar City, Utah on Friday, August 5, 2011. Vivian called me at about 3:45 p.m. on  
23 Thursday, August 4, 2011. and said the girls do not want to go to the Harrison family reunion and  
24 she has made other plans with them and hung up. I just called her and told her I was trying to solve  
25 our problems privately and in her best interest. However, if she follows through with her threat,  
26 I will be forced to deal with this in a very public way. Vivian later relented, only to then say that  
27 Brooke was not going. Brooke came to me later and said she wanted to go. When I refused to  
28

1 bring handguns back into the house, Vivian retaliated, as she has historically, by trying to keep the  
2 children from me.

3 266. When I got up Sunday morning, August 7, 2011, Brooke was asleep on the couch  
4 in the living room and Rylee was asleep on the chair. It is more times than not that Brooke and  
5 Rylee's sleep is disrupted during the night. Rylee and Brooke slept in a different bed than me at  
6 the motel in Cedar City. Rylee woke up in the middle of the night scared and crying.

7 267. When Joseph and I were leaving the house on Tuesday evening, August 8, 2011,  
8 Michelle Walker was leaving with an arm full of outfits Vivian had given her. As she walked by  
9 me, Michelle said she needed clothes for the cruise. Joseph said that when I was gone this  
10 weekend with Brooke and Rylee, that Vivian gave Michelle two and one-half large bags containing  
11 Brooke and Rylee's clothes for Anna. Joseph commented that it is sad Vivian does not have any  
12 true friends, but just people like Michelle Walker who take advantage of her.

13 268. Brooke's bedroom is on the second floor of our home. The street light is just  
14 outside her window that faces south. There is a half-moon shaped window above the regular  
15 window. Before Vivian's redecoration of Brooke's bedroom, this window had a solid covering  
16 over it to keep out the light. Vivian removed the solid covering and, as a foreseeable consequence,  
17 it is very bright in Brooke's bedroom at night. In addition, Vivian continues to utilize the bright  
18 night light in there. During the two weeks prior to Tuesday, August 8, 2011 Vivian, usually, is not  
19 in the same bed as Brooke and Rylee, but continued to sleep in the same room.

20 269. At 11:40 p.m. on Wednesday, August 10, 2011, I opened the door to Brooke's room  
21 to check on the girls. Vivian was sleeping in the bed next to Rylee with Rylee in the middle.

22 270. Thursday, August 11, 2011, was similar to many other days with Vivian during the  
23 last few years. She left at about 7:00 a.m. this morning and no one knows where she is or what  
24 she is doing. Brooke, Rylee, Joseph and I are flying to Reno tonight for Tahnee's breakfast and  
25 White Coat ceremony tomorrow. Vivian said she would not be back in time to make the 7:10 p.m.  
26 flight tonight and said she will fly up in the morning.

27 271. After Tahnee's white coat ceremony, our family, except for Whitney, my sister  
28 Janie, and her son, Liam, went to dinner at the Outback in Reno. Vivian was visibly struggling to

1 function. She was incoherent – mumbling words that were nonsensical. When I went to the  
2 restroom, Joseph followed me and urged me to take Vivian to the hospital as she was obviously  
3 high on drugs. I told him I have seen her in this condition before and she will be all right, but that  
4 he should drive her home when we landed in Las Vegas. The next day, my sister Janie overheard  
5 Vivian tell Brooke, who was sitting on the other side of Vivian, that she, Vivian, didn't know if  
6 she was going to make it through dinner. Brooke responded that Vivian should not worry as  
7 Brooke would take care of her. Janie said she was watching Joseph during dinner and he was  
8 visibly shaken by seeing Vivian in that condition.

9 272. When I got up on Saturday morning, August 13, 2011, Vivian was in bed asleep  
10 between Brooke and Rylee. It was apparent to both Joseph and I that Vivian was not capable of  
11 driving her car home from the airport the night before so I had Joseph drive her home. While  
12 Brooke and Rylee were driving home with me, they both started to cry about Vivian leaving for  
13 two weeks to go on a Mediterranean cruise without them. Brooke asked, "Why does she leave  
14 without us?" "Why does she take other people [the Walker's] on the trip, but won't take us?" I  
15 told them that I would not be comfortable with them in Greece or Italy with the troubles over there  
16 now.

17 273. In taking the trash for recycling to the curb the morning of Wednesday, August 17,  
18 2011, I noticed a box entitled, "Seasonique" with smaller writing indicating it was from Duramed  
19 Pharmaceuticals, Inc. I checked on the internet and it is a brand of birth control pill. Since I don't  
20 think Vivian is candid with any of the doctors who prescribe medicine to her, this may be  
21 important to the doctor or doctors who ultimately try to figure out how all of the medications that  
22 Vivian takes interact with one another.

23 274. During the trip to Lagoon Resort with Brooke and Rylee between August 13, 2011  
24 and August 16, 2011, Rylee woke up with a nightmare on two of the three nights we were gone.  
25 Each time she sat up in the bed (she was sleeping with Brooke) and screamed.

26 275. Vivian did not see Brooke or Rylee between the morning of Saturday, August 13,  
27 2011 and when Vivian returned from her Mediterranean cruise until August 26, 2011. Vivian only  
28 called Brooke and Rylee once or twice while she was gone.



1           276. On Saturday night, August 27, 2011, I asked Brooke if Vivian slept in the bed with  
2 she and Rylee last night. Brooke said she did. There were blankets on the couch and chair in the  
3 living room this morning. I asked Brooke if she, Rylee and Vivian all got up in the middle of the  
4 night. Brooke said they did. Last night was Vivian's first night back after her cruise to the  
5 Mediterranean and she didn't waste any time in instilling Brooke and Rylee with fear.

6           277. I heard Brooke crying in the living room on Tuesday afternoon, August 30, 2011.  
7 I went in and asked her what was wrong. Vivian told her she was upset with her because she  
8 reduced her dance classes, told Brooke she would regret the decision the rest of her life, and would  
9 not let her play with a friend despite having her homework done. Vivian signed Brooke up for  
10 "intensive" dance classes, where Brooke was having four or five hours of dance classes each school  
11 day. I believe on Thursday, for example, she would have one hour free after school and then not  
12 get home until after 9:00 p.m. that night. Many school tests are on Fridays, so there was an  
13 obvious problem. A couple of weeks ago, Brooke broached the subject with me about changing  
14 her schedule to a normal schedule and not do the "intensive" schedule. I told her it was her  
15 decision, but that I would like to see her have the opportunity to do other things such as play  
16 volleyball, which she enjoys. Brooke broached the subject with me a couple more times. Each  
17 time I told her it was her decision, but told her that school is the top priority. Several days ago,  
18 Brooke broached the subject with Vivian. Vivian just returned from her two week Mediterranean  
19 cruise recently. Yesterday, Brooke asked me to take her to the dance studio so she could change  
20 her schedule. Brooke spoke to Vivian and came away crying yesterday. On the way to the dance  
21 studio, Brooke said that Vivian was upset with her and according to Brooke, had completely  
22 changed her position. Brooke said when she spoke to Vivian about it before she said it was  
23 Brooke's decision. However, yesterday, Vivian criticized Brooke for making the change.

24           278. I had to work at the ranch on Friday, September 2, 2011. I left at 4:30 a.m. that  
25 morning and returned at about 8:30 p.m. that night. When I got home, Vivian is out to dinner.  
26 Brooke and Rylee were again at the Atkinsons and staying the night. It seems like Vivian takes  
27 them there to stay the night and leaves whenever I am not here. She obviously does not want to  
28 spend time with them.

1           279. When I got home Friday evening, September 2, 2011, there was a prescription on  
2 the kitchen counter for Vivian. It is Aprazolam (Zanax) 1mg. The prescribing physician is Sean  
3 Reid Duffy. It was filled at CVS Pharmacy. In the kitchen drawer, along with all of the other  
4 medicines are the prescriptions Bontril for 35 mg (RX4017577) and and Topamax from Trim Care.  
5 The prescribing physician is Ivan Goldsmith. The name of Jill A. Oliver also appears on the  
6 bottles. The label identifies the "PIC" as Ivan Goldsmith. According to the internet, Bontril is  
7 phendimetrazine, and just like Phentermine is used as a short-term supplement to diet and exercise  
8 in the treatment of obesity. Also like Phentermine, it stimulates the central nervous system. It is  
9 a schedule III controlled substance and is compared to Phentermine. Phentermine is a Schedule  
10 IV controlled substance. Topamax is used to treat seizures and migranes.

11           280. Vivian continues to sleep in the same bedroom as Brooke and Rylee. When I go  
12 to bed after them, the door is always closed and the bright night light is always on. I sometimes  
13 open the door to check on them. Sometimes Vivian is in bed asleep with them. Sometimes she  
14 is asleep on the settee in Brooke's room. When I got up at about 4:05 a.m., Tuesday morning,  
15 September 6, 2011, the door to the bedroom was wide open, the bright night light on, the light was  
16 on at the bottom of the stairs, and Brooke and Vivian were asleep on the couch in the living room  
17 downstairs. As I normally do, I turned off the night light and closed the door so at least Rylee  
18 could have some hope of sleeping through the night uninterrupted on a school night.

19           281. As we are in the process of setting a new date to continue the mediation of the  
20 divorce, Vivian sent a number of emails to me on Tuesday, September 6, 2011. These emails  
21 reference "confrontations" that never took place and attempt to falsely portray a concern for and  
22 involvement by Vivian with Brooke and Rylee that has been non-existent for years.

23           282. I am 6' 5", Taheee is 5' 11 1/4", Whitney is 5' 8 1/2", and Joseph is 6' 1". When each  
24 of our children was about 2 years old, their pediatrician would measure their ankle and estimate  
25 their ultimate height. The estimates have been fairly accurate. When Rylee was two years old the  
26 doctor estimated that Rylee would be about 6' tall. While waiting for Rylee's school open house  
27 to start at 5:30 p.m. the evening of Tuesday, September 6, 2011, Vivian told me that she had Dr.  
28 Dewan's (the Pediatric Endocrinologist) office measure the size of Rylee's hand. They told her

1 today that Rylee will only be 5' 5" inches tall and she will go through puberty at age 10! I told  
2 Vivian it was because of the testosterone exposure. Vivian said, "Probably." Vivian said she was  
3 making an appointment in December with Dr. Dewan and we could have a device inserted in Rylee  
4 that would delay puberty for three years and allow her to grow taller. I told Vivian you cannot be  
5 cavalier about Rylee's endocrine system as it is a very complex system in the body. Vivian said  
6 either the device is installed or she takes a pill every day. Rylee is a big boned big girl and I am  
7 concerned an ultimate height of 5' 5" is inconsistent with that. Vivian was very matter of fact about  
8 the whole issue. It is extremely worrisome to learn your daughter is going to be 7 inches shorter  
9 than she is supposed to be as a consequence of Vivian exposing her to testosterone. I am very  
10 concerned about Rylee and need to speak to professionals knowledgeable about the subject to learn  
11 what issues and risks are attendant to this problem.

12 283. While we were driving home from Rylee's open house on Tuesday, September 6,  
13 2011, Vivian said she was driving her car with Raylene and had to pull to the side of the road  
14 because she was seeing triple. I told her I did not know that was possible, as I have heard of people  
15 seeing double, but never triple. She said she absolutely say triple, as she saw three cars in front of  
16 her instead of one. She said she had to stop the car immediately and wait for her normal vision to  
17 return.

18 284. For many years, I have been doing all of the school driving, dance driving, the  
19 preparation of breakfasts for Brooke and Rylee and the preparation of dinners for Brooke and  
20 Rylee. The only time Vivian has done any school driving or dance driving was when I was in a  
21 mediation or at the ranch, and even then, if one of the older children was home, they did the driving  
22 when I could not. Vivian would only prepare a dinner meal for Brooke and Rylee on rare  
23 occasions. For example, if Vivian was craving a hamburger she would go to Von's, buy the  
24 ingredients and make hamburgers. Just the other day, Vivian was craving tacos so she took the  
25 hamburger meat I had bought to make hamburgers, and made tacos. However, after several  
26 mediation sessions for our divorce, which began several months ago, and in the middle of  
27 scheduling the next mediation session for our divorce, Vivian sends an email on Tuesday,  
28

September 6, 2011, dividing the school driving, dance driving and preparation of dinners for Brooke and Rylee between she and I. I am still making all of the breakfasts for Brooke and Rylee.

285. At approximately 7:15 p.m. on Wednesday, September 7, 2011, I was sitting on the living room couch watching television when Vivian set a piece of paper on the coffee table in front of me. After I read the paper, I turned and looked at Vivian, who was sitting at the kitchen counter. She had a big smirk on her face and said, "Let the games begin." Over a year ago, Vivian threw a coffee cup and book at me. The gouge is still on the wall in the living room where the coffee cup landed after just missing my head. The next trip to the ranch I removed all handguns to which Vivian had ready access. In the past, Vivian would insist that we turn the house alarm on every night when we went to bed. However, we have not utilized the house alarm at night for probably at least a year. My son Joseph, who is 6' 1" and about 180 pounds lives with us. I have not stayed overnight at the ranch for a good number of weeks, if not months. Despite all of this, the paper written by Vivian provided: "Kirk, Do not want you to go to Ranch overnight. I feel like Im (sic) not able to adequately protect my family & myself since you have stolen my handguns. I also feel that you are away from the house too much. Vivian"

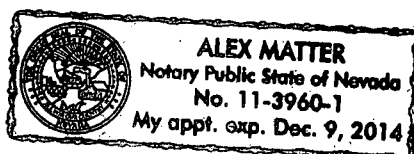
286. Each of the factual averments contained in the Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence are true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

Subscribed and sworn before me  
this 09<sup>th</sup> day of March, 2011.  
September 27

  
Kirk R. Harrison

  
Notary Public





1 **OPP**

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16 **DISTRICT COURT**  
17 **CLARK COUNTY, NEVADA**

18 KIRK ROSS HARRISON,

19 Plaintiff,

20 v.

21 VIVIAN MARIE LEE HARRISON,

22 Defendant.

CASE NO.: D-11-443611

DEPT.: Q

**FAMILY DIVISION**

23 **DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION**  
24 **FOR JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY**  
25 **AND EXCLUSIVE POSSESSION OF MARITAL RESIDENCE;**

26 **COUNTERMOTIONS FOR EXCLUSIVE POSSESSION OF**  
27 **MARITAL RESIDENCE, FOR PRIMARY PHYSICAL CUSTODY**  
28 **OF MINOR CHILDREN; FOR DIVISION OF FUNDS FOR**  
**TEMPORARY SUPPORT, AND FOR ATTORNEY'S FEES**

DATE OF HEARING: November 1, 2011

TIME OF HEARING: 10:00 a.m.

COMES NOW Defendant VIVIAN MARIE LEE HARRISON ("Vivian"), by and through her attorneys Radford J. Smith, Esq., of the firm of Radford J. Smith, Chartered, and Gary R. Silverman, Esq. of the firm of Silverman, Decaria & Kattleman, and submits the following points and authorities in opposition to Defendant KIRK ROSS HARRISON's ("Kirk") motions identified above, and requests that the Court deny those motions. Further, Defendant moves for the following orders:

1. Granting her temporary primary custody of the parties' two minor children, Emma Brooke Harrison (incorrectly identified in Plaintiff's motion as Brooke Emma Harrison) who commonly goes by the name "Brooke," born June, 26, 1999 (incorrectly stated as June 29 in Plaintiff's motion), and Rylee Harrison, born, January 4, 2003;

2. Granting her exclusive possession of the residence located at 1514 Sunrise Circle, Boulder City, Nevada;

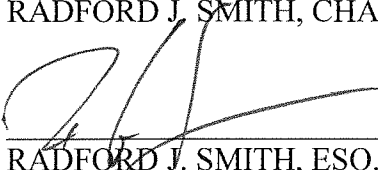
3. Awarding Kirk reasonable visitation so long as he does not attempt to inculcate hatred or disrespect for Vivian in the children; and,

4. Directing the division of community funds necessary to meet the financial needs of the parties pending trial; and

5. For such other and further relief as to the court may seem proper.

Dated this 27 day of October, 2011.

RADFORD J. SMITH, CHARTERED

  
\_\_\_\_\_  
RADFORD J. SMITH, ESQ.  
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I.

**PREFACE**

Vivian Harrison (“Vivian”) has worked not long, but innumerable hours, nearly the entire life of the parties’ five children. All five children are successes by any objective standard. Vivian has raised all of the children from infancy. Only in the last five years has Kirk Harrison (“Kirk”) even been a presence in their lives. The children’s accomplishments speak to the success of Vivian as a person, a mentor, and a mother. Kirk’s claims about her are false, and palpably the thoughts of a person who views his co-parent with disrespect and contempt, thus disqualifying him from any co-parent role until it is manifest he has changed his attitude or will not infect the children with hatred and disrespect for their mother.

II.

**INTRODUCTION**

Kirk and Vivian have been married for 29 years. They have five children, three of whom are adults, Tahnee, age 26; Whitney, age 25; and Joseph, age 22. The two minor children are Brooke, age 12, and Rylee, age 8. The three oldest children are remarkably accomplished and talented individuals. The two oldest, Tahnee and Whitney have completed college and are attending graduate school; Joseph is finishing college. The two younger children are nearly straight “A” students, and are healthy, active girls who love dance.

Vivian is 49 years old, and has no physical or mental disabilities, does not smoke or use illegal drugs. Vivian gave up a promising career as an accountant many years ago to act as the primary custodian of the children. She has no criminal record, and has not even received so much as a traffic ticket in the past 15 years. Although she has been very active in community service and charity work, she has been even more actively involved with the children’s schooling and events.



1 Kirk is a Nevada lawyer who, by his own admission, worked long hours for the first 24 years of  
2 the parties' marriage. He retired at age 51, near his "goal age" of 50, in 2006. Kirk is now 58 years old,  
3 has no physical or mental disabilities, does not smoke or use illegal drugs. He has not, to Vivian's  
4 knowledge, done much community service or charity work, and is not actively involved in the children's  
5 schooling.  
6

7 The parties are wealthy by any standard – they have approximately \$15,000,000.00 in assets,  
8 \$11,000,000.00 of which are in cash or liquid assets. The parties live in a home in Boulder City, Nevada  
9 they moved into in 2001; they resided in another home in Boulder City prior to that time (with some time  
10 in Henderson, Nevada after Kirk sued their neighbors to the first Boulder City home). Their current  
11 home is 6000 square feet, with an additional 4000 square-foot garage area that the parties have turned  
12 into a basketball court, gym and parking area. Currently the parties, Brooke, Rylee, and Joseph reside in  
13 the Boulder City home, but Joseph intends to move out in the near future.  
14

15 On the facts, this case should be a model for joint physical custody. The parties are intelligent  
16 and well educated, and they have two bright and well-cared-for young children. Vivian, who raised the  
17 parties' three oldest children, has shown herself to be a good and successful parent who continues to  
18 actively participate in the children's lives. In the last few years, Kirk has begun to do more with Brooke  
19 and Rylee, the two younger daughters. Vivian does not presently work outside the home, and Kirk works  
20 only occasionally as a mediator.  
21

22 Kirk ignores these facts, and instead has seen fit to file a motion composed of 48 pages of text,  
23 and 306 pages of exhibits (including his two affidavits totaling 132 pages of text) in which he requests  
24 that Vivian be removed from their Boulder City residence and limited to *supervised* visitation of the  
25 minor children. After reading Kirk's motion, however, it becomes clear why Kirk has filed it – he has a  
26 deep seated hatred for Vivian that prevents him from even considering co-parenting the parties' minor  
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1 children. He claims, in essence, that she suffers from an incurable disorder that permanently renders her  
2 unfit to care for the children.

3 **A. Kirk's Failure to Present Essential Facts**  
4

5 While the motion is remarkable for its length, it is equally remarkable for what it does not  
6 contain. In the 354 pages of Kirk's Motion, it is difficult (if not impossible) to find even a single  
7 compliment directed toward his wife of 29 years and the mother of his five children. Consistent with his  
8 behavior toward Vivian through the bulk of their marriage, Kirk's repetitive and hostile motion  
9 minimizes Vivian's background, education, motherhood, public service, and contribution to their family.  
10

11 Kirk did not even attempt to provide the Court with a balanced presentation of the facts. There  
12 were many positive things that Kirk *could* have said about his wife. Kirk spends great care detailing his  
13 successful law career, but fails to recognize any of Vivian's successes – including her education,  
14 charitable work, or success as a mother. Reading Kirk's motion, one would never know, for example,  
15 that in spite of an extremely difficult childhood, Vivian finished high school and an associates' degree  
16 before marrying Kirk. One would never know that Vivian completed a college degree in accounting, and  
17 finished at the top of her class at UNLV, then went on to graduate school to complete a master's degree  
18 in accountancy, all the while juggling her duties as a mother and primary caregiver for the parties' three  
19 older children.  
20

21 Kirk never advises the Court about Vivian's employment. Vivian worked seasonally for the  
22 respected local accounting firm of McGladrey & Pullen, and taught as an adjunct professor of accounting  
23 at the College of Southern Nevada. He did not advise the Court that once the parties' oldest three  
24 children began school, Vivian worked as an agent for the Nevada Gaming Control Board, and then  
25 accepted a position as an accountant at Arthur Anderson, one of the top accounting firms in the world.  
26 Perhaps the most important fact Kirk fails to acknowledge is that Vivian left her promising accounting  
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28

1 career that she worked so hard to achieve, so she was there to raise the parties' children and to allow Kirk  
2 to pursue his career as a lawyer. Kirk tactically ignored these facts because they demonstrate Vivian's  
3 hard work, sacrifice, and commitment to the parties' children.  
4

5 Further, Kirk's motion fails to address essential facts about Vivian's role as a mother to the  
6 parties' children. Even though Kirk acknowledges that he worked long hours in Las Vegas (the parties  
7 lived in Boulder City for the bulk of their marriage) to build a successful law firm with his partners, he  
8 refuses to give Vivian credit for her role as a mother to the parties' three adult children. Indeed, Kirk is  
9 quick to blame Vivian for any problems the older children had during their teenage years, but refuses  
10 recognize *any* role Vivian had in their many successes. The reason for this is that the children flourished  
11 in Vivian's care, and recognizing that fact does not fit into Kirk's theory of the case.  
12

13 The parties' older children were well-dressed, well-fed, honor students who participated in dance,  
14 sports, pageants, and numerous school and church activities. Vivian took them to and stayed for nearly  
15 all of their practices, games, rehearsals, recitals, tournaments and anything else they participated in. The  
16 oldest, Tahnee, now 26, was Miss Teen Nevada during high school, graduated from John Hopkins  
17 University, and is now studying to be a doctor University of Nevada Reno. Whitney, 24, graduated from  
18 Wake Forest University, and is now enrolled at a University in North Carolina, studying to become a  
19 Physician's Assistant. Joseph, age 22, is finishing college and is pursuing his dream to be a professional  
20 golfer. Kirk ignores these facts for the most part, and instead he attributes their success to genetic  
21 disposition. Kirk believes that the children's achievements are unrelated to the years Vivian dedicated to  
22 their education and extracurricular activities as a very involved, caring, stay-at-home mother. Of course,  
23 it is easy for Kirk to minimize Vivian's efforts as a parent, because he was not there.  
24  
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26 Equally absent from Kirk's Motion is a statement regarding the present success of the parties' two  
27 minor children, Brooke, age 12, and Rylee, age 8. Both girls are nearly straight "A" students, have had  
28

1 virtually no discipline problems at school or anywhere else, are active in dance, and are happy, delightful  
2 girls by everyone's account. (See, e.g., Affidavits of Michele Walker, attached hereto as **Exhibit "B"**  
3 and Heather Atkinson, attached hereto as **Exhibit "F"**). Undoubtedly, Kirk will deny that Vivian has had  
4 any part in their success either.  
5

6 Because it is inconsistent with his attempt to paint Vivian as "narcissistic" (more on this below),  
7 Kirk also fails to acknowledge that Vivian has been actively involved in charitable and civic groups for  
8 many years. The long list of Vivian's charitable and community activities include acting as a volunteer  
9 or officer of the following: Hope Foundation USA, Board of Directors, 2011; Special Olympics; Boy  
10 Scout Summer Camp; Boulder City Planning Commission, Chairman 1994-1999; Andrew J Mitchell,  
11 Reading Tutor, Classroom Volunteer; Martha P King, Room Parent; Executive Director of the Boulder  
12 City Hospital Foundation; Boulder City Hospital Art in the Park; Leadership Las Vegas, Class of 1997;  
13 UNLV Alumni Association; Southern Nevada Junior Golf Association, Board of Directors; First Tee of  
14 Southern Nevada; Southern Nevada Water Authority Integrated Resource Plan Advisory Committee;  
15 Planning Commissioners Task Force on Ethics; Southern Nevada Community College Advisory  
16 Committee; Boulder City Parks & Recreation Youth Athletic Coach; LDS Girls Camp, Counselor;  
17 Boulder City Little League, Board of Directors, Fundraising and Event Chair; Boulder City Controlled  
18 Growth Ordinance Committee; Historic District Preservation Plan Study Committee; Chautauqua-History  
19 Comes Alive Committee; Boulder City Folk Festival; Boulder City Juvenile Conference Committee;  
20 Boulder City Drug Abuse Council; Girl Scout Leader; PTA Executive Board; UNLV Student Accounting  
21 Association, President. Further, Vivian has repeatedly (through today) volunteered in the children's  
22 classes at school, and has been an active member of the Parent Advisory Committee at their school. (See,  
23 Affidavit of Michele Walker, **Exhibit "B"**, Affidavit of Annette Mayer, **Exhibit "E"**).  
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## **B. The Manufactured Allegations and Theories Underlying Kirk's Motion**

Kirk apparently understood that he would have a difficult time “winning” custody of the girls in light of the facts of the case (stay-at-home accomplished mother, community servant, with a history of successful child-rearing as compared to his admitted absence from the home), so he invented a case.

After consulting with counsel, approximately three years ago he found a book that described “Narcissistic Personality Disorder,” and that “did the trick.” Kirk’s chosen diagnosis fits perfectly into discrediting everything Vivian has done that might suggest to the Court that she is an appropriate care provider. Under Kirk’s theory, if Vivian presents evidence to show that she has been a good, involved mother by pointing to the adult children’s accomplishments, she is “taking credit for their successes.” If Vivian shows she is a caring, sensitive person by discussing her community service and charitable work, she does so only because “she wants attention” (or if she goes to Calcutta to help shockingly poor children, it becomes a “shopping spree”). When she traveled on a philanthropic, once-in-a-lifetime opportunity trip to climb Mt. Everest (after he encouraged her), Kirk claims she is “abandoning the children to feed her narcissism” or pursuing an unrealistic “obsession to meet an actor.” When Vivian’s friends step forward to defend her as an involved, loving mother and generous person, it is only because Vivian “bought their loyalty” – as a narcissist, Vivian can have no true friends (according to Kirk). When Vivian insists that their adult children show respect and pick up after themselves, she is “controlling their desire to be independent.” When Vivian tries to show she is capable of co-parenting with Kirk by including him in both the fun and the responsibilities of the younger children, she is “abandoning” the children. When she travels with other family members without the two youngest, she is also abandoning them. Her attempts to improve her appearance are purely the result of her “narcissism.” Vivian’s humor and fun-loving personality are dismissed as an attempt to “get all of the attention.” Even when Vivian compliments others, Kirk interprets it as a method to bring attention to

herself, rather than to the person she is complimenting (for example, Vivian's compliment to the girls' dance teacher regarding choreography is converted to a need for Vivian to have attention). One has to wonder whether under Kirk's theory (which his expert Dr. Roitman – who has never met or spoken to Vivian – adopted and felt it ethically appropriate to base a “diagnosis” on predictably biased written statements all prepared by Kirk) there is anything Vivian can actually do that cannot be twisted to fit the “narcissist” diagnosis.

The tenor of Kirk's Motion and his inability to see anything good in Vivian gives rise to serious doubts that Kirk will be able to successfully co-parent with Vivian. As is evidenced below, he has regularly undermined Vivian's parenting decisions, and he disparages her to anyone who will listen. His utter lack of respect and consideration for Vivian has forced her to seek primary physical custody of the children.

### III.

## SUMMARY OF MOTION AND RESPONSES THERETO

The primary allegations in Kirk's Motion can be summarized in the following outline:

- a. That Vivian has “abandoned” the parties’ two minor children;
- b. That Vivian has mental health issues, including:
  - i. Narcissistic Personality Disorder;
  - ii. An obsession with Jonathan Rhys Meyers, an Irish actor;
  - iii. An obsession with cosmetic surgery;
  - iv. Mental or physical defects due to prolonged drug use; and,
  - v. Unhealthy reliance on a “psychic” for important life decisions.
- c. That Vivian has mentally and physically harmed the minor children by:
  - i. Inappropriate prenatal care of Rylee;

1                   ii.       Sleeping and cuddling with the children;

2                   iii.       Recklessly or negligently transferring testosterone to Rylee.

3  
4 These areas are each addressed at length in the text of this Opposition, but are summarily addressed as  
5 follows:

6           a.       Vivian has never abandoned the children: Vivian has always been, and continues to be,  
7 more actively involved in their lives than Kirk. As a result, she believes that they will state their  
8 preference, when interviewed, to remain in Vivian's care. Indeed, Kirk believes this as well, and has  
9 requested that the Court ignore their statements. Moreover, those individuals who spend the most time  
10 with the children, other than Vivian and Kirk, attest to Vivian's continued involvement – even after Kirk  
11 quit full time work in 2006. See Affidavits of Michele Walker, Nyla Roberts, Kim Bailey and Heather  
12 Atkinson, who see Vivian, Kirk and the parties' children regularly, attached hereto as **Exhibits "B"**  
13 through "E" respectively. Indeed, one can simply look to the schedule of expenditures on behalf of the  
14 children, attached hereto as **Exhibit "A-3,"** to verify Vivian's involvement with the children. Of course,  
15 the best source of whether they have been abandoned may be the girls themselves, and Vivian welcomes  
16 an interview of them.  
17

18  
19           b.       Vivian has no mental health issues: Attached hereto as **Exhibits "A-9"** and **"A-10"** are  
20 the reports of Dr. Ole Thienhaus, a psychiatrist and Chair of the University of Nevada Medical School  
21 Department of Psychiatry and Behavioral Sciences. Unlike Kirk's expert, Dr. Thienhaus has actually  
22 met, interviewed and tested Vivian. Dr. Thienhaus reaches his final conclusion that *Vivian suffers no*  
23 *personality disorder whatsoever* after he read the entirety of Kirk's Motion and attached affidavits.  
24

25           c.       Vivian is not obsessed with Jonathan Rhys Meyers: Vivian has never met the actor, nor  
26 has she attempted to do so. This claim arises out of her work for the Hope Foundation, a charitable  
27 organization whose mission is to aid poor children in India and her efforts to successfully open an office  
28

1 of that Foundation in the United States. The true facts (as opposed to Kirk's jealous rants), demonstrate  
2 that she cares deeply about her commitment to the work of the Hope Foundation, not an actor.

3 d. Vivian is not obsessed with cosmetic procedures: The procedures that Kirk describes as  
4 cosmetic were medical in part. Further, Vivian's cosmetic procedures are the type commonly undergone  
5 by women of her age. Indeed, there is even a name for it: "the mommy makeover."

7 e. Vivian has no mental defect or physical defects due to drug use or anything else: There is  
8 no evidence to suggest that Vivian suffers from any mental or physical defect. Moreover, the drug upon  
9 which Kirk bases his claim, the commonly prescribed "diet pill" Phentermine, was prescribed by  
10 physicians who closely monitored Vivian's use. There is and never has been anything to suggest that  
11 Vivian has suffered any mental or physical side effects of the drug. Moreover, as shown by the drug  
12 screen panel dated October 5, 2011, (attached hereto as **Exhibit "A-13"**) Vivian tested negative for all  
13 drugs of any kind, including Phentermine. The other medicines Kirk attributes to Vivian's use were  
14 medications prescribed to Vivian at the time of surgeries, or as part of therapies, but then rarely, if ever,  
15 actually used by her.

18 f. Vivian does not use a psychic for advice: On four occasions in her lifetime, Vivian has  
19 spoken to a "spiritual counselor" who has a syndicated radio show. Her discussions with that individual  
20 were not for any serious guidance, but instead primarily for amusement.

22 g. Nothing Vivian did surrounding Rylee's birth caused Rylee any physical issues: Perhaps  
23 the most bizarre of Kirk's claims is that Vivian, by drinking one or two tablespoons of castor oil to  
24 address constipation prior to Rylee's birth, caused some sort of problem to Rylee. The only thing  
25 unusual about Rylee's birth is that she appeared face first, rather than head first, but there is nothing to  
26 suggest that this was a result of castor oil. Moreover, Rylee has no physical defects.



1 h. Vivian has not harmed the children by sleeping with them: Kirk ignores that Brooke slept  
2 with *him* for approximately a year from 2009-2010, but claims that Vivian sleeping with the children  
3 amounts to “emotional abuse.” Vivian has not slept with the children since May 2011, and there is no  
4 indication that the children have been negatively affected at all by Vivian sleeping with them. Kirk  
5 points to every little upset the children have had as “proof” that the children are being harmed, but he is  
6 unable to make any actual connection between those normal childhood upsets, Vivian sleeping with the  
7 children, and any real emotional problems. In truth, the primary effect of Vivian reading stories to the  
8 girls at night before bedtime and falling asleep is that both girls could read before starting kindergarten.  
9

10 i. Vivian never recklessly or negligently transferred testosterone to Rylee: Kirk’s claim that  
11 Vivian knew or should have known the testosterone cream prescribed to her could be transferred to Rylee  
12 is false. Vivian had no reason to know this, as the packaging did not contain any warnings and her  
13 prescribing doctor did not warn her. Her prescribing doctor confirms that he did not provide any warning  
14 of the danger of transfer to Vivian. *See* Affidavit of Jeffry Life, attached as **Exhibit “H”** hereto.  
15 Immediately upon learning that Rylee may have been affected, Vivian took action to have Rylee  
16 evaluated and to change her prescription. Rylee’s hormone levels are now normal. While Kirk focuses  
17 on this incident, he fails to either recognize or acknowledge that Rylee’s doctor was *more* concerned that  
18 the meals Kirk prepared for Rylee were generally highly-processed, high-calorie, and high-fat –  
19 something Vivian had been trying to convince Kirk to change.  
20  
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22

23 It appears that Kirk is so blinded by his disdain for his wife that he is unable to attribute any good  
24 qualities to her at all. He twists even the best parts of Vivian into something unrecognizable. In this  
25 Opposition, Vivian provides information that Kirk simply ignores in his Motion – the parties’ personal  
26 history, Vivian’s education and community service, the success of the parties’ three other adult children,  
27 the deterioration of the parties’ marriage, and the parties’ actions with Brooke and Rylee since Kirk’s  
28

1 retirement in 2006. By Countermotion, Vivian seeks primary physical custody of Brooke and Rylee for  
2 the following reasons:

- 3 a. Vivian is more closely bonded with the children;
- 4 b. Vivian is more active in their day to day activities, including their schooling and  
5 friendships;
- 6 c. When Kirk was left with the care of the children while Vivian travelled, he pushed  
7 that responsibility to others;
- 8 d. Kirk has demonstrated continued attempts to alienate both the adult and minor  
9 children, and there is nothing in his Motion or actions surrounding the Motion that  
10 suggests he will stop that effort; and,
- 11 e. Kirk's anger toward Vivian, as manifested in his Motion and actions toward her,  
12 and his belief that she suffers from an incurable personality disorder, render it  
13 impossible for him to co-parent with Vivian.

14 Moreover, by Countermotion, Vivian seeks exclusive possession of the parties' residence for the  
15 following reasons:

- 16 a. The parties live in a small neighborhood in Boulder City, and the residence is  
17 surrounded by Vivian's close friends, whose children are Rylee and Brooke's  
18 closest friends. By his motion, and his outrageous insults toward those individuals,  
19 Kirk has alienated himself to the point where he has little or no relationship with  
20 them;
- 21 b. Vivian has provided the vast bulk of the design and improvement work done on  
22 the residence; and,
- 23 c. Remaining in the same residence will provide stability for Brooke and Rylee.

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IV.

**STATEMENT OF FACTS**

**A. Vivian's Personal History and Education**

Kirk has provided a warped and inaccurate picture of Vivian's childhood with the stated goal of proving that she did not learn family values as a child. The facts, however, show that although Vivian was raised poor and had a difficult childhood, she learned very clearly the lessons of love of family and commitment to family members. Indeed, as shown below, it is Kirk who has significant problems with his family and who has little or no contact with two of his three sisters or their families.<sup>1</sup>

Vivian was born in Las Vegas, Nevada, in 1962. Her parents were divorced when she was about seven years old. Her father abandoned the family, and she did not see him during her childhood after she was eight years old. Her mother did not make sufficient income to meet the family's needs. Vivian lived in public housing, and her mother received welfare and food stamps. Her family struggled with no money, a mother at work for long hours, and an absent father.

Vivian's grandfather was a long-time City Manager of North Las Vegas. When he retired, he purchased ten acres of desert near a pig farm and built a small house. Vivian, her mother, and her brother Harold moved into a single-wide trailer on that land. It was a difficult existence.

At 13 years old, Vivian ran away from home to live with another family. She ended up in a temporary living facility for girls where, ironically, she became involved in drugs. Her drug use, however, lasted two years, and the last illegal drug she used was at 15 years old.

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<sup>1</sup> Vivian has addressed those facts in the text of this Opposition and Countermotion that she believes are the essence of Kirk's Motion. Vivian has not attempted, however, to address each and every one of the allegations contained in Kirk's 132 pages of affidavit. Vivian's affidavit, attached as **Exhibit "A"** hereto, contains a more comprehensive statement of the facts, and the facts here are summarized for judicial economy. Because of the sheer bulk of allegations, the statement of facts in the text cannot substitute for a careful reading of Vivian's affidavit and the Sworn Declarations of her witnesses attached as **Exhibits "A"** through **"G"** hereto.

1 At 15 years old, Vivian was released to the care of her older sister Cindy in Hawaii, but Cindy had  
2 significant problems. Shortly after moving to Hawaii, still age 15, she moved to Oklahoma with a  
3 Marine she had met, and lived with a family. When the Marine turned abusive, the family removed him  
4 from the home, but allowed Vivian to stay.  
5

6 The family Vivian lived with in Oklahoma was the strongest positive and moral influence  
7 throughout her childhood. They taught her the value of compassion (they took her in when she had  
8 nowhere else to go), hard work (the stay-at-home mother worked hard to take care of all of her six  
9 children), self-reliance, and education. All of the children worked hard in school, and were active in  
10 sports and extracurricular activities. She admired the family's honesty and intelligence, and she  
11 promised herself that she would someday have a family like theirs.  
12

13 Vivian returned to Las Vegas after a year, and she moved in with her grandparents. At age 17, she  
14 graduated from high school and was hired by Valley Bank. In 1980, when she was 18 years old, she met  
15 Kirk, a 27 year old lawyer. They began living together and became engaged shortly thereafter. In 1982,  
16 Vivian planned the parties' wedding, graduated with an Associate's Degree in June, turned 20 years old  
17 in August, and married in November.  
18

19 As became normal throughout the parties' marriage, Kirk worked and traveled most of the time.  
20 Vivian worked a second job in the evenings at Dillard's and continued her education by attending UNLV  
21 and taking classes toward a degree in accounting. During that time, she also earned three banking  
22 diplomas through courses offered by the American Institute of Banking (AIB).  
23

24 At age 22, on April 18, 1985, Vivian gave birth to the parties' first child, Tahnee. Seventeen  
25 months later, on September 26, 1986, Whitney was born, and two and a half years later, Joseph was born  
26 on March 4, 1989. The parties were not wealthy then, and they lived in a small three bedroom home.  
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1 They could not afford outside help, and they did not have either a nanny or maid. Kirk continued to be  
2 out of the home for 10-14 hours each day. When he was home, he would watch television to “unwind.”

3  
4 Kirk’s firm was wildly successful in the years that Vivian was raising the older three children. The  
5 parties did not have their fourth child, Brooke, until ten years after Joseph because Kirk did not want to  
6 have another child until his then newly formed firm was established. After the firm received a large  
7 settlement, Kirk finally agreed to more children.

### 8 **1. Vivian’s Education**

9  
10 The only mention of Vivian’s education in Kirk’s motion is that he “paid for it,” without reference  
11 to what education she completed – primarily because it does not fit into his characterization of Vivian as  
12 lazy and entitled. Vivian stopped working outside the home when the parties made the decision to have a  
13 family, but between the pregnancies and child-rearing, Vivian continued to take classes sporadically and  
14 work toward completing the credits she needed for Bachelor’s Degree in Accounting. She worked hard,  
15 and when she received her Bachelor’s Degree in 1990 (approximately 10 years after she graduated from  
16 high school), she graduated number one in her class. She was also the President of the Student  
17 Accounting Association and a member of the Honor Society. She received the Outstanding Graduate in  
18 College of Business and Economics award from the UNLV Alumni Association. She then enrolled in the  
19 Masters Program at UNLV and completed her Master’s Degree in Accountancy in 1995.  
20

21  
22 Despite Vivian’s accounting skills, Kirk restricted her access to money. This arose more from his  
23 need to be in control, rather than Vivian’s inability to account for money. Until 2010, when Kirk hired  
24 an accountant without Vivian’s knowledge, Vivian prepared all of the parties’ tax returns. Further, Kirk  
25 also asked Vivian to help his law firm with their accounting. Nevertheless, he continued to control all of  
26 the parties’ finances.  
27

28 . . .

## 2. Kirk's false presentation of Vivian's family

In the first part of Kirk's Motion and Affidavit, he saw fit to insult and disparage Vivian's family. Vivian's mother was a hard-working woman who did her best to take care of her children with the resources she had. Contrary to Kirk's allegation, Vivian's mother never threw any of her children out of her home. Vivian and her oldest sister, Cindy, left the home on their own. Her other sister, Raylene, left the home when their parents decided Raylene should live with her father, who could provide more supervision. Vivian's brother, Harold, lived with Vivian until he joined the United States Army. Sadly, Cindy died of an overdose, but Vivian and her two other siblings, Raylene and Harold, had a loving relationship with their mother until she died.

In order to promote his "narcissism" agenda, Kirk contends that Vivian's mother craved attention, and that she would not come to birthday parties because she would not be the center of attention. This notion, besides making no sense (someone who craves attention would want the opportunity to be around others) is untrue. Vivian's mother was very insecure, and she did not like public functions because she did *not* want to be the center of attention. Also, many times she was working during the parties and unable to attend.

When her mother was ailing and living in a single-wide trailer, Vivian purchased her a home (over Kirk's vehement objection) in Henderson. After her mother died, Vivian kept her promise to her mother to take care of Raylene by buying her a condominium. Vivian has a good relationship with both her brother and her sister.

Kirk also unfairly insults and disparages Vivian's grandparents. Kirk capitalizes on difficulties they experienced during their lives in an effort to portray them as dysfunctional, without fully disclosing the whole picture. For example, he criticizes them for choosing children's meals at restaurants. He does not explain that they did this because they could not afford everything on the menu. Eating out was a

1 special treat, and the children learned valuable lessons about appreciation and consideration; they learned  
2 to be respectful of other people's money and to appreciate the gifts people are able to give. Kirk also  
3 implies that Vivian's grandfather was a murderer, although he knows this to be untrue. In reality, her  
4 grandfather was involved in an automobile accident (not his fault) in which someone died, something that  
5 was undoubtedly an emotional trial for her grandfather throughout his life.  
6

7 A more comprehensive history of Vivian's family history is contained at paragraphs 14 through 43  
8 of her Affidavit attached hereto as **Exhibit "A"** hereto; the facts show quite a different picture than that  
9 described by Kirk.  
10

11 It is ironic that Kirk criticizes Vivian's family, especially in light of the problems in his own  
12 family. And while the problems in Vivian's family were not of her making, the same cannot be said of  
13 Kirk and his family. Kirk's father left him and his three sisters a ranch in Utah. Kirk wanted it all to  
14 himself, so he demanded that his sisters sell their interests. When two of them refused to sell, he sued  
15 them, and ended up compelling a buy out of their interests. As a result of Kirk's greed, he now has little  
16 or no contact with those two sisters or their families (including his nephews and nieces).  
17

#### 18 **B. Vivian's Career and Community Service**

19 Vivian worked at the accounting firm of McGladrey & Pullen seasonally from 1990 and 1991.  
20 Between 1990 and 1993, she worked part-time for Becker CPA Review Course as an instructor. In 1994  
21 and 1995, she taught at the Community College of Southern Nevada as an accounting instructor. In  
22 1995, when the parties' three eldest children all entered all day school, she took a full-time position at the  
23 Nevada Gaming Control Board, where she worked as an agent. Wanting to advance her career, in 1997,  
24 she accepted a position as a staff accountant at Arthur Anderson, the largest accounting firm in the  
25 country. Arthur Anderson was extremely competitive, and the work environment and the required long  
26 hours were not conducive for raising a young family. She left that position after only six months because  
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1 it placed a considerable strain on the family by having both parents away from home daily for extended  
2 periods of time. Vivian was a full-time stay at home mother between 1997 and 2008.

3 After Kirk retired in 2006, she went back to UNLV and received a certificate in fashion design in  
4 2008. Upon graduation, the administrators at the International Academy of Design & Technology  
5 (IADT) asked her if she would be interested in applying as an instructor. Vivian was hired as an adjunct  
6 professor at IADT, and during the years 2008 through 2010, Vivian taught Draping, Clothing  
7 Construction, and Global Economics courses during her time at IADT.  
8

9 As set forth above (at pages 6-7), throughout the parties' marriage Vivian has volunteered for, and  
10 acted as a director of, numerous charitable and civil organizations. She believes that the opportunity to  
11 perform community service and charity work is a gift. She has been generous with both time and money  
12 and she believes this is the appropriate example to send to her children. As far as she is aware, Kirk does  
13 very little (if any) community service, and in the absence of her involvement, donates very little money  
14 compared to the parties' wealth.  
15

16 Kirk argues in his Motion that Vivian travelled excessively in 2010 (a year that she travelled more  
17 that all other years combined), and that the travel represents a selfish abandonment of Brooke and Rylee.  
18 Kirk describes Vivian's time away as attending balls, vacationing, going on a "shopping spree" in India.  
19 What Kirk barely touches upon in his motion, however, is that the vast majority of her travel in 2010 was  
20 on behalf of The Hope Foundation, and her successful efforts to open an office of the Hope Foundation in  
21 the United States.  
22

23 The Hope Foundation is a charitable organization founded in Ireland whose primary mission has  
24 been to aid poor street children living in the slums of Calcutta, India. Because she grew up poor, she  
25 feels a special need to help children who have very little. The poverty in India, and on the streets of  
26 Calcutta where the Hope Foundations does the majority of its work, is horrifying. Neglect and starvation  
27  
28



1 are rampant. The children do not have access to basic services, and they are routinely exploited and  
2 abused. Children as young as five turn to drugs to relieve themselves of the pain of hunger and beatings.  
3 Girls as young as eight years old are forced into prostitution, and sold into human trafficking. When she  
4 saw the website and the work that the Hope Foundation does, she was moved, and she wanted to be  
5 involved.  
6

7 Kirk makes the preposterous claim that Vivian became involved with the Hope Foundation in order  
8 to meet Jonathan Rhys Meyers, an Irish actor. The flaw in Kirk's theory is that Mr. Meyers has never  
9 been scheduled to, and has never gone to, any event that Vivian attended on behalf of the Hope  
10 Foundation. The only connection between Mr. Meyers and her involvement in the Hope Foundation is  
11 that she became aware of the Hope Foundation on a web page of a television show, the Tudors, that he  
12 acted in. Mr. Meyers is a "celebrity ambassador" to the Hope Foundation. To Vivian's knowledge, Mr.  
13 Meyers nor any other celebrity ambassadors appear regularly at Hope Foundation events, and as  
14 indicated, Mr. Meyers was never scheduled to be at any event she attended through the Hope Foundation.  
15 Mr. Meyers lives in California – if she wanted to meet him, she would have had a better chance driving  
16 to L.A. and buying a map to the houses of the stars than she would travelling to Calcutta, India and Cork,  
17 Ireland.  
18  
19

20 Kirk alleges, and repeats, *ad nauseum*, that Vivian told Michele Walker that Mr. Meyers is her  
21 "soulmate." As can be seen from the Declaration of Ms. Walker, Vivian never stated this.  
22

23 In sum, during 2010, Vivian worked for approximately twelve weeks with the Hope Foundation,  
24 including a six-week training period necessary for her to commit to opening an office of the Hope  
25 Foundation in the United States, a three-week climb to the base camp of Mt. Everest with the Foundation,  
26 and the attendance of the Hope Foundations annual charity ball in Ireland (where she also participated in  
27 and finished the Dublin marathon). Vivian has now completed the work necessary to establish the Hope  
28

1 Foundation USA, and her future travel for the foundation will likely be limited to the attendance of the  
2 Annual fundraiser ball in Ireland, and, she hopes, trips with her children to India to view and participate  
3 in the work the foundation is doing there. A more complete discussion of the work Vivian performed for  
4 the foundation in 2010 is set forth in **Exhibit “A”**, paragraphs 52 through 69.

### 6 **C. The Success of the Parties’ Children**

7 In Kirk’s motion, he requests that the Court ignore the accomplishments and success of the parties’  
8 children. Indeed, defying all logic, he asks that the Court believe that Vivian had nothing to do with that  
9 success. Instead, he would like the Court to focus on specific instances of disagreement between Vivian  
10 and the older children, and dismiss anything the younger children state about their close bond to Vivian.  
11 In Kirk’s presentation, if Vivian is proud of her children’s accomplishments, she is demonstrating a  
12 personality disorder.

14 Despite Kirk’s argument, Vivian is happy to state that she is proud that the children were involved  
15 in activities. Kirk dismisses any role Vivian had in the children’s success in school, sports, music or  
16 dance, suggesting that the children were just naturally gifted. The Court should ask, “Does he really  
17 think that children happily sit down and do their homework each night, or sign themselves up for and  
18 take themselves to dance, piano, golf, tennis, karate, and attend the various activities, practices, lessons,  
19 etc.?” Unlike Kirk, who was spending ten to fourteen hours a day advancing his law practice, Vivian was  
20 not pursuing a career; she was wiping rear ends, and cleaning up accidents, and balancing schedules, and  
21 washing and folding clothes, and taking kids to the doctor, and cooking meals, and sitting through play  
22 dates, and attending so many practices and lessons that she cannot even possibly count them. Kirk  
23 remarkably argues that because Vivian did have a hot meal waiting for him each night, she failed in her  
24 role as a mother and wife. It is not Vivian who is delusional.

1 In all but Kirk's world, the review of a party's ability to parent begins with a view of the history of  
2 their parenting. The parties have two very different parenting styles: Vivian is a parent (and a person)  
3 who believes in action. She is the parent who enrolls the children in activities, participates in their  
4 school, aids them with their events, etc. Kirk has a "laissez-faire" style of parenting. He watches a lot of  
5 television. He is not usually the one who signs them up for events and activities, he does not participate  
6 in their school (until a few days ago when he attended a library field trip), and has only transported the  
7 children consistently anywhere in the last two or three years (after he consulted with his divorce counsel).

8  
9 The following is a list of some, but certainly not all, of the things that Vivian has helped all five of  
10 the parties' children with:  
11

- 12 • She has taught all of the children to read, and she has read extensively with and to all of  
13 the children. All of the children have reading awards for number of pages or minutes read  
14 during a specific school year. Before the children could read independently, Vivian read  
15 all of those pages with the children;  
16
- 17 • The children have received mountains of awards based on academics. She was the parent  
18 who helped the children with the vast bulk of their homework, but she certainly agrees the  
19 children worked very hard at their schoolwork. Kirk may not understand, however, that  
20 children do not always run naturally toward schoolwork after school, and there were many  
21 times where Vivian had to push all five children to study and complete their assignments  
22 and projects;  
23
- 24 • Vivian supplemented the children's education by tutoring them during the summers  
25 utilizing the Abeka program;  
26
- 27 • All of the children have taken swimming lessons. Some started with the "Mommy and  
28 Me" program at six months old, but all of them took Red Cross swimming lessons or

1 private swim lessons. (Vivian's mother did not know how to swim, and Vivian was afraid  
2 of the children drowning);

- 3 • All five children have played soccer, and Vivian coached Joseph's soccer team;
- 4 • All five children have played on softball/baseball teams;
- 5 • The four oldest children have all played organized basketball;
- 6 • The older three children were "every sport, every season" (golf, basketball, volleyball,  
7 swim, baseball / softball), and all of them lettered in sports in high school;
- 8 • All the children have taken dance lessons (Joseph was the first boy in his dance school);
- 9 • Vivian sat through almost all of the full practices of all of the children. Even when they  
10 were in high school, Vivian sat through many of the practices, sometimes as the only  
11 parent in the stands (with Brooke in a baby seat).
- 12 • The older children were in karate when they were five, and Tahnee and Whitney achieved  
13 their junior black belts. Vivian believes that Joseph may have also, or was very close to it.
- 14 • All five children have taken piano lessons, while Brooke and Rylee have also taken violin,  
15 guitar and drums;
- 16 • The older children have received art instruction through the Parks and Recreation  
17 Department;
- 18 • Vivian took the children on many vacations to Disneyland alone (at least once per year  
19 and sometimes twice). Kirk and Vivian once took a vacation without the children to Paris,  
20 but Vivian asked Kirk if they could come back early because she couldn't stand to be  
21 away from the children and was worried about them. That is the only time she can ever  
22 recall being away from the older girls or Joseph during their childhood.
- 23 • Joseph played baseball for approximately six years when he was younger.

- All the children have taken golf lessons, and Joseph is pursuing a career in professional golf.
- All the children have been good students. Some have had different struggles and different strengths. Tahnee and Whitney are graduates of the prestigious and difficult International Baccalaureate program at Green Valley High School. Joseph struggled a little, but he was an excellent math student and an incredible golfer. Brooke and Rylee are both excellent students.
- There were days that Vivian was in the car driving the children to places 5 or 6 hours. The parties used to joke that Brooke grew up in a car seat.
- Tahnee and Whitney were both in the Miss Teen Nevada pageant and others. Tahnee was Miss Teen Nevada.

The foregoing is an impressive list of activities and accomplishments, and one the Court should consider in determining whether, contrary to Kirk's argument, Vivian would continue to be an active and involved parent for Brooke and Rylee.

#### **D. Kirk's Attempts to Alienate the Children**

The most troubling part about Kirk's diatribe against Vivian is that it reflects his presentation of her to everyone, including the parties' children. He has shared his obvious lack of respect for Vivian repeatedly with the children over the years, and he openly admits to doing so in his Motion. As more fully described in paragraph 78 through 90 of Vivian's affidavit (**Exhibit "A"**), Kirk has repeatedly attempted to undermine Vivian's relationship with the children. He continues to do so by his Motion.

For example, Kirk blames Vivian's inability to accept Tahnee's "independence" in high school, which led to Vivian hitting her, and demanding that she leave the home. Kirk, however, has selectively used or distorted facts. He claims, for example, that Tahnee was sixteen. In reality she was almost

1 eighteenth, and in her senior year of high school. More important, there is a background to this incident  
2 that is essential to understanding why it occurred and its ultimate conclusion. Those facts are outlined in  
3 paragraphs 83 to 89. In sum, Tahnee suddenly began experiencing severe depression in her junior year of  
4 high school. Her straight "A" report card went to "D"s and "F"s. (See **Exhibit "A-4"** attached hereto).  
5 She quit dance and piano classes, and refused to play golf or study for her preparatory ACT classes. She  
6 also began to talk back and became openly defiant in front of Brooke, who then was only three years old.  
7

8 Vivian took action. She took Tahnee to Sue Beglinger, a family counselor, and then a psychiatrist,  
9 Dr. Elizabeth Tully. Kirk's only input to that process was to criticize her for trying to "control" Tahnee.  
10 The psychiatrist provided a medical note that allowed Tahnee additional time to turn in all late  
11 assignments, and Tahnee was eventually able to pull up her grades.  
12

13 On the day of the incident Kirk raises, Tahnee and Vivian were arguing, and at some point  
14 Tahnee's issues became the subject of the discussion. Tahnee was angry, and she finally punctuated her  
15 yelling in front of Brooke and Rylee with a "F\_\_k you!", and Vivian smacked her. After Vivian told her  
16 to leave the home, Kirk retrieved her from the friend's house (where Vivian knew she would be), brought  
17 Tahnee back to the home, and in front of the children stated to Vivian, "this house belongs to the  
18 children" and it was going to "always be their home no matter what they say or do." In other words, the  
19 children did not need to show Vivian any respect or listen to her direction.  
20

21 Kirk's characterization of this event as Vivian's fault is belied by Tahnee's own words written  
22 shortly after the time of this event. In a letter to Vivian, a copy of which is attached as **Exhibit "A-5"**,  
23 Tahnee writes:  
24

25 Although I believe you were totally wrong in what you did yesterday. I'm also willing to  
26 confess that I was wrong too. Can't we both just admit that we were wrong, or is it my  
27 fault as always? I know that you think that I disrespect you and don't appreciate what  
28 you do for me, but I think, deep down, you know that's not true. If you do believe it to  
be true, then I think you don't know me as well as you might have thought. Perhaps I  
just haven't gone about showing it as much as I should. You deserve better. I realize

1 now your life must be awful. You go about your day taking care of all of your children  
2 as if it were your only responsibility. You never even think twice about doing something  
3 for yourself. Every waking hour is spent tending to our wants and needs. I know this,  
4 Mom.

5 I'm aware of your sacrifices, and that's exactly why I used it against you. You hurt me  
6 where it hurts the most. My entire life I've been trying to live up to your expectations.  
7 I've always wanted to please you and make you proud of me. I honestly held your  
8 opinion in the *highest* regard. In the past few months, however, I felt our approval of me  
9 dwindling away. I failed you and myself. I can't stress enough how much my last  
10 semester of high school became an absolute embarrassment for me.

11 [Emphasis in original]. Tahnee goes on to acknowledge that she was severely depressed. Tahnee  
12 specifically references her own feelings about the troubled time she has as a senior in high school as one of  
13 the contributing causes of the incident. She ends the letter by acknowledging her love for Vivian, and a  
14 statement of her belief that both of them were wrong. It is a remarkably insightful and well written letter,  
15 and belies a number of notions now advanced in Kirk's motion.

16 First, Tahnee's words belie Kirk's claim that Tahnee felt that Vivian was taking credit for  
17 Tahnee's accomplishments, or that Vivian needed to be the center of attention. Further, it contradicts  
18 Kirk's presentation of the events as solely the result of Vivian not respecting the growing independence  
19 of a young teenager. Instead, it was an argument between a mother and daughter over issues that arose  
20 out of difficulties that daughter had faced. Kirk's action of telling the children that it was their house  
21 regardless of their mother's wishes did nothing to help the situation, but that was not Kirk's design. As  
22 he has done repeatedly over the last several years, he attempted to alienate the children from Vivian. A  
23 more complete discussion of the ways that Kirk has attempted to alienate the children is at paragraphs 78  
24 through 90 of her affidavit.

#### 25 **E. Deterioration of the Marriage**

26 Kirk and Vivian had significant marital problems after the incidents with the older children. The children  
27 started to go away to college, but would come back every summer. In the summer of 2005, the parties  
28

1 disputed the older girls' responsibilities around the house when they were home, leading to an incident in  
2 which Kirk invited Vivian to leave the home and she did. Vivian left the home with Brooke and Rylee  
3 for a period of 16 days, not the six weeks that Kirk claims. Also contrary to Kirk's claims, they spoke  
4 daily during that time, and Kirk did see Brooke on her birthday.  
5

6 Vivian was depressed by the problems with her marriage, and consulted first with qualified counsel,  
7 Robert Dickerson, Esq., and then with Dr. Sean Duffy, a psychiatrist who prescribed her medication. Dr.  
8 Duffy's records are attached as **Exhibit "A-6"** hereto. She decided she was not ready to leave Kirk, and  
9 went home with the intent to work things out. What she did not know until recently is that Kirk saw a  
10 lawyer at that time too, and based upon his actions, began moving toward the present action.  
11

12 Kirk "retired" in early 2006. When he received his first large settlement years earlier he stated  
13 that his goal was to retire when he was 50. The only reason he did not was that his partners talked him  
14 into putting his name on a lease extension through 2005. Therefore, he retired when he was 51. He claims  
15 that he did so because he was worried about Vivian's mental state and her ability to care for the children.  
16 The undisputable facts, however, demonstrate that his claimed concern about Vivian was manufactured  
17 for this motion. In December 2005, a short time before him quitting full time work, he wrote out a will  
18 leaving everything to Vivian, an act that belies any concern he had about her mental state. See **Exhibit**  
19 **"A-7"** attached hereto.  
20

21 Moreover, if he was worried about Brooke and Rylee in Vivian's care, he did not show that  
22 either. Shortly after his retirement in January, 2006 he travelled to Ireland and was gone for fourteen  
23 days. In reality, Kirk had earned many millions of dollars through the firm, and he stopped working full  
24 time as a lawyer because he no longer wanted to work, period. It had nothing to do with Vivian, and  
25 based upon his actions after he first retired nothing to do with our children.  
26  
27  
28



1 Kirk started his retirement by sitting and watching television in his office. He even stated that he  
2 was participating with the family because he was in the house. Even though he was home, Vivian  
3 continued to be responsible for everything for the children and to take care of the house. Vivian  
4 welcomed what few things Kirk did offer to do (take the children to school), but even him taking on that  
5 full responsibility was short-lived, as it cut into his bike rides and golf.  
6

7 It was about that time that the marriage really began to deteriorate. Vivian took the position that  
8 if Kirk could sit and watch television, then she should be able to read. When the older children came  
9 home from college in late Spring of 2006, Vivian decided not to pick up after everybody constantly, and  
10 no longer prepared all of the meals. The older children and Kirk were surprised and angered by her  
11 actions. Her belief was that if the older children were going to come back home as adults they could help  
12 by contributing to the household and the household responsibilities like cleaning and cooking. Of course,  
13 arguing and fighting ensued, and everyone was angry with Vivian and felt that she was not living up to  
14 her “responsibilities” of the running of the entire household.  
15  
16

17 It is at that time that Kirk contends that Vivian became reclusive (but, of course, under his theory  
18 she demands attention – an inconsistency he never quite answers in his Motion). She did not. She  
19 instead began to become more and more distant from Kirk, but not Brooke and Rylee.  
20

21 **F. Kirk’s Allegations in his Motion**

22 **a. Vivian Has Never “Abandoned” the Children**

23 As set forth above, Kirk has a grossly inaccurate and unrealistic view of Vivian’s contributions to  
24 the children over the years. He minimizes all of her dedication to the children, and he is incapable of  
25 acknowledging a single good thing Vivian has done in their twenty-nine years of marriage. He carries  
26 this attitude over to Vivian’s involvement with their two younger daughters.  
27  
28

1 Many of Kirk's allegations highlight the problems in the parties' marriage. Kirk worked very hard  
2 outside the home for many years, while Vivian worked very hard inside the home. Unfortunately, Kirk  
3 felt that his work was the only "true" work, and he regularly devalued Vivian's efforts. He passed his  
4 attitude regarding "his" money, "the children's" home, and Vivian's "unemployment" down to the  
5 children, such that they also did not appreciate Vivian's efforts. Vivian, who had devoted herself to  
6 everyone else for so many years, was regularly frustrated and hurt by Kirk's demeaning comments and  
7 the family's refusal to see value in her efforts.  
8

9 The parties experienced a significant shift in 2005, after Kirk retired. The older children went  
10 away to college, and Vivian was hopeful that Kirk would share in the household responsibilities. She  
11 certainly never anticipated that by Kirk retiring, he expected to have nothing but leisure time while she  
12 continued to provide 24/7 care for the parties' children. She was saddened to learn that this was exactly  
13 what Kirk intended. Even worse, he views everything he does for the children as a failing by Vivian as a  
14 mother, rather than a more normal division of responsibilities and participation.  
15  
16

17 Kirk continues to ignore Vivian's daily efforts. A normal weekday in the Harrison household  
18 consists of Vivian waking the children for school, getting them dressed and fixing their hair. She then  
19 packs their lunches, while Kirk prepares breakfast. While Kirk claims credit for cooking scrambled eggs,  
20 sausage, bacon or ham, this is not necessarily the best thing for the children. Vivian has repeatedly  
21 warned Kirk that these high-fat, high-cholesterol breakfasts were unhealthy to have on a daily basis. Kirk  
22 dismissed Vivian's concerns. However, Rylee's cholesterol levels are dangerously high, and a dietician  
23 has agreed with Vivian about these breakfasts. Although he ignored Vivian for years, he has followed  
24 the advice of the dietician and no longer makes these breakfasts.  
25  
26

27 After breakfast, one or other of the parties will drive the children to school. During the school day,  
28 Vivian volunteers in Rylee's classroom, assists the school in fundraiser events, attends field trips, and

1 helps with classroom projects and parties. Once, Vivian sewed almost all the costumes for a school play.  
2 For years, Vivian has been active in the Parent Advisory Committee (Boulder City's version of the PTA),  
3 and she has participated in book fairs and anything else the PAC was doing.

4  
5 All of this is confirmed time and again by the statements attached as **Exhibits "B" through "E"**  
6 hereto. For example, the Declaration of Heather Atkinson describes numerous playdates and parties that  
7 Vivian would arrange and attend for the children; Vivian's attendance at every soccer game for Brooke,  
8 even when it was not convenient; and Vivian's involvement with the PAC and the children's school ("I  
9 could always rely on Vivian to help with PAC activities. She volunteered to help at the book fairs (she is a  
10 very good organizer, and she was instrumental in making it happen), make signs, act as a teacher's aide, or  
11 any other activities in which the PAC was involved . . . She did as much (actually more) than many of the  
12 committee members." Ms. Atkinson also describes the hours that she and Vivian spent in finding and  
13 participating in craft projects for the children, including sewing projects, costume-making, and cake  
14 decorating classes, and Vivian's dedication to making Whitney's wedding special by handcrafting/sewing  
15 decorations and table settings.

16  
17  
18 Similarly, the Declaration of Annette Mayer describes Vivian's participation at "Parent Advisory  
19 Committee, at 'open house,' meet the teacher, scholastic book fairs, choir and musical presentations, and at  
20 Santa's workshop; . . . at book fairs, and acting as a volunteer at other events. At PAC meetings she would  
21 report as a room parent (the person that schedules parties for the classroom) and also as a parent helper."  
22 The Declaration of Kim Bailey describes sewing school that Vivian has attended with both of the younger  
23 children.

24  
25 When she is not volunteering in the classroom, Vivian is performing normal household chores,  
26 including the family laundry (her and the children's clothes, as well as all linens, towels, etc.). Her  
27 efforts are confirmed by the Affidavit of Lizbeth Castelan, attached as **Exhibit "G"** hereto. Many years  
28

1 earlier, Kirk had started doing his own laundry (which consisted mostly of socks and underwear, as most  
2 of his clothing was dry clean only), and he continued to do so into his retirement. Vivian also cleans the  
3 house; the only help she has is a housekeeper who comes to the home for four hours one time per week.  
4 Kirk alleges that at one time, Vivian did not take the trash out for three weeks; again, this is false and  
5 Vivian does not recall a time that the garbage was not emptied every couple of days. At a minimum, the  
6 housekeeper would take it out once a week. On the other hand, Kirk's contribution consisted of feeding  
7 the dogs and taking the trash bins to the curb twice a week. While not giving Vivian credit for her work,  
8 he expects to receive accolades for these chores.  
9

10  
11 In the afternoons, Vivian helps the children with their homework and school projects. She makes  
12 the children a snack before taking them to dance class, doctor's appointments, parties, or other events.  
13 Vivian also shops with the girls for all of their dance attire, musical instruments, sports equipment,  
14 toiletries, eyeglasses, and the majority of their clothing. She takes them to their hair cut appointments  
15 and to have their nails manicured 6-8 times a year. When Brooke experienced a problem with her  
16 shoulder, Vivian took Brooke to physical therapy for 6-10 weeks. When Kirk's "healthy" breakfasts  
17 caused her to have dangerously high cholesterol levels, Vivian made an appointment with a dietician.  
18

19 Most evenings throughout their marriage, Vivian cooked dinner for the family, and the parties have  
20 shared responsibility for grocery shopping. Kirk enjoys shopping at Costco, so he has assumed the  
21 majority of the shopping, but certainly not all of it. Recently, the parties have reached a schedule of who  
22 prepares dinner for the children. Many times, Kirk would not be home from work early enough to have  
23 dinner with the family, so they would eat without him. For approximately eighteen months in 2008 and  
24 2009, Vivian would prepare many of the meals ahead of time at Dream Dinners (Dream Dinners was a  
25 business that provided fresh ingredients, a kitchen setting and recipes where customers could prepare  
26 "make-ahead" meals, freeze them, and cook them when they wished). This is confirmed in the  
27  
28

1 Declaration of Heather Atkinson, attached hereto. In 2010, when Vivian was traveling, Kirk did assume  
2 a larger responsibility for providing dinners. However, Kirk's version of "cooking" is heating up pre-  
3 packaged processed foods that he purchases at Costco. Even then, he shifted the large part of that  
4 responsibility to Tahnee and Whitney when Vivian was not home.  
5

6 Kirk's allegation that Vivian has ever allowed the children to go hungry is preposterous; it is also  
7 inconsistent with other allegations he has made. For example, he complains that Vivian sleeps with the  
8 children every night, but somehow suggests that she did not care enough to feed them prior to doing so.  
9 He claims to be purchasing all the groceries and making all the meals, yet the children are going hungry.  
10 He claims that the older children had to "hoard" food when they were younger (something he claims he  
11 "just learned" but which is not corroborated in the affidavits of the adult children), yet Vivian has found a  
12 letter from the parties' son, thanking her for the food she cooks for them. In reality, the food has always  
13 been well-stocked with food, and the children always have had plenty to eat. This is confirmed, and  
14 Kirk's allegations are refuted, by the Declaration of Heather Atkinson, attached hereto.  
15  
16

17 In the evenings, as she has done since the children were born, Vivian puts the children to bed, tucks  
18 them in and reads stories to them. When they were younger, she would cuddle with them until they fell  
19 asleep, at which point, she would return to the parties' bedroom. In 2005 or 2006, the parties stopped  
20 having intimate relations, and Kirk essentially kicked Vivian out of the master bedroom. At that point,  
21 once the children were asleep (or when she woke up if she fell asleep with them), Vivian would go  
22 downstairs to sleep on the couch, as she has no bedroom of her own. Since May of this year, Vivian no  
23 longer waits until the children are asleep to get up. She puts them to bed and lies on a couch in their  
24 room. When everyone is asleep, Vivian will go downstairs to sleep on the couch.  
25  
26

27 Brooke and Rylee are very social, and they enjoy spending time with their friends on the weekends.  
28 Vivian believes this is healthy, and she takes the girls to activities with their friends on a regular basis.

1 However, it is not every weekend, as Kirk suggests, and Vivian does not do this for her benefit, but for  
2 the girls. The children spend probably no more than one or two nights a month with friends during the  
3 school year and one or two nights per week during the summer. Despite his criticisms of Vivian, Kirk  
4 continually allowed the children to spend evenings and nights at Vivian's friend's homes when she  
5 travelled in 2010.  
6

7 This is not to say that Kirk did not participate at all in caring for the children. As set forth above,  
8 Kirk has chosen to do the majority of the grocery shopping. In early 2006, Kirk offered to drive the girls  
9 to school and dance. However, even this was short-lived, as Kirk quickly noticed that this task cut into  
10 his bike rides and golf games. He asked Vivian to "help him" with the driving. Kirk greatly exaggerates  
11 the extent of his participation in driving the children, and fails to discuss that he has, on several  
12 occasions, forgotten to retrieve the children from school or their activities. Many of the parents involved  
13 in carpool have dropped out because of Kirk's repeated failure to pick up their children as scheduled. *See*  
14 *Declarations of Michele Walker and Heather Atkinson.*  
15  
16

17 Further, when Vivian traveled in 2010, Kirk heated pre-made meals for the children; even this was  
18 too much for him, and he relied on Whitney and Tahnee to prepare meals, as well as other family friends.  
19 *See Declaration of Michele Walker and Nyla Roberts.*  
20

21 Vivian's generosity and hard work is not limited to her family. Vivian believes that in order to  
22 teach the children good morals and values, she must set the example for them through her own good  
23 works. The Affidavits attached as **Exhibits "B" through "E"** show this generosity time and again.  
24 While each of the Declarations discusses various aspects of Vivian's care of her own children, they also  
25 demonstrate that Vivian extends her love and support outside of her own family, to help others. For  
26 example, the Declaration of Nyla Roberts (**Exhibit "C"**) relates an incident in which her son "ran away"  
27 from home; Vivian drove around until she found him, spent her time talking to him about the problem,  
28

1 and convincing him to return home. She also describes Vivian's love and support of Nyla and her family  
2 when she was diagnosed with thyroid cancer. When Nyla needed help with a church organization,  
3 Vivian stepped in to sew projects and to support children during their baptisms. The Declaration of  
4 Michele Walker (**Exhibit "B"**) relates similar acts of kindness, such as Vivian sewing 40 handmade bags  
5 for the PAC for Teacher Appreciation Week, or encouraging Michele's son in trying out for the BYU  
6 swim team. The Declaration of Kim Bailey (**Exhibit "D"**) discusses Vivian's availability and generosity  
7 in providing advice and support during difficult times. The Declaration of Heather Atkinson relates one  
8 particular incident in which Vivian stepped in to make a less fortunate family feel welcome and  
9 comfortable, even when they had been shunned by others.  
10  
11

12 Kirk alleges that Vivian "checked out" in 2006, despite all of the foregoing work that Vivian does  
13 on a daily basis. In truth, Kirk is referring to the separation that has occurred between the two of them.  
14 After Kirk retired, the parties' relationship deteriorated significantly. Kirk was overly critical and very  
15 rarely could find a kind word for Vivian. Not surprisingly, then, Vivian distanced herself from Kirk.  
16 This did not impede Vivian's ability and willingness to participate in the children's activities. She  
17 continued to participate in the children's daily activities, as she has always done.  
18

19 More recently, when the parties' adult children came home to visit, Vivian felt that they should act  
20 like adults and should not expect to be treated like children. When she refused to clean up after them and  
21 expected them to do their own chores, everyone became upset with her. Unfortunately, Kirk capitalized  
22 on this to drive a further wedge between Vivian and the adult children. He has used their upset to  
23 convince the children that Vivian is not properly caring for the children because she is not willing to treat  
24 them like children any longer.  
25

26 Nevertheless, Vivian did not relinquish her care of the two younger children. She continued her  
27 participation and daily responsibilities as set forth above to this day. In the entirety of the parties'  
28

1 marriage, Vivian has spent almost no time away from any of the children. In contrast, Kirk spent the first  
2 twenty-four years working extremely long hours and was away from the home for 10-14 hours every day.  
3 Between 2005 and 2009, Kirk participated only minimally in caring for the children each day. Instead,  
4 he spent the majority of time in his office, with the door closed, and claimed that he was just as  
5 accessible to the children as Vivian (who spent her time in the living areas with the children). While  
6 Vivian rarely, if ever, traveled away from all of the children at any time during their lives, Kirk was often  
7 away from the family, even after he retired. He traveled to Ireland on vacation without the family; he did  
8 not accompany them on vacations; he spent many, many weekends at the family ranch; and he has  
9 traveled for business on many occasions. Kirk finds no problem with his own absence, which totals  
10 many years of distance between him and the family.  
11

12  
13 In 2010, *for the first time in twenty-nine years*, Vivian spent some time away from the family.  
14 Believing that Kirk would – also for the first time – take responsibility for the children while she was  
15 gone, she left the children with him. Vivian was not pursuing selfish interests; she was not “abandoning”  
16 the children; she was not pursuing shopping excursions and vainglorious events in pursuit of a celebrity –  
17 she was engaging in philanthropic work to help starving and abused children. Now, Kirk wants to focus  
18 upon these few weeks, which in reality represents only a small fraction of the children’s lives and the  
19 parties’ marriage – to demonstrate that Vivian does not care about the children. According to Kirk,  
20 Vivian’s many devoted years should be eradicated based on these few weeks. Kirk shamefully asks this  
21 Court to use Vivian’s philanthropic work as a basis to restrict her to supervised visitation with the  
22 children to whom she has devoted her life.  
23

24  
25 Of course, because Kirk believes that any contribution by him, no matter how small, is worthy of  
26 accolades, he fails to acknowledge any of his own shortcomings during this time. Kirk fails to admit that  
27 he relied so heavily upon Whitney and Tahnee during this time that they both wished to move out of the  
28



1 home. He fails to admit that on many occasions, he forgot to retrieve the children from school or from  
2 dance classes. He fails to admit the number of time he asked Michele Walker to care for the children  
3 because he had lost track of time while at Costco. He wants only for the Court to reward him and punish  
4 Vivian for the minimal efforts he made in caring for the children during several weeks of 2010.  
5

6 **b. Vivian does not have any Mental Health Issues**

7 **i. Vivian does not suffer from Narcissistic Personality Disorder**

8 Approximately three years ago, as the parties' marriage was clearly deteriorating, Kirk bought a  
9 book on "narcissism." From his affidavit, it appears that he looked at the characteristics of this  
10 "disorder" and then tried to mold facts to support his opinion.  
11

12 For example, Kirk has contended that Vivian has taken credit for all that the children do. As  
13 addressed in her affidavit, (see **Exhibit "A"**, paragraphs 71 through 80), that claim is simply false.  
14 Kirk's contention that she took credit for other matters not related to their children is equally false. Kirk  
15 is correct in saying that he rarely shared any information with Vivian about his cases and clients.  
16 Consequently, Vivian never gave him any advice regarding his cases; we never spoke of such things.  
17 She never took credit for his work because she was not aware of the work he was doing.  
18

19 Kirk's claim that Vivian took credit for anything to do with his geothermal company is also false.  
20 Kirk's friend and business associate, Piotr Moncarz, invited Kirk and Vivian to dinner one evening. They  
21 were discussing possible sites to drill a hole for Geo-Thermal Energy. As part of the general  
22 conversation, Vivian asked if they considered Boulder City as a potential location. Vivian was appointed  
23 and served on the Boulder City planning commission for four years, and she served during the time  
24 Nevada Energy and other energy companies submitted applications to do business. This was just a simple  
25 conversation regarding business – Vivian never promoted or took credit for the company's later decision  
26  
27  
28

1 to try to do business in Boulder City. Again, this seemingly random allegation is manufactured by Kirk  
2 to fit into his diagnosis.

3 It is a bit too convenient that Kirk's chosen diagnosis fits perfectly into discrediting everything  
4 Vivian has done that might influence the Court that she is an appropriate care provider. The success of  
5 the children, her charity work, her commitment to helping friends, trips with family – everything she does  
6 is a sign of narcissism under Kirk's theory. Even climbing Mt. Everest is a sign of narcissism. It is  
7 readily apparent to everyone but Kirk that his 132 pages of affidavit are designed to fit Vivian, regardless  
8 of what she does, into the elements of his chosen personality disorder that he claims is incurable.  
9

10 Without addressing all of the false allegations Kirk has created to justify his diagnosis, Vivian  
11 submits the reports of Dr. Ole Thienhaus. As part of Dr. Thienhaus's examination, Vivian completed  
12 MMPI testing with Dr. Jill Margolis. A copy of Dr. Thienhaus's initial report is attached as **Exhibit "A-**  
13 **9"** hereto. After Vivian received Kirk's motion, her counsel supplied Dr. Thienhaus with a full copy of  
14 the motion, including Dr. Roitman's "diagnosis," and requested that he, Dr. Thienhaus, re-examine her in  
15 light of the allegations in the motion. Dr. Thienhaus's report following that review and interview is  
16 attached as **Exhibit "A-10"** hereto. Both reports find that Vivian no mental disorder whatsoever.  
17

18 Vivian has been under the care of a psychiatrist, Dr. Duffy, primarily to manage the small  
19 amount of medication he prescribed after her brief separation from Kirk in 2005. His records have been  
20 produced to the Court and counsel as **Exhibit "A-6"** hereto. Nothing in Dr. Duffy's notes or diagnosis  
21 suggest that he has found that Vivian has any personality disorder whatsoever.  
22

23 Vivian has also been seeing a counselor, Marvin Gawryn, for the past 6 months. Mr. Gawryn was  
24 a counselor that Tahnee saw to address her obsessive compulsive disorder and social anxiety in late 2010.  
25 Mr. Gawryn suggested that Tahnee engage other members of the family to be involved in the counseling,  
26 and Vivian met with him. She has continued to meet with Mr. Gawryn to address family issues, and she  
27  
28

1 has encouraged Kirk to be involved in that process. He has, for the most part, refused. If he were as  
2 worried about Vivian's mental health as he contends he is, he would have taken the opportunity to  
3 address those issues with Mr. Gawryn.

4  
5 Kirk has not presented any competent evidence supporting his claim that Vivian suffers from any  
6 mental disorder, and his actions demonstrate tactic, not a desire to address any concerns he may have.

7 **ii. Vivian Never Manifested any Obsession with Jonathan Rhys Meyers**

8 Jonathan Rhys Meyers is an actor born in Ireland, most known for his role in the Showtime series,  
9 "The Tudors." Tahnee, who is a big fan of the show, gave Vivian the first season DVD set of the Tudors  
10 for her birthday. Vivian enjoys the show, but she has never stated and does not believe that Mr. Meyers  
11 is her "soulmate." Kirk alleged that Michele Walker stated this; as seen in Ms. Walker's Declaration, she  
12 confirms that Vivian never said this to her. Vivian believes he is handsome and a good actor, that is all.  
13 As she has done with other celebrities, she put a photograph of Mr. Meyers on the family computer; there  
14 was nothing inappropriate about the photograph, and nobody complained about it. Vivian removed the  
15 screensaver after approximately 45 days, and replaced it with a picture of Brooke and Rylee with Santa  
16 Claus.

17  
18 It was from the Tudors website that Vivian learned about the work of the Hope Foundation, but  
19 her involvement had nothing to do with a far-fetched plan to meet Mr. Meyers. Mr. Meyers is celebrity  
20 ambassador for the Hope Foundation, but to Vivian's knowledge, he has never been scheduled to attend  
21 any event Vivian has attended.

22  
23 Many of Kirk's allegations appear to be nothing more than the overactive imagination of a jealous  
24 husband. For example, Vivian has not watched all of Mr. Meyers' movies; she has watched only 3 of his  
25 37 movies. Ironically, she has never watched his most popular movie, which *Kirk* owns.

1 Similarly, Vivian has not purchased clothing based on any interviews, statements, or photographs  
2 related to Mr. Meyers. In fact, she does not recall even reading the articles that Tahnee found in which  
3 those items are referenced. As admitted by Kirk, Vivian teaches fashion design at a fashion design  
4 school, and she has a keen interest in fashion. She owns many pairs of jeans of all makes and styles  
5 including, Hudson, PRPS, Levi, Citizen of Humanity, True Religion, Joes, Seven, etc. As with  
6 everything in regard to Mr. Meyers, Kirk has greatly exaggerated Vivian's purchases to make them  
7 appear outrageous. For example, he references Steve Madden shoes as being very expensive. These  
8 shoes can often be purchased for less than \$100 per pair. In regard to the pair of Christian Louboutin  
9 shoes, Kirk is careful to note the "sticker price" rather than the actual price. Although the shoes retailed  
10 for \$1,395, Vivian paid only \$575.00. They were still expensive, but it was a one-time splurge for a  
11 special event (not related to Mr. Meyers). The Court should also recognize that the parties are extremely  
12 wealthy and these prices represent the smallest fraction of their estate. Again, the greatest flaw in Kirk's  
13 theory about the clothes is that they could not have been bought to impress Mr. Meyers since he was  
14 never scheduled to be at any event Vivian attended for the Hope Foundation.

18 Another similarly tenuous "link" Kirk tries to make between Vivian and MR. Meyers is the fact  
19 that Vivian owns a Victorian-era robe. However, the robe is from the Victorian era (1837-1901), while  
20 The Tudors is set in the 1500's (Mr. Meyers plays King Henry VIII) – more than 300 years apart. On  
21 one Halloween, Vivian dressed up as Ann Boleyn and Rylee dressed up as Queen Elizabeth. Again, this  
22 had nothing to do with The Tudors, but was simply a Halloween costume. Another year, Vivian dressed  
23 up as the Queen of Hearts; it is equally absurd to use that to claim Vivian has an obsession with Johnny  
24 Depp because he played a role in Alice in Wonderland. See photographs attached as **Exhibit "A-11"**  
25 hereto.

28 . . .

1                                    **iii. Vivian has not Manifested an Obsession with Cosmetic Surgery**

2            Kirk contends that the cosmetic procedures that Vivian has undergone are representative of a  
3 mental disorder. The procedures that Vivian has undergone are common for women of her age. The  
4 series of procedures (breast repair, facelift, eyelift, tummy tuck, and liposuction) even have a common  
5 name among patients and professionals, as a “mommy makeover.” Vivian is a 49 year old mother who  
6 nursed five children for approximately eleven years, was pregnant for over four years, and wants to look  
7 her best. She is not alone, nor does she think that this is evident of any disorder.  
8

9            The procedures were recommended by physicians in part from health concerns (to remove old  
10 recalled silicone implants), and many of the “procedures” that Kirk identifies were in fact nothing more  
11 than follow up visits. As set forth more fully in Vivian’s affidavit at paragraphs 163 to 175, Kirk  
12 allegations of excessive visits for “face peels” simply have no basis in fact. He attributes such work to  
13 people that do not perform such procedures.  
14

15            Kirk’s claim of obsession arises from Vivian undergoing the procedures in a short period of time  
16 in 2010. In her affidavit, Vivian outlines each procedure and the doctor that performed it. All of the  
17 procedures are commonly performed on women of Vivian’s age.  
18

19            Kirk is again being hypocritical when he criticizes Vivian’s cosmetic procedures. Kirk too has had  
20 a nose job (rhinoplasty) and had his teeth repaired through veneers and braces. Kirk is also concerned  
21 about his appearance, but societal norms have different images of beauty for men and women. It is clear,  
22 however, Kirk has no qualms about using commonly used procedures to improve his appearance, and that  
23 is the course Vivian has taken.  
24

25            A theme that pervades Kirk’s motion, and the affidavits of the parties’ adult daughters, is that  
26 Vivian does not have a realistic understanding of her own appearance. As set forth in her affidavit,  
27 Vivian is no more obsessed with her appearance than many women her age, particularly women with the  
28

1 means to have cosmetic procedures. No one is suggesting that Barbara Walters is delusional, yet it is  
2 readily apparent that she has undergone many cosmetic procedures. The criticism from Tahnee and  
3 Whitney about Vivian's clothes purchases is odd considering both have large and extensive wardrobes of  
4 clothes that Vivian has regularly helped them purchase. Vivian did not receive criticism from those girls  
5 when she was helping them in every way possible with their appearance and presentation when they were  
6 competing in pageants. It very easy for beautiful young women without children, who have years before  
7 their looks and bodies begin to fade, to sit in judgment of those who are attempting to improve their  
8 appearance through cosmetic surgery and fashion. While Vivian loves her daughters eternally, she  
9 believes in this instance they are showing a lack of life experience, and an unhealthy dose of their father's  
10 cynicism.  
11

#### 12 **iv. Allegation of Mental or Physical Defect due to Drug Use**

13  
14 Like many people, Vivian has struggled with her weight for many years. She has typically dieted  
15 when she feel as if she has gained weight or when she believes that her health is at risk. Her current  
16 weight of 191 pounds places her in the "obese" category for her height. She is aware of the health risks  
17 associated with being overweight. She has used various procedures to lose weight, including exercise,  
18 diet, and medical procedures.  
19

20 Kirk's largest complaint is in regard to Vivian's use of the drug Phentermine, a commonly  
21 prescribed stimulant ("diet pill") prescribed as a diet aid by physicians. In 2005, Vivian sought out  
22 medical help to lose weight because she was then in the "obese" category as well. Vivian went to  
23 Unicorn Weight Clinic and was seen by the doctors there. The doctors took her medical history,  
24 performed blood tests, administered an EKG, took her blood pressure and performed various other tests.  
25 Once the tests were completed, and Vivian was approved to proceed further, Vivian met with a bariatric  
26 doctor who prescribed Phentermine, and outlined a diet plan. Over the course of about 6 months, Vivian  
27  
28

1 lost 40 pounds. Vivian stopped taking Phentermine for several months after that, but then began again  
2 (after similar testing and evaluation) when her weight increased again.

3 Since that time (approximately the beginning of 2006), Vivian has gone on and off various diets,  
4 usually after the holiday season and prior to bathing suit weather. Vivian continued to work on her  
5 weight through Unicorn from 2005 through 2008, and the doctors there prescribed Phentermine. When  
6 Unicorn Weight Clinic moved its offices, Vivian went to Trim Care and worked with its doctors. Its  
7 doctors also prescribed Phentermine, and Vivian worked with Trim Care during the year 2008. After  
8 2009, Vivian used the services of physicians, Dr. J.R. Martin, and Dr. Warren Smith (her general care  
9 doctor), who prescribed the same medication.  
10  
11

12 Contrary to Kirk's allegation, Vivian did not take the Phentermine continually, and there would be  
13 periods of months where Vivian did not take it at all. Vivian has never exceeded her prescribed dosage  
14 and has always followed her doctor's orders on taking any and all medications prescribed. Vivian trusted  
15 their medical expertise. Each reviewed her personal medical history and monitored her lab results. Each  
16 performed EKG monitoring, regularly took her blood pressure, and performed physical examinations.  
17

18 The primary side affects linked to Phentermine use are damage to the heart and pulmonary  
19 hypertension. Vivian has never been diagnosed or been prescribed medication for pulmonary  
20 hypertension or any heart condition. Vivian has not been diagnosed nor has experienced any delusional  
21 behavior. Vivian has never had an abnormal EKG. Vivian has never had abnormal blood pressure  
22 (always low), and there have been no anomalies in her blood panel results that Vivian is aware of. There  
23 is nothing to suggest that Vivian has suffered any effect from her prior use of Phentermine.  
24

25 During divorce mediation in May, Kirk demanded a copy of all her Phentermine prescription usage  
26 since 2006, and Vivian gave him those records. Since May she's gained 40+ pounds from stress (she is  
27 an emotional eater), and went back to the Trim Care doctors to see if there was anything they could help  
28

1 her with. Vivian told them she could not take Phentermine because of Kirk's allegations of drug use.  
2 They prescribed Bontril. When Kirk raised an issue with that drug as well, Vivian discontinued its use  
3 immediately.  
4

5 Kirk's claim of concern regarding Vivian's drug use is again a divorce tactic. If Kirk had thought  
6 Vivian's drug use was a problem, then he would have proceeded forward when he filed his complaint for  
7 divorce in April, 2011, but instead he failed to serve it or his motion until September 14, 2011. Indeed,  
8 even his objection to Phentermine is of recent vintage, as in the past he would fill Phentermine  
9 prescriptions for Vivian at Costco. *See Exhibit "A-12"* attached hereto.  
10

11 Perhaps most important, Vivian is not currently taking any drugs whatsoever. *See*, blood test  
12 panel results from LabCorp dated October 5, 2011 showing negative for all drugs of any kind, attached as  
13 **Exhibit "A-13"** hereto. Further, in her affidavit at paragraphs 183 through 189 Vivian addresses the  
14 other drugs that Kirk wrongfully states that she is taking or has abused. Indeed, Vivian has gone through  
15 the trouble of looking through and recording the contents of every prescription drug in her home.  
16 **Exhibit "A-14"** is a full listing of all of the prescription drug bottles in Vivian's name or in the parties'  
17 home, the date of the prescription, the amount prescribed and issued, and the amount remaining. As is  
18 readily apparent from the chart, Vivian did not take the vast majority of pain medications that were  
19 prescribed to her after surgeries or medical procedures. Her clean drug panel, and meticulous detailing of  
20 her prescriptions and medicines should put to rest Kirk's false claims that Vivian is a drug addict.  
21  
22

23 **i. Allegation of Use of "Psychic" as Counselor**

24 Kirk suggests that Vivian regularly consults with a "psychic" to make decisions. Vivian has spoken  
25 to the woman he references (who advertises herself as an intuitive counselor) four times in her entire life.  
26 Vivian notes that she, Ms. O'Brien, is not a telephone "psychic," but instead is the host of a syndicated  
27 radio show, and makes her living passing on "spiritual" advice. Vivian actually liked speaking to her.  
28



1 Like reading a horoscope, the “advice” she gives is usually upbeat. She was a nice respite from the  
2 constant barrage of criticism from Kirk. Ms. O’Brien does speak of reincarnation and did make a  
3 reference to her as a “master soul,” but Vivian not exactly sure what she meant by that. Also like the  
4 advice from a horoscope, she gave general enough advice to apply it to any situation.  
5

6 Kirk’s suggestion that Vivian regularly uses Ms. O’Brien to make any decision of any kind, much  
7 less ones of import, is simply wrong. It is worth noting, however, that many people daily make  
8 decisions that are based upon a moral core that is more grounded in spirituality than logic. Even if  
9 Vivian did make decisions using a spiritualist, a “psychic”, a horoscope, or a flip of the coin, it is the  
10 decision that matters, not the process.  
11

12 **b. Alleged Mental and Physical Damage to Children**

13 **i. Prenatal Care**

14 Demonstrating his desperation to find “issues”, Kirk claims that Vivian damaged Rylee by drinking  
15 a bottle of castor oil to induce her birth. In reality, Vivian drank a tablespoon or two of castor oil to  
16 relieve constipation prior to Rylee’s birth. Rylee suffered no birth defects, and is a happy healthy child.  
17

18 **ii. Allegation of Emotional Abuse**

19 Kirk’s primary allegation of emotional abuse has to do with his allegation that Vivian has  
20 “abandoned” Brooke and Rylee over the last five years. That claim is false, and addressed above. As  
21 stated, all of the persons that regularly are around the family can attest to Vivian’s involvement, and they  
22 have done so in their statements attached hereto.  
23

24 Kirk’s primary argument is that Vivian travelled too much in 2010. As stated above, most of that  
25 travel was related to the Hope Foundation and establishing an office of the Foundation in the United  
26 States. Vivian will not be required to engage in such travel in the future.  
27  
28

1 Kirk further claims that Vivian has lied to the children, and is overly critical of them. Neither of  
2 those things is true, and are addressed by Vivian in her affidavit. Certainly, however, those allegations  
3 could be addressed by the Court through an interview of the children.  
4

5 The most significant form of emotional abuse of the parties' children is Kirk's constant suggestion  
6 to them that Vivian does not care about them, or with the adult children, that she is "crazy." Kirk seems  
7 to be planting seeds with the younger children to lose confidence in Vivian, and to think poorly of her.  
8 He disguises it as being "supportive" and either does not see it or does not think anyone else will see it as  
9 harmful or abusive in its own right. There are numerous examples of this in Kirk's affidavit, only a few  
10 of which are referenced by paragraph number below:  
11

12 ¶68 "I told Brooke Mom is going through a rough time right now."

13 ¶97 Conversation with Brooke reminding her of all the times Vivian was going to be gone,  
14 discussing his "concerns" with what Vivian has done in the past.

15 ¶116 "Brooke told me tonight that Vivian talked to her about she and Rylee going to  
16 Ireland this summer. . . I told Brooke that she could go for a week or two if I went as  
17 well."  
18

19 ¶151 "Later when I was consoling her I asked Brooke how she thought Rylee was dealing  
20 with all of this..."  
21

22 ¶156 "I believe Brooke knows that until very recently I would have quickly dismissed  
23 anything at all said that negatively reflected on Vivian. At some point, it is more important  
24 that your children have an environment where they feel comfortable speaking openly  
25 about things that bother them, than to continue to wrongly protect the image of someone  
26 that continues to do harm to your children."  
27  
28

1 ¶166 “I told Brooke that just like she, Rylee and I had done all year, that we would do the  
2 laundry tomorrow.”

3 It also seems like he planted these same seeds with the older children that he is now using to  
4 influence them.  
5

6 ¶28 “I would talk to each of the children separately in an effort to solve the then pending  
7 problem.”

8 ¶41 “I told Tahnee how bizarre it is for a mother to say such things to and about her own  
9 children, let alone even think such things. Tahnee and I both agreed how this highlights  
10 just how incredibly insecure Vivian has become and that Vivian feels she is in competition  
11 with her own children and feel threatened by them.”  
12

13 ¶50 “I told [Tahnee] that in her mother’s condition, if we got a divorce and Vivian had  
14 partial custody, I would be fearful for Brooke and Rylee.”  
15

16 ¶53 “I told Tahnee that I had done all I could concerning Vivian, and all I could do was be  
17 the best father I could and that all of us needed to do our best in looking out for one  
18 another.”

19 ¶56 “I told Tahnee that Vivian does not really think Chloe is a better dancer than her.  
20 Vivian is simply incredibly insecure and needs to tell others that they are not so hot. I told  
21 Tahnee about when Vivian last year told me that nobody wants to be with me.”  
22

23 ¶69 “I telephoned Whitney and expressed concern about this to Whitney saying you are  
24 going to be on national television with someone who is not dealing with a full deck right  
25 now and it could prove very embarrassing.”  
26

27 ¶75 “I told Tahnee that Vivian’s need for attention is frightening.”  
28

¶106 “That night Tahnee, Joseph, and I talked about some of the issues with Vivian, including the incident at Brooke’s ball game with Bill B. and her meeting a man on the airplane, giving him a ride to his hotel and having drinks with him in a bar, then discovering he was Cam W.’s boss. We also talked about her lack of attention to Brooke and Rylee.”

The fact that Kirk fails to recognize that his not so thinly veiled efforts at alienation are a form of abuse is frightening.

The best source of information about their parent’s relative involvement, their bond with each parent, and whether they have been “emotionally abused” by either parent is the girls themselves. There is no need to perform an “assessment” of the children because they are happy, healthy, high performing and intelligent children. A simple interview of the children will lead the Court to the same conclusion, and will shed light on many of the claims in this case.

### iii. “Sleeping” with the Children

Kirk claims that Vivian’s time with the children should be supervised because she “sleeps” with them. This is a non-issue; she has not slept with them since May, 2011. About a year ago Kirk, and then Tahnee with Kirk, began to suggest that Vivian sleeping with or near the girls was harmful to them. She disagreed, primarily because she was not sleeping with them through the night. She also found it odd that Tahnee would suggest that somehow Vivian would damage the children if she slept with them. Vivian slept with Tahnee on many nights when she was Rylee and Brooke’s age, and she loved it. Attached as **Exhibit “A-15”** is a note Tahnee sent Vivian when she was about Brooke’s age. In the note she asks Vivian to please sleep with her. Tahnee turned out just fine. As for Kirk, it is hard to understand how he can make this argument with a straight face. He admits in his motion that Brooke slept with *him* in the master bedroom for close to a year or more from 2009 to 2010.

1 Kirk cites an incident in which Rylee was hurt after falling out of bed as an example of the dangers  
2 that can occur if Vivian is in the bed with them. The only problem with Kirk's theory is that Vivian was  
3 not in bed with them the night Rylee fell out; she was on the couch sleeping. He was aware of that fact  
4 because Brooke had been in the bed with Rylee, and stated to Kirk "Mom wasn't sleeping with us," but  
5 Kirk kept insisting he had heard Vivian snoring (which could have been true, because she was sleeping  
6 on the couch in the room). Kirk's focus was not on Rylee, it was on making Vivian wrong and trying to  
7 undermine and belittle her in front of our children.  
8

9 Kirk took Rylee to the hospital. Vivian remained with Brooke, who was upset about Rylee's  
10 injury, and was also upset about her father stating that she was lying. Rylee and Kirk did not return until  
11 nearly 2:00 a.m., and Vivian and Brooke had fallen asleep.  
12

#### 13 **iv. Transfer of Testosterone**

14 Kirk falsely suggests in his Motion that Vivian either purposely or negligently exposed Rylee to  
15 testosterone. Vivian prescribed testosterone by Dr. Jeffrey Life due to her unusually low levels of  
16 testosterone, and to treat the symptoms she was experiencing as a result of that deficiency. He prescribed  
17 a cream application. The cream was dispensed by a pharmacy in Salt Lake, and had an applicator that  
18 ensured the proper amount per dosage. The instructions indicated that it should be applied nightly, in the  
19 amount suggested, and in the crook of her arm above her forearm, the back of her leg, or her stomach.  
20 She chose the crook of her arm, and she applied only the amount suggested.  
21

22 Kirk's entire presentation of the issue is deceptive. He claims, "Vivian...reasonably should have  
23 known the very foreseeable consequence of rubbing testosterone on her forearms and the getting in bed  
24 with Rylee, snuggling with, and sleeping against her". (¶ 43) Kirk knew she was using testosterone cream  
25 and saw her applying it to her forearms on a number of occasions as he as admitted in his affidavit. He  
26 also was aware she snuggled nightly with the girls. Since he believes that Vivian "should have known the  
27  
28

1 very foreseeable consequence” of the testosterone use and exposure, shouldn’t he be held to the same  
2 standard? “Simple basic common sense precautions would have avoided this terrible situation that has  
3 now seriously compromised Rylee’s endocrine system.” This is simply untrue. She was not ever advised  
4 of the possibility of transfer, as the small amount of cream rubs into the skin and disappears immediately.  
5 It is not like lotion that leaves a film, and the extremely small amount of cream used did not suggest that  
6 there was risk of transfer. Attached as **Exhibit “A-16”** is a picture of the dispensing bottle with the  
7 prescribed amount of cream on top of it. Note that the bottle contains no warning whatsoever.  
8

9       At no time did Dr. Life, the dispensing pharmacist, or anyone else (including Kirk who admits he  
10 saw Vivian applying the cream and knew she was sleeping with Rylee) suggest that Vivian could transfer  
11 the testosterone by contact. *See*, Affidavit of Jeffry Life, **Exhibit “H”** attached hereto. Also, Nyla  
12 Roberts attests in her sworn declaration that she had similar therapy from Dr. Life and had no warning,  
13 and the materials from the dispensing pharmacist contained no warning whatsoever regarding any risk of  
14 transfer.  
15

16       Upon hearing the suggestion that the testosterone could be transferred from Nyla Roberts (*See*  
17 Affidavit of Nyla Roberts, **Exhibit “C”** attached hereto), Vivian immediately contacted Dr. Life and  
18 changed her testosterone therapy to injections that eliminate the risk of transfer upon contact. She also  
19 made the appointment to have Rylee tested through a pediatric endocrinologist, Dr. Dewan.  
20

21       Kirk and Vivian found, through testing of Rylee through Dr. Dewan, that Rylee had a high level of  
22 testosterone. That level went down to normal in later tests. While there is some chance that the  
23 testosterone had an effect on Rylee (that cannot be determined), there is a method (a hormone implant) to  
24 address any effect.. As of now, Rylee there is no recommendation of treatment for Rylee.  
25

26       It is worth noting that Dr. Dewan was more concerned about Rylee’s high cholesterol levels and  
27 diabetes indicator than he was with the testosterone exposure. Rylee’s high cholesterol has come from a  
28

1 diet of eggs, bacon and processed food that Kirk served. Kirk accompanied Vivian when she went to visit  
2 the dietician in Dr. Dewan's office and to Kirk's credit, Kirk has taken steps to limit the cholesterol in  
3 Rylee's diet when he feeds her. Vivian has done the same with the meals she provides.

4  
5 V.

6 **THE BEST INTERESTS OF THE CHILDREN WILL BE SERVED BY**  
7 **PLACING THEM IN VIVIAN'S PRIMARY PHYSICAL CUSTODY**

8 The sole consideration of the Court in child custody decisions is the best interest of the children.  
9 *Sims v. Sims*, 109 Nev. 1146, 1148, 865 P.2d 328, 330 (1993); NRS 125.480. NRS 125.480 *requires*  
10 findings based on the specified factors. In determining the best interest of the child, the court shall  
11 consider and set forth its specific findings concerning, among other things:

- 12 (a) The wishes of the child if the child is of sufficient age and capacity to  
13 form an intelligent preference as to his custody;  
14 (b) Any nomination by a parent or a guardian for the child;  
15 (c) Which parent is more likely to allow the child to have frequent  
16 associations and a continuing relationship with the noncustodial parent;  
17 (d) The level of conflict between the parents;  
18 (e) The ability of the parents to cooperate to meet the needs of the child;  
19 (f) The mental and physical health of the parents;  
20 (g) The physical, developmental and emotional needs of the child;  
21 (h) The nature of the relationship of the child with each parent;  
22 (i) The ability of the child to maintain a relationship with any sibling;  
23 (j) Any history of parental abuse or neglect of the child or a sibling of the  
24 child; and,  
25 (k) Whether either parent or any other person seeking custody has engaged  
26 in an act of domestic violence against the child, a parent of the child or any other  
27 person residing with the child.

28 Here, the application of the above-referenced factors, demonstrate that the Court should grant  
Vivian joint legal and primary physical custody of the parties' minor children.

(a) *The wishes of the child if the child is of sufficient age and capacity to form an intelligent  
preference as to his custody:* As set forth above, if interviewed, Vivian believes the children will  
express a preference to live with her. She has been their primary caregiver throughout their lives, and  
she continues to be the parent most involved with their daily lives. Kirk has begun his subtle attempts to

1 alienate them from Vivian, as shown by the Declaration of Heather Atkinson; nevertheless, the children  
2 are far more bonded to Vivian.

3 (b) *Any nomination by a parent or a guardian for the child:* Throughout the children's lives  
4 (including the adult children), Kirk has been content to allow Vivian to provide all of the daily care for  
5 the children. His primary complaints arise from Vivian doing something less than 100% of the  
6 parenting, while excusing himself from his share of the parenting responsibilities. It appears that Kirk  
7 sees the role of parenting as an "all or nothing" situation. However, his election to allow Vivian to  
8 assume all of the children's care for the past twenty-nine years should be given considerable weight.  
9

10 (c) *Which parent is more likely to allow the child to have frequent associations and a*  
11 *continuing relationship with the noncustodial parent:* Kirk's Motion, standing on its own, clearly  
12 demonstrates that he is unable or unwilling to foster a healthy relationship between Vivian and the  
13 children. In 354 pages, he cannot say one single good thing about his wife of 29 years and the mother  
14 of his children. Everything that Vivian has done – including helping starving and abused children in  
15 Calcutta – is interpreted in the light most unfavorable to Vivian as a human being. Although he cannot  
16 point to any actual abuse by Vivian, Kirk has argued that Vivian should be permanently restricted to  
17 supervised visitation only with the children. Nothing in his Motion demonstrates the need for such a  
18 harsh outcome, yet that is what he is pursuing – without any regard to the emotional impact it will have  
19 upon the children.  
20  
21  
22

23 This attitude is certainly not new, and it has already had a devastating effect on the family. For  
24 many years, Kirk has undermined Vivian as the children's parent; he has refused to support her  
25 decisions, taken up the children's "cause" in issues of discipline and common respect owed to Vivian.  
26 He has minimized Vivian's contribution to the family to such a degree that the older children believe  
27 that Vivian's contributions as their primary caregiver and supporter during their lives has no value.  
28



1 Kirk has convinced the children that Vivian has an emotional disorder and that she abuses drugs. All of  
2 these things have been shown to be false, yet Kirk insists upon pushing his agenda on the parties'  
3 children. He has no concern about the damage this has already done to the older children. His Motion  
4 demonstrates that he has already started this pattern with the younger children. The Declaration of  
5 Heather Atkinson demonstrates that his words are now affecting the way the children view Vivian and  
6 the importance of her parental contributions.  
7

8       Virtually all psychological studies of post divorce child rearing suggest that the parents' ability  
9 to cooperate after divorce is the single most important factor in the children's well being.  
10

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

15 *Paradigm Shifts and Pendulum Swings in Child Custody*, Family Law Quarterly, Vol. 42, No. 3, Fall  
16 2008, page 388. In this matter, Kirk's determination that Vivian has no value as a parent or even as a  
17 human being has been a constant theme from Kirk to the children. Kirk has recruited the older children  
18 to sign Affidavits against their mother, even in the midst of Whitney's wedding. He misled Vivian into  
19 believing that the parties were searching for an amicable resolution of their differences, all while using  
20 the children to fortify his case against her. His behaviors and statements are designed to annihilate the  
21 relationship between Vivian and all five of the parties' children.  
22

23       Kirk's actions and words constitute behaviors that have long been identified by scholars and  
24 courts as "alienation." See, e.g., Peggie Ward, Ph.d. and J. Campbell Harvey, Esq., *Family Wars: The*  
25 *Alienation of Children*, New Hampshire Bar Journal, Vol. 34, No.1., March, 1993. In that article, Dr.  
26 Campbell and Mr. Harvey describe and outline the levels of various behaviors designed to alienate.  
27  
28

1 Among the behavior they describe as “overt” (as opposed to the lower forms of mild and moderate  
2 alienation), are:

- 3 1. Statements about the target parent are delusional or false.
- 4 2. Inclusion of the children as victims of the target parent's bad behavior.
- 5 3. Overt criticism of the target parent.
- 6 4. The children are required to keep secrets from the target parent:
- 7 5. Threat of withdrawal of love:
- 8 6. Extreme lack of courtesy to the target parent.

9 As described above, Kirk has engaged in virtually all of these behaviors. He has both subtly and  
10 overtly undermined Vivian’s relationship with the children.

11 The Nevada Supreme Court has recognized that alienating behavior can constitute a basis for  
12 modification of custody. *See Martin v. Martin*, 120 Nev. 342, 90 P.3d 981 (2004). The *Martin* Court did  
13 not, however, address one factor that continues to plague custody and divorce cases; the attempt of one  
14 parent to alienate the children from the affection and love of the other parent. Although the attempt may  
15 never give rise to true and unmistakable alienation, it may nevertheless result in the disdain of the  
16 children towards the non-custodial parent in such a manner that the relationship may never recover. The  
17 conduct by one parent alone is punishable, regardless if the conduct does not result in alienation.

18 In *Mosley v. Figliuzzi* 113 Nev. 51, 930 P.2d 1110 (1997), the Nevada Supreme Court noted that  
19 Nevada’s legislative intent was clear, but the standing case law was not. The Supreme Court looked to  
20 the District of Columbia for guidance when it followed the case of *Kahn v. Kahn*, 252 A.2d 901  
21 (D.C.1969), which stated “conduct by one parent which interferes with the fulfillment of the children’s  
22 need for the guidance and love of [the other parent] may have a serious effect on the welfare of children.”  
23 See *Kahn* at 904. *Kahn* also referred to Nevada’s legislative intent when it stated, “[i]ndeed, some  
24  
25  
26  
27  
28

1 jurisdictions [like Nevada] by statute require a court, in determining custody, to consider a parent's  
2 willingness and ability to promote a positive relationship between children and the other parent." *Kahn*  
3 citing Katherine Kataz, *Custody Disputes Between Parents*, 2 Child Custody and Visitation Law and  
4 Practice, at 10-115, n.44.  
5

6 Here, Kirk's actions demonstrate that he is unwilling to promote a relationship between Vivian  
7 and the children. Indeed, it appears he will do everything in his power to alienate the children from  
8 Vivian.

9 (d) *The level of conflict between the parents:* The level of conflict between the parties is  
10 fairly high, and resulted in physical violence by Kirk against Vivian on October 14, 2011. The details of  
11 that incident are set forth in Vivian's Affidavit. In short, Kirk began screaming at (or about) Vivian in  
12 the presence of the parties' children. He made wild accusations without regard to the children's feelings  
13 or the truth of what he was yelling. When Vivian tried to take Rylee away from the incident, Kirk  
14 followed her and used his physical size and strength to pin her in between the car door and the car  
15 frame. When she struck at him to get him to release her, he hit her across the head – in the presence of  
16 the minor child.  
17  
18

19 Further, over the years, Kirk constantly instigates arguments, criticizes Vivian, insults her,  
20 undermines her, and taunts her, many times in the presence of the children. If Vivian responds or  
21 becomes upset, Kirk turns it around to make it appear Vivian is being unreasonable.  
22

23 (e) *The ability of the parents to cooperate to meet the needs of the child:* See section (c)  
24 above.

25 (f) *The mental and physical health of the parents:* Vivian does not have any mental or  
26 physical problems that would interfere with her ability to care for the children. She is concerned about  
27 the extent of Kirk's hatred and disdain for her, and the lengths to which he is willing to go to destroy her  
28

relationship with the children. Kirk has shown he is volatile, mean-spirited, controlling, and vindictive. He is extremely manipulative and has an almost obsessive need to convince others that Vivian is “crazy” or otherwise defective. Vivian is uncertain about the cause of these actions and behaviors by Kirk.

(g) *The physical, developmental and emotional needs of the child:* The children have no special physical, developmental or emotional needs.

(h) *The nature of the relationship of the child with each parent:* As set forth above, the children are far more bonded with Vivian. If allowed to continue unchecked, however, it appears that Kirk will manipulate the children into believing Vivian has no worth. At some point, those problems will become irreversible and may affect the children throughout their lives.

(i) *The ability of the child to maintain a relationship with any sibling:* Not applicable.

(j) *Any history of parental abuse or neglect of the child or a sibling of the child:* Not applicable.

(k) *Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child:* Not applicable.

## V.

### CONCLUSION

Based on the foregoing, Defendant respectfully requests the Court enter an Order granting the following relief:

1. Granting her temporary primary custody of the parties’ two minor children, Emma Brooke Harrison (incorrectly identified in Plaintiff’s motion as Brooke Emma Harrison) who commonly goes by the name “Brooke,” born June, 26, 1999 (incorrectly stated as June 29 in Plaintiff’s motion), and Rylee Harrison, born, January 4, 2003;

1           2.       Granting her exclusive possession of the residence located at 1514 Sunrise Circle, Boulder  
2 City, Nevada;

3           3.       Awarding Kirk reasonable visitation so long as he does not attempt to inculcate hatred or  
4 disrespect for Vivian in the children; and,  
5

6           4.       Directing the division of community funds necessary to meet the financial needs of the  
7 parties pending trial; and

8           5.       For such other and further relief as to the court may seem proper.  
9

10          Dated this 27 day of October, 2011.

11          RADFORD J. SMITH, CHARTERED  
12 

13          \_\_\_\_\_  
14          RADFORD J. SMITH, ESQ.  
15          Nevada Bar No. 002791  
16          64 N. Pecos Road, Suite 700  
17          Henderson, Nevada 89074  
18          Attorney for Defendant  
19  
20  
21  
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28

**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 this 27<sup>th</sup> day of October, 2011, described as DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY AND EXCLUSIVE POSSESSION OF MARITAL RESIDENCE; COUNTERMOTIONS FOR EXCLUSIVE POSSESSION OF MARITAL RESIDENCE, FOR PRIMARY PHYSICAL CUSTODY OF MINOR CHILDREN; FOR DIVISION OF FUNDS FOR TEMPORARY SUPPORT, AND FOR ATTORNEY'S FEES

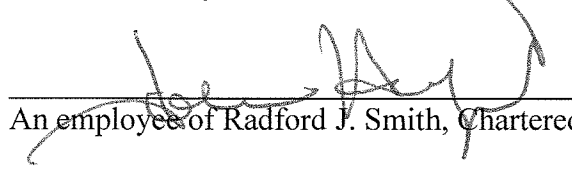
☐ BY MAIL: Pursuant To NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

☐ 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;

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An employee of Radford J. Smith, Chartered

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

**\* \* \* \* \***

**KIRK ROSS HARRISON,**

**Appellant/Cross-  
Respondent**

**No. 66157**

**vs.**

**VIVIAN MARIE LEE HARRISON**

**Respondent/Cross-  
Appellant.**

\_\_\_\_\_ /

**CHILD CUSTODY FAST TRACK STATEMENT**  
**APPENDIX – VOLUME 1**

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**KIRK R. HARRISON**  
**Nevada Bar No. 0861**  
**1535 Sherri Lane**  
**Boulder City, Nevada 89005**  
**702-271-6000**  
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***ATTORNEYS FOR APPELLANT/CROSS-RESPONDENT***

## CHRONO INDEX



## **CHRONOLOGICAL INDEX TO APPELLANT'S APPENDIX**

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
1.	Complaint for Divorce	03/18/11	1	1-7
2.	Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence	09/14/11	1 2	8-220 221-361
3.	Defendant's Opposition to Plaintiff's Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence; Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	10/31/11	2 3	362-418 419-652
4.	Answer to Complaint for Divorce and Counterclaim for Divorce	11/22/11	3	653-659
5.	Reply to Defendant's Opposition to Plaintiff's Motion for Joint Legal Custody and Permanent Physical Custody and for Exclusive Possession of Residence AND Opposition to Defendant's Countermotions for Exclusive Possession of Marital Residence, for Primary Physical Custody of Minor Children, for Division of Funds for Temporary Support, and for Attorney's Fees	01/04/12	4 5	660-907 908-929
6.	Court Minutes	02/24/12	5	930-933
7.	Stipulation and Order Resolving Parent/Child Issues	07/11/12	5	934-950
8.	Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by the Court Ordered Parenting Plan; Motion for Sanctions and Attorney's Fees	05/10/13	5	951-984

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
9.	Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan; Plaintiff's Opposition to Defendant's Motion for Sanctions and Attorney's Fees	07/19/13	5	985-1019
10.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for an Order Appointing a Parenting Coordinator and Therapist for the Minor Children as Required by Court Ordered Parenting Plan and Defendant's Reply to Plaintiff's Opposition to Motion for Sanctions and Attorney's Fees	09/09/13	5	1020-1028
11.	Defendant's Reply to Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion Styled Request for Reasonable Discovery and Evidentiary Hearing; Defendant's Opposition to Plaintiff's Countermotion for Equitable Relief; Defendant's Opposition to Plaintiff's Countermotion for Attorneys' Fees and Sanctions; Defendant's Opposition to Plaintiff's Countermotion for Declaratory Relief	09/11/13	5	1029-1034
12.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	10/01/13	5	1035-1055
13.	Defendant's Amended Opposition to Plaintiff's Motion to Modify Order Resolving Parent-Child Issues [to Delete "Teenage Discretion" Provision] and Other Equitable Relief; Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/17/13	5	1056-1124

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
14.	Plaintiff's Reply Brief in Support of Plaintiff's Countermotions for Reasonable Discovery and Evidentiary Hearing, Equitable Relief, Attorneys' Fees and Sanctions, and Declaratory Relief	10/21/13	5	1125-1129
15.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief AND Plaintiff's Opposition to Defendant's Countermotions to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions	10/23/13	6	1130-1181
16.	Order for Appointment of Parenting Coordinator	10/29/13	6	1182-1190
17.	Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision	11/18/13	6	1191-1225
18.	Defendant's Opposition to Motion for Judicial Determination of the Teenage Discretion Provision; Countermotion for Attorney's Fees	12/06/13	6	1226-1248
19.	Plaintiff's Reply in Support of Plaintiff's Motion for a Judicial Determination of the Teenage Discretion Provision AND Plaintiff's Opposition to Defendant's Countermotion for Attorney's Fees	12/13/13	6	1249-1263
20.	Order [denying Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and Other Equitable Relief and denying Defendant's Countermotion to Resolve Parent/Child Issues, to Continue Hearing on Custody Issues, for an Interview of the Minor Children, and for Attorney's Fees and Sanctions]	12/17/13	6	1264-1265

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
21.	Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for Other Equitable Relief	04/21/14	6	1266-1340
22.	Defendant's Opposition to Plaintiff's Motion to Modify Order Resolving Parent/Child Issues, etc.; Countermotion for Attorney's Fees and Sanctions	05/09/14	6	1341-1367
23.	Plaintiff's Reply in Support of Plaintiff's Motion to Modify Order Resolving Parent/Child Issues and for other Equitable Relief AND Opposition to Defendant's Countermotion for Attorney's Fees and Sanctions	05/14/14	7	1368-1381
24.	Defendant's Reply to Plaintiff's Opposition to Countermotion for Attorney's Fees and Sanctions	05/20/14	7	1382-1427
25.	Order from Hearing [denying Plaintiff's Motion for Judicial Determination for the Teenage Discretion Provision]	06/13/14	7	1428-1433
26.	Findings and Orders re: May 21, 2014 Hearing	09/29/14	7	1434-1441

### **TRANSCRIPTS**

27.	Transcript re: All Pending Motions	10/30/13	7	1442-1480
28.	Transcript re: All Pending Motions	05/21/14	7	1481-1536

### **ADDITIONAL DOCUMENTS<sup>1</sup>**

29.	Notice of Entry of Decree of Divorce	10/31/13	8	1537-1568
30.	Plaintiff's Motion to Alter, Amend, Correct and Clarify Judgment (without exhibits)	11/14/13	8	1569-1585

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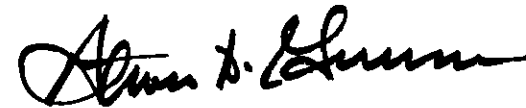
<sup>1</sup> These additional documents needed to be added to the appendix after the other documents (with 1,536 pages) were already numbered.

<b><u>NO.</u></b>	<b><u>DOCUMENT</u></b>	<b><u>DATE</u></b>	<b><u>VOL.</u></b>	<b><u>PAGE NO.</u></b>
31.	Notice of Entry of Order	06/16/14	8	1586-1593
32.	Notice of Appeal	07/17/14	8	1594-1654
33.	Notice of Entry of Findings and Orders re: May 21, 2014 Hearing	09/29/14	8	1655-1664
34.	Amended or Supplemental Notice of Appeal	10/16/14	8	1665-1675



COMD

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CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant.

CASE NO.D-11-443611-D  
DEPT NO. I

Date of Hearing: N/A  
Time of Hearing: N/A

**COMPLAINT FOR DIVORCE**

COMES NOW, Plaintiff, KIRK ROSS HARRISON, and states his  
cause of action against Defendant, VIVIAN MARIE LEE HARRISON, as  
follows:

I.

That Plaintiff is a resident of the State of Nevada, and  
for a period of more than six weeks before commencement of this  
action has resided and been physically present and domiciled  
therein, and during all of said period of time, Plaintiff has had,  
and still has, the intent to make said State of Nevada, his home,  
residence and domicile for an indefinite period of time.

. . . .

. . . .

II.

That Plaintiff and Defendant were intermarried in the City of Las Vegas, State of Nevada, on or about November 5, 1982, and are husband and wife.

III.

That there are two (2) minor children the issue of said marriage, to wit: EMMA BROOKE HARRISON, born June 26, 1999; and RYLEE MARIE HARRISON, born January 24, 2003. The parties also have three (3) adult children.

IV.

That the parties are fit and proper persons to have the joint legal custody of said minor children.

V.

That Plaintiff be awarded the primary physical care, custody and control of the minor children herein.

VI.

That the Court should retain jurisdiction to make an appropriate award of child support.

VII.

That such child support shall be payable through wage assignment pursuant to NRS Chapter 31A, should any child support obligation become over thirty (30) days delinquent, to the extent such child support is ordered.

VIII.

That Plaintiff will maintain the cost of major medical insurance coverage for the minor children herein, with the parties equally dividing all medical, dental (including orthodontic), psychological and optical expenses of said minor children not



1 covered by insurance, until such time as each child, respectively,  
2 (1) becomes emancipated, or (2) attains the age of eighteen (18)  
3 years, the age of majority, unless each child is still attending  
4 secondary education when each child reaches eighteen (18) years of  
5 age, in which event said medical coverage shall continue until  
6 each child, respectively, graduates from high school, or attains  
7 the age of nineteen (19) years, whichever event first occurs.

8 IX.

9 That neither party is entitled to alimony from the other  
10 party herein.

11 X.

12 That there is community property of the parties herein  
13 to be adjudicated by the Court, the full nature and extent of  
14 which is unknown to Plaintiff at this time, and Plaintiff prays  
15 leave of the Court to amend this Complaint when additional  
16 information becomes available.

17 XI.

18 That there are no community debts of the parties herein  
19 to be adjudicated by the Court.

20 XII.

21 That there exists separate property of the parties to be  
22 confirmed to each party, the full nature and extent of which is  
23 unknown to Plaintiff at this time, and Plaintiff prays leave of  
24 the Court to amend this Complaint when additional information  
25 becomes available.

26 XIII.

27 That Defendant has engaged in an individual act or  
28 course of actions which, individually or together, have

1 constituted marital waste, and therefore Plaintiff should be  
2 compensated for the loss and enjoyment of said wasted community  
3 asset(s).

4 XIV.

5 That Plaintiff requests this Court to jointly restrain  
6 the parties herein in accordance with the terms of the Joint  
7 Preliminary Injunction issued herewith.

8 XV.

9 That Plaintiff has been required to retain the services  
10 of ECKER & KAINEN, CHARTERED, to prosecute this action, and is  
11 therefore entitled to reasonable attorney's fees and costs of  
12 suit.

13 XVI.

14 That the parties hereto are incompatible in marriage.

15 WHEREFORE, Plaintiff prays judgment as follows:

16 1. That the bonds of matrimony now and heretofore  
17 existing between Plaintiff and Defendant be dissolved; that  
18 Plaintiff be granted an absolute Decree of Divorce; and that each  
19 of the parties hereto be restored to the status of a single,  
20 unmarried person;

21 2. That the parties be awarded joint legal custody of  
22 the minor children herein;

23 3. That Plaintiff be awarded the primary physical  
24 care, custody and control of the minor children herein;

25 4. That the Court retain jurisdiction to enter an  
26 appropriate award of child support.

27 5. That child support be paid through wage assignment  
28 pursuant to NRS Chapter 31A, should payment of any child support

obligation be thirty (30) days delinquent, to the extent child support is ordered;

6. That Plaintiff be ordered to provide the cost of major medical insurance coverage for the minor children herein, with the parties equally dividing all medical, dental (including orthodontic), psychological or optical expenses of said minor children not covered by insurance, until such time as each child, respectively, (1) becomes emancipated, or (2) attains the age of eighteen (18) years, the age of majority, unless each child is still attending secondary education when each child reaches eighteen (18) years of age, in which event said medical coverage and payment of the children's noncovered medical expenses shall continue until each child, respectively, graduates from high school, or attains the age of nineteen (19) years, whichever event first occurs;

7. That neither party be required to pay the other spousal support;

8. That this Court make an equitable division of the community assets;

9. That this Court confirm to each party his or her separate property;

10. That Defendant reimburse Plaintiff for one-half of the amounts and/or values of all community and jointly held property which she has wasted and/or dissipated;

11. That this Court issue its Joint Preliminary Injunction enjoining the parties pursuant to the terms stated therein;

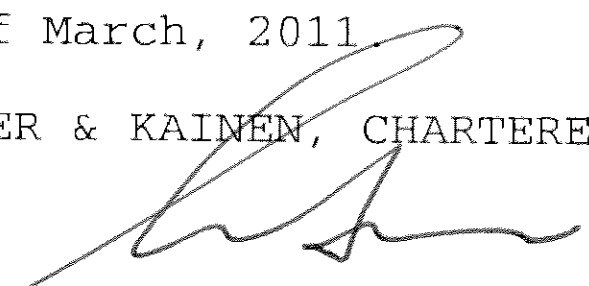
. . . .

12. That Defendant be ordered to pay a reasonable sum to Plaintiff's counsel as and for attorney's fees, together with the cost of bringing this action;

13. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 18<sup>th</sup> day of March, 2011.

ECKER & KAINEN, CHARTERED

By:   
EDWARD L. KAINEN, ESQ.  
Nevada Bar No. 5029  
300 S. Fourth Street, #901  
Las Vegas, Nevada 89101  
Attorneys for Plaintiff

V E R I F I C A T I O N

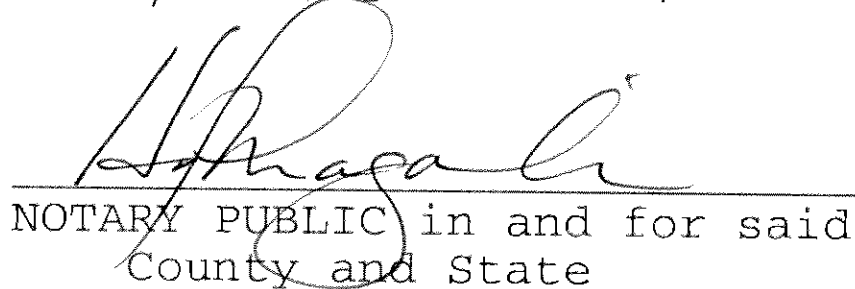
STATE OF NEVADA )  
COUNTY OF CLARK ) ss:

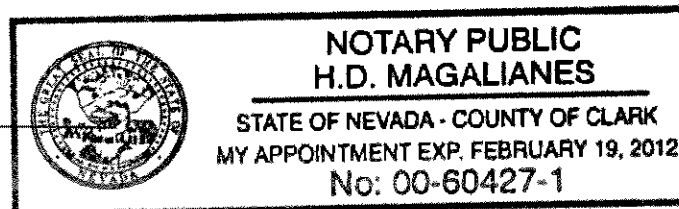
KIRK ROSS HARRISON, being first duly sworn, deposes and says:

That I am the Plaintiff herein; that I have read the foregoing Complaint for Divorce and the same is true of my own knowledge, except for those matters which are therein stated upon information and belief, and as to those matters, I believe them to be true.

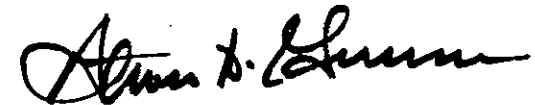
  
KIRK ROSS HARRISON

SUBSCRIBED AND SWORN to before me  
this 18th day of March, 2011.

  
NOTARY PUBLIC in and for said  
County and State







CLERK OF THE COURT

**MOT**

THOMAS J. STANDISH, ESQ.

Nevada Bar No. 1424

[tjs@juww.com](mailto:tjs@juww.com)

JENNIFER POYNTER-WILLIS, ESQ.

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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

KIRK ROSS HARRISON,

Plaintiff,

vs.

VIVIAN MARIE LEE HARRISON,

Defendant

CASE NO.: D-11-443611

DEPT NO.: I

Date of Hearing: 10 / 17 / 2011

Time of Hearing: 10 : 00 am

ORAL ARGUMENT REQUESTED: YES X NO   

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDER-SIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION.

FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE.

**MOTION FOR JOINT LEGAL AND PRIMARY PHYSICAL CUSTODY AND EXCLUSIVE POSSESSION OF MARITAL RESIDENCE**

COMES NOW, Plaintiff Kirk Ross Harrison, by and through his attorneys, Thomas J. Standish, Esq., and Jennifer Poynter-Willis, Esq., of the law firm of Jolley Urga Wirth

1 Woodbury & Standish and Edward L. Kainen, Esq., of the Kainen Law Group, PLLC., and  
2 moves this Court for orders regarding the parties' two minor children, Brooke Emma Harrison  
3 ("Brooke"), born 6/29/99, currently age 12, and Rylee Marie Harrison ("Rylee"), born 1/24/03,  
4 currently age 8, as follows:

5 1. That Plaintiff Kirk Harrison be awarded primary physical custody of the parties'  
6 two minor children, subject to the timeshare of Defendant Vivian Harrison, upon specific  
7 terms;

8 2. For establishment of a timeshare schedule, with such order providing  
9 supervision for Defendant Vivian Harrison's timeshare with the children to ensure appropriate  
10 sleeping arrangements and behaviors of Defendant for the protection and best interests of the  
11 minor children;

12 3. That Plaintiff be awarded exclusive possession of the marital residence;

13 4. For the appointment of an Evaluator by the Court, to perform a full Evaluation  
14 on behalf of the Court regarding the best interests of the two minor children herein; and

15 5. For an order providing for random blood testing of Defendant to:

16 (a) Confirm Defendant is no longer abusing prescription drugs, including  
17 but not limited to, Phentermine and/or Bontril; and

18 (b) Confirm Defendant is no longer using hormones which could pose a  
19 further danger or detriment to either of the parties' two minor children.

20 This Motion is made and based upon the following:

21 1. Affidavit of Kirk Harrison, attached hereto as Exhibit "1";

22 2. Affidavit of Tahnee Harrison, attached hereto as Exhibit "2";

23 3. Affidavit of Whitney Harrison, attached hereto as Exhibit "3";

24 4. Photographs of Vivian's trip to Ireland for "training" from  
25 March 22, 2010 to April 3, 2010, attached hereto as Exhibit "4";

26 5. Photograph of Vivian at the Hope Foundation Gala - The Dublin Ball 2011 on  
27 March 26, 2011, attached hereto as Exhibit "5";

28 6. Expert Report of Dr. Norton Roitman, attached hereto as Exhibit "6"; and



7. Supplemental Affidavit of Kirk Harrison, attached hereto as Exhibit "7".

This Motion is further based upon the pleadings and papers on file, the Points and Authorities set forth below, and oral argument of counsel at the hearing of this matter.

DATED this 14<sup>th</sup> day of September, 2011.

JOLLEY URGAL WIRTH WOODBURY  
& STANDISH

Thomas J. Standish, Esq.  
Nevada Bar No. 1424  
Jennifer Poynter-Willis, Esq.  
Nevada Bar No. 9281  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
Attorneys for Plaintiff

**NOTICE OF MOTION**

TO: VIVIAN MARIE LEE HARRISON, Defendant;

TO: RADFORD SMITH, ESQ., attorney for Defendant:

PLEASE TAKE NOTICE THAT the Plaintiff will bring the above and foregoing  
**Motion for Joint Legal and Primary Physical Custody and Related Orders** on for hearing  
before the Court located at the Family Courthouse, 601 North Pecos Rd, Las Vegas, Nevada,  
89110, on the 17<sup>th</sup> day of October, 2011, at the hour of 10:00 a.m., in Department  
I, or as soon thereafter as counsel can be heard.

DATED this 14<sup>th</sup> day of September, 2011.

JOLLEY, URGAL WIRTH, WOODBURY  
& STANDISH

Thomas J. Standish, Esq.  
Nevada Bar No. 1424  
Jennifer Poynter-Willis, Esq.  
Nevada Bar No. 9281  
3800 Howard Hughes Parkway, 16<sup>th</sup> Floor  
Las Vegas, Nevada 89169  
Attorneys for Plaintiff

I.

**STATEMENT OF FACTS**

The parties herein, Defendant Vivian Harrison ("Vivian") and Plaintiff Kirk Harrison ("Kirk") were married on November 5, 1982. Vivian is 49 years old and Kirk is 58 years old. They have five children, three of the children being adults, and two younger children: Tahnee, age 26; Whitney, age 24; Joseph, age 22; and, Brooke Emma Harrison, born 6/29/99 currently age 12, and Rylee Marie Harrison, born 1/24/03, currently age 8.

Vivian and Kirk first met in 1981, when Kirk was a young associate attorney with the law firm of Jones Jones Close & Brown. Vivian at that time was a new accounts representative at Valley Bank in the building where Kirk worked. The parties were married the following year in 1982.

In approximately 1993, Kirk left Jones Jones Close & Brown, and formed a new practice with Will Kemp and Randall Jones under the firm name of Harrison, Kemp & Jones. During this time, and throughout the next many years of his career, Kirk continued to work in the area of construction law, having rapidly risen to the top of his profession in Las Vegas with respect to the handling of large, complex construction litigation cases, usually involving multiple parties and multiple issues. His hourly work in this regard formed the financial cash flow basis for the firm, which allowed his partners to develop their mass tort practice. As a result, Harrison, Kemp & Jones became one of the premier mass tort litigation firms in the United States.

Kirk continued to work extremely hard in his practice through the 1990's and into the first five years of the 2000's.

Tahnee, the parties' oldest child, was born in 1985. Whitney, the parties' second child, was born approximately eighteen months later in 1986, and Joseph, the parties' son, was born approximately two and a half years thereafter, in 1989.

Approximately ten years after Joseph's birth, the parties decided to have another child, and as a result, Brooke was born in June of 1999. Approximately three and a half years later, Rylee was born on January 24, 2003.

1 Through the early years of the parties' marriage, and the birth of their first three  
2 children, Kirk continued to work long hours at his practice, and Vivian continued to be a stay-  
3 at-home mother being primarily responsible for the care and raising of the parties' three  
4 children.

5 As the first three children grew older, Kirk began to notice a number of behaviors on  
6 Vivian's part which concerned him. The first and most obvious of these behaviors was  
7 Vivian's favoritism toward Tahnee, the parties' oldest child. She paid much more attention to  
8 Tahnee, as opposed to Whitney or Joseph; she doted on Tahnee and gave her much more praise  
9 and affection; and she generally and overtly favored Tahnee over the other two children. As a  
10 result, Whitney, as she grew older, started to spend more and more time with her friends and  
11 with her friends' families. Vivian reacted very poorly to Whitney's decisions in this regard.

12 Also, as Tahnee, Whitney and Joseph grew up, Kirk noticed more and more that  
13 Vivian's behavior increasingly reflected a compelling need on Vivian's part to take credit for  
14 any and all of the successes of her children, as being Vivian's successes. This became so  
15 common and so pronounced, that when Tahnee and Whitney were ten to eleven years old, they  
16 each came to Kirk and complained that Vivian was always taking credit for their  
17 accomplishments.

18 Vivian's increasing compulsion to take credit for another person's accomplishments or  
19 actions, actually reached absurd levels. One of many examples in this regard was Vivian  
20 actually taking credit for Kirk's successes at work because she once had a conversation with  
21 Kirk or made a suggestion regarding one of his cases. The reason this was striking to Kirk was,  
22 (as described in detail in Kirk's Affidavit attached hereto) Kirk rarely shared with Vivian  
23 anything other than general issues concerning a few of his cases over many years - they were  
24 largely complex, multiple-party disputes that went on for years. Yet when Kirk was successful  
25 in a case, Vivian would actually try to take credit for his success based on a conversation she  
26 had with him back years before.

27 Similarly, Kirk's Affidavit also refers to an instance where he and his friend were  
28 starting a new business where the decision to base the business in Boulder City was premised

1 on significant technical data - yet Vivian was adamant, in discussing the choice of Boulder City  
2 as a preferred site, that the reason it was selected for the first project of the business was  
3 because she suggested it.

4 Consistently, and in addition to the foregoing, Kirk noticed more and more as the years  
5 went by, that Vivian consistently required, and often demanded, to be the center of attention in  
6 every instance of their daily lives. This, together with her compulsion to try to take credit for  
7 other peoples' successes, caused many difficulties. Kirk began to notice more and more often  
8 that the children, and particularly Tahnee (the favored child) were forced to modify their  
9 behavior to please their mother, rather than to pursue their own activities. This was  
10 particularly so because Vivian could not control her need to take credit for others' successes,  
11 and her need to be the center of attention. As a result she was unable to take responsibility for  
12 something that might have been her fault, and became continually resentful and jealous of any  
13 other person who might be important in the children's lives or Kirk's life. Her behavior in this  
14 regard led her to have very few friends, and to focus even more so on her own family with her  
15 behaviors. The detailed Affidavit of Kirk attached hereto, sets forth enumerable examples,  
16 over the years, of Vivian's behavior in this regard.

17 As Tahnee grew older, part of Vivian's extreme focus on and favoritism of Tahnee  
18 resulted in Vivian, from Kirk's perspective, attempting to micro-manage every bit of Tahnee's  
19 life and daily schedule. Because of this behavior, as Tahnee grew older and became more  
20 independent as a teenager, Vivian reacted badly. As a result, when Tahnee was 15 years old,  
21 Vivian's anger at Tahnee's attempts to become more independent, led to Vivian losing control  
22 and striking Tahnee, and telling her to get out of the house and not return. Several times this  
23 behavior occurred and each time Kirk had to come home from work, plead with Vivian to let  
24 Tahnee back in the house, and try to mend the situation.

25 Unfortunately, as Whitney grew older as a teenager, and was not as close to her mother  
26 as Tahnee, Vivian also reacted badly, demanding at one point that Whitney be sent to boarding  
27 school. The scene of physically striking her children, and kicking them out of the house, also  
28 was repeated with Whitney, as well as with Joseph when he became a teenager.

1 Kirk was very disturbed by these incidents, particularly because Tahnee, Whitney, and  
2 Joseph were very good children - they never had any alcohol use, drug use, late nights,  
3 promiscuity, bad grades, or any open defiance of their mother or father. Kirk's view was that  
4 their only "fault" was to want some independence from Vivian, or to dare to question a decision  
5 she made concerning them.

6 Vivian's behavior in all of the above areas continued to be an increasing concern and  
7 worry for Kirk. Additionally, the conflict between Vivian and Kirk continued to be a drain on  
8 their relationship.

9 The birth of Brook in 1999 (some ten years after Joseph's birth), and then Rylee several  
10 years later, led to Vivian becoming much more focused on her two youngest children, while she  
11 became less tolerant of the oldest three children's attempts to be more independent.

12 As indicated in Kirk's affidavit attached hereto, the numerous instances where Vivian  
13 would kick one of the children out of their home, and Kirk would have to come home and plead  
14 with her to let them back into the home, led to more and more conflict between Kirk and  
15 Vivian. Kirk believed that these conflicts made Vivian more determined to exercise control,  
16 and led her to repeat her behavior of being physically violent with each of the children and  
17 kicking them out of the house on numerous occasions - - as a threat to Kirk, and to demonstrate  
18 her authority and control. Kirk also felt that this motivation of Vivian led her to use the two  
19 younger children against Kirk, when she was in conflict with him, by threatening to take the  
20 two younger children away from him.

21 This behavior by Vivian reached the breaking point in 2005 when Vivian, without  
22 warning, took Brooke and Rylee from the home and moved into a hotel at Lake Las Vegas for  
23 approximately six weeks, including over June 26, 2005, which was Brooke's birthday.

24 When she returned home, after that six weeks, Vivian again, as she had in the past,  
25 threatened divorce and taking the children from Kirk. She let Kirk know in no uncertain terms  
26 that she could take the children away from him when she chose - - for six weeks in the summer,  
27 or forever in a divorce. She also repeated a common criticism, which was that Kirk worked too  
28 much - - and that was disrespectful and abusive to her.

1 The essential “kidnaping” of his two children from him by Vivian, made a lasting  
2 impression on Kirk. After much introspection and soul-searching, he came to the conclusion  
3 that his family unit was so dysfunctional and damaged, that he could no longer allow his  
4 children to be in his household with Vivian each day, with him working long hours at the  
5 office.

6 His firm, Harrison Kemp & Jones, had been remarkably successful from the mass tort  
7 litigation cases handled by the firm over the past 15 years. As a result, Kirk had been able to  
8 supply to he and Vivian, and their family, a considerable measure of wealth. Their net estate  
9 had grown to many millions of dollars. Among the benefits of the mass tort litigation fees  
10 received by the firm, was a long term annuity payout to the partners from the Tobacco  
11 litigation, which was an income of approximately \$250,000 per year to Kirk, which continues  
12 for about ten more years.

13 After deeply considering all of his alternatives, Kirk made the enormously difficult  
14 decision to retire from his law practice, and spend full time with his family beginning in  
15 January, 2006. He informed his partners of his decision in the summer of 2005, shortly after  
16 the incident of Vivian depriving him of contact with his two young daughters for over six  
17 weeks.

18 Kirk felt that, over the next two years, his decision to retire was helpful to Brooke and  
19 Rylee, even though it put a different and additional strain on his relationship with Vivian.

## 20 II.

### 21 SUMMARY OF FACTS

#### 22 A. Vivian Has a Serious Psychiatric Disorder - - Narcissistic Personality 23 Disorder - - and Is Extremely Obsessive - - Compulsive in Her Behavior.

- 24 • Vivian has a Narcissistic Personality Disorder and has no empathy for her own  
25 children – this disorder is generally not treatable.
- 26 • Vivian is delusional and believes a 32 year old actor, she has never met, is her  
27 “soul mate”.

- Vivian does not want to attend any social functions, including her own children's family birthday parties, if she doesn't believe she "will get all the attention" or if she believes someone else "will get all the attention".
  - Vivian will be upset with and resentful of other people if she perceives they are trying to "get all the attention."
  - Vivian has isolated herself from the rest of the family for years by going into a bedroom or home office, closing the door and: (1) reading vampire stories; (2) watching every television show and movie where Jonathan appears; (3) indulging her compulsions regarding Jonathan by researching his every move on the internet, buying extravagant clothes the young actor believes women should wear, and; (4) upon learning the actor is involved with a philanthropic organization in Ireland, contacting the organization to become involved.
  - Vivian has had five major plastic surgeries in less than one year.
  - Vivian is constantly criticizing the other members of the family and assessing blame to everyone in the family except herself.
  - Vivian has had an alarming number of face peels and similar treatments over the last two years.
  - Vivian utilizes a telephone psychic and a tarot card reader to help her make important decisions, and believes she is a "master soul" and a very advanced individual because she has been reincarnated so many times.
  - Vivian, during just the second time she was with Whitney's future mother-in-law, told her the 32 year old actor, Jonathan Rhys Meyers, is Vivian's "soul mate", that her older sister participated in satanic rituals and was a drug addict, that she wanted to go to a sex museum while they were in New York, that she was going to have a lot of plastic surgery, that she was going to spend the entire summer in Europe, and then showed her all of her new thong underwear.
- B. Vivian Has Continually Exhibited Poor Parenting Of Brooke And Rylee, As Well As Dangerous And Destructive Parenting Of The Children.**
- Vivian drank a bottle of castor oil to induce labor when pregnant with Rylee after her obstetrician refused to induce labor saying it was not in the best interest of the baby.
  - Vivian talked about having fat injected into her butt in front of her then 10 year old daughter.
  - Vivian warned, "I will remember this" when told her seven year old daughter had chosen to play with a friend, rather than to meet Vivian at the airport when she returned from one of her major plastic surgeries.
  - Vivian tells her own children what she believes to be their personal physical defects.
  - Vivian insists upon sleeping with Brooke, who is 12 years old, and Rylee to their detriment.

- Vivian knew or reasonably should have known she would cause significant physical harm to Rylee when she applied testosterone to her forearms each night and slept in the same bed as Rylee with her arms around her, causing rylee to develop testosterone poisoning.
  - In late June, 2011, Rylee suffered a serious gash on her arm when she fell out of the bed she was sharing with Vivian, requiring stitches. Kirk immediately tended to Rylee and took her to the emergency room. Vivian did not accompany Rylee to the hospital and was in bed asleep upon their return.
  - Vivian abandons Brooke and Rylee to go on a number of multi-week trips to Europe and Asia, rarely telephones when she is gone, and then calls on Skype so Brooke and Rylee can see her cuddled up with a 20 year old girl, who she travels with and sleeps in the same bed with.
  - Vivian will go months without preparing a meal for Brooke and Rylee.
  - If Kirk is out of town, there is a substantial risk Brooke and Rylee will not get dinner.
  - Vivian rarely eats a meal with Brooke and Rylee, except on the very eve of divorce.
  - Vivian lies to and manipulates Brooke and Rylee to their detriment, including saying negative false statements about Kirk.
  - Vivian, after throwing an extra concert ticket away, telephoned Brooke and told her she really wanted to take her to the concert, but could not get an extra ticket.
  - Vivian is emotionally abusive of every one of her children.
  - During the "Harrison family" trip to Ireland, Vivian wanted Brooke and Rylee to come to Ireland to spend time with her, but then spent the entire time with the girls and David Walsh.
  - Vivian told Brooke (11 years old) and Rylee (8 years old) that she is filing for divorce the day after Whitney's wedding, and that Brooke and Rylee are going to have to choose with whom they want to live. Vivian tells them she is going to get the house.
  - Vivian has committed acts of domestic violence against her children and her spouse.
  - Vivian has committed an act of abduction against Brooke and Rylee.
- C. **Due To Her Narcissistic Condition, Vivian Is Unable To Put Her Children First, Or To Focus On Them As A Responsible Parent.**
- Vivian has emotionally and physically abandoned Brooke and Rylee during the last six years.
  - Vivian has traveled to Ireland and Asia, for multiple weeks at a time (more than six weeks each on two of the trips), in her pursuit of her "soul mate".



- Vivian rarely spends any time with Brooke and Rylee, except on the very eve of divorce.
- Vivian rarely does anything for Brooke and Rylee, except on the very eve of divorce.
- Vivian repeatedly rebuffs Brooke's efforts to spend time with Vivian or to get help from Vivian by telling her to talk to her later or that she is working – (Vivian doesn't have a job).
- Vivian much prefers Brooke and Rylee to sleep over at another family's house each weekend, rather than spend time with them.

**D. Vivian Has a Serious and Destructive and Addiction to a Drug "Phentermine" Which Has Been Destructive to Her Health and Can Cause Delusional Behavior.**

- Vivian is addicted to diet drugs – has been using a controlled substance – Phentermine – for at least five or six years – it loses its ability to suppress appetite after only a few weeks.
- Vivian has lately been taking a different "diet drug" named Bontril which appears to be very similar to Phentermine, and also is recommended for use for only a few weeks.
- Vivian is taking medication for pulmonary hypertension, which is listed as a possible effect from over-use of Bontril for a period longer than three months.
- Phentermine literature contains warnings that long term use or over use can result in delusional behavior.

**E. Kirk Is a Loving, Responsible, and Consistent Parent for Brooke and Rylee.**

- Kirk walked away from his career in January of 2006 so Brooke and Rylee would have a loving, caring parent who was there for them every day.
- Kirk takes care of Brooke and Rylee on a daily basis.
- Kirk makes Brooke and Rylee a complete hot breakfast every school day morning.
- Kirk takes Brooke and Rylee to and from school, to and from dance and swim lessons, and to and from sporting activities.
- Kirk buys 99% of the family's groceries.
- Kirk prepares or purchases the vast majority of the dinner meals for the children.
- Kirk helps Brooke and Rylee with their homework when they need help.
- Kirk takes Brooke and Rylee shopping, to the movies, and on trips to the family ranch and other places.
- Kirk spends time with Brooke and Rylee during the week and on the weekends.

- Kirk eats the vast majority of his meals with Brooke and Rylee.
- Kirk does things for Brooke and Rylee on a daily basis.

### III.

#### POINTS, AUTHORITIES AND ARGUMENT

##### **A. Vivian Has Emotionally and Physically Abandoned Brooke and Rylee During the Last Six Years.**

###### ***1. Vivian Spends her Days Isolated from the Family.***

Almost immediately after Kirk's retirement, Vivian began isolating herself from the rest of the family. (Tahnee ¶6) Each year she has gotten progressively worse. (Whitney ¶ 6) When home,<sup>1</sup> Vivian spends the vast majority of each day in the home office or a bedroom with the door closed sleeping, buying things for herself on the internet, researching the next beauty treatment or procedure on the internet, reviewing the latest fashions on the internet, talking on the phone, or reading her kindle. (Tahnee ¶12; Whitney ¶26) Vivian spends an inordinate amount of time on the computer ordering things for herself. For several years, Vivian probably averaged a package a day 3 to 4 days per week. Vivian frequently goes to bed before Brooke and Rylee not knowing or caring whether they have done their homework or whether they have eaten dinner.<sup>2</sup> (Kirk ¶111).

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<sup>1</sup> Vivian now leaves the house for the majority of many days. Although she was spending much of this time getting cosmetic treatments (for a long period of time she was getting skin treatments, for example), her whereabouts are primarily a mystery to the family. (Kirk ¶ 151)

<sup>2</sup> Vivian does make a point to be there on the first day of school and to attend the parent teacher conferences all in an attempt to give the false impression that she is actually involved with Brooke and Rylee. Kirk will occasionally go to the family ranch to work for a day or two. He will call home and talk to Brooke and Rylee each night he is gone. Many times it will be 9:00 p.m. and Brooke and Rylee haven't had any dinner.

2. *Vivian Does Virtually Nothing to Care for Brooke and Rylee's Needs.*

Vivian spends almost no time with Brooke and Rylee.<sup>3</sup> (Whitney ¶26) (Tahnee ¶39) She insists upon going to bed with them (literally sleeping in bed with them), but she gets up in the middle of the night to Facebook or to search the internet. Other than simply waking them for school, which she also insists upon doing and sporadically helping them with their hair – all of which takes about 10 minutes – she rarely spends any time with Brooke and Rylee on a daily basis.

Although she is not employed, Vivian rarely drives the girls to or from school or their many activities. Vivian seldom grocery shops for the family, and she rarely prepares a meal for, or eats a meal with, Brooke and Rylee or any other member of the family. (Kirk ¶22, 111) She also performs little to no housework, as the family employs house cleaners who now come once a week, and Vivian does laundry on a very occasional basis, leaving Kirk to do his own laundry. (Kirk ¶24, 143) Brooke has asked Vivian to do things with her on multiple occasions. Each time Vivian tells Brooke she is too busy “working.”<sup>4</sup>

3. *In Contrast, Kirk Tends to the Girls' Needs.*

In stark contrast to the role that Vivian plays in Brooke and Rylee's lives, Kirk is actively involved in the girls' lives and activities and tends to their needs.<sup>5</sup> He feeds them a

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<sup>3</sup> In anticipation of the imminent action for divorce, Vivian started doing more in public with Brooke and Rylee beginning in mid-November of 2010. However, Vivian still does very little with Brooke and Rylee on a day-to-day basis.

<sup>4</sup> Vivian doesn't work. Vivian taught a couple of sewing classes at a trade school in Henderson for a few semesters. However, most of the classes she taught were draping classes that required little, if any, preparation after the first semester. It's been almost a year since she last taught a class. However, Vivian still tells Brooke and Rylee that she is too busy to do anything with them because she is “working.” (Kirk ¶111) (Whitney ¶12)

<sup>5</sup> This is a normal school day: Kirk makes a hot breakfast for Brooke and Rylee usually consisting of scrambled eggs, sausage, bacon or ham, and toast with honey and cinnamon (anti-oxidants – Rylee has allergies, so both the cinnamon and the local honey are beneficial), orange juice and children's vitamins. Kirk has the girls set out their clothes the night before. When Vivian is home, she wakes them and helps Rylee get dressed, sometimes helping with their hair. Vivian usually disappears into the home office within 10 minutes. Kirk has breakfast with the girls, does the dishes and takes the girls to school. Kirk picks Brooke up from school. Michelle W. picks up Rylee. Kirk takes Brooke and Rylee to and from dance. The same is true with sports. For example, if Rylee has a soccer practice or game, Kirk takes her, stays with her, and then drives her home. With rare exception, the only time Vivian drives the girls is if Kirk is

1 hot breakfast, does the dishes, then takes the girls to school. After school, he drives them to  
2 dance classes and soccer practices. He makes or gets dinner unless Vivian picks up fast food.  
3 (Tahnee ¶ 41) And he helps make sure their homework gets done and assists them when they  
4 need help. (*Id.*) He also helps them develop self-responsibility by seeing that they set their  
5 school clothes out at night for the following day, bus their own dishes from the table, and help  
6 put away the clean silverware. (Tahnee ¶ 41)

7 Kirk also does 99% of the grocery shopping and always has. (Kirk ¶22) When he gets  
8 home and asks the children for help unloading and putting the groceries away, Viyian  
9 complains that Kirk should not ask for help and should do it himself, because he is the one that  
10 bought the groceries. Kirk also feeds the dogs twice each day and takes out the trash most of  
11 the time. In sum, Kirk ensures that the household and Brooke and Rylee's schedules run  
12 smoothly while Vivian stays sequestered in her room, is away on an extended vacation, or is  
13 simply gone from the home.

14 On September 19, 2010, Vivian left for yet another extended trip for about 40 days –  
15 about 10 days in Ireland and then about another 30 days in Nepal and climbing to Mt. Everest  
16 base camp with celebrities from Ireland, and then back to Ireland. That night during dinner,  
17 Brooke broke down and began to cry. She had enough. She asked why Vivian leaves so  
18 much. She also asked why Vivian doesn't spend any time with her. She said her friends'  
19 mothers spend time with them. She said Vivian spends a lot of time in the home office or goes  
20 out during the day and no one knows where she is. Later when Kirk was consoling her, he  
21 asked Brooke how she thought Rylee was dealing with all of this. Brooke responded very  
22 quickly, "It's not as tough on Rylee because **she has really never had a mom.**"<sup>6</sup> (Kirk ¶151  
23

24 in a mediation or at the Harrison family ranch in Utah. In the evening, Kirk makes or gets dinner  
25 most of the time, unless Vivian picks up fast food. (Tahnee ¶41) Kirk usually does the dishes,  
26 but has Brooke and Rylee bus their dishes. When Kirk empties the dishwasher, he has Brooke and  
27 Rylee put the silverware away. Kirk makes sure the girls get their homework done and helps them  
28 when they need it. (Tahnee ¶41)

<sup>6</sup> Finally coming to grips with the fact that Vivian did not want to be with her caused Brooke  
to cry later that night to the point she vomited. She cried each night the following two nights as  
well. (Kirk ¶ 151-52).

(emphasis added)) Brooke later added, "You know its true dad." (Kirk ¶156). In Kirk's view, Vivian has emotionally and physically abandoned Brooke and Rylee since February 2006.

**B. Vivian Has an Pathologically Narcissistic Personality Disorder And Will Continue To Inflict Damage Upon Brooke And Rylee With Severe Long Term Adverse Effects.**

Vivian has a pathologically Narcissistic Personality Disorder and, if not stopped, will continue to inflict damage and injury upon Brooke and Rylee with severe long term adverse effects.

**1. Narcissistic Personality Order Defined.**

The American Psychiatric Association has defined Narcissistic Personality Disorder ("NPD") as a condition marked by "A pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts. . . ." Axis II of The Diagnostic and Statistical Manual of Mental Disorders (4th ed. 2000) ("DSM-IV").<sup>7</sup> Dr. Otto Kernberg, a prominent psychoanalyst specializing in NPD, explains, "In general, their relationships with other people are clearly exploitive and sometimes parasitic. It is as if they feel they have the right to control and possess others and to exploit them without guilt feelings – and, behind a surface, which very often is charming and engaging, one senses coldness and ruthlessness." (Exhibit 6 at 9) One of the world's leading authorities on narcissism, Dr. Alexander Lowen, explained the horror that children of a narcissistic parent experience:

For a mother to demand that an under-nurtured child respond to the mother's needs is another form of craziness. And whatever its form, craziness produces a form of horror. In my opinion, **the underlying insanity of a narcissistic parent is more difficult for a child to handle than a parent's outright nervous breakdown. Of course, dealing with a breakdown is not easy, but in that situation the child knows who is crazy. With the narcissistic parent, the facade of sanity confuses the child. As a child, how can one be sure of oneself, one's feelings, and**

<sup>7</sup> NPD "refers to specific deformations in the personality structure that involve a pathological grandiose self, leading to problems in self-regulation. The self-esteem is inconsistent, fragile, and maintained by pathologically defensive, expressive, and supportive regulatory processes. Affect regulation is influenced by feelings of rage, shame, and envy, and the capacity for empathy and interpersonal commitment is impaired." Elsa F. Ronningstam, *Identifying and Understanding the Narcissistic Personality* (2005), at 70.

one's sensing in the face of a parent's arrogance and seeming certainty?

Lowen at 144 (emphasis added).

As Dr. Norton Roitman's psychiatric analysis of Vivian (attached as Exhibit 6 and fully incorporated herein) explains:

Vivian's choices in parenting reward dysfunction and discourage personal responsibility and psychological growth. . . . Vivian's incapacity for empathy is devastating to a child who needs a parent to accurately reflect their feelings, understand and accept their emotional pain, and help guide them through difficult times. Since, in the world of the narcissist, it's "all about me," there's no space left for the child's self. . . . Unfortunately, the only viable option for the health and well-being of children is to visit with their mother only. They should not be controlled or directed by her. . . . She is too unstable and volatile, and uses the children for her own psychological needs. The narcissist is an emotional vampire, seducing others, and then taking what they need most. The kids do love her and are attached, but instead of giving back, Vivian feeds off them.

(Exhibit 6 at 33)

**2. As a Direct Consequence of Vivian's Narcissistic Personality Disorder, Rylee's Health Has Been Seriously Jeopardized.**

**a. Vivian's Careless Use of Prescription Hormone Cream While Nightly Cuddling Rylee Has Significantly Compromised Rylee's Endocrine System.**

In March 2011, Vivian was on one of her many trips to Ireland. When Kirk went to retrieve Vivian's car from the neighbor who had driven it home from the airport for Vivian, the neighbor candidly told Kirk that she was worried that Rylee is developing prematurely and suggested that Kirk make an appointment with a pediatric endocrinologist. Nyla R. told Kirk she was telling him because she knew Kirk would act on it; the concerns she had already expressed to Vivian had fallen on deaf ears. Kirk obtained a specialist referral, made the appointment, and took Rylee to see Dr. Asheesh Dewan. (Kirk ¶221)

By the time of the appointment, Vivian had returned from Ireland and met Kirk and Rylee at the pediatric endocrinologist's office. The date of the appointment was April 13, 2011. After a series of questions and answers, Vivian confessed to Dr. Dewan that Vivian has

1 been applying testosterone to the inside of her forearms for a couple of years, and more recently  
2 to her stomach. Assuming Vivian is much more responsible than she is, Dr. Dewan said he has  
3 seen this before where the parent applies the testosterone to themselves then washes their hands  
4 and the child touches the faucet to wash their hands. He cautioned Vivian that after she applies  
5 the cream Vivian has to be careful because children can then touch the faucets the parent  
6 touched after applying the cream. Vivian let Dr. Dewan assume Rylee's exposure to the  
7 testosterone was from the minimal faucet-touching. But Kirk explained the exposure was much  
8 more significant and told Dr. Dewan that Vivian applies the cream to her forearms and then  
9 sleeps with Rylee embraced in her bare arms.

10 Dr. Dewan ordered blood tests for Rylee, which confirmed his opinion that Rylee's  
11 dangerous exposure to the testosterone on Vivian's skin has caused Rylee's premature  
12 development. (Kirk ¶ 221, 224) If Rylee's levels do not normalize quickly,<sup>8</sup> Dr. Dewan  
13 explained that Rylee must have a device implanted in her arm that will need to be replaced  
14 annually until Rylee is twelve years old. Without the device Rylee's growth will be stunted.  
15 Vivian exhibited absolutely no noticeable response upon hearing this. No guilt. No emotion.  
16 Nothing. The cost of the device is \$14,000.00 per year. (Kirk ¶221)

17 Vivian obviously knows by applying the testosterone to her skin it is absorbed into her  
18 body, and she was undoubtedly strongly warned by the prescribing doctor, Dr. Jeffry Life, as  
19 well as the dispensing pharmacy (most likely Costco), not to physically contact another person  
20 after applying the testosterone to her forearms. Yet, Vivian applies it to her forearms before  
21 going to bed with Rylee and Brooke. Rylee sleeps in between Brooke and Vivian, and snuggles  
22 Vivian every night. Rylee is a big snuggler. If Vivian had the ability to care primarily about  
23 Rylee, she would have known when her forearms came in contact with Rylee's skin it would be  
24 absorbed into Rylee's body.

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27 <sup>8</sup> Rylee will have blood drawn again in three months to see if the testosterone level has gone  
28 down. (Kirk ¶ 224) Dr. Dewan asked Vivian if she could use a testosterone patch or a  
testosterone injection instead of the cream. Vivian said there is no patch for women but promised  
Dr. Dewan she would only use the injection from now on. (*Id.*)

b. *Vivian's Insistence That She Sleep in Bed with the Girls Caused Rylee to Fall out of Bed and Cut Her Arm Open, Necessitating an ER Visit and Stitches.*

Vivian's continued and inappropriate insistence that she sleep in bed with Brooke and Rylee created another injury to Rylee. In late June 2011, Rylee fell out of, or was knocked out of the bed she was sharing with Vivian and Brooke. (Supplemental Affidavit of Kirk R. Harrison, attached hereto as Exhibit 7, at ¶ 252) The floor of the bedroom was cluttered with various objects including glass chandeliers, which were located right next to the side of the bed. Rylee cut her arm open on a chandelier. From the room next door, Kirk heard Rylee fall to the floor and begin to wail, so he ran to her aid. He then took her to the emergency room where she received seven stitches. Vivian did not accompany Rylee and Kirk to the emergency room or assist Rylee in cleaning the substantial blood from herself when Rylee returned home from the hospital. In fact, Vivian was asleep when Kirk and Rylee returned from the hospital. (*Id.* ¶ 252)

C. **Vivian Chose to Be Away from Brooke and Rylee for Much of 2010 and Continues to Not Hesitate to Leave Brooke and Rylee for Extended Periods of Time in 2011.**

Vivian does not hesitate to leave Brooke and Rylee for extended periods of time. The following are Vivian's trips during 2010:

2/8/10 to 2/16/10	VIP trip to India – clothes-buying spree in India; bought lots of perfume in Dubai during layover on return.
2/17/10 to 2/20/10	Trip to Santa Monica, California to Dr. Anthony Griffin for plastic surgery – liposuction to remove fat from various parts of her body. Part of the fat removed is re-inserted in her buttocks and her face.
3/2/10 to 3/5/10	Trip to Phoenix, Arizona to Dr. Richard Clement for plastic surgery – remove her silicone breast implants and insert much larger ones. She also had a face lift from the middle of her nose down. She also had work done on her chin and neck. Dr. Clement had previously performed a breast augmentation and had done work on her chin.
3/15/10	Trip to Phoenix, Arizona to Dr. Richard Clement for follow-up.
3/16/10 to 3/17/10	Trip to Santa Monica, California to Dr. Anthony Griffin for follow-up (“parts did not take” – scheduled another surgery).



1 3/22/10 to 4/3/10 Trip to Ireland for Hope Foundation Gala – The Hope Dublin  
2 Ball 2010.  
3 4/5/10 to 4/6/10 Trip to Salt Lake City to see Muze (an alternative rock band)  
4 concert with Tahnee and Whitney.  
5 4/12/10 to 4/15/10 Trip to Santa Monica, California to Dr. Anthony Griffin for  
6 another surgery.  
7 4/28/10 to 5/1/10 Trip to Phoenix, Arizona to Dr. Richard Clement for “tummy  
8 tuck”.  
9 5/10/10 Trip to Phoenix, Arizona to Dr. Richard Clement for removal of  
10 stitches.  
11 6/14/10 to 8/19/10 Trip to Ireland to allegedly “work” with Hope Foundation –  
12 Tahnee, Brooke and Rylee arrived in Ireland on August 2, 2010.  
13 8/7/10 to 8/8/10 Mountain climbing with Irish celebrities – leaves Brooke and  
14 Rylee with a babysitter.  
15 9/18/10 Vivian took Brooke and Rylee to another family’s house at 9:00  
16 a.m. for them to spend the day and night so she could get ready  
17 for her trip – a consequence, she didn’t see them before she left  
18 the next day for on her 40-day trip.  
19 9/19/10 to 10/28/10 Trip to Ireland to ostensibly spend time with Irish celebrities in  
20 preparation of trip to Himalayas, then trip to Nepal and climb to  
21 Mount Everest base camp with David Walsh and Irish celebrities,  
22 then trip to India and then back to Ireland with David Walsh.  
23 Vivian continued her practice of leaving Brooke and Rylee to improve her cosmetic  
24 image, to be with her friends in Ireland, and to continue her pursuit of Jonathan Rhys Meyers  
25 (star of Showtime’s *The Tudors*) in 2011:  
26  
27 1/17/11 to 1/19/11 Trip to Santa Monica, California to see Dr. Anthony Griffith for  
28 cosmetic surgery below Vivian’s eyes, eye lids, liposuction of  
tummy and back areas, and filling a “gouge” on her left hip or  
buttock.  
3/14/11 to 3/18/11 Trip to Ireland to spend St. Patrick’s Day (3/17/11) with her  
friends and attend the Hope Foundation Dublin Ball in the Grand  
Ballroom of the Burlington Hotel on March 26, 2011 (scheduled  
to be gone for 17 days, but something goes awry for Vivian in  
Ireland and she returns after only 5 days, but leaves again for  
Ireland just 5 days later)<sup>9</sup>.

<sup>9</sup> In a bizarre move, even by Vivian’s standards, Vivian flew home on Friday, March 18, 2011, but then flew back to Ireland on Wednesday, March 23, 2011. During these few days, Vivian spent almost no time with Brooke and Rylee. Vivian spent most of the time at Heather A.’s. (Kirk ¶213-14).

1 3/23/11 to 3/30/11 Trip to Ireland to spend time with friends and to attend the Hope  
2 Foundation Ball in the Grand Ballroom of the Burlington Hotel  
on March 26, 2011.

3 Though not in pursuit of Meyers, Vivian again chose to be away from Brooke and Rylee  
4 yet again and went on a trip from 8/14/11 to 8/26/11 to cruise the Mediterranean.

5  
6 **D. Vivian Is Obsessed With Jonathan Meyers, A 32 Year Old Actor, And With  
Her Physical Appearance, All To The Exclusion Of Her Children**

7  
8 **1. Vivian Has Isolated Herself from the Family.**

9 In about January of 2009, Vivian became increasingly more and more isolated from the  
10 rest of the family. She would spend most of her time reading vampire novels behind the closed  
11 door of the home office or Brooke's bedroom. When forced to go with the rest of the family in  
12 the car, she would read her Kindle the vast majority of the time - not talking to any other  
13 member of the family. (Tahnee ¶12) (Whitney ¶10) Similarly, when she was forced to go to  
14 dinner with the family, she would read her Kindle during dinner. She made it abundantly clear  
15 she did not want to be with the rest of the family.

16 Between July 18, 2009 and July 27, 2009, Vivian and Brooke, together with their  
17 neighbor, Kim B. and her daughter, Kenadee, spent nine days at the Martha Pullen School of  
18 Art Fashion in Huntsville, Alabama. On July 27, 2009, Kirk picked up Kim B., Kenadee, and  
19 Brooke. Almost as soon as Kim B. saw Kirk, she starting talking about Vivian and the Kindle.  
20 Kim said she could not get Vivian to put the Kindle down. They would go to the sewing  
21 classes during the day and Kim would sew at night with her daughter, but Vivian would read  
22 her Kindle. Kim B. told Vivian they were there to have a shared experience with their  
23 daughters, but Vivian insisted upon reading the Kindle, stating she had only read two books  
24 that week. Kim B. said she told Vivian the Kindle was a real problem. Kim B. told Kirk she  
25 thought it was some kind of obsession. Kirk told Kim B. that most of the time Vivian is home  
26 she goes into a bedroom by herself, shuts the door and reads the Kindle. Tahnee and Joseph  
27 made comments to Vivian about the need to destroy or lose the Kindle. (Kirk ¶52)

1 On August 31, 2009, the entire family drove to Cedar City, Utah. During the drive,  
2 Kirk heard Vivian, who was sitting in the back seat, severely scold Brooke. When they got to  
3 their destination, he asked Whitney what had happened. Whitney told Kirk that Brooke had  
4 made a comment that Vivian stays in a bedroom with the door shut reading her Kindle 24/7.  
5 (Whitney ¶9)

6 2. *Vivian's Obsessive and Self-absorbed Behavior Continues with The*  
7 *Tudors and Then More Dramatically with Irish Actor Jonathan Rhys*  
8 *Meyers.*

8 Sometime during the fall of 2009, Vivian began watching a television show called,  
9 "The Tudors." She would watch every episode in the home office with the door closed. (Kirk  
10 ¶58) The star of The Tudors is a 32 year old Irish actor by the name of Jonathan Rhys Meyers.  
11 (Tahnee ¶17) Vivian became obsessed with the notion that Jonathan Rhys Meyers is her "soul  
12 mate" and continued her self-imposed isolation from the rest of the family behind the closed  
13 doors of the home office. Vivian had an intimate photograph of Jonathan Rhys Meyers as the  
14 screen saver on the family computer in the home office for almost a year. She also had a  
15 different photograph of Jonathan Rhys Meyers as the screen saver on the family computer in  
16 the kitchen area for many months. (Whitney ¶14) Finally, after other members of the family  
17 complained for many, many months, she removed them.

18 On Wednesday, October 7, 2009, Tahnee was playing the piano. Vivian came up to her  
19 and said, "If you meet Jonathan Rhys Meyers and he flirts with you, I will kill him."  
20 (Tahnee ¶17) (Kirk ¶58)

21 By the end of October, 2009, Vivian's delusional fantasy of Jonathan Rhys Meyers was  
22 getting worse. She spent virtually every waking hour trolling the internet for information on  
23 Meyers and almost daily she was receiving something new – cds of music from the Tudors,  
24 and, over time, every movie or tv dvd in which Meyers had appeared. Meyers played Henry  
25 VIII in the Showtime network's series, *The Tudors*. Vivian purchased and wore a Victorian  
26 robe. Vivian ordered a dress so she could wear it and be Ann Boleyn – one of Henry VIII's  
27 wives whom he beheaded. Vivian will shut the door to the office and if you open the door  
28 while Vivian is playing the music from the Tudors, she will get extremely upset. (Kirk ¶65) On

1 Monday afternoon, October 12, 2009, Vivian asked Tahnee if she thought Jonathan Rhys  
2 Meyers would be at the Justin Timberlake event they would be attending the next evening, and  
3 when Vivian learned of such trivial details such as Meyers dining with his girlfriend, Vivian  
4 would express great displeasure. (Tahnee ¶18, 22) (Kirk ¶69).

5 Whitney got married in April 2011. In late 2009, Whitney was selected to appear on a  
6 TLC reality show about selecting a wedding dress. As the mother of the bride, Vivian planned  
7 to join Whitney in New York for the show's filming, and her main concern was that Jonathan  
8 Rhys Meyers might see her on the show and she had not yet lost the weight she was trying to  
9 drop for him. Tahnee assured her that Jonathan Rhys Meyers surely did not watch such shows.  
10 (Tahnee ¶22)

11 Whitney's fiancée's mother, Mrs. B., also joined Vivian and Whitney in New York for  
12 the show's taping. This was only the second time that Vivian had met Whitney's future  
13 mother-in-law. While in New York, Vivian told Mrs. B., Mrs. W. and Tahnee that she, Vivian,  
14 knows that Jonathan Rhys Meyers, the 32 year old Irish actor she has never met, is her "soul  
15 mate." (Tahnee ¶23) She also made a point to show Mrs. B. (Whitney's future mother-in-law)  
16 all of her small thong underwear, leopard skins, etc. She also inappropriately told her  
17 daughter's future mother-in-law how her dead older sister, Cindy, was involved with satanic  
18 rituals and was a drug addict. She told these woman that she has some major plastic surgery  
19 planned for this Spring and that she was going to spend the summer in Europe. She also told  
20 them she wanted to go to the sex museum in New York. (Tahnee ¶23) During the entire time  
21 she was on this trip, Vivian never telephoned Brooke and Rylee. (Kirk ¶72)

22 When Vivian learned that Jonathan Rhys Meyers is involved with some organization in  
23 Ireland, where he is from, and this organization is doing philanthropic work in India, Vivian  
24 made plans to go to India for the summer and work with the organization in an effort to get  
25 close to Meyers. (Tahnee ¶26) (Whitney ¶17) (Kirk ¶79)

26 Vivian read an interview in which Meyers reportedly said, "I think every girl should  
27 have two pairs of Christian Louboutin shoes." In early 2010, Vivian purchased a \$1,395 pair of  
28 Christian Louboutin dress shoes to wear to a ball in Ireland. (Kirk ¶ 98) When she read that

1 Meyers wore Prps-brand jeans, she purchased herself a \$500 pair and an \$875 Prps jacket.  
2 (Tahnee ¶30) (Kirk ¶96) Vivian also bought numerous pairs of boots – apparently Jonathan  
3 likes women in boots, too – including an \$800 pair. (Whitney ¶19) (Kirk ¶82)

4  
5 **4. Vivian Has Developed an Addiction to Plastic Surgery and Other**  
6 **Beauty and Age-defying Treatments.**

7 Vivian also became obsessed with the pursuit of beauty and a youthful appearance.  
8 During 2010 and 2011, she had just about every type of plastic surgery procedure available  
9 performed on her by Dr. Anthony Griffin in Santa Monica, California and Dr. Richard  
10 Clemente in Phoenix, Arizona. (Kirk ¶92, 96, 101, 104, 108, 109, 121, 123, 182, 184, 186, 187  
11 & 200) In Santa Monica, California, Vivian had Dr. Anthony Griffin perform a liposuction  
12 procedure on various parts of her body with part of the fat removed injected into her buttocks  
13 and face. (Kirk ¶92) (Whitney ¶22) She returned two more times before her butt is just the  
14 way she wants it. She then makes several trips to Phoenix, Arizona for Dr. Richard Clement to  
15 perform another breast enlargement – from a 34 d to a 34 f, a face lift, work done on her chin  
16 and neck, and finally, a tummy tuck. (Kirk ¶96) Vivian had hair permanently removed, body  
17 piercing, and injections of Gardasil HPV vaccine. (Whitney ¶12)

18 Vivian also had seemingly every cosmetic skin procedure known to mankind performed  
19 upon her by Dr. Jason Michaels and Betty Peeler, again and again. (Kirk ¶62, 73, 76, 78, 81,  
20 130, 131, 200 & 201; Whitney ¶16) Some of the procedures Dr. Jason Michaels performed  
21 upon her included chemical peels, botox, Restylane, Cosmoderm, and AS LHR 45. (Kirk ¶130)  
22 Vivian went to Dr. Peter G. Vajtal in Las Vegas for vein treatments. Vivian went to California  
23 on December 12, 2009 to have a skin treatment performed by a face skin anesthetist that is not  
24 legal in Nevada. During December of 2009, Vivian was getting skin treatments from Betty  
25 Peeler multiple times each week, which included numerous treatments to remove all age spots  
26 from her face, arms, hands, and other parts of her body. (Kirk ¶78) She buys Shea Body Butter  
27 by the case and Original Bronz by the gallons. (Kirk ¶131).

1 Fearing she is too fat for Jonathan Meyers, in addition to her prolonged use of diet pills,  
2 she began taking injections of HCG, which she gets prescribed by both a doctor in St. George,  
3 Utah, as well as a doctor in Las Vegas, Nevada (one probably doesn't know about the other).  
4 One doctor prescribes Chorionic Gonadotropin, and the other prescribes Pregnyl. Two of the  
5 doctors prescribing diet related drugs to Vivian include Dr. J. R. Martin and Dr. Sean R. Duffy.  
6 (Kirk ¶43)

7 Not leaving any stone unturned in her pursuit, Vivian made an appointment with Dr.  
8 Jeffry Life of Cenegenics. (Dr. Life is the doctor whose picture appears in magazines and who  
9 proclaims he is a 70 year old man with a 20 year old body). His marketing claims a way to stop  
10 and reverse the aging process. Dr. Life had his wife draw Vivian's blood in the Harrison home  
11 in early October of 2009. (Kirk ¶60) Dr. Life prescribed medicine for Vivian to take, including  
12 Pregnyl and testosterone. Dr. Life also joined a long line of other doctors and prescribed  
13 Phentermine to Vivian. (Kirk ¶63)

14 **5. Vivian Gets Her Life Advice from A Telephone Psychic.**

15 Having intentionally isolated herself almost totally from her husband and children,  
16 Vivian decided to make her most important life decisions based upon the advice of someone  
17 she has never met. She began calling a psychic on the telephone at \$300.00 per hour. The  
18 marketing on the internet describes Vivian's new confidant Nan O'Brien as an "intuitive  
19 counselor." Ms. O'Brien advised Vivian that she is a "master soul" meaning that Vivian is  
20 advanced because she has been reincarnated many times. Surely, nobody's fool, Ms. O'Brien  
21 "coincidentally" also advised Vivian that she would become involved with a foundation.  
22 (Tahnee ¶24) (Kirk ¶75 & ¶96)

23 In summary, in her relentless pursuit of her "soul mate" Meyers, Vivian is pouring all of  
24 her efforts and energy into doing everything imaginable to make herself more attractive to him  
25 and to get closer to him: (1) numerous plastic surgeries so that she can be "young" enough for  
26 her soul mate; (2) skin treatment after skin treatment so her face and other parts of her body  
27 appear younger; (3) repeated applications of Shea Body Butter, as well as Bronz Original and  
28 other oils; (4) the purchase of ultra expensive shoes, jeans, handbags, dresses, and coats

1 because each item is what Jonathan thinks a woman should wear; (5) multiple injections of  
2 HCG (Chorionic Gonadotropin and Pregnyl) over many months in an effort to lose weight; (6)  
3 taking treatments and medications, including testosterone, from Dr. Jeffry Life of Cenegenics –  
4 all in an effort to stop and reverse the aging process; (7) hiring a trainer to help her get the most  
5 beautifully shaped body possible; (8) subscribing to Google Alert for any news about Jonathan  
6 Rhys Myers; (9) distancing herself from husband and five children – ages from 25 to 8 – can't  
7 be married mother of 5 children, especially when oldest is 25 years old, when "soul mate" is  
8 only 32 years old; (10) apparently thinking she needed some additional help in her pursuit of a  
9 32 year old actor, Vivian enlisted the "clairvoyant" services of a telephone psychic.

10 **E. Vivian Continues Her Delusional Pursuit of Jonathan Meyers Through the**  
11 **Hope Foundation.**

12 From her relentless internet investigation of Jonathan Rhys Meyers, Vivian learned he is  
13 the Ambassador for the Hope Foundation. She contacted the Hope Foundation and was invited  
14 by Rosaleen Thomas, the Fundraising Director, to go on a VIP tour of Hope Foundation  
15 projects in India. (Whitney ¶17) She went on this VIP tour from February 8, 2010 through  
16 February 16, 2010. (Kirk ¶101) During this trip, Vivian met Tania Zorilla, a 20-year-old  
17 female model from Ireland. They became close during the trip and were not only roommates,  
18 but slept in the same bed. The trip became, at least for Vivian, a big clothes-buying spree in  
19 India and a perfume- buying spree in Dubai. (Kirk ¶101 & ¶108)

20 Vivian's next trip was to Ireland for the Hope Foundation Gala –The Hope Dublin Ball  
21 2010. Vivian departed March 22, 2010 and did not return until April 3, 2010. Vivian told her  
22 family she was going to Ireland to train for the Hope Foundation. The Hope Dublin Ball 2010  
23 was on March 26, 2010 at the Burlington Hotel in Dublin. Apparently, it was a bust for Vivian  
24 as Meyers was a no-show. Actually, Vivian spent most of the trip touring Ireland and partying  
25 with her bed mate – Tonia Zorilla. (Kirk ¶113) At some point during this continuous party and  
26 tour of Ireland, Vivian began traveling and spending time with David Walsh, touring many sites  
27 with Mr. Walsh. Mr. Walsh was 64 years old, married, and the owner of Kart World in Cork,  
28 Ireland. (Kirk ¶134; see also photos attached as Exhibit 4.)

1 Vivian returned to Southern Nevada highly motivated to magnify her perceived stature  
2 with the Hope Foundation. If she is a big shot, surely the Ambassador will take notice.<sup>10</sup> She  
3 formed the idea to take the lead in forming The Hope Foundation in the United States as a  
4 charitable institution. After getting one of Kirk's friends and colleagues, Les Sully, Esq., to set  
5 up the entity for her, Vivian – together with Rosaleen Thomas and others – was named to the  
6 governing board. (Kirk ¶132)

7 Vivian's next trip to Ireland was from June 14, 2010 to August 19, 2010 to ostensibly  
8 work for the Hope Foundation. During the rare times that Vivian did call home, Kirk asked her  
9 what she was doing. Each time, Vivian answered that she was trying to straighten out the  
10 papers prepared by Mr. Sully. Vivian spent the weekend of July 3, 2010 with David Walsh at a  
11 GT Rally. At the time, Vivian assured Kirk that Mr. Walsh was a 64-year-old happily married  
12 man. (Kirk ¶134) In reality, Mr. Walsh, though married, had been separated from his wife,  
13 Mary, for quite some time. (Kirk ¶136 thru 138) This trip for the Hope Foundation was similar  
14 to the prior trips – big fun, big partying, big trysts; but very little, if any, work for the Hope  
15 Foundation.

16 A month later, Vivian returned to Ireland to join David Walsh and Irish celebrities on a  
17 trip to Nepal to climb to the Mount Everest base camp. This took place from September 19,  
18 2010 until October 28, 2010. The initial trip to Ireland was to ostensibly spend time with Irish  
19 celebrities in preparation for the trip to the Himalayas. Vivian and David Walsh both made the  
20 trip to Nepal as members of the Support Team and climbed to the lower Mount Everest base  
21 camp with the Irish celebrities. Vivian then flew back to Ireland with Mr. Walsh for several  
22 days. This trip was designated Hope Everest Challenge 2010. There was less than a handful of  
23 phone calls from Vivian to Brooke and Rylee during these six weeks.

24  
25  
26 <sup>10</sup> In addition to her pursuit of Jonathan Rhys Meyers, Vivian has an additional motivation to  
27 become involved with the Hope Foundation: her pathologically narcissistic personality disorder  
28 (NPD). A covert NPD person will display a persona that allows her to cover and disguise her  
grandiose needs by displaying an identity of a humanitarian. "This persona allows the narcissist  
to gain attention, status, and power through *what he is doing and what he is connected to*, rather  
than attempt to command a truly solo role in the spotlight." Eleanor D. Payson, *The Wizard of  
Oz and other Narcissists* (2002), at 27.



**F. Vivian's Lack of Empathy for Brooke and Rylee Was Exhibited During The Harrison "Family Vacation" to Ireland.**

Vivian convinced Kirk and all their children that the Harrison family should have a "family vacation" at the end of her trip to Ireland from June 14 to August 19, 2010. Vivian arranged for Brooke and Rylee to go to Ireland on August 1, 2010, knowing that Kirk, Whitney and Joseph could not leave until August 7, 2010. (Kirk ¶135) At this point, Kirk was extremely uncomfortable with Brooke and Rylee being alone with Vivian in light of Vivian's total self absorption and disregard of Brooke and Rylee's well being. Kirk only agreed to this because Tahnee, his oldest daughter, would be with Brooke and Rylee.

It then became practically impossible for Brooke and Rylee to go on the 1st because Tahnee postponed her medical school entrance exam until after the August 1st. (Kirk ¶135) Vivian then called Tahnee and compelled her to go on the 1st anyway, requiring Tahnee to fly all the way to Ireland and then return on August 4th. Upon Tahnee's departure back home, Vivian then got on a train to Cork with Brooke and Rylee. The purpose of this trip was for Brooke and Rylee to spend two days with Vivian. Instead, David Walsh picked them up from the train station that evening, and the four of them then spent the entire two days together in David Walsh's home. The four of them had breakfast together each day at Mr. Walsh's home and went out together for lunch and dinner. When Vivian is home, she goes to bed every night with Brooke and Rylee. However, sometime after they are asleep, she gets up and goes somewhere else. So Brooke and Rylee are used to waking up in the morning and not having Vivian in the bed with them. While at Mr. Walsh's house, Vivian went to bed with Brooke and Rylee, however, she was not there when they woke up. Mr. Walsh then drove Vivian, Brooke and Rylee to Dublin the evening of Friday, August 6, 2010. (Kirk ¶137 & ¶138)

When scheduling his return flight from Dublin, the only condition Kirk told Vivian about his return flight was that he wanted to return on the same flight as Brooke and Rylee. Once Kirk's return was set for the 15th of August, Vivian scheduled her return and the return of Brooke and Rylee for the 19th. (Kirk ¶135) David Walsh picked up Vivian, Brooke, and Rylee from their hotel on the morning of August 18, 2010, after driving about 160 miles from Cork to

1 Dublin. The four of them drove to New Grange and spend the day together there. Naturally,  
2 when they returned to Dublin, it was too late for David Walsh to drive to Cork, so he got a  
3 room in the same hotel in which Vivian, Brooke, and Rylee were staying. (Kirk ¶144)

4 **G. Vivian Prepared For Her Next Extended Trip to Ireland.**

5 Vivian's next big trip to Ireland was a seventeen day trip to Ireland from March 14,  
6 2011 until March 30, 2011. Vivian wanted to be in Ireland for St. Patrick's Day with her  
7 friends in Ireland and for the Hope Foundation Gala – The Dublin Ball 2011 on March 25,  
8 2011<sup>11</sup>, and was still in hot pursuit of Jonathan Rhys Meyers.

9 In addition to relying upon the telephone clairvoyant, "intuitive counselor," in making  
10 decisions, Vivian turned to "highly credentialed" tarot card reader. (Kirk ¶204) In the desk in  
11 the home office were emails to Vivian, that Vivian had highlighted, from Ann Marie Goldstein,  
12 with an email address of "tarot\_of\_faith@yahoo.com. These emails are dated January 17, 2011  
13 and January 20, 2011. Ann Marie Goldstein's own bio provides, "I'm a licensed massage  
14 therapist, professional astrologer and tarot card reader for the past 20 years. I run a successful  
15 pet sitting business in Las Vegas, Nevada. I have a published book, BUSTED! which is a true  
16 life account of life behind the bright lights of the Las Vegas casinos." (Kirk ¶205)

17  
18 **2. Vivian Has Done, and is Doing, Everything Medically and Physically Possible To Maximize Her Chances of Success With Her Soul Mate.**

19 In an effort to maximize her appearance and body for her trip to Ireland for St. Patrick's  
20 Day and the Hope Foundation Ball (2011), Vivian made numerous new medical and cosmetic  
21  
22  
23  
24  
25  
26  
27

28 <sup>11</sup> A photograph of Vivian at the Dublin Ball 2011 is attached hereto as Exhibit "5". Vivian is the one posing on the left.

1 appointments. Vivian had 11 medical appointments with 8 different doctors in just 30 days,<sup>12</sup>  
2 plus countless cosmetic procedures.

3 During this same time, Vivian had numerous deliveries of clothing items. The best  
4 interests of Brooke and Rylee were not even a blip on Vivian's radar screen. (Kirk ¶200). The  
5 amount of money that Vivian has spent on clothes during the last several years is substantial,  
6 but apparently none of those clothes were new enough or good enough for her latest big trip.  
7 During the week before Vivian's planned seventeen day trip to Ireland beginning Monday,  
8 March 14, 2011, numerous, and obviously very expensive new items of clothing began  
9 appearing on the couch, chair and floor in the home office, including: designer gowns, leather  
10 jackets, handbags, shoes, \$300 jeans, and lingerie. (Kirk ¶206)

11  
12 **4. Vivian Once Again Chose Her Pursuit of Jonathan Rhys Meyers, and**  
13 **Her Friends In Ireland, Over Brooke and Rylee.**

14 Vivian's plans for more plastic surgery in California and yet another extended trip to  
15 Ireland were not lost on Brooke. Vivian left the afternoon of Monday, January 17, 2011, for  
16 more plastic surgery in California. Vivian's manipulation of Brooke was working. Brooke  
17 cried for an hour after Vivian left. Brooke was scared to sleep with just Rylee that night.  
18 Brooke telephoned Vivian during dinner with Rylee and Kirk. Brooke asked, "Why do you go  
19 when you say you don't want to?" Brooke said, "You are going to California and then you are  
20 going to Ireland again for the Hope Ball. If you don't want to leave us, why do you?" Brooke  
21 said later that Vivian told her that Vivian's friends are in Ireland and she wants to be with her  
22 friends. Earlier that evening, Brooke told Kirk that Vivian told her she is leaving for the Hope  
23

24  
25 <sup>12</sup> Every appointment is most likely about Vivian's appearance and her sex life – diet pills,  
26 cosmetic treatments, minimizing veins, prescription for gardasil (protects against sexually  
27 transmitted diseases), prescription for Valtrex equivalent, etc. Dr. Jason Michaels – cosmetic  
28 procedures; Dr. Anthony Griffin – plastic surgery; Dr. Jeffry Life – testosterone and other  
prescriptions to make Vivian "younger"; Dr. Warren Smith – Phentermine and Valtrex; Dr. Vajtai  
– treatments for veins; Dr. Jameson – Gardasil, birth control pills, and IUD; Dr. Noorda –  
orthodontist (Vivian is having the braces removed shortly before her trip to Ireland); Dr. Duffy –  
a psychiatrist, prescribes Celexa to help compensate for the agitated and aggressive behavior  
caused by the Phentermine. (Kirk ¶200)

1 Ball earlier this year than last year because she wants to be in Ireland for St. Patrick's Day.  
2 During the telephone call during dinner, Brooke repeatedly pled with Vivian to make a  
3 "U-turn," saying, "If you haven't paid for the surgery yet, why not just come home." Brooke  
4 later asked, "Why don't you just have the surgery here?" During the months Vivian was gone  
5 last year, Brooke and Rylee slept with just each other. Kirk had Brooke and Rylee to the point  
6 it was no big deal to go to bed. However, with Vivian being present in the home the last few  
7 months, Brooke is again insecure, frightened, and afraid. (Kirk ¶184)

8 **H. Vivian Callously Manipulates and Lies to Brooke and Rylee To Obtain**  
9 **Their Loyalty.**

10 When Vivian is home, she sleeps with Brooke and Rylee creating in them an extreme  
11 dependence upon her at night. As a consequence, when Vivian is gone, Brooke and Rylee are  
12 desperately afraid to sleep by themselves. Vivian gets up during the wee hours of the morning,  
13 goes downstairs to the home office, and gets on the internet. When she does so, she leaves the  
14 door to Brooke's bedroom open and a light on at the bottom of the stairs. Several nights each  
15 week, Rylee wakes up frightened, seeks out Vivian and has to negotiate going down the stairs  
16 while she is still half asleep in the middle of the night, and she often spends half the night  
17 sleeping on couches and chairs. As a foreseeable consequence, Rylee has fallen asleep at the  
18 breakfast table on numerous occasions. (Kirk ¶237)

19 Kirk has repeatedly complained, but Vivian continues this practice, and she has  
20 admonished the kids that they must seek her out in the home office when they awake in the  
21 middle of the night. (Kirk ¶199). When Whitney, the Harrison's 24 year old daughter, tried to  
22 help Brooke and Rylee, she was similarly rebuffed by Vivian:

23 My Mother always sleeps with Brooke and Rylee. I know it is  
24 not in Brooke and Rylee's best interests because it makes them  
25 insecure and afraid. I started encouraging Brooke and Rylee to  
26 sleep with each other, but not with my Mother or my Dad. When  
27 it was time for the girls to go to bed, I said they could sleep with  
28 me if they were by themselves, but after the first of the year they  
should sleep by themselves. I described this as baby steps as all  
of their friends have been sleeping by themselves for years. Rylee  
told my Mother what I had said and my Mother told me I had  
overstepped my bounds and that she was very mad at me.

1 (Whitney ¶18). Although clearly to their detriment, Vivian wants Brooke and Rylee needy,  
2 insecure, and dependent upon her as Dr. Roitman explains:

3 There are several issues surrounding Vivian sleeping with her  
4 children that represent a lack of empathy for their psychological  
5 needs and how her needs displace theirs. A parent sleeping with  
6 their children in this culture is disruptive to the separation and  
7 individualization of the child. Boundaries are harder to develop  
8 and enforce and persistent anxiety is a frequent outcome.

9 (Exhibit 6 at 18). (Emphasis added).

10 Vivian will also tell Brooke and Rylee bald-faced lies to manipulate them. For  
11 example, Vivian's first trip to Ireland was from March 22, 2010 to April 3, 2010. Brooke and  
12 Rylee were both in school during this time period except for Spring Break, which did not start  
13 until April 2, 2010 and ended April 9, 2010. There was absolutely no way Brooke and Rylee  
14 could have gone on this trip. There is no way Vivian wanted Brooke and Rylee on this trip.  
15 Vivian had made it clear to Tahnee and Whitney she didn't want them on this trip. (See,  
16 Exhibit 4).

17 Yet, when Brooke and Rylee called Vivian on the telephone on Monday night, March  
18 29, 2010, and Brooke told Vivian that Kirk was going to be gone for two days for meetings in  
19 St. George and Salt Lake City and that Kirk wanted them to go with him, but Tahnee refused to  
20 go, Vivian lied, "So you are going to be home alone with Tahnee for two days. If I would have  
21 known that, I would have brought you with me." There is absolutely no way Vivian would  
22 have ever taken Brooke and Rylee on that trip to Ireland. She went to pursue Meyers and spend  
23 time with Tania Zorilla. (See, Exhibit 4). Vivian will say anything to give Brooke and Rylee  
24 the false impression that she cares for them. (Kirk Aff ¶113)

25 Vivian continued this lie. Brooke and Rylee called Vivian on Friday night, April 2,  
26 2010. Vivian then called Brooke and Rylee on Skype. Vivian told Brooke and Rylee, "If I had  
27 known you were not going to the ranch I would have brought you with me." (Kirk ¶114) On  
28 Saturday night, April 3, 2010, Kirk took Brooke and Rylee with him to pick up Vivian at the  
airport from Vivian's trip to Ireland. On the drive home, Vivian said to the girls in front of  
Kirk, "If I would have known that your dad was not going to take you to the ranch, I would

1 have taken you with me. I feel so bad you didn't get to go anywhere for Spring Break. I will  
2 never let it happen again." Kirk had to respond, saying he never said he was taking them to the  
3 ranch. There is still six inches of snow on the ground there and the cabin has no running water  
4 during the winter. You could never have taken them to Ireland because they would have  
5 missed a week of school. (Kirk Aff ¶115) In summary, Vivian abandoned Brooke and Rylee  
6 for two weeks, and upon her return, told Brooke and Rylee they didn't get to go anywhere for  
7 Spring Break because of some failing by Kirk.

8 Another example of Vivian's lies and manipulation of Brooke and Rylee took place just  
9 two days later. After being gone to Ireland for 13 days, Vivian then left Brooke and Rylee just  
10 two days later to see a rock concert in Salt Lake City for another two days. While in Salt Lake  
11 City, Vivian told Brooke on the telephone that she would have taken Brooke to the Muze  
12 concert, but there was not enough time to get another ticket. In truth, Vivian had four tickets  
13 and one went to waste because Vivian had no intention whatsoever of taking Brooke to the  
14 concert. (Tahnee ¶34) (Whitney ¶23) (Kirk ¶117)

15 The latest example of Vivian's manipulation and callous disregard of Brooke and Rylee  
16 occurred on Sunday, March 13, 2011. If Vivian had her way, Brooke would sleep overnight at  
17 Heather As' home every weekend. This doesn't bother Vivian as she rarely does anything with  
18 Brooke and Rylee. Kirk objects, however because Kirk likes spending time with his daughters  
19 at home, Heather lets the kids stay up very late and sleep in very late, and the A family has a 12  
20 year old son, too. Kirk has told Brooke that he doesn't mind if she sleeps over at the As' home  
21 once in a while and he doesn't mind if she plays over there during a weekend day, but Kirk had  
22 made it clear he did not want her sleeping there every weekend. (Kirk ¶210)

23 When Kirk objected to another sleepover weekend at the As' home in March, 2011  
24 (Vivian was leaving for Ireland Monday morning for 17 days), Vivian got extremely angry and  
25 acted out in front of Brooke and Rylee. She attacked Kirk and said he was a bad person.  
26 Vivian said Brooke wanted to stay at Heather A's because she didn't want to be with Kirk and  
27 she wanted to be around a mother figure – Heather. Kirk said if that is the issue, why don't you  
28 just cancel your trip. That set Vivian off. Vivian then went to Brooke and said, "When I get

1 back you can sleep at Heather As' anytime you want." Vivian then turned to Kirk and said she  
2 isn't letting Brooke and Rylee go to the ranch anymore. Kirk left the room to avoid any further  
3 conflict in front of Brooke and Rylee. Kirk then heard Vivian talking to Brooke and Rylee and  
4 Vivian hollered to Kirk to come into the room because he needed to hear what she was telling  
5 Brooke and Rylee. Vivian told them that she was filing for divorce the day after Whitney's  
6 wedding, and that Brooke and Rylee are going to have to choose with whom they want to live.  
7 Vivian then said she was going to get the house or the court will order it sold. When Kirk  
8 started to leave the room, Vivian said, "I am the primary care giver. The kids are just a hobby  
9 to you and you will have to find a new hobby." Not surprisingly, this performance greatly upset  
10 Brooke and Rylee, who were in tears. (Kirk ¶210) This is just one of many indications of how  
11 Vivian has no empathy whatsoever for Brooke and Rylee.

12  
13 **I. Vivian's Long-Term Drug Abuse Exacerbates Vivian's**  
14 **Pathologically Narcissistic Personality Disorder.**

15 Phentermine is the "phen" in the now infamous fen-phen diet-pill combination.  
16 Phentermine is to be used only by the extremely obese and only for a short period of time – a  
17 few weeks. (Tahnee ¶20) Vivian has been taking Phentermine for at least five or six years, and  
18 likely for the last eight or nine years. Kirk has been unable to reason with Vivian for at least as  
19 long as she has been taking Phentermine. The Phentermine dosage Vivian takes is 37.5 mg.  
20 (Kirk ¶43)

21 Phentermine makes Vivian on edge, aggressive, volatile, and hostile. Sometimes  
22 Vivian will take another drug that will calm Vivian down and somewhat counteract the  
23 ill-effects of the Phentermine. Unfortunately, Vivian does not take this other drug for much of  
24 the time. (Kirk ¶43) On Monday, October 26, 2009, Vivian spent seven hours with Dr. Jeffry  
25 Life. Dr. Life prescribed medicine for Vivian to take, including Pregnyl and testosterone. Dr.  
26 Life also prescribed Phentermine to Vivian. Kirk asked Vivian after her meeting with Dr. Life  
27 if she told Dr. Life how long she has been taking Phentermine. She responded, "Why would I  
28

1 do that?" (Kirk ¶63) Unfortunately, the Phentermine abuse exacerbates Vivian's mental  
2 disorder. As Dr. Roitman opines:

3 Her drug use amplified her underlying psychopathology and  
4 worsened her obsessions and compulsive shopping for things she  
5 didn't need, such as thousands of dollars on clothes and sewing  
6 materials she never used, and insatiable thirst for information and  
7 affiliation with the actor, all of which was driven by illusions and  
8 distortions of reality.

9 (Exhibit 6 at 31).

10 In addition to the Phentermine abuse, there is a concern that Vivian has been abusing  
11 other drugs as well. On January 6, 2010, Whitney told Kirk that Vivian had recently asked  
12 where Whitney's ankle medicine was located (Whitney had surgery on her ankle after an  
13 accident during her senior year of high school – over four years before). Whitney told Vivian  
14 the medicine was old and Whitney had probably thrown it away. Vivian responded that she had  
15 seen the medicine in the lower drawer of Whitney's bathroom within the last few months.

16 (Whitney ¶20)

#### 17 IV.

#### 18 ARGUMENT

##### 19 A. **Brooke and Rylee's Interests Will Be Best Served with Kirk as Their 20 Primary Physical Custodian Pursuant to NRS 125.480.**

21 NRS 125.480(4) sets forth the specific findings the Court must make in "determining  
22 the best interest of the child." The factors overwhelmingly weigh in favor of granting primary  
23 physical custody of the Harrison minor children to Kirk.

##### 24 1. ***Vivian Has Trained Brooke and Rylee to Be Frightened and Insecure 25 Whenever They Can Not Sleep With Her At Night.***

26 NRS 125.480(4)(a) provides: "The wishes of the child if the child is of sufficient age  
27 and capacity to form an intelligent preference as to his or her custody." For years, Kirk has  
28 almost exclusively provided the care for Brooke and Rylee. Between January and November of  
2010, Vivian chose to be away from Brooke and Rylee for many weeks at a time. However,  
Vivian, when she is home, sleeps with Brooke and Rylee every night. Frankly, Brooke and



1 Rylee are extremely frightened to go to bed without Vivian. For this reason alone, Brooke  
2 and/or Rylee may express a preference to be with Vivian. This is despite the fact that when  
3 Kirk is not at home, Vivian is many times clueless as to whether Brooke and Rylee have had  
4 anything to eat for the entire day, let alone a dinner meal. It is well documented that the  
5 children of a narcissistic parent crave love from that parent despite the fact, as adults, those  
6 children are intellectually aware the narcissistic parent is not capable of giving that love. As  
7 Dr. Roitman explains in his attached report:

8 The narcissist is an emotional vampire, seducing others, and then  
9 taking what they need most. The kids do love her and are  
attached, but instead of giving back. Vivian feeds off them.

10 (Exhibit 6 at 33).

11 Under such circumstances, Kirk respectfully submits that this factor should be significantly  
12 discounted.

13 **2. *Kirk Will Ensure Vivian Receives Whatever Visitation the Court***  
14 ***Deems Appropriate.***

15 NRS 125.480(4)(c) requires this Court to consider "Which parent is more likely to  
16 allow the child to have frequent associations and a continuing relationship with the  
17 noncustodial parent." If the Court were to only examine what is in the best interest of Brooke  
18 and Rylee, in light of the neglect, emotional abandonment, physical abandonment, narcissistic  
19 feeding, and harmful insidious manipulation by Vivian, the Court would substantially limit  
20 Vivian's visitation with the children. She has continually disparaged Kirk in their presence,  
21 and in 2005, as detailed above, she secreted both children away from Kirk and their home for  
22 six weeks. These are absolutely not the actions of a parent who will in any way "allow the  
23 child to have frequent associations and a continuing relationship" with the other parent. Kirk,  
24 in contrast, will absolutely respect all orders of the Court and will honor whatever visitation  
25 the Court deems appropriate. As Dr. Roitman has opined:

26 Unfortunately, the only viable option for the health and well-  
27 being of [the] children is to visit with their mother only. They  
28 should not be controlled or directed by her. She should not try to  
reinsert herself into their lives as their parent. She is too unstable  
and volatile, and uses the children for her own psychological

needs. . . . Vivian, is in many ways, like a troubled older sister or friend, rather than a parent. Vivian discounts the children's feelings. If they visit her, instead of being parented by her, they stand a chance of understanding what is going on because they'll have a firm base and home to return to after their visits, and more easily tolerate Vivian's inconsistencies and lack of social and interpersonal skills.

(Exhibit 6 at 33).

**4. Vivian Has Been Responsible for Substantial Conflict In The Presence of Brooke and Rylee.**

NRS 125.480(4)(d) directs this Court to consider "The level of conflict between the parents." During the last five years, Kirk has done everything possible in an attempt to minimize conflict in the home, especially in front of Brooke and Rylee. Kirk has done this to the point that Tahnee has described Kirk as a doormat in his relationship with Vivian. Despite this, Vivian has initiated conflict and, unfortunately, oftentimes in the presence of Brooke and Rylee. Vivian has thrown coffee cups and books at Kirk in front of the children. In prior years, Vivian has struck Kirk with her fists. At no time during the entire relationship has Kirk ever struck Vivian, attempted to strike Vivian, or threatened to strike Vivian.

Vivian exhibits no restraint whatsoever in front of the children. She will scream at Kirk or one of the older children, spewing one vulgar word after another, and making threats, all in front of Brooke and Rylee. Dr. Roitman explains:

People with high narcissism tend to have strong aggressive and violent reactions to their sense of superiority or self-esteem . . . . When problems arise, Vivian reacts by blaming someone else for them. Vivian has fits of rage during which time she screams at or in front of the children, throws things (sometimes at people), curses, disrespects the children's father, and focuses only on herself, her wishes and her needs. She lacks shame or remorse. This level of engagement qualifies for Pathological Narcissism.

(Exhibit 6 at 29-30).

This factor clearly balances in favor of granting primary physical custody to Kirk.

**5. At This Point, Neither Kirk, Nor Anyone Else, Can Reason With Vivian.**

1 NRS 125.480(4)(e) notes as another factor: "The ability of the parents to cooperate to  
2 meet the needs of the child." Kirk has been unable to reason with Vivian for about as long as  
3 Vivian has been taking Phentermine – at least five to six years. (Kirk ¶43). "Vivian refuse[s] to  
4 work with her husband in parenting decisions, informing him that she is the mother and she  
5 will do what she wants." (Exhibit 6 at 29).

6  
7 **6. Vivian Has A Mental Disorder and Therefore Brooke and Rylee's Best  
Interests Will Be Served By Kirk Being the Primary Custodial Parent.**

8 NRS 125.480(4)(f) takes into account: "The mental and physical health of the parents."  
9 Vivian has a serious mental disorder. As a consequence of this disorder, Vivian spends most of  
10 her days unaware of and unconcerned for the needs, wants, and desires of Brooke and Rylee. It  
11 is also for this reason, that when Kirk is not at home for one night, there is a substantial risk  
12 that Brooke and Rylee go to bed without anything to eat. On the other hand, this mental  
13 disorder is also the reason why Vivian exhibits a continued pattern of lying to Brooke and  
14 Rylee and manipulating Brooke and Rylee, making Brooke and Rylee needy, insecure, and  
15 emotionally troubled. Dr. Roitman summarizes in his report:

16 Vivian Harrison manifests the criteria for a severe Narcissistic  
17 Personality Disorder with obsessive compulsive features . . . Her  
18 decompensation has been devastating to every member of the  
19 family, most especially her youngest children . . . Vivian's  
pathological Narcissistic Personality Disorder is near impossible  
to treat and her prognosis is very poor.

20 (Exhibit 6 at 30-31).

21  
22 Vivian emotionally manipulates Rylee on almost a nightly basis. Vivian sleeps with  
23 Brooke and Rylee, then gets up in the middle of the night and goes downstairs to get on the  
24 computer. Vivian purposefully leaves the door to the bedroom open and a light on downstairs,  
25 with the specific intention that Rylee, only eight years old, will awaken, become frightened, and  
26 half-asleep will negotiate the staircase in search of her mother. (Kirk ¶198) At eight years old,  
27 Rylee does not realize this is unacceptable behavior by a parent. Rylee only knows she is  
28

1 frightened and must find her mother to alleviate her fear. It is not in Brooke and Rylee's best  
2 interests to continue to be victimized by Vivian's pathologically narcissistic behavior.

3 In light of Vivian's mental disorder, there is a real concern, based upon her statements  
4 to members of the family. Vivian told Tahnee that Vivian would kill Jonathan Rhys Meyers if  
5 he ever met Tahnee and flirted with her. (Tahnee ¶17) (Kirk ¶58) Much more disturbing are  
6 Vivian's separate statements to Whitney and Kirk as to why Vivian did not ask Tahnee to  
7 accompany her on a trip to California for one of her many plastic surgeries. Vivian seriously  
8 believes that Tahnee might try to kill her. Prior to Vivian's first trip to see Dr. Griffin in  
9 California on February 17, 2010, Vivian asked Whitney to go with her as she will need  
10 someone to drive because Vivian was having fat injected into her butt. Whitney told Vivian  
11 that she could not go and suggested Vivian ask Tahnee. Vivian responded that she would not  
12 ask Tahnee because "Tahnee would smother me with a pillow in my sleep." (Whitney ¶22)  
13 Similarly, during a conversation with Kirk, Vivian said she wouldn't ask Tahnee to go with her,  
14 as Tahnee might try to kill her. She was not joking. (Kirk ¶92)

15 **7. *Kirk Is A Loving, Caring, and Attentive Parent Who Always Puts***  
16 ***Brooke and Rylee's Best Interests First.***

17 NRS 125.480(4)(g) considers: "The physical, developmental and emotional needs of  
18 the child." Kirk is the only parent in this household who is mentally and emotionally capable  
19 of considering and taking care of Brooke and Rylee's physical, developmental, and emotional  
20 needs. The Harrison's oldest daughter, Tahnee, now 26 years old, who started medical school  
21 this fall, attests:

22 My dad takes good care of Brooke and Rylee on a daily basis. He  
23 makes them a complete hot breakfast every school day morning  
24 and makes sure they always have a good dinner meal. He helps  
25 them with their homework whenever they need help. He takes  
26 them to and from school, to and from dance classes, and to and  
27 from any sports activities. My dad, Brooke and Rylee do their  
28 laundry together, when my mother is away on her many trips. He  
makes sure Brooke and Rylee take regular showers during the  
week and brush their teeth every night. He takes them shopping  
and to children's movies on a regular basis. He takes Brooke and  
Rylee to the ranch with their friends for fun weekends. When my  
dad has to be out of town, he calls every day he is gone and talks  
to Brooke and Rylee so they know he cares about them and to

1 make sure Brooke and Rylee have done their homework, have  
2 eaten dinner, and are going to bed on time. He is attentive, and  
3 Brooke and Rylee know he cares deeply about them and that they  
4 are loved by him.

5 (Tahnee ¶41)

6 In sharp contrast, Vivian rarely does anything with Brooke and Rylee or for Brooke and  
7 Rylee. (Whitney ¶26) (Tahnee ¶39) (Kirk ¶111).

8 Vivian doesn't have enough personality structure to cope with dissonance and  
9 uncomfortable feelings that are natural in family life. In lieu of accepting how  
10 things are and making the best of them, she reacts with vengeance, and strikes  
11 out, attacking even her own children in an unhappy attempt to find the problem  
12 (outside of herself) and fix it, resorting to rejection, threats, manipulation or  
13 abandonment to try to cause them to do what she can't do for herself. Instead of  
14 patience, support, understanding, gentle guidance and faith, she uses  
15 degeneration and attack.

16 (Exhibit 6 at 32).

17 **8. *Kirk's Relationship With Brooke and Rylee Is Strong and Healthy.***

18 NRS 125.480(4)(h) directs this court to also evaluate: "The nature of the relationship of  
19 the child with each parent." As the attached affidavits all reflect, Kirk has a very close attentive  
20 relationship with Brooke and Rylee on a daily basis. Brooke does not hesitate to tell Kirk when  
21 she has left something somewhere. Kirk takes Brooke and Rylee to buy most of the clothes  
22 they wear. Kirk has tried to instill confidence in Brooke so she will sleep alone.

23 Vivian's relationship with Brooke and Rylee stands in stark contrast to Kirk's  
24 relationship with Brooke and Rylee. When Brooke asks Vivian to take her to the mall, Vivian  
25 refuses, saying it is pointless. (Kirk ¶66) Brooke cannot understand why Vivian isn't more like  
26 her friends' mothers as her friends' mothers do things with their daughters. (Kirk ¶151)  
27 Despite repeated requests from Brooke, Vivian would not take Brooke to get new dance shoes.  
28 (Kirk ¶188) Brooke is afraid to tell Vivian she left her homework at someone else's home for  
fear of being scolded for interrupting Vivian while she is reading. (Whitney ¶12) Just about  
every time Brooke asks Vivian for help with something, Vivian tells her "later" and doesn't do  
anything. (Kirk ¶67) Brooke recognizes that Vivian has not acted like a mother for a number of  
years. (Kirk ¶155) Vivian threatened Brooke that if she slept with Kirk the following night,  
then Vivian and Rylee would sleep in Rylee's room and Brooke would be alone at night.

1 Vivian also made Brooke fearful that Vivian was going to have a sit down talk with her the  
2 next day and that was not a good thing. (Kirk ¶51)

3 Returning from the family ranch one evening, Kirk asked Vivian if Brooke and Rylee  
4 had eaten dinner. Vivian, in front of Brooke and Rylee, responded that they had dinner.  
5 Brooke later confessed she and Rylee didn't get any dinner, but she said she did not say  
6 anything earlier because she did not want to cause a problem after Vivian said they had eaten  
7 dinner. (Kirk ¶146). When Vivian is present, Brooke and Rylee are in an environment where  
8 they are afraid to say they didn't get anything for dinner.

9 Brooke brought her violin home from school three or four nights a week for several  
10 weeks. Brooke was bringing it home each night hoping that Vivian would listen to her play.  
11 However, Vivian always said she was too busy so Brooke stopped bringing the violin home.  
12 (Kirk ¶163).

13 The Harrisons' 24 year old daughter, Whitney, attests:

14 My Mother spends most of her waking hours by herself in the  
15 home office with the door closed. When you go in there she is  
16 usually on the internet shopping, reading, or watching a dvd with  
17 Jonathan Rhys Meyers. My Mother rarely cooks a meal for  
18 Brooke and Rylee. My Mother rarely cleans the kitchen. My  
19 Mother seldom does anything with Brooke and Rylee other than  
20 sleep in the same bed. My Mother seldom takes Brooke and  
21 Rylee anywhere or wants to do anything with them. My Mother  
22 normally doesn't help Brooke and Rylee with their homework.  
23 In conversations with my Mother the topics are usually about her  
24 – something she is buying, some cosmetic procedure, something  
25 about fashion, or something about Jonathan Rhys Meyers or the  
26 Hope Foundation. Almost every conversation with my Mother is  
27 about her. My Mother seldom talks about Brooke or Rylee or  
28 asks about my life or what I'm doing. When my Mother is home  
she doesn't do the laundry more than about once a month. On  
those days when my Dad goes to the ranch to work, there have  
been a number of times when my Mother doesn't get or make  
Brooke and Rylee dinner. My Mother is oblivious to Brooke and  
Rylee's needs most of the time. I don't think she is a good  
influence morally or shows them good character. She is obsessed  
with appearance and it is her practice of telling her children that  
they have physical defects.

(Whitney ¶26).

As Dr. Roitman summarizes:

Vivian's choices in parenting reward dysfunction and discourage  
personal responsibility and psychological growth. She fails as a

1 role model for her girls. Intimidation, threats and retaliation do not  
2 pass for parenting and since these are powerful, will tend to  
3 impress her children and interpersonal power, as they impressed  
4 Vivian. Their tendency will be to resort to these dysfunctional  
5 coping mechanisms when challenged. Further, Vivian's incapacity  
6 for empathy is devastating to a child who needs a parent to  
7 accurately reflect their feelings, understand and accepts their  
8 emotional pain, and help guide them through difficult times. Since,  
9 in the world of the narcissist, it's "all about me," there's no space  
10 left for the child's self. The child becomes an accessory to the self-  
11 involved parent. The obliviousness to their own feelings displaced  
12 by those of the parent perpetuates a cycle of social and emotional  
13 blindness.

14 (Exhibit 6 at 33)

15 **9. *Kirk Maintains a Close Relationship With All Of His Children.***

16 NRS 125.480(4)(I) also considers: "The ability of the child to maintain a relationship  
17 with any sibling." Once Vivian can no longer control any of her children, she physically and  
18 emotionally discards them. Joseph has recently transferred from the University of San Diego to  
19 UNLV. Joseph will stay in the same home as Kirk. Tahnee lives in an apartment in Henderson  
20 and will be attending UNR medical school in the fall. All three of the older children will stay  
21 with Kirk for Thanksgiving and Christmas holidays. The ability of Brooke and Rylee to  
22 maintain a close relationship with their older siblings will be maximized if Brooke and Rylee  
23 are living with Kirk. "Vivian has exhibited an adversarial behavior towards everyone in the  
24 Harrison family." (Exhibit 6 at 33). "Vivian is, in many ways, like a troubled older sister or  
25 friend, rather than a parent. If they visit with her, instead of being parented by her . . . They'll  
26 have a firm base and home to return to after their visits." (*Id.*)

27 **10. *Vivian Has A History of Focusing Away From Her Children, to the  
28 Point of Neglect.***

29 NRS 125.480(4)(j) factors in: "Any history of parental abuse or neglect of the child or a  
30 sibling of the child." As noted previously, at length, Vivian has physically and emotionally  
31 abandoned Brooke and Rylee since February of 2006. Vivian has consistently been indifferent  
32 to Brooke and Rylee for most of their lives. As Brooke so aptly and tragically said on  
33 September 19, 2010, "It's not as tough on Rylee because she has really never had a mom."

(Kirk ¶151) Vivian rarely does anything with Brooke and Rylee or for Brooke and Rylee.

(Whitney ¶26) (Tahnee ¶39) (Kirk ¶111)

Vivian's constant need to be the center of attention creates a toxic environment for the other members of the Harrison family. (Kirk ¶35, 36, 165, 172, 223) Vivian has created an atmosphere in the Harrison home where the dominant theme is to please Vivian. (Kirk ¶17) Vivian constantly criticizes other members of the family, thus placing herself in a position of superiority. (Kirk ¶96) Whenever Brooke does anything, Vivian says something negative about it. (Kirk ¶68) Whenever a problem arises, Vivian will immediately assess blame to another family member. (Kirk ¶19) Vivian becomes furious with anyone in the family that she perceives is trying "to get all the attention" (Kirk ¶36)

As Dr. Roitman expresses:

- "Vivian's insistence that Brooke and Rylee sleep with her "represent[s] a lack of empathy for their psychological needs." (Exhibit 6 at 18);
- "There is lack of concern in relationship to meals for the children." (*Id.* at 23);
- Vivian "demonstrates a disregard for her children's sense of security and abandonment." (*Id.* at 25);
- Vivian puts her own selfish beauty pursuits over the health and safety of her children;
- She schedules out-of-state plastic surgeries during the girls' school exam weeks. (Kirk p. 182);
- She takes international trips for weeks at a time;
- Vivian refuses to shop for the girls' needs. (Kirk p. 188); and
- As Brooke puts it, Rylee has "never had a mom." (Kirk p. 151).

Moreover, the crowded bed, caused by Vivian's insistence that the girls sleep with her, has destroyed their sleep habits and caused them to fall out of bed, resulting in an ER visit and stitches for Rylee.

Vivian's failure to heed warnings when slathering herself with prescription testosterone cream and then snuggling against Rylee all night arises to criminal proportions. NRS 200.508 addresses the criminal penalties for the abuse, neglect or endangerment of a child. NRS 200.508 (4)(a) provides:



1 “Abuse or neglect” means physical or mental injury of a nonaccidental nature,  
2 sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child  
3 under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, NRS  
432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which  
indicate the child’s health or welfare is harmed or threatened with harm.

4 Vivian knew or reasonably should have known the very foreseeable consequence of rubbing  
5 testosterone on her forearms and then getting in bed with Rylee, snuggling with her, and  
6 sleeping against her. This was no accident. Simple basic common sense precautions would  
7 have avoided this terrible situation that has now seriously compromised Rylee’s endocrine  
8 system. Had Vivian simply followed the precautionary advice undoubtedly given by Dr. Life  
9 and thereafter by the pharmacy, this horrific situation would have been avoided..

10 Despite being almost 12 years old, Brooke is extremely frightened at the prospect of  
11 having to sleep by herself. (Kirk ¶215). “Brooke’s growth and independence has been  
12 undermined, and she has lost her sense of personal space and security after her father set and  
13 reinforced boundaries that are good for her.” (Exhibit 6 at 33). If not ordered otherwise,  
14 Vivian will continue her emotionally destructive behavior, and the toxic environment for  
15 Brooke and Rylee will continue to exist.

16 Vivian thinks nothing of callously manipulating Brooke and Rylee to make them  
17 insecure and needy. It is taking its toll on both Brooke and Rylee. (Kirk ¶228) However, just  
18 like the older children, when Brooke and Rylee are too old to sleep with and too old to totally  
19 control, Vivian will reject them as she did with her three oldest children. At almost 49 years of  
20 age, Vivian wants another baby. (Tahnee ¶34) Vivian wants another child to narcissistically  
21 feed upon.

22  
23 ***11. Vivian Has Committed Acts of Domestic Violence Against the Children***  
24 ***and Kirk.***

25 NRS 125.480(4)(k) requires this Court to take into consideration: “Whether either  
26 parent or any other person seeking custody has engaged in an act of domestic violence against  
27 the child, a parent of the child or any other person residing with the child. NRS 33.018 sets  
28 forth what acts constitute domestic violence, and provides in relevant part:

1 1. Domestic violence occurs when a person commits one of the  
2 following acts against or upon the person's spouse or former  
3 spouse, any other person to whom the person is related by blood  
4 or marriage, any other person with whom the person is or was  
5 actually residing, any other person with whom the person has had  
6 or is having a dating relationship, any other person with whom  
7 the person has a child in common, the minor child of any of those

8 persons, the person's minor child or any other person who has  
9 been appointed the custodian or legal guardian for the person's  
10 minor child:

11 (a) A battery.

12 (b) An assault.

13 \* \* \*

14 Assault is defined in NRS 200.471(1)(a) as: "(1) Unlawfully attempting to use physical force  
15 against another person; or (2) Intentionally placing another person in reasonable apprehension  
16 of immediate bodily harm." Battery is defined in NRS 200.481(1)(a) as "any willful and  
17 unlawful use of force or violence upon the person of another."

18 Vivian committed an act of domestic violence and battery upon each of the older  
19 children when they were about 15 years old right before she kicked each of them out of the  
20 family home. (Kirk ¶29). Vivian committed another act of domestic violence against both  
21 Tahnee and Whitney in June of 2008. Whitney recounts the event in her affidavit:

22 Sometime in June of 2008, my Mother, Tahnee, Brooke, Rylee  
23 and I were riding in the car. My Mother began belittling my  
24 intelligence by comparing me to my best friend and criticizing me  
25 about my weight. My sister Tahnee then got in an argument with  
26 my Mother. My Mother started screaming obscenities and  
27 threatening to hurt Tahnee in front of Brooke and Rylee. My  
28 Mother stopped the car and started to attack Tahnee. I was trying  
to get Brooke and Rylee away from the screaming and likely  
violence when my Mother grabbed me by the hair and struck me  
very hard in the side of my head.

(Whitney ¶7) (Tahnee ¶7). Vivian committed yet another act of domestic violence in February,  
2009, when she threw a coffee cup and a book at Kirk. (Tahnee ¶9) (Kirk ¶47)

NRS 125.480 provides in relevant part as follows:

Best interest of child; considerations of court; presumption when  
court determines that parent or person residing with child is  
perpetrator of domestic violence.

1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interests of the child, the court may grant custody to the parties jointly.
2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.
3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:
  - (a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application. When awarding custody to either parent, the court shall consider, among other factors, which parent is more likely to allow the child to have frequent associations and a continuing relationship with the non-custodial parent.
  - (b) **To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.**
  - (c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this state.
  - (d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.
4. In determining the best interest of the child, the court shall consider, among other things:
  - (a) The wishes of the child if the child is of sufficient age and capacity to form and intelligent preference as to his custody;
  - (b) Any nomination by a parent of a guardian for the child; and
  - (c) Which parent is more likely to allow the child to have frequent associations and continuing relationship with the noncustodial parent.
  - (d) The level of conflict between the parents.
  - (e) The ability of the parents to cooperate to meet the needs of the child.
  - (f) The mental and physical health of the parents.
  - (g) The physical, developmental and emotional needs of the child.
  - (h) The nature of the relationship of the child with each parent.
  - (i) The ability of the child to maintain a relationship with any sibling.
  - (j) Any history of parental abuse or neglect of the child or a sibling of the child.

- (k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.
5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child.

**12. *Vivian Has Committed an Abduction Against Brooke and Rylee.***

NRS 125.480(4)(l) considers: "Whether either parent or any other person seeking custody has committed any act of abduction against the child or any other child." As detailed above, during the summer of 2005, Vivian suddenly and without explanation took Brooke and Rylee away from Kirk for about six weeks and secreted them away in hotels. Vivian willfully removed Brooke and Rylee from the custody of Kirk with the specific intent to deprive Kirk of his relationship with Brooke and Rylee. During that entire approximate six-week time period, Kirk was unable to see or talk to Brooke and Rylee – the sole exception being that Brooke called Kirk on her birthday on June 26, 2008. NRS 200.359(2) provides:

A parent who has joint legal custody of a child pursuant to NRS 125.465 shall not willfully conceal or remove the child from the custody of the other parent with the specific intent to deprive the other parent of the parent and child relationship. A person who violates this subsection shall be punished as provided in subsection 1.

Subsection 1 of NRS 200.359 provides in relevant part that a person who violates Subsection 2 above "is guilty of a category D felony and shall be punished as proved in NRS 193.130."

**B. Brooke and Rylee's Best Interests Will Be Served By Kirk Obtaining Exclusive Possession of the Marital Residence.**

1 Kirk wishes to maintain the greatest degree of stability for Brooke and Rylee. Kirk has  
2 worked tirelessly in the home to make a good loving home for Brooke and Rylee during the last  
3 five and one-half years, and would like to maintain the continuity of the home for the benefit of  
4 Brooke and Rylee. Brooke and Rylee are attached to their home, the neighborhood and their  
5 friends, and it would only cause unnecessary disruption to force them to move from their home.

6 Despite Vivian's assertions over the years to the other members of the family that the  
7 family home, and just about everything in it, is hers and no one else's, the adult children, as  
8 well as Brooke and Rylee feel, this is their home. If Kirk, Brooke and Rylee are in the home,  
9 then Joseph will live in the home. Similarly, if Kirk, Brooke and Rylee are in the home, then  
10 possibly Tahnee will live in the home during the summers and during her last two years of  
11 medical school. Brooke and Rylee will benefit from the continued association and relationship  
12 with their older siblings, who love Brooke and Rylee and care about them.

13 It makes no sense whatsoever to force Kirk and all of the children to move to a different  
14 house and have Vivian alone in the large family home. Through her actions, Vivian has made  
15 it very clear she has no particular affinity for the home as Vivian has not hesitated to leave the  
16 home and her children on numerous extended trips. Moreover, Vivian has amply demonstrated  
17 she does not need the home as for a number of years she has primarily utilized only Brooke's  
18 bedroom, the family home office, and a bathroom.

19 For these reasons, Kirk respectfully requests the he be granted exclusive possession of  
20 the marital residence during the pendency of this action.

21 V.

22 **CONCLUSION**

23 Vivian has a serious mental disorder that makes it impossible for her to have a normal,  
24 healthy relationship her children. Brooke and Rylee should not be forced to daily suffer the  
25 consequences of Vivian's NPD when they have a much better, safer, and healthier alternative in  
26 Kirk.

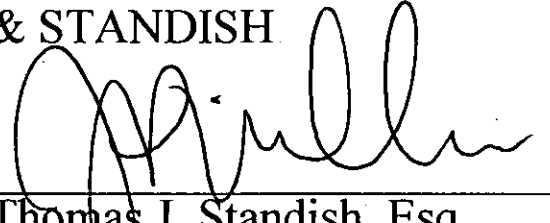
27 When Kirk saw that Brooke and Rylee needed him, Kirk walked away from his career  
28 to take care of them. Vivian, on the other hand, cannot see anything but Vivian – what Vivian

1 wants, what Vivian needs, how Vivian looks. Vivian is unaware of Brooke and Rylee's needs.  
2 Vivian rarely does anything with Brooke and Rylee or for Brooke and Rylee. (Whitney ¶26)  
3 (Tahnee ¶39) (Kirk ¶111) Vivian's lack of empathy is so damaging to Brooke and Rylee.  
4 Vivian walked away from Brooke and Rylee years ago to solely focus on Vivian's selfish wants  
5 and desires. There is no indication whatsoever that anything has changed.

6 Based on all of the foregoing, Kirk submits that it is in Brooke and Rylee's best  
7 interests for Kirk to be granted primary physical custody of them, and also be granted exclusive  
8 possession of the marital residence.

9 DATED this 14<sup>th</sup> day of September, 2011.

10 JOLLEY URGAL WIRTH WOODBURY  
11 & STANDISH

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7 DISTRICT COURT

8 CLARK COUNTY, NEVADA

9 KIRK ROSS HARRISON

10 Plaintiff(s),

11 -vs-

12 VIVIAN MARIE LEE HARRISON

13 Defendant(s).

CASE NO. D443611

DEPT. NO. I

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

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

15 MOTION FOR OPPOSITION TO Joint Legal and Primary Physical Custody and Excl

16 **Motions and**  
17 **Oppositions to Motions**  
18 **filed after entry of a final**  
19 **order pursuant to NRS**  
20 **125, 125B or 125C are**  
21 **subject to the Re-open**  
22 **filing fee of \$25.00,**  
23 **unless specifically**  
24 **excluded. (NRS 19.0312)**

**NOTICE:**

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

**Mark correct answer with an "X."**

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

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

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

27 Dated this 14 of September, 20011

28 Alex Matter  
Printed Name of Preparer

[Signature]  
Signature of Preparer

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

## EXHIBIT 1



**AFFIDAVIT OF KIRK R. HARRISON**  
**filed in Support of Plaintiff's Motion for Primary Custody**  
**and Exclusive Possession of Marital Residence**

STATE OF NEVADA            )  
  )       ss.  
COUNTY OF CLARK        )

KIRK R. HARRISON, declares and says:

1.       The matters stated in this Affidavit are based upon my personal knowledge (or upon information and belief if so stated). If called upon to testify, I could and would competently testify to the facts set forth herein.

2.       In retrospect, during the first year Vivian and I were together before we were married, she said what she thought I wanted to hear and did what she thought I wanted her to do.

3.       During the first year or so we were together, Vivian told me a lot about her childhood. What she told me caused me to care more for her. Unfortunately, I was not smart enough to realize the problems her childhood would cause our family later in life.

4.       When Vivian was four years old, her father abandoned her family, which included her mother, an older half sister, Cindy, an older sister, Raylene, and a younger brother, Harold. After her father abandoned the family, he made no effort to contact Vivian. Vivian discovered years later that he did maintain contact with her sister, and possibly her brother as well. Her mother remarried, but her step father killed himself.

5.       Vivian's mother worked swing shift, and as a consequence, Vivian had very little parental supervision growing up. Vivian and her siblings ate cereal most of the time. Vivian spent almost every day without any parental presence, love, support or encouragement. According to Vivian, she and all of her siblings became wards of the court because of parental abuse and neglect. Vivian was introduced to drug abuse while at Nike House.

6. Vivian's childhood environment was one of not only extreme neglect, but of emotional abuse as well. My impression is that Vivian yearned for love and care from people who neither had the capacity nor desire to give it. I personally observed that Vivian's mother, Radna, and her parents, Harold and Honey, were not loving caring people. Vivian learned sometime in the last few years that her grandfather, Harold, had killed a man. In Vivian's family, playing bingo was much more important than spending time with the children – much more important than attending a grandchild's birthday party. Although, Vivian's mother lived in the Las Vegas Valley, she never attended any of our children's birthday parties. She could not miss bingo. And as I have recently learned, I am confident she didn't want to attend a function where someone else was getting all of the attention.

7. Vivian's mother and grandparents were controlling and cold-hearted. Vivian said her mother grabbed her by the hair and drug her on the hot asphalt of a Kmart parking lot one summer because Vivian wanted designer jeans. The children were told that if someone else was paying for dinner, then the person paying chose what the children were to eat. This was still going on when Vivian was nineteen years old.

8. I witnessed first hand the dysfunctional dynamics that existed in Vivian's family. Vivian's grandparents and mother treated the children and grandchildren as puppets -- controlling each of them and making every decision that affected them – and each starved for love, attention and recognition. Vivian's grandparents and mother constantly deflected the responsibility for their children to others. There was something wrong with the school system – none of the children graduated from regular high school. There was something wrong with the court system – all the children were taken from them.

9. Vivian's grandparents and mother's idea of being a responsible parent was to totally control the children and when the children could not be totally controlled they were discarded – kicked out of the house, “juvy” was called, became part of the court system, became someone else's problem. Not long after Vivian and I were together, Vivian's mother kicked her brother, Harold, out of the house. Harold was probably 15 or 16 at the time. Vivian asked me to talk with her mother on Harold's behalf to plead with her to let him back home. I have never dealt with such a cold-hearted person. Vivian's mother was delighted and gushing over the attention she was getting. However, she had no feeling for her own son whatsoever or the adverse ramifications for him. At that time it was hard for me to imagine someone so cold-hearted about one of their own children. I told Vivian after this meeting with her mother that had I told her mother that her son had been killed in a car accident, she would not have blinked. Until you deal with someone like this, you cannot imagine the coldness.

10. The consequences of this type of childhood were manifested in the lives of Vivian and her siblings. While living at Nike House, Vivian started using drugs. Vivian lived with a man named Larry when she was sixteen or seventeen years old. Vivian and Larry did drugs together. Prior to meeting me, Vivian was seeing a man named Russell who was a gambler from New York City. Russell would stay at Caesar's Palace when he would come to Las Vegas to gamble. Vivian told me that when Russell came to town, she and Russell would do lines of cocaine together in his hotel room at Caesar's Palace. Vivian's older half sister, Cindy (she insisted upon being called “Angel”), became a stripper at the Palomino Club, a drug addict, and, Vivian suspected, probably a prostitute. Cindy's children were neglected and abused. She died of a drug overdose while in her early thirties, which was probably a suicide. Vivian's other sister, according to Vivian, has been married six or seven times and has lived with as many or

more men. Her brother, who spent a lot of time when he was young with his best friends, Shane and Mike, and their family, has fared much better. He has been married and divorced twice, but seems to be more stable. Vivian told me of her prior drug use very near the time we were getting married. I was devastated. She assured me it was in her past and because of the experience she would be the last person on the planet to ever do drugs in the future. I believed her.

11. After we were married Vivian started to behave selfishly. I remember we would have a trip planned and, because of my work, we sometimes would have to leave late. Her comment was not I know you are doing the best you can, or I hope this does not ruin **our** trip, but more of a threatening, “don’t ruin **my** trip.” At first I thought she was joking. When I realized she wasn’t, I wrote such comments off to immaturity.

12. After our first child was born, I was very encouraged as Vivian was a very attentive mother. However, as the years went by it became evident that Vivian’s motivation was for her to get credit for our children’s successes and viewed the children as a vehicle to draw attention to herself.

13. Vivian preyed upon our oldest daughter’s desire to please her parents, especially Vivian. For example, Vivian enrolled her in many dance classes beginning when she was about nine or ten years old. Vivian made all the decisions. What Tahnee wanted wasn’t important. It was what Vivian wanted. When Tahnee was about 14 years old, I asked her what dance classes she had that day. She had no idea. She just did what Vivian told her to do.

14. Vivian, although very smart, has no artistic ability, relatively little, if any, musical talent, and little athletic ability. In stark contrast, Tahnee, since the age of 3, has demonstrated incredible artistic ability. Tahnee possesses superlative musical talents – is an accomplished pianist and wonderful composer. Tahnee has a lot of natural athletic ability which enabled her to

learn and master tap dancing at an accelerated rate and to become a highly decorated golfer when she was just 15 years old (Nevada AAA Player of the Year). Also when Tahnee was 15 years old, Vivian enrolled her in the Miss Teen Nevada beauty pageant, which Tahnee won.

15. Growing up, Tahnee's mission each day was to please Vivian. Both I and family friends could not help but notice how Vivian would focus so much upon Tahnee relative to our other children and how quick Vivian would be to take credit for each of Tahnee's successes.

16. Beginning when they were still 10 or 11 years old, our children would come to me complaining that Vivian was trying to take credit for their successes, such as a golf tournament in which they did well.

17. Over the years the predominant theme in our home has been to please Vivian.

18. As the years passed, Vivian had to be the center of attention. Vivian would try to take credit for others successes, and when she saw that was not possible, she would minimize those successes.

19. Vivian's grandparents and mother were inept in dealing with the challenges and obstacles in their lives. However, they were very adept at blaming others for their problems and failings. Although a family does not need anyone in charge of blaming others, Vivian assumed the role of being in charge of blame in our family. Whenever there is a problem of any kind, Vivian's first response is to not address the problem, but to immediately assess blame to someone else, or if it was obvious it was not someone else's fault, then to disavow any responsibility for the problem and to make it clear she should not be blamed. On the other hand, whenever there was a success or the likelihood of a future success, Vivian will come up with the most bizarre tenuous interpretations in an effort for her to claim credit for the success. When I practiced law, I generally would not talk about my work because of the attorney-client privilege

and because I lived my cases already and talking about them with my wife only caused me to feel more stressed. However, years ago I would share with Vivian general issues concerning some of my cases. My cases were typically technically complex multi-party disputes that went on for years. On more than one occasion, when I would have a favorable outcome in a case years later, Vivian would say the reason I won the case, was because of a conversation she had with me back whenever. More recently, a friend of more than 20 years and I are starting a new alternative energy company. Despite MIT mapping indicating Boulder City as a preferred site, despite my friend's intimate knowledge of the site – through his consulting work – Vivian is adamant that the reason we have selected Boulder City for the first project is because she suggested it.

20. Vivian's mother had no friends. Her grandfather had no friends. Her grandmother had no friends. When I met her, Vivian really didn't have any friends. Vivian's maid of honor at our wedding told me how surprised she was when Vivian asked her as they really weren't that good of friends. Vivian was never taught how to play well with others and she hasn't figured it out how on her own. Her need to be in the spotlight and have control has a lot to do with it. Her need to place blame upon others for every problem and to take credit for every success are also obvious impediments to maintaining a friendship. Vivian has no long term friends. Vivian's current three friends haven't got a clue how Vivian is truly living her life, and how emotionally abusive Vivian is to Brooke and Rylee. Vivian is resentful and jealous of the relationship I have with each of my friends. At every opportunity, she will criticize or demean my friends and make fun of my friendships.

21. For the last several months of 2008, Vivian began criticizing me for not working enough. She told me how hard she works versus how I don't work. On the days she doesn't think I work hard enough she criticizes me, telling me about everything she has done or is going

to do that day – she taught a class. This is the most bizarre situation – totally devoid of reality. As a result of my hard work, Vivian has never had to work outside of the home. Solely as a result of my hard work, Vivian has gotten just about everything she has ever wanted since we have been together – I paid for her undergraduate degree, she only had about three semesters of credit when she moved in with me; I paid for her to get a masters in accounting; singing lessons in LA with Seth (Michael Jackson’s voice coach); personal trainers; multiple plastic surgeries; diet doctors; a week in Santa Monica with a world renown diet/exercise guru – Michael Thurman; seemingly every diet meal plan known to mankind; extended stays at world class spas; a caravan of UPS trucks delivering package after package for Vivian; wardrobe after wardrobe; nice homes; nice cars; nice vacations, including cruises and trips to Europe. Vivian has had sewing lessons all over the country (she rarely sews), purchased several different expensive sewing machines, hundreds of spools of thread, cloth, sewing supplies, and books from around the world on sewing.

22. Ironically, Vivian has never been willing to take the time to cook meals for the family on a regular basis. Vivian rarely cooks breakfast. Vivian rarely makes lunch. During our entire marriage she hasn’t averaged cooking dinner more than once in a week or two. She will go several weeks and never cook dinner. Our older children grew up eating cereal and fast food. I have always done about 99% of the grocery shopping for the family. I recently learned from my older children that Vivian was so inconsistent in providing meals when they were younger, they resorted to hoarding food.

23. Vivian’s perspective of the relative responsibilities as a married couple is off the charts. She has no problem whatsoever in me providing a roof over her head, the clothes she wears, the food she eats, and everything else she has. However, it really bothers her to cook a

meal for me. She thinks it is demeaning to her. All the years I worked so hard, Vivian would never cook me dinner. If I happened to come home when she was cooking dinner for the kids, a very rare occasion, I could have some. According to Vivian, she has been entitled to everything she has gotten from my efforts, with no obligation to do anything for me or the children. I had to earn everything I got.

24. Vivian only does laundry once every four to five weeks. As a consequence of this infrequency in doing laundry, years ago I would be in the middle of a trial and be washing underwear and socks in the middle of the night. I have been washing my own clothes for over 20 years.

25. Our home is our home; growing up in my family, the children intellectually understood that legally our parents owned the home, but it was always our home – my parents, my sisters, and mine. In conversations with me as well as our children, Vivian insists upon referring to our home as her home saying, “my home” or the home office as “my office”. The negative pregnant of saying “my home” is that it isn’t someone else’s home. Vivian has told our older children it is her home as opposed to my home. Vivian could care less of the damage she does to our children.

26. When Whitney was in the seventh or eighth grade, Vivian wanted to send Whitney away to boarding school because Vivian didn’t like the way that Whitney looked at her. Vivian also resented the fact that Whitney preferred spending time with other families – first the Ripplingers and then the Merrells.

27. Vivian’s defensive personality alienates just about everyone around her. Her first response to almost any matter broached with her is to criticize and be antagonistic. If it is something not subject to criticism, she will minimize its importance. If it is a positive outcome,



she will try to take credit for it. If she can't "get all the attention" in a social setting, she doesn't want to participate. She must believe she has control and exercise power in almost every relationship.

28. On numerous occasions when the our oldest children were in their early and mid-teens, Vivian would call me at work and tell me there had been a "big blow up." When I got home from work, Vivian would describe to me some alleged horrible misbehavior by one of our children and, defensively, her innocent role in the "big blow up." On most of these occasions, our other children were witnesses to the "big blow up." I would talk to each of the children separately in an effort to solve the then pending problem. Without exception, on each such occasion, the independent rendition of what had occurred from each of the children was amazingly consistent and always very inconsistent with Vivian's version of what had occurred. All three of our oldest children have bitterly complained of how Vivian will color her version of an argument or dispute between the children and her. These incidents were usually started by an effort by Vivian to take credit for one of their successes, by Vivian unjustifiably criticizing one of them, by Vivian saying something to them that was patently not true, or by Vivian saying something falsely negative about me for which one of the children came to my defense.

29. Vivian's mother and her grandparents' solution for any problem with one of their children was to kick them out of the house. When Vivian saw that she was losing her absolute and total control of Tahnee -- when Tahnee was 15 years old -- Vivian hit Tahnee and kicked her out of the house. I came home from work and pleaded with Vivian to let Tahnee back in the house. This scenario happened more than once with Tahnee. This pattern was repeated with Whitney and also with Joseph. She wanted to call the police and "juvy" to come pick up Joseph on two different occasions. There was never any alcohol, drugs, late nights, promiscuity, open

defiance, or bad grades. Their only “fault” was to want some independence from Vivian or to dare question a decision she made concerning them.

30. The repeated scenario where Vivian would kick one of our children out of their home and I would plead with her to let them back in our home, changed my relationship with Vivian. From her perspective, she saw weakness – a weakness she would continue to exploit during the rest of our marriage. Whenever Vivian did not get her way, she would threaten to take the children from me.

31. When Vivian was pregnant with Rylee, Vivian complained to me that she wanted to have the baby, but her doctor refused to induce labor saying the baby was not ready. Vivian did not seem to care what was best for the baby and drank a bottle of castor oil. I think Vivian also took something else to induce labor as well, but I cannot remember what it was. The older children and I were in the delivery room when Rylee was born. The doctor was visibly upset and worried about the baby. I remember the baby came out very fast which caused Vivian to tear excessively. It was a scary experience. After my older children and I left, it took the doctor quite some time to stitch Vivian. I worry that Rylee’s traumatic birth may have something to do with Rylee’s current health issues: she has an almost insatiable appetite; she has severe allergies, and; she is short of breath with minimal exertion. I also worry that Rylee may have health issues later in life as a consequence of her totally unnecessary traumatic birth.

32. During the summer of 2005, Vivian abruptly took Brooke and Rylee and the three of them lived in a hotel at Lake Las Vegas. She kept where they were staying secret from me. I didn’t see Brooke and Rylee for about six weeks, including June 26, 2005, Brooke’s birthday. When they returned, Vivian threatened divorce, but would never articulate what was wrong, other than to say that I worked too much and it was abusive to her. I told her that I would retire.

Soon thereafter, I told my partners that I would retire upon the expiration of our existing office lease on January 31, 2006. My motivation to retire was that I realized at this point there was something seriously wrong with Vivian and that I needed to be there for Brooke and Rylee. Had we divorced while I was still working, Vivian would have them most of the time and that most definitely was not in their best interest.

33. Vivian sleeps with Brooke and Rylee at night. Many nights she will go to bed before Brooke and Rylee, but always sleeps in Brooke's bed. Vivian gets up during the middle of the night, goes downstairs, and gets on the internet, talks on Face Book, researches items, and orders merchandise. When Vivian gets up, she leaves the bedroom door open and a light on at the base of the stairs. Probably four to five mornings out of seven, Rylee will wake up scared and at 3:00 a.m. or 4:00 a.m. and walk down the stairs looking for Vivian. This has been a recurring source of friction between Vivian and I. On March 21, 2010, I gave Vivian a memorandum summarizing the damage she was doing to Brooke and Rylee by sleeping with them. A true and correct copy of this memorandum is attached hereto as Exhibit "A" and by this reference incorporated herein. Brooke is eleven and Rylee is eight, and Vivian still sleeps with them.

34. Vivian's condition has deteriorated significantly during the last six years to the point that she is almost totally self-absorbed, suffers from delusions, and generally lives in a false reality she alone has created that many times is at odds with the real world.

35. This overriding need to be the center of attention, to be revered by others, to criticize others, and to have power over others, are Vivian's dominant personality traits.

36. Whitney brought her first boyfriend, Sean, home to meet the family in May of 2008. I took Whitney and Sean to the ranch, Zion Park, and Bryce Canyon Park. I told Vivian

we ought to have a family barbecue for Sean while he was here and I was going to barbeque ribs. Her response was like why are you telling me as if I care. Joseph invited his girl friend, Evi, as well as her mom and dad. I was barbequing and everyone was pitching in making preparations for the dinner. No one knew where Vivian was. I found her in the craft room sitting on the floor. I asked if she was ok. No response. I said you ought to come out and say hello to everyone. She became emotional, started crying, flipped me the bird, and said "Fuck you." I said what was that for? She said, "You know just what you have done to me." She later told her friend, Nyla, that I was trying to steal all of the attention by doing the barbeque.

37. Since they have been to college, on at least two occasions, Tahnee and Whitney have been told by Vivian that she never wanted to see them again and they can never come home again. Vivian rarely telephones our older children when they are away to college. I think she has gone two entire semesters with Whitney and one entire semester with Joseph, and not called them one time. If they call her, she will speak to them.

38. Each of our three oldest children have developed different coping skills in their attempt to deal with Vivian when she starts after them, usually about something that is their responsibility – not hers. Joseph simply says, "stop, please stop." Whitney is better at seeing it coming and tries to get away. Tahnee asks to stop talking about it. All of them are trying to avoid the violent eruption that will likely ensue.

39. On Thursday, July 31, 2008, Brooke hit Rylee and Rylee began to cry. I was in the next room and I began to question Brooke as to what happened. Vivian came from another room, interrupted me and disciplined Brooke. I later asked her not to do that again. She began screaming that she had been the primary parent for 25 years and I should go back to work. I told her she was not the exclusive parent and that Rylee was only 5 years old. She was screaming in

front of Brooke and Rylee. As usual, Vivian's focus was on what Vivian wanted, Vivian's control – it had nothing to do with what was best for Brooke and Rylee.

40. For as long as I can remember it has been difficult to discuss anything of substance with Vivian. She will state a position and it is irrelevant what you say or how lacking in merit her position is – she will not change her position. Similarly, whenever you broach anything with her, she will respond negatively and insensitively. This behavior has been noted by each of the three oldest children. Tahnee took the MCAT on Friday, September 4, 2009. She didn't think she did very well. When she broached the subject with Vivian, her response was negative and non-supportive.

41. Sometime in June of 2008, Vivian, Whitney, Brooke and Rylee were riding in the car. Vivian began belittling Whitney's intelligence and criticizing her for her weight. Tahnee then got in an argument with Vivian. Vivian started screaming obscenities and threatening to hurt Tahnee in front of Brooke and Rylee. Vivian stopped the car and started to attack Tahnee. Whitney was trying to get Brooke and Rylee out of harm's way when Vivian struck Whitney in the head. Both Tahnee and Whitney told me that while they were in the car that Vivian belittled Whitney's intelligence by comparing her to one of Whitney's best friends – Shilpa. They both said that Vivian had criticized Whitney about her weight. When Whitney's boyfriend, Sean, was here, Vivian told Tahnee she couldn't understand why Sean liked Whitney given how overweight she is. I told Tahnee how bizarre is it for a mother to say such things to and about her own children, let alone even think such things. Tahnee and I both agreed how this highlights just how incredibly insecure Vivian has become and that Vivian feels she is in competition with her own children and feels threatened by them.

42. About June 14, 2008 Vivian and I had a fight after she told me her version of the fight with Tahnee and Whitney. I reminded Vivian that she has on more than one occasion struck both Tahnee and Whitney in the face. I said that when Brooke and Rylee get to be 15 or 16 years old, she will strike them as well unless she does something to change. I told her that none of our children are going to be struck in the face again. She said that she wanted a divorce.

43. Vivian has taken the diet drug Phentermine for many years. I believe that she has taking it for at least five or six years, and probably closer to eight or nine years. I have been unable to reason with Vivian for at least as long as she has been taking Phentermine. The Phentermine dosage Vivian takes is 37.5 mg. Over the years, Vivian takes another drug because Phentermine makes Vivian irritable, on edge, agitated, aggressive, volatile, and hostile. Unfortunately, she does not take this other drug much of the time. Vivian has complained that she suffers from insomnia since Rylee was born. I am starting to be very concerned that Vivian was taking Phentermine while pregnant with Rylee and/or when she was nursing Rylee, and this might also have something to do with Rylee's current health issues. In addition to her prolonged use of diet pills, beginning in the spring of 2009, Vivian started taking injections of HCG, which initially was prescribed by a doctor in St. George, Utah. Several different doctors in Las Vegas have prescribed either Chorionic Gonadotropin or Pregnyl. It is my understanding that you are only supposed to take the injections for a limited time of 28 days, or at most about 46 days. Vivian has done the injections multiple times for as much as six months at a time. Some of the doctors prescribing diet related drugs to Vivian include Dr. J. R. Martin, Dr. Sean R. Duffy, Dr. Jeffry Life, and Dr. Warren Smith.

44. During the late summer of 2008, I was lucky enough to go to Australia and spend time with Whitney during her semester break. I had expressed concern about going out on a dive

boat for three days on the Great Barrier Reef and had left messages with Vivian in the event something happened. Whitney was later on the telephone with Vivian. Vivian was in the car with Brooke and Rylee. In front of Brooke and Rylee, Vivian told Whitney, “your dad didn’t leave the most important information – where the money is.” She also told Whitney, also in front of Brooke and Rylee, “be sure and cut your dad before he gets into the water, to make sure the sharks can do their job.”

45 Sometime in early 2009, Vivian said she wanted me to kick Tahnee out of the house because Vivian said that every time she asked Tahnee to watch the kids, Tahnee thought she was doing a big favor for Vivian and Vivian was “sick of that selfish bitch.”

46. John Y., a good friend, is a member of a duck hunting lease in Alamo, Nevada. In 2008 and 2009, John was kind enough to invite me to go duck hunting with him on this lease. Several days before we went, he asked if I would go with him to bring his trailer and atv back from the lease. I told him I would be glad to help. At about 4:00 p.m. on Friday, January 30, 2009 John and I were driving back from the lease. Vivian called asking when I would be home. I told her about 4:30 p.m. She said good, because she was going to dinner with her friend, Michelle W., and needed me to watch the girls. I told her no problem. Upon hearing this, John asked if the girls and I wanted to go out for dinner with his family. He said it would be great to have a family dinner of the two families. I said sure and asked, if he minded if Tahnee went as well. He said no. I telephoned Tahnee to see if she wanted to go to dinner with John and his family. She replied that if she could get ready in time she was going to dinner with Vivian and Michelle. When I got home, Vivian tells me for the first time that I am also supposed to watch Anna, Michelle’s 5 year old daughter and Rylee’s best friend. I told her I wished she had told me before, because I had already accepted a dinner invitation for the girls and I to go to dinner with

John's family. I then called Michelle and asked if her older children were going to be home that night (Michelle's older children watch Anna most of the time Michelle and her husband are not home). If they weren't, I was going to call John to see if it was alright to bring another 5 year old to dinner. However, Michelle said her other children were going to be home. I explained that another family had invited our family to dinner and wondered if it would be ok if Michelle's older kids watched Anna. Michelle said that would be fine. Later, I received the following text from Tahnee, who was with Vivian and Michele, "the anna thing was a bad idea dad... now mom says shes leaving you..." I sent the following text in reply, "john invited our family to go with his upon hearing mom was going out with someone else. It would have been inappropriate to show up with someone from another family. Mom never told me about anna." Tahnee then responded, "its between you and mom but I don't think it should have been that big of a deal... mom is really upset about it though. Its reminding her of when you didnt want to bother john about feeding bella and when you didnt want john to wait so you could drop off brookes stuff this morning..." I then responded, "I took brooke to choir at 7:30. Rylee & anna to school at 8. We were running late. Mom couldn't make one trip to school? This is an impossible situation!" The next day, Vivian explodes about this Anna incident from the day before. She tells me she will stay in the house until Brooke and Rylee go away to college, but that we are no longer married. I asked her if there was someone else. She said there wasn't. I asked her if she was interested in someone else. She said she wasn't, but would tell me if and when.

47. On Friday, February 27, 2009, Kim B. telephoned Vivian in the morning asking if her daughters, Kennedy and Kamry, could stay at our house after school and if Vivian could take them to dance class. Vivian agreed. Later in the day, I told Vivian I had to drive in to Las Vegas to meet with an accountant. She said I couldn't go because she had to be at a fashion show from



4 p.m. until about 8:30 p.m.. I said if you knew that, why did you agree to watch Kim's kids? I said, don't you think you should have checked with me first, to see if I was available to watch the kids. She blew up, saying how she had watched Stephanie Y. when I had gone somewhere with her parents. She then threw a coffee mug at me. When I tried to respond, she threw a book at me. I tried to make the point that Vivian was asked beforehand if she could watch Stephanie. This incident highlights the unreasonableness in dealing with Vivian. Something that is so trivial, so unimportant, becomes a crisis.

48. On Saturday, March 7, 2009, the family went to dinner at the new location of the Southwest Diner. At the table were Vivian, Tahnee, Brooke (9 years old), Rylee (6 years old), and their friend, Stephanie Y. (9 or 10 years old). I looked across the room and saw Janet D., who both Vivian and I have gone to for massages. I said there's Janet. Vivian, in front of the children, responded so all could hear, "She probably doesn't recognize you with your clothes on."

49. Each week day morning I take Brooke, Rylee, and Anna W. to school. Each afternoon Michele W., Anna's mom, brings Rylee and Anna home from school. On Tuesday morning, March 10, 2009, I told Vivian I had to run errands in town after taking the girls to school. Michele called later in the morning saying Anna had hurt her foot the day before in dance class and Michelle was taking her to the doctor this morning and I did not need to pick her up. At about 1:30 p.m. I get a call from Vivian which I promptly returned. She asked me if I was going to pick the girls up from school. I said no that I was going to be in town for some time. She said that Anna had broken her foot at dance yesterday (Vivian had obviously gotten a call from Michele) and I needed to pick the girls up from school. I said I would not be home in time and she needed to do it. Vivian then said it was not very good planning on my part since I

knew Anna was going to the doctor this morning. I said that didn't mean she wasn't going to school. Vivian then said, "You just don't have the vision I do" and hung up.

50. On Thursday, March 12, 2009, I was at the MWC basketball tournament with Cam W. when I received a telephone call from Tahnee. She said that Vivian told her I had just cooked two dinners for Brooke and Rylee this week and it is the first time I had cooked dinner in ten years. The reality is that I cook dinner probably at least three to four three times a week because Vivian rarely cooks dinner. The difference is that Nyla R. happened to come by during two of the times I cooked dinner this week. Vivian then told Tahnee that she thought I was cooking the dinners because I was planning on filing for divorce and I was trying to set it up so I would get custody of Brooke and Rylee. Tahnee told Vivian that she was paranoid and that I had cooked dinner many times before. Vivian persisted and Tahnee made the mistake of saying she had cooked dinner for Brooke and Rylee as well and that she, Tahnee, and I were simply trying to fill in the gap – implying that Vivian was not doing what she should be doing. Vivian then went crazy telling Tahnee that she never wanted to speak to her again. After Vivian said that, Tahnee responded by telling Vivian that she was psycho and that dad was right when he said in Vivian's family when they couldn't control their children they simply discarded them and kicked them out of their home. Tahnee said she wanted to move out of the house and said that I needed to do something. She said I should file for divorce. I told her that in her mother's condition, if we got a divorce and Vivian had partial custody, I would be fearful for Brooke and Rylee.

51. I got a birthday cake for Joseph and cooked a birthday dinner on March 16, 2009. Everyone, but Whitney was at the dinner table. Brooke joked she wished she spoke Spanish so she could ask the cleaning lady where she put her Nintendo game. Vivian said she is sure the cleaning ladies would not take it out of the room. Tahnee commented they had moved stuff from

her bedroom to her bathroom. Whereupon Vivian said that this is her house, she will have the cleaning ladies not clean Tahnee's room anymore, and that Tahnee is lucky she does not have to pay rent. After we sang happy birthday to Joseph, Vivian left the room leaving the rest of us to clean the kitchen. Joseph's girlfriend, Evi, had come over by then and I was shooting pool with Joseph and Evi while Rylee was doing her homework. Rylee came in for help a couple of times and I knew she had more to do. Suddenly, Vivian appears and tells the kids to go to bed immediately at 8:45 p.m. – the kids normally don't go to bed until 9:15 to 9:30. I asked Vivian if it was alright if Rylee finished her homework. Vivian then erupts saying it is time to go to bed, that I should just shoot pool, and finally says the homework was not due tomorrow. I go up to kiss the kids good night and Brooke says she wants to sleep with me. (Brooke says Rylee makes too much noise, and has been sleeping with me much more frequently in recent weeks.) Brooke comes to my room a few minutes later and says Vivian told her that if she didn't sleep with Vivian and Rylee tomorrow night, then Vivian and Rylee would sleep in Rylee's room from now on and Brooke would have to sleep in her bed by herself. After hearing this callous threat by Vivian, I immediately went down and asked Vivian what she said. She denied telling Brooke that and said that I was the one that needed counseling. When I told Brooke not to worry because Vivian said she never said that, Brooke looked at me and said she must have misunderstood (both of us knowing she had not). I told Brooke she could sleep with me anytime. Brooke expressed concern that Vivian was going to have a "sit down talk" with her the next day for which Brooke expressed concern. I was concerned that if Brooke gave Vivian the impression she is more loyal to me, then Vivian will start a campaign of retribution against our nine year old.

52. Vivian and Brooke, together with Kim B. and her daughter, Kenadee, spent nine days at the Martha Pullen School of Art Fashion in Huntsville, Alabama from about July 18,

2009 to July 27, 2009. Vivian took an earlier flight back. I went with Kurt B. to pick up Kim, Kenadee and Brooke at the airport later that night on July 27, 2009. Almost as soon as Kim saw me she starting talking about Vivian and the Kindle. Kim said she could not get Vivian to put the Kindle down. They would go to the sewing classes during the day and Kim would sew at night with Kenadee, but Vivian would read her Kindle. Kim told Vivian they were there to have a shared experience with their daughters, but Vivian insisted upon reading the Kindle, stating she had only read two books that week. Kim said she told Vivian the Kindle was a real problem. Kim told me she thought it was some kind of obsession. I told Kim that most of the time Vivian is home she goes into a bedroom by herself, shuts the door and reads the Kindle. By that time, both Tahnee and Joseph had made comments to Vivian about the need to destroy or lose the Kindle.

53. Our whole family drove in my car to St. George, Utah on July 31, 2009, to see a play and then the following morning to Cedar City, Utah for the dedication of a bronze honoring my great great grandfather, Richard Harrison. Vivian was sitting behind me and Brooke was in the third seat of the car behind Vivian. When we first started out, I heard Vivian severely scold Brooke. When we got to our destination, either Tahnee or Whitney said that Brooke had made a comment that Vivian stays in a bedroom with the door shut reading her Kindle 24/7.

54. On Saturday, August 29, 2009, Tahnee expressed concern that Brooke was on the internet at an Ashley Tisdale chat room. Tahnee said that Vivian being in Brooke's bedroom all the time was a real problem and I had to do something about it as she was worried about Brooke and Rylee. I told Tahnee that I had done all I could concerning Vivian, and all I could do was be the best father I could and that all of us needed to do our best in looking out for one another. I spoke to Brooke and explained she was not allowed to be in any chat room. Tahnee emphasized

the dangers to Brooke. During lunch, Tahnee said she had to talk to me. Out of Brooke's presence, Tahnee said that Whitney told her that Vivian had told both Michelle W. and Nyla R. that she was filing for divorce. Apparently, Vivian is waiting until after she has plastic surgery on her face to file for divorce – I was unaware she was going to have plastic surgery on her face. Tahnee said I needed to go to a counselor to find a way to get Vivian into counseling. I told her that Vivian refuses to see a counselor and my going to a counselor would not overcome that problem. Tahnee said I should do something rather than simply wait for Vivian to file for divorce. Vivian's intention to file for divorce is news to me. She told me that she wanted to stay together until Rylee left for college. Later that day I tried to call Vivian on her cell phone on an unrelated matter. She did not answer. Brooke said, "Dad, don't you know mom can see it is your cell phone and she will not answer. You should have called her on the home phone that way she will think it is me trying to call her."

55. On Tuesday night, September 8, 2009, Joseph telephoned and said he is planning to take accounting next summer and was hoping Vivian could help him. When I told Vivian, she said, "I'm not going to be here." I said what do you mean you are not going to be here? She said I am going to Europe for as long as I can – 3 or 4 months if I can. I said when were you planning on telling me? Vivian said, "I just did." She made it clear she was planning to leave for 3 or 4 months without Brooke and Rylee.

56. Vivian told me earlier in the day on Saturday, September 12, 2009, that Chloe W. and several of her friends were coming over to watch a movie in our home theater. Chloe is the 16 year old daughter of Michelle and Cam W.. Michelle, Nyla R., and Heather A. are Vivian's friends. Later in the evening, Kim B. called asking Vivian and I to go to dinner with Kim and her husband, Kurt. When I asked Vivian she said she couldn't because Chloe and her friends

were coming over. I said you don't have to be here because Tahnee will be here. She said she had to be here. Later, Tahnee came downstairs saying how bizarre it was that Vivian was in the home theater with these five or six 16 year old girls watching a movie. Tahnee said yesterday that Vivian told Tahnee, "Chloe is such a great dancer, I wish she was my daughter." Tahnee was, understandably, very offended. Tahnee said she wished there was some way to stop this toxic behavior. Tahnee recalled when she was younger when Vivian told her how smart a girl was in Tahnee's class. Last summer, Vivian made the hurtful comments to Whitney about not being as smart as Whitney's friend Shilpa. I told Tahnee that Vivian does not really think Chloe is a better dancer than her. Vivian is simply incredibly insecure and needs to tell others that they are not so hot. I told Tahnee about when Vivian last year told me that nobody wants to be with me.

57. I had to spend four days at the ranch working during the week of September 28, 2009. When I got home there was one small plate in the dishwasher, but all the spoons and bowls were dirty. I asked Whitney what Brooke and Rylee had been eating while I was gone. She said there were nights when it was 10:00 p.m. when she got home and Brooke and Rylee had not eaten. She said about all they had eaten since I had been gone was cereal. A couple of weeks before, Whitney had complained to Vivian that she was just going into a bedroom closing the door and reading every night. Whitney told Vivian she needed to spend more time with Brooke and Rylee. Vivian got mad at Whitney for suggesting she was a negligent mother.

58. Vivian has a fixation for a show called the Tudors. The star is an actor by the name of Jonathan Rhys Meyers. On Wednesday, October 7, 2009, Tahnee was playing the piano. Vivian came up to her and said, "If you meet Jonathan Rhys Meyers and he flirts with you, I will kill him." Then on Monday afternoon, October 12, 2009, Vivian asked Tahnee if she thought

Jonathan Rhys Meyers will be at the Justin Timberlake event they will be attending the next evening. Tahnee told Vivian she was confident that Johnathan Rhys Meyers was not going to be at the event. Vivian is delusional. Vivian has a grandiose view of herself because she thinks Jonathan Rhys Meyers would even care whether she was at the event. Her behavior is getting more and more bizarre. She spends the vast majority of her waking hours reading vampire fantasy novels in Brooke's bedroom or in the home office with the door shut or watching the "Tudors" in the home office with the door shut.

59. Vivian called during the evening of October 13, 2009. Vivian said she just paid \$3,500.00 for a guitar autographed by the Rolling Stones at the auction tonight. They get home. I asked Vivian if they had a good time. Vivian said I had a great time, but said she thought Tahnee was jealous of her getting all of the attention. Tahnee said when she and Vivian were getting ready for the evening Vivian said, "Do you think we will attract a couple of hot young guys?" Tahnee said she was so embarrassed at the event she wanted to crawl in a hole. Tahnee later told me that Vivian called Justin Timberlake a bum during the auction of the guitar. Tahnee also said that the people at their table told Tahnee that they thought Vivian was crazy and they were not joking. Vivian has no sense of propriety.

60. In September of 2009, Vivian makes an appointment with Dr. Jeffry Life of Cenegenics. He is the doctor whose picture appears in magazines and states he is a 70 year old man with a 20 year old body. The marketing claims a way to stop and reverse the signs and symptoms of aging. Dr. Life had his wife draw Vivian's blood in the Harrison home during the week of October 5, 2009.

61. On Friday evening, October 16, 2009, I had a very sobering discussion with Tahnee and Whitney. Whitney said Vivian talks about divorcing me in front of Rylee with

Michelle W. and Nyla R.. She also talks about it in front of Nyla R.'s children. Tahnee and Whitney both said Brooke and Rylee are much better off with me. They both think a divorce would be in everyone's best interest because of Vivian's constant adversarial behavior towards everyone. Whitney used the example of Brooke coming to her a couple of nights ago saying she had left her homework over at the Michelle and Cam W. home and wanted Whitney to take her to get it. Whitney said why don't you ask mom? Brooke's response was that mom was reading and she will get mad at Brooke for interrupting her. Tahnee and Whitney both said how much Vivian has deteriorated during the last year. Tahnee said it might partially be attributable to Vivian's prolonged prescription drug use. Tahnee said that Phentermine is to be only used by the extremely obese and only for a short period of time. Whitney said that Vivian told her she is going to have a hair removal process done in a very personal location of the body. Whitney said she would not be having that done unless she was planning to have sex with someone. Tahnee said she suspects Vivian may have already had sex with someone because of her late nights not coming home after her evening classes.

62. I was working at the ranch trying to progress the completion of the apartment during the week of October 19, 2009. Brooke and Rylee need a place to go that is always happy and positive. I am trying to get it done while Tahnee and Whitney are at home so Brooke and Rylee are not alone in our home with Vivian upstairs reading with the door shut. I talked to Tahnee while at the ranch. Tahnee said she again got home late to find it was after 10:00 p.m. and Brooke and Rylee had not had dinner. I got back from the ranch on Friday evening, October 24, 2009. As soon as I walked in the door, Rylee grabbed her school book bag and said no one had looked at it and we went through it together. Vivian was on the computer in the kitchen. Her face, at the jaw line was all bruised. She has had another procedure. Just weeks



ago she had a procedure, where her face was all red and she looked as if she had been burned all over her face. She wouldn't discuss what she just had done. Later in the evening, Brooke said that Vivian has been on the computer a lot while I was gone.

63. On Monday, October 26, 2009, Vivian spent seven hours with Dr. Jeffry Life. Dr. Life prescribed medicine for Vivian to take, including Pregnyl and testosterone. Dr. Life also prescribed Phentermine to Vivian. I asked Vivian if she told Dr. Life how long she has been taking Phentermine. She responded, "Why would I do that?" Dr. Warren Smith is the latest doctor to prescribe Phentermine to Vivian. Vivian took the initiative to review her test results with me. I asked Vivian point blank if she has had sex with anyone but me since the day we were married and now. She said she had not. She then said, if I am going to have sex with anyone else, I will tell you first. Vivian gave me the same assurance on several subsequent occasions as well. She was lying each time.

64. For a couple of days Vivian was behaving much more normal than usual, so on or about October 28, 2009, I asked Vivian if she wanted to do anything for our wedding anniversary on November 5, 2009. She said she did. However, two days later she regressed to her angry critical behavior. I think she is fearful of normalcy replacing the fantasy world in which she lives. She is still up during much of the night and sleeping much of the day.

65. During the month of October 2009 it was obvious that Vivian's delusional view and fantasies of Jonathan Rhys Meyers were getting worse. Almost daily, Vivian was receiving something new – cds of music from the Tudors, a dvd of every movie or television program in which Jonathan Rhys Meyers had appeared. On Friday night, October 30, 2009, Brooke and I discovered a robe in Vivian's and my closet that is a Victorian robe. Although I have never seen any of the episodes, the Tudors is about Henry VIII (Jonathan Rhys Meyers). Vivian has ordered

a dress so she could wear it and be Anne Boleyn – one of Henry VIII’s wives that he beheaded. Vivian will shut the door to the office and if you open the door while Vivian is playing the music from the Tudors, she will get very upset. Tahnee expressed her concern and opinion that she also thinks all of this is extremely bizarre. There are times when Tahnee says she cannot even talk about Vivian’s behavior because it causes her too much stress.

66. For several months, Vivian has been saying she is going to spend several months this summer in Europe. On Monday evening, November 2, 2009, for the first time in many many months, Vivian sat at the dinner table with Brooke, Rylee and I. Soon after sitting down, she announced she was only going to go to Europe for a week or two, but was going to work on her Phd. at UCLA this summer. Brooke asked Vivian what she, Brooke, would be doing. Vivian said you and Rylee will probably be at the ranch with your dad. Later that night when Brooke and I were alone, Brooke started to cry and said, “When mommy talks about going to Europe and UCLA I feel like I am in the way.” Brooke said that when she talked to Vivian about going to Europe, Vivian told her that Rylee would not be able to keep up when she goes to the museums and she can’t leave Rylee alone. Brooke said Nyla R. said she doesn’t like taking her children to museums. Brooke, still crying, said, “Mommy doesn’t spend any time with Rylee and me anymore.” Brooke said she wished “mom was like Mrs. Y.” “Mrs. Y. does lots of stuff with Stephanie. She took Stephanie to the mall and they had lots of fun.” She said she asked Vivian to take her to the mall and Vivian’s response was, “Going to town is pointless.”

67. It is Saturday morning, November 8, 2009. While I was working at the ranch this week, one night when I called home, Brooke was all excited about a school project where she will do work around the house, earn money, and it will go towards a school event. Last night Brooke told me she had asked Vivian several times to help her and Vivian would only say,

“later.” Brooke said that is what Vivian says almost every time she asks her for anything and she knew Vivian would not help her. I told her not to worry about it and I would help her today. Recently, Vivian told me not to invite any friends for Thanksgiving dinner as she was not sure what she was going to do. Last night, Whitney told me Sean is coming for Thanksgiving. This morning I told Vivian that Sean was coming for Thanksgiving, that John and Jackie Y. were doing the drive by turkey fry, and that Veyo Pies had a deadline to order pies for Thanksgiving and asked what she wanted me to do. Vivian’s response was, “Do whatever you want to do.” I said I was simply trying to determine if she was making Thanksgiving Dinner, and if so, if she wanted me to get a second turkey to take to the John & Jackie’s or to order pies from Veyo Pies. Vivian then said, “If I am not making Thanksgiving Dinner, what are you going to do? I said, I guess make other arrangements. She said you should make other arrangements. I asked Whitney last night if Brooke and Rylee got dinner every night while I was gone. She said with the exception of the night she, Whitney, cooked, Vivian ordered fast food the other nights, but that Brooke and Rylee did get dinner each night.

68. On Saturday evening, November 8, 2009, I had a discussion with Whitney about the preparations we needed to make for Thanksgiving dinner. Vivian had already told Whitney she wasn’t going to make dinner. Said it wasn’t fun. Whitney said Vivian is getting very weird. If Tahnee would have won Miss Nevada last night she would have gotten an upscale apartment free for a year. Whitney told Vivian that if Tahnee had won, she had invited Whitney to come live with her. Vivian’s response, and Whitney said it was clear Vivian was not joking, was why didn’t she ask me to live with her. Whitney said because you have two little children. Vivian did not respond. Whitney also said that when Vivian learned that Sean had spent some time in Cork, Ireland, Vivian wanted to speak to him about it. Vivian told Whitney she is going to spend a lot

of time in Cork, Ireland when she spends the summer in Europe. Jonathn Rhys Meyers is from Cork, Ireland. Later that evening, Brooke complained to me that whenever she does anything, Vivian always says something negative about it. I told Brooke that mom is going through a tough time right now. Brooke's response was that mom has been that way for a long time.

69. On Friday evening, November 13, 2009, Tahnee told me that Vivian told her today that Vivian had put Vivian's name on Google Alert for Jonathan Rhys Meyers and that she got a google alert today that "Jonathan" went to dinner last night with his girl friend. Vivian expressed her displeasure when she related this to Tahnee. Vivian told me on the telephone today that Whitney had applied to be on a TLC reality show about selecting a wedding dress and had been selected. Vivian said that she and Whitney are flying to New York on Friday and returning Monday to be on the show. Vivian told Tahnee that she was concerned about Jonathan seeing her on the show since she has not yet lost her weight. Tahnee assured her that Jonathan surely did not watch such shows. Whitney has told me several times recently about how weird Vivian has been acting. I later learned that Tahnee, Michelle W., and Sean's mother are also going. Whitney is very aware of Vivian's need to be the center of attention and is aware of what happened recently at the Justin Timberlake fundraiser. I telephoned Whitney and expressed concern about this to Whitney saying you are going to be on national television with someone who is not dealing with a full deck right now and it could prove very embarrassing. Later that night, Tahnee told me she thinks Vivian is bi-polar/manic depressive.

70. Monday afternoon, November 16, 2009, was parent observation day for Brooke's tap dancing class. Vivian scheduled an appointment and did not go. Brooke started to cry saying mom doesn't do anything with me anymore. Vivian did attend a parent observation class for jazz the prior week.

71. My close friend, Rondo F. stayed with us on Tuesday, November 17, 2009. He offered for Vivian and I to meet Marie Osmond. Vivian jumped at the chance. Marie Osmond did not respond to Rondo's email. Rondo said we would do it another time. Later he telephoned Vivian and said he and his wife, Neil D. and his wife, and Vivian and I would see her at a later time. Vivian later asked me, "Isn't Neil D. that wealthy guy?" I responded that I really didn't know. Vivian said if he and his wife are going to see Marie Osmond then she wasn't interested in going "because they would get all of the attention." For several months Vivian has had a photo of Jonathan Rhys Meyers on the family computer in the home office. Several weeks ago she replaced our family photo on the family computer in the great room/kitchen with a Jonathan Rhys Meyers photo. Brooke commented tonight that she thought it was creepy that Vivian had done that.

72. Tahnee, Whitney and Vivian returned from New York on Monday evening, November 23, 2009. I had a lengthy discussion with Tahnee and Whitney. Vivian, Whitney's fiancée's mother, Michelle W., and Tahnee stayed in the same hotel room. Whitney stayed with her friend Shilpa. Tahnee said that Vivian told Mrs. B., Mrs. W. and herself that she, Vivian, knows that Jonathan Rhys Meyers (the 32 year old actor she has never seen, but is all over our computer screens) is her soul mate. She also made a point to show Mrs. B. (Whitney's future mother-in-law) all of her small thong underwear, leopard skins, etc. She also told these women how her older sister, Cindy, was involved with satanic rituals and was a drug addict. She told these women, with Tahnee present, that she has some major plastic surgery planned for this Spring that I don't know about. She then said she was going to spend the summer in Europe. She also told them she wanted to go to the sex museum in New York. During the entire time she was on this trip, she never telephoned Brooke and Rylee. While she was away, Brooke asked me

why Vivian didn't call she and Rylee. I told her it was probably because of the time change and because they were so busy. Tonight, Vivian went to teach a class. I went to Costco to do the family grocery shopping. Vivian was there. She had a short short skirt on with high heeled boots. She was dressed as though she was a high school student. Vivian's mental and emotional state continues to deteriorate at an alarming rate.

73. On Saturday morning, November 28, 2009, Betty P. left a message that Vivian was late for her appointment. I told Vivian and she left for the appointment. Vivian said that Betty P. was doing a facial skin treatment at her home for Vivian. Vivian said it was cheaper that way. Vivian later told Whitney she had another chemical facial peel. Vivian's face is all red – it looks like she has been burned. I think she had another chemical peel on her face within the last 4 or 5 weeks from Dr. Jason Michaels. I believe this all to be Vivian's unrealistic effort to make a 47 year old mother of five desirable to her 32 year old actor soul mate. I am concerned that Vivian's lack of judgment puts her at risk from these unnecessary procedures and surgeries. Whitney's fiancée, Sean, left Sunday morning, November 29, 2009. Except for Thanksgiving Day, when Vivian helped prepare the meal, we all ate together, cleaned up, and went to a movie, Vivian has spent the entire Thanksgiving holiday in the office with the door closed reading her Kindle or sleeping. When asked to play games with the family after the movie on Thanksgiving Day, she declined saying she had already spent more time with the family than she wanted.

74. On Wednesday, December 2, 2009, I walked into the home office to find Vivian with about 20 to 30 pair of brightly colored thong underwear. I asked, "What is this all about?" Vivian responded they were gifts. I responded by saying, "Yeah, right." The next day on Thursday, I opened a box from Cabelas which had a winter coat for Rylee. Vivian said what is wrong with you, you have already bought Brooke and Rylee too many coats. I explained that I

had bought Brooke a heavy coat for winter at the Cabela's in Lehi for 50% off – about \$35.00. They didn't have one on sale that Rylee liked. I had also bought Brooke and Rylee Northface light jackets at REI in Henderson when Brooke, Rylee and I had seen them on sale for 60% off – about \$22.00. each. But Rylee still did not have a warm winter coat and Cabela's had them on sale on the internet for 50% – about \$40.00. Vivian still has several deliveries of boxes each week of things just for Vivian. Vivian is so self-absorbed she wouldn't understand the irony of her wasting money on 30 pair of thongs for herself, yet the very next day complaining that I am spending \$40.00 so our six year old can have a warm winter coat.

75. On Saturday, December 5, 2009, Tahnee asked me to talk to her. She said Vivian is getting really unstable. Vivian told Tahnee the day before that she paid \$300.00 per hour to speak to a lady psychic on the telephone. Vivian asked the lady if Geothermic (my highly risky alternative energy venture) was going to be successful. The lady told Vivian that it was going to be huge and would change the world. Vivian asked the psychic when this was going to happen. The lady said it would be within the next 12 to 24 months. The lady also told Vivian that she is a "Master Soul." Tahnee explained this means that if you believe in reincarnation that Vivian is advanced from being reincarnated many times. Vivian also told Tahnee she is getting into philanthropy. She is going to a philanthropic event in California where Jonathan Rhys Meyers organization/foundation will also be present. This must be the trip to Newport Beach on the 12<sup>th</sup> that Vivian said she was taking. Hopefully, she doesn't spend or commit to spend money while there. I told Tahnee that Vivian's need for attention is frightening. She also told Tahnee she was going to Europe this summer. Tahnee questioned her how she could leave Brooke and Rylee. Vivian initially said that because I said I was taking Brooke and Rylee to the ranch. However, when pressed, Vivian admitted to Tahnee I had not actually said that. Tahnee asked why Vivian

doesn't wait until Brooke and Rylee are at least 14 or 15. Vivian responded that she needs the time alone and she will be too old if she waits that long. Tahnee said she thinks Vivian is manic-depressive because Vivian has all these times when she has to buy things.

76. On Sunday morning, December 6, 2009, I pressed Vivian as to why she is going to Newport Beach on Saturday, December 12, 2009. She initially did not want to tell me. She finally told me she is going with Betty P., the lady that did Vivian's most recent face peel. Vivian said Betty P. was in her sixties and she and other ladies were driving down there in a car to see another lady who is a face skin anesthetist that works for a dermatologist. According to Vivian, this lady will apply a treatment, which is legal in California, but not Nevada, to their faces, which is supposed to fill in the wrinkles. Vivian assured me she was not going to attend any type of function. I pressed Vivian to remove the creepy screen saver (Jonathan Rhys Meyers as Henry III) from the family computer in the great room/kitchen. She said it is her computer. I said what about the computer in the home office. She said that was hers as well. I then asked about the new mac lap top. She said that was hers as well. All of the children, including Brooke and Rylee, frequently use both the computer in the kitchen and the computer in the office. I, occasionally, use both computers as well.

77. Brooke and Rylee were in the Nutcracker. Vivian was gone to California on Saturday, December 12, 2009 to get a cosmetic treatment. Brooke could not find green ribbons for her hair. On the way to the dance studio for the performance that evening, Brooke broke down crying saying that everything is her fault. Brooke is going through a phase where she loses things. However, I think the whole situation with Vivian weighs heavily upon Brooke and much of what I was hearing was a consequence of that burden.



78. On Friday, December 11, 2009, Tahnee asked Vivian why she was going to California on Saturday. Vivian said to visit friends. This is contrary to what she told me. Vivian is very lonely having distanced herself from her family. On Sunday morning, December 13, 2009, Vivian and I had a big blow up in front of Brooke and Rylee. Vivian came down stairs. Her face was severely swollen and discolored. Vivian spoke about the people that rode in her car. I expressed concern about the cosmetic procedures she is having done -- Two face peels in less than 4 or 5 weeks. Vivian said she didn't like talking about it because people were judgmental. I told her no one was being judgmental and simply expressing concern. She then started to rip on Tahnee saying she wasn't concerned, because Tahnee had no problem so long as she was getting something out of it. Tahnee was upstairs and overheard what Vivian said. Tahnee came downstairs and was calmly defending herself. Vivian blew up shouting at Tahnee and at me, saying I was a liar and Tahnee had not expressed concern. I told her that Tahnee had expressed concern. Vivian was then screaming as to what words of concern did Tahnee say. I told her I did not recall the exact words, but Tahnee had expressed concern. Vivian kept attacking me saying I was lying and to say what Tahnee had said. Vivian then turned on Tahnee belittling her in front of Brooke and Rylee, saying things like why do you even live here. Tahnee stayed calm and said nothing.

79. On Sunday evening, December 13, 2009, Tahnee, Whitney and I went to dinner. Vivian had told me she was taking Brooke and Rylee Christmas shopping, including buying something for me. They went to see Santa (an experience I also usually share with Brooke and Rylee). This is one of the rare times Vivian has spent any time with Brooke and Rylee for several months. Tahnee and Whitney said that Vivian now plans to go to India for the summer to do philanthropy. They said that Vivian is constantly on the internet looking for stuff about

Jonathan Rhys Meyers. He apparently is involved with some organization in Ireland, where he is from, and this organization is doing philanthropic work in India. They said it is just an attempt by Vivian to get close to Jonathan Rhys. First, Vivian told Brooke she was going to Europe for the entire summer to go to museums. Then Brooke's guitar teacher, Billy Henche, and I were talking and he said he graduated from the film program at UCLA. I made a big deal about how prestigious that program is. The next week, Vivian tells Brooke she may go to UCLA for the summer to work on her Phd. and only go to Europe for a week or two. Vivian explained to Brooke that she wouldn't be as far away while we were at the ranch. Whitney said Vivian will only do things where she thinks she will be given credit. For example, she will spend time after class helping students, but won't help Brooke and Rylee with their homework.

80. As of Saturday, December 19, 2009, I had been encouraging Brooke for many months to sleep by herself. Vivian told Brooke that she was going to clean Rylee's room and after the first of the year Brooke could sleep by herself. Independently, Whitney, who clearly has Brooke and Rylee's best interests in mind, has encouraged them to sleep together without a parent. Vivian went to bed tonight at about 8:30 p.m. When it was time for the girls to go to bed Whitney said they could sleep with her, but after the first of the year they should sleep by themselves together. She correctly described this as baby steps as all of their friends have been sleeping by themselves for years. Rylee told Vivian and Vivian told Whitney that she had overstepped her bounds and Vivian was very mad at her. I told Whitney that Vivian wants the kids to sleep with her so they are dependent upon her – as opposed to becoming more independent. I said I believed she is also doing it so that in the event of divorce, Brooke and Rylee will feel compelled to say they want to live with Vivian for fear of sleeping by themselves at night. As usual with Vivian, it is all about Vivian.

81. On Monday, December 21, 2009, Tahnee, Whitney, Joseph and I discussed whether Vivian was going to cook Christmas eve dinner. She refused to cook Thanksgiving dinner, but at the last minute helped. Joseph said he would just talk to her. Joseph went into the office and spoke to Vivian. Later Joseph said that Vivian said she would help, but would not cook the dinner as she has in the past. Vivian was pulling out of the driveway the morning of Wednesday, December 23, 2009, when I stopped her and told her I had done all of the grocery shopping for the Christmas eve dinner. She asked how would I know what to buy. I told her that Tahnee and Whitney and I had discussed it. She questioned how would they know. I said it was my understanding she was not cooking the dinner. She then said, "Who told you that?" Not thinking I said, "I think it was Whitney." Vivian then said, "I never said that." Last night, Joseph said that Vivian had invited Jesse & Heather A.'s family to our Christmas eve dinner. I didn't get enough Christmas ham for that many people. During breakfast this morning, Brooke said she loved the book we got at Borders and did not want to read a book about Mother Teresa. I asked why she would you read a book about Mother Teresa. Brooke said Vivian told her that Vivian was going to go to India to do what Mother Teresa did and Vivian wanted Brooke to know what Vivian was doing while she was in India. Vivian doesn't have enough compassion to care for her own children let alone children in India. Vivian is getting some kind of beauty treatment almost on a daily basis now. There is no doubt Vivian thinks she is going to India to meet Jonathan Rhys Meyers and they, who are soul mates, will live happily ever after. I received a phone call from Vivian at about 12:30 p.m. on Wednesday, December 23, 2009. She started in again about cooking Christmas eve dinner. I told her it was Joseph that talked to her. She said that Joseph and she were just kidding around. I said it doesn't matter what the reality is or what the true facts are, she develops her own reality where she is never wrong, never makes a mistake,

never says she is sorry. I told her I have finally learned that it is a waste of time to talk to her because it is futile. She said why would you think I wasn't cooking the dinner? I replied because of what happened on Thanksgiving and the fact that she has generally checked out this year. She then started screaming obscenities at me, saying how she corrects 4 or 5 things I do wrong each week. I asked her if Brooke & Rylee were present. She said she was in "her" office. She then accused me of cussing in front of the children, saying she has only said "fuck" in front of Brooke and Rylee fifteen (15 ) times. Later that day I went to see the movie "Avatar" with Tahnee, Joseph and Joseph's friend, Darius. When I got there, both Tahnee and Joseph were upset. They said Vivian had just bought herself a \$875 jacket and two pairs of jeans that cost \$500 each! They said Vivian bought the jeans because Jonathan Rhys Meyers had worn the same brand. They both wanted me to do something to control Vivian's spending, saying it was out of control.

82. During Christmas eve dinner I overheard Vivian telling our guests, Marty & Jennifer S., about The Hope Foundation and the money she has donated in India. This is the first I heard of money being donated. I checked on-line Christmas morning and found that Jonathan Rhys Meyers is the Ambassador for The Hope Foundation. Until 2009, the only two meals the family could count on Vivian making was Thanksgiving dinner and Christmas eve dinner. She only helped make the Thanksgiving dinner. Whitney and Sean did most of the work. For the Christmas dinner, Vivian spent a total of 20 minutes making the stuffing. That was it. Didn't help cleaning up. On Friday evening, December 25, 2009, Tahnee told me that Whitney told her that Vivian just bought a pair of boots on line for \$800.00. All this spending by Vivian is shortly after I told her that she needed to cut back her spending significantly because my earned income this year will only be about twenty percent of last year's income.

83. As with most nights, I made sure Brooke & Rylee brushed their teeth before bed. On Monday night, December 28, 2009, Rylee returned from where Vivian and she sleeps (Brooke's room) and said Vivian would not let her go to bed until her hair was untangled. So at 11:00 p.m., Tahnee spent 20 minutes brushing the tangles out of Rylee's hair. Tahnee and I both questioned why anyone would do that to a six year old. Rylee could not have solved the late night problem created by Vivian without help. Earlier that evening, Vivian had commented she needed to get her anti-depressant medication from Costco.

84 On Wednesday, December 30, 2009, I saw cardboard boxes in garage and grabbed one to send my sister, Janie's, belated Christmas gift. One box was from The Hip Chick and the other had an invoice for Botkier Women's Sandee Boot, Whiskey, 38 EU (US Women's 8 m) \$373.87.

85. On Thursday afternoon, December 31, 2009, I had a big fight with Vivian where she started screaming in front of Brooke and then, Rylee, Tahnee and Joseph. A week or two ago I made plans to take Brooke and Rylee to a movie and asked Vivian to go with us. She declined saying that she had planned to take them to the same movie. I said why don't you go with us then. She responded, "Because I don't want to." Vivian then said she would take them to a different movie. I took Brooke and Rylee to lunch at Pizza Hut on that day and we decided to go see Avatar in the afternoon. When we got home, I asked Vivian to join us. She initially simply declined. She then started screaming saying we had previously agreed that she would take them to the "next" movie. I said that simply wasn't true. She simply said she would take them to a different movie, and never said any particular movie. She then said well that movie is Avatar. I said she never said what movie and we had already made plans for this afternoon and she was welcome to go. She said Tahnee will confirm what she said. I said lets not bring her into this.

She then asked Tahnee in front of Joseph and Rylee. Tahnee responded she did not want to get in the middle of this. Vivian started screaming that I was a liar and saying “fuck” in front of Rylee, Tahnee and Joseph. Tahnee said take this in the other room so it is not in front of Rylee. Vivian, in a threatening tone, said to Tahnee “Are you taking me on?” In order to stop the screaming and the apparent imminent violence, I said go ahead take them to the movie. Vivian then got in my face saying, “I’m taking them to Lego Land too without you.”

86. I spoke to Whitney on Wednesday, January 6, 2010. Whitney said that Vivian wanted her to change her wedding date in March, because Vivian did not think she would be recovered from elective plastic surgery. Vivian also told Whitney that she is planning to have her buttocks expanded. Whitney said that before Vivian goes to India to do the work, Vivian told her she first is going to Ireland for training. Vivian, Tahnee and Whitney were together, and Tahnee said I hope I get to go to Ireland. Vivian responded that neither one of them was going to go because you guys aren’t fun anymore. Vivian then said both of you think I am ugly. Both responded that neither one thought she was ugly. Whitney said another weird thing that Vivian did recently occurred within the last couple of days when Vivian asked where Whitney’s ankle medicine was located. Whitney had surgery on her ankle when she had an accident during her senior year of high school. Whitney said that the medicine was old and she probably threw it away. Vivian responded that she had seen it in the lower drawer of Whitney’s bathroom within the last few months. Whitney also expressed concern about Vivian’s spending. She bought expensive purses for she and Tahnee. During the discussion Vivian said she had a particular \$300 purse in several different colors. Whitney also referenced the \$800 boots.

87. Vivian called one of my college roommates on Sunday evening, January 10, 2010. He is a plastic surgeon and he previously performed a breast augmentation for Vivian, changing

her from a 34 b to a 34 d. I asked Vivian why she was calling him. She said she needed another breast augmentation. She said, "do not tell the girls." He asked to speak with me after he spoke with Vivian. I told him that Vivian is not all there. He said that women in their forties many times get very insecure about their appearance and that I should frequently reassure Vivian that she looks good. I told Evan that her problems are more serious in that she is delusional. I spoke with Vivian the next morning, January 11, 2010, saying it was important she stops sleeping with Brooke and Rylee. She laughed it off. I pressed on. She said that I should move out of the house. I responded that I put the interests of the girls first; I am not self-absorbed where all I do is focus on my own appearance and the clothes I wear. Vivian said she doesn't spend time with the girls because that would mean spending time with me.

88. On Wednesday, January 20, 2010, I got home shortly after 9:00 p.m. from a business meeting and dinner. The next morning, Brooke told me she was not feeling well. She said she hadn't eaten since lunch at school the day before. Without Brooke present, I asked Rylee what she had for dinner last night. She responded that she did not get dinner last night. Vivian is so incredibly self absorbed.

89. On Saturday, January 23, 2010, I am at Costco buying groceries. I call home to see if Vivian needs anything. The telephone rings and rings. Finally, Rylee answers and I ask to have Vivian get on phone. Rylee says mom doesn't want to talk. I said I needed to know if mom needed anything from Costco. Rylee said she wasn't supposed to answer the phone, because mom said, "I don't want to talk to your dad." Rylee was afraid she was going to be in trouble for answering the phone when her dad called home. Vivian cares nothing about Brooke and Rylee.

90. On Sunday, January 24, 2010, I planned a big day for Rylee's birthday – cake & ice cream, presents, dinner, and Disney on Ice. I am becoming more and more concerned about Brooke. I made Brooke & Rylee a quick breakfast and started the shower for them. Brooke kept dragging her feet – not getting her towel, not getting her clothes ready, and not getting into the shower. When I prodded her for the fourth time, she started to cry saying she is to blame and it is her fault. I told her that she is not to blame nor at fault – I was simply encouraging her to do the things she needed to do when she needed to do them. Vivian's constant finger pointing at everyone for what they say and what they do, is starting to take a real emotional toll on Brooke. This is especially true as she spends so little real time with Brooke and Rylee. Vivian is now not much more than a person that criticizes other people and assesses blame to everyone,– except herself. She spends the vast majority of her waking hours alone behind a closed door reading, ordering expensive clothing for herself, scheduling her next cosmetic procedure, or plotting ways to meet and impress Jonathan Rhys Meyers. Brooke is such a sensitive wonderful little girl. There has never been a more caring big sister than Brooke is to Rylee. Over the years, many times when Rylee cries, Brooke will also start crying out of compassion for Rylee. I have had several discussions with Brooke during the last few months, that it is not necessary for anyone to assess fault or blame – we simply do the best we can and, if we make a mistake, we learn from that mistake and move on.

91. It is shortly after noon on January 24, 2010 and Vivian was getting ready for an appointment with Betty P. – more face work. She had a box of insulin syringes on the counter she took with her. I think they were called “reli-on”. Whitney came in the master bedroom and asked when is the party and I said we were going to have it at 3:00 p.m. and asked Vivian if she wanted it sooner. Vivian said she had an appointment and would not be home any sooner. I said



that was alright and we would have the party at 3:00 p.m. and told Vivian we could probably have it a little later if she needed more time to get home. Yesterday, I specifically discussed with Vivian the timing of the party and the tickets to Disney on Ice. When I was on the internet, I told her the performance was at 1:30 p.m. or 5:30 p.m. She responded that to be sure and get the 5:30 p.m. tickets because of her appointment. All of a sudden, today, Vivian said she didn't know when she would be back and we should do everything without her. I reminded her about our discussion yesterday about Disney on Ice and getting tickets because of her schedule. She said she would do something individually with Rylee another time. She later told me she talked to Rylee about it and abruptly left for her meeting. How truly sad this situation has become. Vivian knowingly schedules a cosmetic procedure on Rylee's birthday. Possibly because of how her face is going to look after the procedure, she is willing to miss her 7 year old daughter's birthday party. A big part of this is her jealousy of me. Similar to when Sean was visiting for the first time, she is probably mad at me for "stealing all of the attention." Vivian is probably also jealous of Rylee getting all of the attention because it is her birthday party. I had to do everything for Rylee, because Vivian did nothing. When I got back from getting cake, ice cream and birthday cards, Vivian was back from her appointment early. No explanation. I asked if she was going to attend party. No answer. Then she said she is not going to Disney on Ice. She then went to Brooke's room and closed the door to take a nap. I asked her if she wanted to sign a birthday card for Rylee. She acted as if I had asked her to do something terrible, and she emotionally refused. Vivian refused to attend the birthday dinner I prepared. Vivian did make an appearance when Rylee opened her presents, but disappeared again before cake and ice cream. When the rest of the family was getting ready to go see Disney on Ice, Vivian approached Rylee and asked the question, "You don't mind if Mommy doesn't go do you?" Rylee, did not give the answer

Vivian wanted, she said that no she didn't have to go. Vivian then said they would do something together another time. We were getting in the car when Vivian appeared. Vivian said she talked to Rylee again and Rylee said she wanted her to go. While driving there, Vivian said Verizon is going to have the Iphone this summer. Whitney responded that our family plan does not have the internet. Vivian then said that she would have her own individual plan by next summer. This whole episode is an example of how impossible it is to deal with Vivian. It was Whitney's idea that we take Rylee to Disney on Ice for her birthday. I asked Vivian to get the tickets on line while I went into town to buy the birthday presents and take Brooke to her party. She refused, saying if you want to go, then you need to get the tickets. I then get the tickets and Vivian is hurt, apparently, because I am "getting all of the attention." I have bought most, if not all, of the birthday cakes for the family birthday parties for several years.

92. Vivian taught sewing the night of Monday, January 25, 2010. I took the opportunity for Brooke and Rylee to sleep without a parent. They were both shaking with fear, even though 7 and 10 years old. I read them a bedtime story, left the bedroom door open, and the hall light on. I told Vivian this morning about how scared they were and the need for her to stop sleeping with them. She responded, "You can do what you want when I am gone." In response to questions, she told me she is going to a doctor in Arizona to get work done on her face. This same doctor did some work on her chin a few years ago. I asked whether she was going to my college roommate for the other stuff. She said no, she spoke to Evan for confirmation about a doctor who was on a tv show, maybe Extreme Makeover, Dr. Anthony Griffin. She said it is major surgery (it was liposuction and adding material removed to her buttocks and face), and that Heather A. was going down to stay with her for 3 or 4 days while she recovers. She said she wanted Whitney to go, but she had to work. She said she wouldn't ask Tahnee, as Tahnee might

try to kill her. She was not joking. She is so bizarre at this point. I asked how much the major surgery was going to cost. She said she was borrowing money to do it, because I told her my income had gone way down this year. I said we will still have to ultimately pay for it. She didn't respond.

93. I had a mediation on Wednesday evening, January 27, 2010. Brooke and Rylee were at the Jesse & Heather A.'s. I called Jesse A. around 7:00 p.m. after the case settled. He said Vivian called and was getting on plane and she would pick up girls. I got home at 8:30 p.m. Neither Vivian nor Brooke and Rylee are home. I called Jesse and he said he hadn't heard from Vivian. I went over and picked up girls. I gave Brooke and Rylee dinner and had them take showers. I then get a call from Vivian about 9:45. She said she was sitting next to man on plane, gave him ride to his hotel, and was having drinks with him at the bar in the hotel. While they are having drinks in the bar she finds out he is President of McCarthy Construction and Cam W.'s boss and isn't that funny. Said she called Cam W. Makes me wonder what other men she has been picking up that weren't the President of McCarthy Construction. She never has had any sense of propriety. Now, she, apparently, lacks a moral compass as well.

94. On Thursday morning, January 28, 2010, out of no where, Vivian tells me that two of her students, Katy and Heidi, want to go to Ireland with her for eight days. Vivian assures me, I am not paying for their trip. Then Vivian says, again out of no where, that if she can get her visa in time she is going to Calcutta, India next week for about 8 days (2/8 thru 2/16) to visit projects of the Hope Foundation to see where she might want to work this summer. Vivian said that Rosaleen of the Hope Foundation, who is based in Dublin, Ireland, is taking 21 people. Vivian said the foundation has about 60 projects in India. Vivian said she plans to teach people how to sew on foot pedal operated sewing machines.

95. On Friday morning, January 29, 2010, I talked to Vivian about issues with the older children. She said she is against paying for their post-graduate educations. She said she told Whitney she can get a loan like everyone else. At one point during either 2008 or 2009, Vivian did not want me to pay for any part of our older children's college education. I pointed out that she helped each of them complete their college applications and they would not be able to afford the colleges they applied to and were accepted. Her response was that they could get loans. About three weeks before Joseph started school for the fall of 2010, Vivian did not want me to pay his college tuition. She said Joseph did not get a scholarship for being on the golf team, that the University of San Diego was a waste of money (it is very expensive), and Joseph could go to UNLV just like she did. The fact that Joseph's dream is to play college golf and then play on the PGA tour is irrelevant to Vivian.

96. On Friday, January 29, 2010, I had further discussions with Vivian during the early evening. She told me about her conversation with the intuitive counselor ("psychic"). Vivian said she received a cd of the conversation and that she has typed much of it. The psychic said Vivian would become involved with a "foundation" that would utilize her financial expertise. She talked about the Hope Foundation – lying about how she found out about it. She told me what plastic surgery she is having done and how much it costs. She said she had arranged a loan to pay for the plastic surgeries. I told her I would rather pay for it now, than pay interest charges and have to pay for it later. Dr. Griffin in California (2/17 thru 2/20) is going to use lipo-suction to remove fat from various parts of her body. Part of the fat removed is going to be inserted on the back of her butt and her face. Dr. Clement in Arizona (3/2 thru 3/5) is going to remove her silicone breast implants and insert new ones. He is also going to give her a face lift from the middle of her nose down, do work on her chin, and her neck. Dr. Clement did work on

her chin previously. [It is relevant that she is then going to Ireland for the Hope Foundation fund raiser from 3/24 thru 3/31 where she plans to meet and impress her soul mate, Jonathan Rhys-Meyers, with her new youthful looks and body, and the Las Vegas auction package she is putting together.) Vivian also said she just ordered an "\$18,000.00" Rolex watch for \$5,400.00. She just bought an expensive Tiffany watch within the last 60 days. The conversation was calm until I started to defend myself. She blew up. I said for her to be happy she has to stop viewing everything as the glass being half empty. I believe that just about everything Vivian says or does is to make herself the center of attention or much more important than she believes she is otherwise. Vivian's constant criticisms of others makes her the center of attention at each particular point in time because people are trying to explain themselves to her. Also, by criticizing others she thinks she looks better in relative terms because there is something wrong with the people she is criticizing.

97. On Tuesday evening, February 2, 2010, I sat down with Brooke and explained to her that she cannot sleep in the same bed with me anymore. I said that my job as a parent was to do everything I reasonably can for her to be a mature, confident, and self-reliant young lady. I said that learning to sleep by yourself will make you more mature, confident, and self-reliant. I have told her in the past that I am concerned, because Vivian will leave the bed and go downstairs during the middle of the night. When Brooke is not in the bed with Vivian and Rylee, many times Rylee will wake up in the middle of the night, see that Vivian is gone, will be frightened and will get up and go downstairs. I also told Brooke that Vivian is going to be gone quite a bit during the next couple of months and this was a good time for Brooke and Rylee to start sleeping without a parent. I reminded her that for several weeks on Monday nights (Vivian teaches a class then and doesn't get home until very late) she and Rylee have been sleeping by

themselves. Brooke started crying, seemingly uncontrollably, and ran to bed with Vivian and Rylee. Brooke has been frightened to the point of shaking each time she has slept alone with Rylee and each time she has gotten out of her bed and come in my room. Each time I have directed her back to bed with Rylee. Vivian is leaving for a couple of weeks starting Monday. Brooke and Rylee will sleep by themselves the entire time she is gone. Hopefully, when Vivian returns she will have sense enough to let these girls sleep by themselves. After the episode with Brooke, which Tahnee witnessed, Tahnee and I began to talk. Tahnee said she recently had a conversation with Liz, the lady that for many years has come to our home once a week to clean. Liz said she noticed a big change for the worse in Vivian after I stopped working full-time. She has noticed how Vivian has stopped doing things around the house. Apparently, Vivian has talked to Liz about our situation as well. Liz told Tahnee she thinks Vivian is crazy as she has had everything anyone could ever want and is throwing it away.

98. On Wednesday morning, February 3, 2010, Tahnee came to me and said you have to see this. There is a box of ladies shoes next to the desk in the office. They are Christian Louboutin Spartenvol Strass suede dress shoes. The price tag on the box is \$1,395.00. Tahnee said Vivian told her she was going to wear the shoes to the ball in Ireland in March. Tahnee showed me a quote from the February 2010 edition of Cosmopolitan. There were a series of questions and answers with Jonathan Rhys Meyers. One of which is as follows: "What's the hottest thing a chick can wear? I think every girl should have two pairs of Christian Louboutin shoes. All you need is good shoes, a good handbag, and a good coat." Tahnee also pointed to a box in the office and said Vivian had purchased a pair of Prps jeans that cost \$500.00. She then went on the internet to a Jonathan Rhys Meyers fan site. Tahnee said Vivian is on this site a lot. There is a photo of Jonathan Rhys Meyers and his girlfriend. Under the photo, the first two

sentences provide, “Tudors star Jonathan Rhys Meyers and girlfriend Reena Hammer attended the Prince’s Rainforest Project in London, Rhys Meyers is wearing Prps “Dart” Jeans. These come from the women’s collection and Prps told us this trend has been happening a lot lately as more men desire a skinny leg they have been buying women’s jeans.”

99. On Wednesday evening, February 3, 2010, I had a dinner appointment and missed Brooke’s basketball game. Vivian doesn’t normally go to Brooke and Rylee’s games, but agreed to go since I couldn’t. I asked Tahnee to go to support Brooke. Later that night, Tahnee told me that Vivian got dressed in high heels and a leather coat for the game. When they got there Vivian made a point to sit next to a man, with Tahnee on the other side of Vivian. Tahnee said Vivian was flirting with the man. Finally, the man asked Vivian who she knew that was playing? Vivian responded, “Brooke Harrison.” The man then said that he knew me. Vivian then said, “Kirk is Brooke’s father.” Tahnee said that at every opportunity Vivian tries to portray herself as not being married. When I took Brooke to her basketball game on Monday evening, March 1, 2010, I sat next to Bill B.. As soon as I sat down, Bill asked me if Brooke’s mother lived in the area indicating he was interested in her. I responded that she lived in our home with me and the rest of our family. Bill was very embarrassed and explained that at the last game, which I was unable to attend, Vivian sat next to him. He asked her which child she was there to watch and she said it was Brooke. To which he responded that he knew me. Vivian then said, “Yes, Kirk Harrison is her father.” Bill apologized to me. I said the fault was with Vivian – not him.

100. On Thursday, February 4, 2010, Vivian told me that she was not going to be coming home Friday evening and that she was going to a party with her students. On Friday morning, Tahnee told me that one of her friends was a recent student of Vivian and told her that Vivian talks about Jonathan Rhys-Meyers in class a lot. On Saturday, February 6, 2010, I asked

Vivian if she had a good time at the party. She said it wasn't a party. I asked what they did. Vivian said they went to dinner and then a movie. I asked what movie did you see? She said "From Paris With Love". I asked how was the movie? Vivian said OK. It is the new Jonathan Rhys-Meyers movie. Vivian, undoubtedly bought dinner and the movie for everyone. Anything to be a star.

101. We had Rylee's birthday party on Saturday, February 6, 2010, with all of her friends, and thanks to Vivian, a number of Brooke's friends as well. When I went to bed that night, Heather A. was here to pick up her daughter, Kayla. I get up this morning to discover that Vivian had Brooke and Rylee spend the night at the Jesse and Heather A.'s. When Brooke stays at their house she normally is there most of the day after the sleep over. It is telling of the lack of Vivian's emotional attachment to Brooke and Rylee that she would do this two days before she is leaving for almost two weeks. She is going to Calcutta from 2/8/10 thru 2/16/10, then Heather A. is going to pick her up at the airport and she is going directly to California for plastic surgery from 2/17/10 thru 2/20/10.

102. On Monday evening, February 22, 2010, I spoke to Vivian on the telephone. She and Heather were at a shopping mall in southern California and she said they would not be back until very late that night. Vivian called and talked to the girls two or three times the entire two weeks she was gone. However, once she got back in the United States, I had the girls call her or, at least, leave a voice mail each day. On Sunday evening, February 21, 2010, I had Brooke and Rylee call Vivian. Brooke put it on the speaker phone. Brooke told her that she and Rylee have been sleeping in Brooke's bed without a parent. Rylee told Vivian she wanted to sleep with a parent. Vivian said she would. I called Vivian this evening and told her the tough time the girls had in sleeping alone, but they had made a lot of progress, but were not there yet. I told her how



when we stayed in the motel room Saturday night in St. George, Brooke was afraid to be in the bed alone with Rylee even though I was in the bed next to them. Vivian said she slept with the three older children and they all turned out better than any other family's children. I said that Joseph is the only one she slept with until he was 10 and he is 20 years old and he can't go to bed without a light on to this day. Vivian rarely slept with Tahnee and Whitney. I said that Vivian should research the issue for herself. She then said, as she has said many times before during the last couple of years when I try to solve a problem, "Why don't you move out of the house." Then "when they come to stay with you they can sleep by themselves." I said, "Why don't you move out of the house?" There was no answer. This is the first time I have responded this way. Vivian really doesn't care what is best for Brooke and Rylee. Vivian only cares about what Vivian wants. Vivian wants Brooke and Rylee to be dependent on her, not independent, and Vivian doesn't care about the negative impact this will have upon Brooke and Rylee in their own families – their husbands are not going to want them leaving their bed and sleeping with their children.

103. Tahnee approached me on Monday, March 1, 2010. Tahnee adamantly said that I must do something about Vivian. She said Vivian is damaging Brooke and Rylee on a daily basis. Tahnee said that yesterday Vivian talked about having the fat injected into her butt in front of Brooke. Tahnee said that when I am not within ear shot in the mornings, she will tell Brooke and Rylee that I will get upset if they do not hurry. Tahnee had me read sections from "Will I ever be good enough – healing the daughters of Narcissistic mothers". Tahnee believes the long term adverse effects upon Brooke and Rylee will be significant. Tahnee also said that Vivian is ruining my life. She said I need to stand up to Vivian and set boundaries in our relationship. I explained to Tahnee that I was concerned I would not get total custody in a divorce, and I was

extremely concerned for Brooke and Rylee when they would be alone with Vivian. Tahnee thinks we should speak to a family counselor and have a family intervention with Vivian.

104. Vivian telephoned on Wednesday evening, March 3, 2010, and spoke to Rylee, our seven year old. The purpose of the call was to make sure that Rylee comes with me to pick Vivian up at the airport today. Vivian has had plastic surgery this week in Arizona – a face lift and breast augmentation (her second). She will, undoubtedly, be black and blue. When she left she was concerned how she would look at the airport on her return and that people would stare at her, yet, she has no concern about forcing her seven year old to share in the spectacle. Vivian's interests take precedence over Rylee's interests. Vivian wants the love and support from Rylee at the airport, it is irrelevant to Vivian, whether it is good or bad for Rylee. What Vivian perceives to be in her best interest is always more important than what is good or bad for our children – that is pretty much irrelevant. During the last several weeks Vivian has complained to me that she can't believe that Whitney couldn't change her wedding date, saying that she had the plastic surgery appointments for several months and couldn't change them. Why not? They could have been rescheduled. The reason is that Vivian is going to the Hope Foundation Gala in Ireland between March 23, 2010 and March 31, 2010. Jonathan Rhys Meyers is the "Ambassador" for the Hope Foundation, and Vivian must look perfect for her soul mate. Therefore, for Vivian, she would rather go to her own daughter's wedding looking like her face is made up for Halloween, than to not look perfect for Jonathan Rhys Meyers. The best interests of our children are only served by Vivian, if they happen to coincide with what Vivian has determined to be in her best interests. If not, then Vivian will always choose what is best for Vivian and the children will just have to deal with what is not in their best interests. This is the primary source of conflict between Vivian and I.

105. On Thursday evening, March 4, 2010, I picked Vivian up at the airport from her trip to Phoenix for plastic surgery. She asked why Rylee was not with me. I said Anna called and Rylee wanted to play with Anna, saying she would see Vivian when she got home. Vivian responded by saying, "I will remember this." I guess Rylee, our seven year old, has to pay some price for this apparent affront to Vivian. I told Vivian I went to Brooke's last basketball game and sat next to Bill B. She said I don't know who that is. I said I had a very interesting conversation with Bill B. I said you sat next to him at the prior game and he was wondering if Brooke's mom lived in the area. I told Vivian that I explained to Bill B. that you lived with me as you were my wife. I said Bill B. was very embarrassed and felt he had to explain himself by saying what was said between he and you. Vivian asked, "And what was that?" I responded that she would know better than I. Vivian said that Tahnee was there with her. I let some time lapse and then said that I googled Jonathan Rhys-Meyers' name and discovered he is the Ambassador for The Hope Foundation. Vivian said he is an Ambassador in name only and that he has never been to Calcutta. I asked her if she thought he would be attending the gala in Ireland she is going to later this month. She said probably not. She then asked why I was so curious about him. I said well I noticed that you have purchased about every movie he has ever been in and I was curious what the big deal was. She said he is only 32 and he has been in rehab three times. Within minutes after we got home, Tahnee came to me saying that Vivian had come to her room and asked Tahnee if she had told me that Jonathan Rhys Meyers was the Ambassador for the Hope Foundation. Tahnee said I don't know, I may have said something in passing. Tahnee said I should call Vivian on all of this devilish behavior.

106. For a little while, with a couple of exceptions, Vivian was pretty good about letting Brooke and Rylee go to sleep at night without getting in the bed with them. However, on

Monday evening, March 8, 2010, I had just put the girls to bed and was sitting at the dinner table with Tahnee and Joseph, when Vivian started to head up stairs. I asked Vivian if she was going to tell them good night. She said no she was going to lie with them. We went over the whole thing again, with Tahnee reaffirming what I was saying about not making them frightened and talking about how scared Brooke got at the prospect of going to bed without her mother in the bed. Despite this Vivian got in the bed with them and did not leave until they were asleep. This practice has continued to this day. That night Tahnee, Joseph, and I talked about some of the issues with Vivian, including the incident at Brooke's ball game with Bill B. and her meeting a man on the airplane, giving him a ride to his hotel and having drinks with him in a bar, then discovering he was Cam W.'s boss. We also talked about her lack of attention to Brooke and Rylee. Both Tahnee and Joseph expressed concern about Vivian wasting money on expensive designer clothes. Joseph believes Vivian has bought 5 or 6 pair of \$500 to \$800 jeans and multiple pairs of shoes costing many hundreds of dollars. Joseph wants me to refuse to pay her bills. Joseph believes that Vivian would be afraid of a divorce and the prospect of losing custody of Brooke and Rylee. Tahnee tried to explain to Joseph how a narcissist focuses almost exclusively on themselves and really do not genuinely care about others. Joseph said he refuses to believe that Vivian does not love him. Tahnee reiterated the need for an intervention by the family and a family counselor.

107. On Wednesday morning, March 10, 2010, I approached Vivian about her sleeping with Brooke and Rylee. I approached her about it before Brooke and Rylee were up. She accused me of trying to interfere with her bonding with them and said this is the only country in the world where mothers do not sleep with their children. I reiterated to her that everything I have seen indicates that after age 2 or 3 years old the children need to go to sleep by themselves.

I again told Vivian to hold them and snuggle with them as much as she wants before they go to bed, or, if they get in bed early enough, snuggle with them before it is time for them to go to sleep, or, get in bed with them after they are asleep. None of this satisfied Vivian. While Brooke, Rylee and I were having breakfast together, Vivian threw articles on the table about the family bed and sternly says this ends it I do not want to hear any more about it. I looked at the articles, two of the three I had seen before, and all three did not say for parents to sleep with their children when they are 7 and 10 years old. One was in the context of breast feeding, and all were in the context of infants and possibly as old as 2 or 3. Vivian then explodes in front of Brooke and Rylee saying she is the mother and she will do what she wants, etc. After taking the girls to school, I again tried to talk to Vivian about it. She started calling me names and refused to talk about the merits of the issue. The discussion ended with me telling her that she is a narcissist, who has a personality disorder. She said you are saying I am a narcissist. I said yes I am. The problem is that Vivian just doesn't want to bond with Brooke and Rylee, she wants them to have insecurities and fears about going to bed without her. She is more than willing for Brooke and Rylee to pay the price of continued fear and insecurity, and the accompanying dependence, so Brooke and Rylee will be dependent upon Vivian. In addition, she is conditioning them to do the same thing in their own families, which will, undoubtedly, cause problems for their children as well as in their marriages. After our last discussion, Vivian locked the door to the office and was on the telephone for an extended period of time.

108. Vivian was in Phoenix on Monday, March 15, 2010, for a follow-up with the plastic surgeon there. She flew to Santa Monica Tuesday morning, March 16, 2010, for a follow-up with the plastic surgeon there on Wednesday, March 17, 2010. My hope was that when Vivian went to Calcutta, India she might get some perspective by seeing the plight of the poor people

there. However, the trip turned out to be not much more than a big shopping spree and vacation. Vivian bought a lot of clothes in India for herself, the girls and friends. She, apparently, had a stop over in Dubai, which she took full advantage of by buying numerous expensive perfumes. Vivian's roommate in Calcutta was a twenty year old model from Ireland (runner-up to Miss Ireland) by the name of Tania Zorilla. Vivian told everyone how this girl slept in the same bed with Vivian and how Vivian is now going to Ireland a few days early to go to this girl's "show". The entire family flew back to Atlanta, Georgia for Whitney's marriage ceremony to Sean. It was simple and very nice. Unfortunately, Vivian was in her its all about Vivian mode. Her behavior at the airport when we returned in front of Whitney's friend Elyse was especially awkward and embarrassing.

109. Vivian returned Wednesday night, March 17, 2010, from the follow-up visit with the plastic surgeon in California. I asked how it went. Vivian responded that parts of it "did not take" and she was going to have another surgery in another month. While Brooke, Rylee and I were having breakfast this morning, the telephone rang. Vivian happened to be in the room getting coffee. [most mornings, when Vivian is home, she insists upon waking the girls, but then soon goes to the office to not be seen again before I take the girls to school] She answered the phone. It was Dr. Life's office. Vivian began complaining she had not received her testosterone. Vivian became emotional during the phone call and started crying in front of the girls. I believe that most of what Vivian has done during the last six or so months has been pointed toward her grand entrance at this gala in Ireland with Jonathan Rhys Meyers. She has undergone plastic surgery with two different doctors, had cosmetic procedure after cosmetic procedure, bought outrageously expensive clothes and jewelry, purchased every video of any kind where Jonathan Rhys Meyers appears, has been google alerted about Jonathan Rhys Meyers every move, traveled

to India with the Hope Foundation [Jonathan Rhys Meyers is its “Ambassador”], purchased clothes and shoes because those are the clothes and shoes that Jonathan Rhys Meyers adores, etc. Vivian is leaving Monday for her Ireland trip. Vivian extended the trip on both ends, so that she did not return until April 3, 2010. The trip will probably be a disaster and Vivian will return even more depressed than when she leaves.

110. On Saturday afternoon, March 20, 2010, Vivian received four cases of business cards. She doesn't have a job or a business. The telephone number on the cards is c:001 + 702.275.0000. Everything she is doing is designed to impress Jonathan Rhys Meyers and/or the other people she will meet in Ireland. I also noticed a new black and gray plaid coat in the closet. The brand is PRPS. I think this is the same brand as the jeans she bought for \$500 per pair. I am not sure I want to know what she paid for this coat.

111. Vivian left for Ireland early Monday morning, March 22, 2010. I gave her a letter/memo to read on her trip stating all the reasons she should stop sleeping with Brooke and Rylee. A true and correct copy of this memorandum, dated March 22, 2010, is attached hereto as Exhibit “A”. It is evident Vivian wants them to be dependent upon her even though it costs them emotionally – she wants them needy, fearful and insecure. Vivian feeds on the negative emotions of her own children. Vivian will be gone until April 3, 2010. When Vivian is here, she rarely spends any time with Brooke and Rylee. Vivian rarely eats a meal with Brooke and Rylee. She insists upon waking them up in the morning during the school week, but quickly disappears into the office. She rarely helps them with their homework. I help the vast majority of the time. She has told Brooke that she is too busy working to spend time with her and Rylee. Vivian doesn't have a job. Vivian recently told me that she must spend hours each day on the internet keeping up with the latest fashion designs. When I asked why this was necessary she responded because

of her work. I said you don't have a job. She said that she might teach classes on line. When Vivian was teaching classes they were primarily draping classes. Draping is a method of sewing where you drape cloth on a mannequin, rather than using a pattern and cutting the material based on the pattern. You don't need to know the latest designs to teach any of the classes that Vivian has taught. My impression is that the focus of Vivian's fashion research is to determine what fashion and brands most appeal to Jonathan Rhys Meyers.

112. On Thursday morning, March 25, 2010, Vivian called from Ireland and asked to speak to me. Vivian said she had no money in her account and that she took \$1,000.00 from Joseph's account. She wanted me to put more money in her account. Joseph's account is a checking account that I put money in each month for his monthly expenses at college. Also in Joseph's account is the money he has saved from working during the school year at Clemson, working during summer jobs building fences and working as a cart boy at the local golf course. Vivian set up the account before he was 18 and she is therefore also on the account. It was never intended that Vivian could take Joseph's money out of his account. Not only is Vivian's spending out of control, but her lack of ethics as well.

113. Brooke and Rylee called Vivian on the telephone on Monday night, March 29, 2010. Vivian then called Brooke and Rylee back on Skype. What the girls see is Vivian and a young girl with black framed glasses snuggled up to Vivian as only Vivian speaks. It was so bizarre. How incredibly insensitive Vivian is to Brooke and Rylee. She leaves them for weeks at a time, then they see her snuggled up to this weird looking young girl on the computer monitor. Brooke told Vivian that I was going to be gone for two days for meetings in St. George and Salt Lake City and that I wanted them to go with me, but Tahnee refused to go. Vivian responded, "So you are going to be home alone with Tahnee for two days. If I would have known that, I



would have brought you with me.” Vivian has been in Ireland for two weeks – a week of which the girls were in school. She extended her trip to attend Tania Zorilla’s “show”. Vivian went there to meet her soul mate Jonathan. There is absolutely no way Vivian would have ever taken Brooke and Rylee to Ireland. Vivian will say anything to give Brooke and Rylee the false impression that she cares for them. Brooke later told me the girl next to Vivian was Tania. This is the same girl Vivian slept with during the Calcutta trip.

114. Brooke and Rylee called Vivian on Friday night, April 2, 2010. Vivian then called Brooke and Rylee on Skype. Vivian told Brooke and Rylee, “If I had known you were not going to the ranch I would have brought you with me.” Vivian is so manipulative of these girls.

115. On Saturday night, April 3, 2010, I took Brooke and Rylee with me to pick up Vivian at the airport from Vivian’s trip to Ireland. On the drive home, Vivian said to the girls in front of me, “If I would have known that your dad was not going to take you to the ranch, I would have taken you with me. I feel so bad you didn’t get to go anywhere for Spring break. I will never let it happen again.” I said I never said I was taking them to the ranch. There is still six inches of snow on the ground there and the cabin has no running water. You could never have taken them to Ireland because they would have missed a week of school. Vivian’s travel itinerary to Ireland had her leaving on March 23, 2010 and returning Wednesday, March 31, 2010. However, Vivian extended her trip to leave early morning of Monday, March 22, 2010 so she could attend Tania’s “show” and extended her return until the evening of Saturday, April 3, 2010 for a reason she chose not to disclose. I believe Vivian did this without any consideration of Brooke and Rylee or their spring break. For Vivian to so callously disregard Brooke and Rylee, and then to suggest to them that they didn’t get to go anywhere for spring break because of some failing by me, and had she known their suffering she would have taken them to Ireland, and

she will never let it happen again, is simply too much. I checked on-line this morning. The Hope Dublin Ball 2010 was held on March 26, 2010 at the Burlington Hotel in Dublin, Ireland. It was a black tie event. Vivian stayed at the Burlington Hotel. My best guess is that things didn't work out all that well for Vivian and her plans for her soul mate – Jonathan Rhys Myers. After that event, Vivian was once again in need of the adoration she gets from Brooke and Rylee. I am sure it was after the Ball that Vivian started buying Brooke and Rylee gifts and began calling the girls on a regular basis with her bed mate Tania. I heard the door open downstairs. Vivian had taken some of the eggs that Whitney, Brooke, Rylee and I had colored yesterday and started to hide them in the back yard. I grabbed the rest of them and did the same. She was trying to put together make-shift Easter baskets on the counter when I told her I had already gotten the girls Easter baskets.

116. After being in Ireland for two weeks, multiple trips to California and Arizona for plastic surgeries and follow up before that, and a trip to India before that, Vivian left the morning of April 5, 2010, with Tahnee and Whitney for Salt Lake City to see a Muze concert. Will be back tomorrow. What's two days? It is two more days where it is evident she does not care about Brooke and Rylee. She will go months without cooking a meal. I found out recently that my oldest kids used to hoard food when they were younger because of the infrequency in which she cooked meals. Brooke told me tonight that Vivian talked to her about she and Rylee going to Ireland this summer. Apparently, Vivian is not going to work in India this summer, but her "financial talents" are needed by the Hope Foundation in Ireland. I told Brooke that she could go for a week or two if I went as well.

117. On Tuesday evening, April 6, 2010, while Vivian, Tahnee and Whitney are driving back from Salt Lake City, I received the following text from Whitney at 6:27 p.m.: "just

to warn you. Mom is on a rampage” I texted back at 6:51 p.m.: “over what?” At 6:54 p.m. Whitney responded: “we were talking about Brooke and her dance and I mentioned how she should do sports like we did and mom flew off the handle it got ugly” Later when they got home about 8:25 p.m. Tahnee walked in the door with Vivian some distance behind her and said, “She is crazy. We need to talk later.” I am constantly struggling with the knowledge that Vivian is inflicting emotional abuse upon every member of the family that lives here. However, I am scared that a judge might not fully appreciate the severity of the situation nor the severity of Vivian’s condition and give Vivian partial custody of Brooke and Rylee – that would be unbearable. I just finished talking to Tahnee and Whitney. They were having dinner at a Mexican restaurant in St. George when Vivian shoved her plate at Tahnee and Whitney and stood up pointing her finger at them yelling. After they got in the car, Vivian yelled at them for 45 minutes saying one vulgar word after another. Vivian told Tahnee and Whitney they expect everyone to do everything for them and that they “play dad and I against each other.” Vivian accused Tahnee and Whitney of playing word games and that they both needed to grow a backbone. Vivian told Whitney she was a liar and that everything Whitney says is a lie. She accused Whitney of being selfish. Whitney said when they were in the hotel room in Salt Lake City she would not let them watch television. Tahnee and Whitney said that Vivian told Brooke on the telephone that she would have taken Brooke to the Muze concert, but that there was not enough time to get another ticket. The sad truth is that Vivian had four tickets and one went to waste. Vivian had no intention whatsoever of taking Brooke to the concert. However, just like telling Brooke she would have taken her to Ireland, Vivian had no intention of taking Brooke to the concert. While in Salt Lake City, Vivian and Tahnee got in a fight when Vivian said she might have more children. Tahnee said that Vivian was too old to have any more children and

talked about how the risk of having a child with downes syndrome was substantially increased at Vivian's age (48 in August, 2010). A fight ensued with Vivian saying she was still young. Whitney said that Jonathan Rhys Myers did not attend the Hope Foundation Ball. According to Vivian, one of the times Jonathan Rhys Myers was said to be in rehabilitation, he was on a golf trip. Vivian suggested to the Hope Foundation that he be the host for a Hope Foundation Golf Charity event. When Vivian got back from Ireland, she gave Brooke and Rylee claddegh rings. Vivian told Brooke that you wear the ring with the heart pointing out when your heart is open to a relationship and toward you when you are in a relationship so your heart is closed.. Brooke pointed out that Vivian's claddegh ring was pointed out. Vivian said that is because her heart is open. Vivian told Whitney that she and I have been separated since last September and that she asked me to leave the house, but that I wouldn't. She said that we are waiting until next year to get a divorce (news to me). Vivian said the court will make us sell the house and split the money from the sale. Vivian said that since I am now a primary care giver, we will have joint custody and that Vivian will get 50% of everything I have. Vivian told Whitney that she first met the lawyer when she was living at Lake Las Vegas. She said the lawyer is a "big gun". The lawyer told her to move back into the house. She told Whitney that she has continued to talk to this lawyer. Vivian told her that the reason she is having all of this plastic surgery done now, taking all these trips, and spending all this money is that it will not be counted in the divorce.

118. On Wednesday morning, April 7, 2010, after I had made breakfast for Brooke and Rylee, Vivian came into the kitchen area and said what a mess the house was – referring to things on the kitchen counter – and started to criticize me for not picking things up better. I responded by saying that she had been gone essentially two months, but was going to criticize me for not picking up. Vivian said you should move out of the house. I said no I think you should move

out. Vivian then said that I said we would work this out without lawyers (don't recall such a discussion), but that she was going to call an attorney and file for divorce. I responded by saying that she should do what she thinks she should do. She then turns to Brooke and says, "You heard him, he gave me permission to file for divorce. It is his fault." Vivian then said, "Lawyers love to take it to other lawyers. You are going to have to write a big check." I have tried unsuccessfully to get Vivian to not talk about things like this in front of Brooke and Rylee. Vivian consistently gives no consideration whatsoever for Brooke and Rylee. As I was trying to get the girls out of the door to go to school, I heard Vivian tell them that I was trying to make her not sleep with them. I also heard her tell Brooke that she would talk to her later about all of this. Later that day, Vivian told me she is going to California for another operation either Monday or Tuesday (all of the first liposuction did not take) and that she is going back for another surgery on the 29<sup>th</sup> of this month for a tummy tuck, if the surgeon is willing to do it.

119. On Thursday evening, April 8, 2010, I returned from a trip that morning to Salt Lake City. I asked Vivian how Brooke's eye appointment went. Vivian said optometrist at Costco said could not correct to 20-20 and thinks it may be due to stress. When Vivian is away everyone is more relaxed, there is more laughing, and everyone is generally having a good time. When Vivian is here, she has no problem having her fits of rage in front of Brooke and Rylee, and has discussed a possible divorce with Brooke. This belief that she is never at fault and someone else is always to blame is precisely the attitude displayed by her mother, her sister Cindy, and her grandfather.

120. On Friday, April 9, 2010, I had a conversation with Vivian wherein she admitted that she called Bob Dickerson, but claims she did not tell him to prepare papers to file for divorce. She said that when she met with him 5 years ago he told her that he did not think she

was ready to file for divorce. He told her yesterday (or day before yesterday) that he still didn't think she was ready to file for divorce. Vivian refused to stop sleeping with Brooke and Rylee when they go to bed at night. As we spoke in the kitchen, Tahnee could hear what was being said as she was in the library loft. Tahnee texted me the following message: "shes completely making stuff up. Im listening and none of its true...its crazy."

121. Vivian left for California on Monday, April 12, 2010, for another liposuction procedure. Her sister, Raylene, went with her. I asked Vivian how it came about that Raylene was going with her as they hardly ever talk. Vivian said that Raylene recently called about something and Vivian asked if she wanted to go. They are supposed to return this Thursday, April 15, 2010. Before she left, Vivian removed the intimate photograph of Jonathan Rhys Meyers that has been on the office computer for many months. Hooray!

122. After Brooke's civil war re-enactment at school on Friday, April 16, 2010, Vivian, Whitney, Brooke and I went to Pizza Hut. Lou and Taylor K. sat at a nearby table. While Vivian was visiting with Lou, Whitney told me that sometime last week she was on the computer when Vivian walked by and said that she had told the lawyer to file the papers. This is obviously just the opposite of what she told me on Friday, April 9, 2010.

123. Vivian left on Wednesday, April 28, 2010, for Phoenix. More plastic surgery. Now she is getting a tummy tuck. Wrote a check for \$8,500.00 to the surgeon. She is scheduled to return Saturday, May 1, 2010 at 7:00 p.m. When I told Brooke and Rylee to set their clothes out for in the morning, they said they had no clean underwear. I had them sort their dirty underwear and socks, then showed them how to work the clothes washer. Brooke and Rylee's needs are not on Vivian's radar. Except for when Vivian was craving homemade cheeseburgers, she hasn't cooked a dinner meal in a very long time. Vivian doesn't do the laundry more than

once a month. Vivian is preoccupied with being on the internet much of the time in order to “keep up with the fashion industry.” She doesn’t have a job and when she did it was teaching draping at a technical college – not fashion. The rest of her time has recently been spent in trying to form a Nevada nonprofit corporation – The Hope Foundation – in the United States, with Vivian as one of the officers/directors.. She thinks she can get a major contribution from the Bill Gates Foundation. When I told Brooke and Rylee it was time to go to bed, Brooke immediately asked who was going to sleep with them. I said no one. As I was reading them a bedtime story, Brooke was crying and continued to cry as I left their bedroom. At ten years old, I feel so bad for Brooke that she is so afraid to go to bed without a parent despite the fact her sister is in bed with her. Brooke was doing so much better and had more confidence in dealing with things while Vivian was away and no parent was sleeping with them. It is troubling that Vivian continues to put her own selfish interest above the obvious best interests of Brooke and Rylee.

124. On Tuesday, May 4, 2010, Tahnee said that she only gets one of three responses from Vivian when she plays the piano (playing the compositions Tahnee wrote): (1) it is too loud and either stop playing or play more softly; (2) write something so Vivian can impress Jonathan Rhys Meyers with it, or; (3) I (Vivian) paid for your lessons. Never a compliment.

125. On Sunday, May 16, 2010, I went to Whole Foods with Vivian, Brooke, Rylee, and Kayla A. We ate dinner there. Vivian told me the kids eat there when she shops there – as if this were a common event. I knew of one other time, when I was in Utah earlier this week. I asked Brooke and Rylee how many times they had eaten there before today. They both said one time.

126. On Monday, May 17, 2010, Vivian went to see Dr. Jameson. During dinner with Brooke, Rylee and I (an extremely rare occasion), Vivian proudly announced that Dr. Jameson

said she looked fifteen years younger and that Dr. Jameson was amazed at how natural it all looked. Vivian hasn't got a clue how adversely such a comment might affect a 10 year old and a 7 year old, nor does she care.

127. Vivian, Whitney, Brooke and Rylee, and I went to Legoland on or about June 4, 2010 until June 6, 2010. Went to the water park on Saturday. Vivian read a book while the rest of us played. Rylee didn't want to leave – loves playing in the water. We went to park on Sunday. Vivian read a book while the rest of us road the rides – Vivian rode one ride. Though Vivian professes no ill feelings towards me, she went out of her way in front of Brooke and Rylee to sit as far away from me as possible every time we sat down for a meal. We stayed at La Costa – a high end resort where Vivian had made reservations. We had dinner there on Saturday night. After I thought everyone was through with their meal, I asked if we were ready to go back to the room. Vivian responded saying “we are not ready, but you can leave by yourself anytime you want.” Vivian could care less about how misbehavior adversely affects Brooke and Rylee. They see all of this.

128. I did the family shopping at Costco on Tuesday, June 8, 2010. Picked up prescriptions for Vivian. She got Pregnyl 10000U. There was also sterilized water to mix with that, as well as a box of needles to inject it. Both were prescribed by Dr. Jeffry Life. I suspect Vivian is not losing weight as fast as she wants as she is leaving for Ireland on June 15, 2010, and she is either doubling her dosage by getting prescriptions from two different doctors, or she is planning to take the medicine for a longer period of time than a doctor is willing to prescribe.

129. On Wednesday evening, June 9, 2010, Vivian did not bring Brooke home from her dance rehearsal. I had dinner prepared for Brooke and asked Vivian where she was. Vivian said she is staying the night again at the Jesse & Heather A.'s. Vivian is leaving for six weeks on



Monday, but has our ten year old stay at someone else's home for two nights on the eve of her departure.

130. On Saturday afternoon, June 12, 2010, a medication in the laundry room where Vivian keeps syringes is Chorionic Gonadotropin. Also there was an invoice, dated June 3, 2010, on the office desk from Aspire Cosmetic MedCenter for a total of \$1,529.30, which Vivian paid using American Express for \$1,274.30 and a gift certificate for \$255.00. The two products or procedures purchased/utilized were 210 Dysport and 1 Restylane.

131. Brooke's last recital was Saturday night, June 12, 2010. It was after 10:30 p.m. and Vivian and Brooke were still not home. Rylee asked for my cell phone. When I asked why, she said she had tried to call Vivian three times on the home phone and she had not answered and thought my phone might work better. They still were not home after midnight. I drove over to the Jesse & Heather A.'s home. Vivian's car was parked there. I went home and went to bed. When I got up in the morning Vivian was in Brooke's bed, but no Brooke. It is almost 5:00 p.m. and Vivian has been out most of the day, just as she was yesterday. Brooke is still not home. Vivian is leaving for 6 weeks tomorrow morning, but spending time with Brooke and Rylee before she leaves is obviously not a priority. There are many bottles of 1 litre bottles of Bronz Original in the bathroom. Also, yesterday Vivian got even more face and arm cosmetic treatments – removing any and all sun spots. She obviously does not want to meet Jonathan looking like a 48 year old woman. Brooke stayed the night at Jesse & Heather A.'s. I took Brooke her retainer.

132. When Rylee and I walked in from her swim class on Monday, June 21, 2010, Vivian was on the skype with Whitney and Brooke. I asked Vivian if she had made plane reservations for Tahnee, Brooke and Rylee. She said she had not. Whitney said today was the

last day of the Delta discounted fare. Vivian argued for a while. I asked when Brooke and Rylee would be returning. She said the original date she was going to return – August 19, 2010. I said that I would change my reservation to come back with them. In front of Whitney and Brooke she started accusing me of a “power play” and “hovering” over Brooke and Rylee. I said that she and I agreed to that before she left. She said that she, Brooke and Rylee would be staying with friends and there was no place for me. She said I would have to get a hotel. She started saying a lot of mean inappropriate things in front of Whitney and Brooke. I had to leave to take Rylee to her ball game. The unspoken reason I wanted to come back with the girls is I don’t trust Vivian and I don’t want to be away from Brooke and Rylee that long. But more importantly, Vivian is oblivious to Brooke and Rylee’s needs when she is at home with them. As noted previously, when I am not home, Brooke and Rylee will sometimes not get dinner and she spends very little, if any, time with them during the day. She spends most of each day in the office with the door closed. When Brooke and Rylee ask to do something with her she usually tells them she has work to do. The reality is that she spends the bulk of her time on the internet buying things for herself or reading. Recently, she has been spending time forming a USA 501(3)c for the Hope Foundation, but that takes minimal time, especially since Les S., a good friend of mine, is doing all of the legal work.

133. On Monday evening, June 21, 2010, Joseph and I discussed the problem with Vivian taking money out of his account. She has done it twice recently. Although I put money in each of the older children’s accounts each month, the bulk of the money in Joseph’s account is money he has saved from his employment over the last few years. We decided it would be best to open a separate account under his name only. I called Charlene at Bank of America the next morning to set up that account.

134. I took Brooke and Rylee on seven day trip to Lagoon, Hogle Zoo, Park City, Nyla R.'s Wyoming ranch, and Sundance between June 29, 2010 and July 5, 2010. We all had a great time. Whitney joined us for part of the trip. I had Brooke try to call Vivian when at the Roberts' ranch, on July 5, 2010, and July 6, 2010. Vivian's cell phone has been off and the house where Vivian said she would be staying – with Rosaleen and her husband, there is a recording that the phone is not in service. Vivian said that she was going to spend the weekend with the man that owns Kart World in a GT rally or race. I believe his name is David. Vivian has previously told me that he is happily married. Brooke told me that she checked the phone messages today and Vivian had called one time while we were gone and left a message. She called on a day she knew we would not be home. It is so callous of Vivian to care so little about communicating with Brooke and Rylee while she is gone. She did the same thing when she went to India and Ireland during her last trip. I know it really hurts Brooke and Rylee.

135. Vivian had set it up that Tahnee, Brooke and Rylee were going to fly to Ireland on August 1, 2010. Whitney, Joseph and I are scheduled to leave August 7, 2010, which was after Whitney's final and we thought after Joseph's last tournament. I had told Vivian previously that I wanted to return from Ireland with Brooke and Rylee. Despite this, after Whitney scheduled her, Joseph's and my return for the 15<sup>th</sup>, Vivian scheduled the return for she, Tahnee, Brooke and Rylee for the 19<sup>th</sup>. After making all of the reservations, Tahnee decided she was not ready to take the Mcat on July 29, 2010. She is now taking it August 13, 2010 and is not going to Ireland at all. When this first happened I offered to go in Tahnee's place. Vivian's response was that although she, Tahnee, Brooke and Rylee could stay with Rosaleen and her husband, it would be inappropriate for Vivian, Brooke, Rylee and I to stay with Rosaleen and her husband. This makes no sense whatsoever, but I did not argue. I told Vivian we would simply move Brooke

and Rylee's flights to the 7<sup>th</sup> and I would substitute for Tahnee's ticket. When I got back from the ranch Sunday night, July 18, 2010, Tahnee said that Vivian wanted her to fly with Brooke and Rylee to Philadelphia on the 1<sup>st</sup> and then turn around and fly to Las Vegas, and then Vivian would fly to Philadelphia and take Brooke and Rylee to Ireland. Tahnee said she couldn't do it on the eve of taking the Mcat. During a telephone call on Thursday, July 22, 2010, Vivian wanted me to do the same thing. I told her it didn't make sense since I would be turning around and going all the way to Ireland a week later and I already had a full plate of things to do. Vivian said she would ask Whitney or Joseph to do it. We were on the skype and Vivian then turned to Brooke and said hopefully Brooke, Whitney and Joseph won't have too much on their plate and you will get to have the trip we planned. Vivian is such a manipulative horrible human being.

136. I took handwritten notes while I was in Ireland beginning on August 9, 2010. On the 9<sup>th</sup> Vivian said that David Walsh, the man that owns Kart World, is having Irish rings made for Brooke and Rylee. Vivian said David is separated from his wife, Mary. Vivian said that under Irish law that they must wait several years before they can have a divorce. I reminded Vivian that she had previously assured me that David was happily married (it was when she was going to ride in the car rally with him and when I expressed concern, she assured me he was happily married). Vivian said David Walsh is 64 years old. I asked Vivian point blank if anything was going on between them and she assured me there was nothing. Vivian quizzed me about the status of Geothermic. This gives credence to my older children telling me Vivian is just waiting for Geothermic to hit before she files for divorce.

137. On August 10, 2010, I asked Brooke if she had a good time at Kart World. She said she did. I asked if she liked David. She said, "He's giving me a ring, but I like you better." Brooke said that Vivian, Rylee and she stayed at David's house while they were in Cork. The

four of them had cereal together each morning, the four of them went out for lunch together each day, the four of them went out for dinner together each day. Brooke said that David drove them from Cork to Rosaleen's house (which is on the outskirts of Dublin).

138. Based upon conversations with Tahnee, Brooke, Rylee and Vivian, the following is my understanding of what happened in Ireland before I arrived: Tahnee, Brooke, and Rylee arrived in Dublin on Monday, August 2, 2010. Several of them were experiencing jet lag and they did not do much the first day or two. Vivian took Brooke and Rylee to the Leprechan museum in Dublin probably on Tuesday, August 3, 2010. Tahnee departed for home on Wednesday, August 4, 2010. That afternoon, August 4, 2010, Vivian, Brooke and Rylee took the train to Cork. David Walsh picked them up at the train station and they stay with him for the next two days. On Friday afternoon/evening, August 6, 2010, David Walsh drives Vivian, Brooke and Rylee to Rosaleen Thomas's house. I am convinced Vivian is having an affair with David Walsh. I am literally sick to my stomach that Brooke and Rylee were unnecessarily exposed to that relationship and environment. It must have been so confusing and disturbing for Brooke to witness the relationship between her mother and another man. How incredibly callous of Vivian to do this to Brooke and Rylee. Vivian then spends the weekend climbing with Irish celebrities that are going to climb to the Mount Everest base camp this fall. Rosaleen Thomas's daughter, Ruth, watches Brooke and Rylee for the weekend. Vivian doesn't see Brooke and Rylee from June 15, 2010 until August 2, 2010, but by August 7, 2010, she is leaving them with someone else and takes off and leaves them for two days so she can practice hiking so she can leave on again in September 30, 2010 for several weeks. I must do everything I can to get full custody of Brooke and Rylee. Vivian is ending up just like her mother and her sisters. I cannot

let Brooke and Rylee continue to be exposed to someone like that nor to end up like that. Vivian has spent most of the six weeks working very little, partying, and sightseeing.

139. Vivian has made such a mockery of our marriage. She had multiple plastic surgeries, skin treatments, diet pills, shots to get thin, and bronze butter applications to go to Ireland to meet her 32 year old “soul mate”. She is having an affair with a 64 year old married man. Up to this point I have thought that the longer I can put off a divorce the better it is for Brooke and Rylee, because I know for sure I can be there for them all of the time. However, I now realize I must get them away from Vivian. Vivian really doesn’t care about them. When she is home she spends almost no time with them at all, except for sleeping with them at night and then she gets up in the middle of the night to be on the internet – something that is clearly not in their best interests. Vivian emotionally feeds on Brooke and Rylee at her convenience. I wanted to share the experience of seeing the Riverdance Show with Brooke and Rylee, but I could not be around Vivian any longer that day. I was literally sick to my stomach. I just can’t get over Vivian having Brooke and Rylee stay in the home of the married man with whom she is having an affair. David Walsh is married to Mary, although living apart. Yet, Vivian and David Walsh have Brooke and Rylee with them while they have their affair.

140. During the evening of August 10, 2010, I told Vivian I needed to use her phone to call Tahnee, Joseph and Brent J. She appeared very nervous. I accessed her call history to call Tahnee, I noticed numerous calls with David Walsh on August 8, 2010, the last day she was hiking this past weekend. When I told Vivian I had to use her phone again the evening of August 11, 2010, she said she had to use it first and stayed behind in the lobby. When I got the phone later in the evening, I again checked the call history. Everything looked the same, except she had deleted all of the calls with David Walsh.

141. Vivian has two telephones in Ireland. The number of one of Vivian's phones is: 0113 53 868465094. I don't know the carrier for this phone. Possibly, Vodafone or Meteor. This phone reflects calls with several people including David Walsh, Michael Martin and Rosaleen Thomas. There is a text on this phone from David Walsh on August 2, 2010 at 7:48:27 "I see flight has arrived early. They probably bribed the captain. All the love, joy and happiness in the world today for you and your three daughters. Dave"

142. Vivian's other phone is with Tesco Mobile and the number is 0894350115 This phone reflects calls with several people including "JP" (one call was at 00:29 or 12:29 in the morning).

143. Vivian has two cleaning ladies clean the house every Wednesday. On Tuesday, August 17, 2010, it was apparent we did not need them to come the next day. I checked the computer in the kitchen for a number for "Liz". Nothing. I checked all the drawers at the desk in the kitchen. Again, nothing. I then checked the computer in the office. Also nothing. However, I noticed an icon entitled, "Ireland" I opened the folder and it was photographs of Vivian's prior trip to Ireland. I started to look at the photographs – beautiful scenery – including places we just visited. However, when I continued to review the photographs it revealed Vivian's relationship with David Walsh.

144. I got home from working at the ranch on Friday evening, August 20, 2010. Vivian and Brooke are out buying Brooke's school items and a violin. Brooke got a list from the junior high school of the things she needed. When earlier this summer I told her we would go buy the items on the list, she told me Vivian wanted her to wait until Vivian got back from Ireland and she would take her to buy the items. I asked Rylee what she did in Ireland after I left. She said David came to see them. She also talked about staying at his house earlier during the

trip. Just talked to Brooke. I asked what they did after I left Ireland. She said David picked them up at the Shelborne Hotel one morning and they – David, Vivian, Brooke and Rylee – spent the day together at Knowth and New Grange . Brooke said it was too late when they got back to Dublin for David to drive back to Cork, so he also stayed at the Burlington Hotel that night. Brooke said that Vivian, Brooke and Rylee took a taxi to the airport the next morning. They flew home on the August 19, 2010.

145. I had a bad accident on my bicycle on Sunday morning, August 22, 2010. I had a punctured lung, four broken ribs, and severe road burn on my right arm, right hip, and right calf. Tahnee drove me home from the hospital on Thursday afternoon, August 26, 2010. On the way home Tahnee told me she took Brooke to the orthodontist yesterday morning, because Vivian was on the phone with her psychic. Tahnee said it was sad yesterday evening. Tahnee said Vivian had been on her face book account modifying her revealing photo for a couple of hours. As a consequence, Brooke had to go to dance without dinner.

146. Tahnee and I got home from the ranch Tuesday night, August 31, 2010, at about 7:30 p.m. I asked Vivian, in front of Brooke and Rylee, if Brooke and Rylee had eaten dinner. Vivian said they had. Later, Brooke asked me for a health bar. While she was eating it, I asked her what she ate for dinner. Brooke looked at the floor and said she had not eaten any dinner. I asked why she said nothing earlier. She indicated Vivian said that she had dinner and did not want to cause a problem. The next day, Vivian went to a place that put very heavy make-up on her. She had Brooke taking pictures of her for her face book.

147. On Saturday morning, September 4, 2010, I had plans to meet Sean and Whitney for breakfast before they drove to North Carolina. I am taking Tahnee, Brooke and Rylee. Vivian walks in this morning and said don't take Brooke to breakfast this morning because she



has a private dance lesson with Dar at noon and you screwed up the last one. I asked if she had a number for Dar so I could try to reschedule it. She said Brooke's lesson was at 2:00 p.m. but they called yesterday or the day before and changed it to noon. I told her I was going to try to change it. Vivian got mad and said the dance studio told her I screwed up the last one and I don't know what I am doing and don't try to change it. I told her not to threaten me anymore – those days are behind us. The truth is that when Jim offered the classes with Dar earlier this summer, I signed Brooke up for two classes for the only two days Brooke was then available. However, I had to cancel them because Brooke did not want to go – Brooke's feet hurt so badly she could hardly walk for the first one and Kayla's birthday party was scheduled during the second one. If I tell Vivian this, she will tear into Brooke. There is a practical problem today because Vivian just left for a hike and won't be here when we leave and I can't leave Brooke by herself. I took Brooke to the breakfast. My recollection is that Dar cancelled the lesson because he had an audition.

148. When I got up Tuesday morning, September 7, 2010, at 4:00 a.m., Vivian was “talking” on facebook. I believe she does this probably many, if not most, early morning hours. I am concerned for Brooke and Rylee. If Vivian gets partial custody and continues her narcissistic behavior, which she will, Brooke and Rylee will emotionally suffer for the rest of their lives.

149. Before I left for the ranch on Tuesday afternoon, September 7, 2010, Vivian falsely claimed I had not told her I had to leave. She asked if I had gotten anyone to take Brooke and Rylee to school and to and from dance. This is so bizarre. I have had this exchange with Vivian several times before. Vivian has no job and basically spends most of the day and part of the night in the home office on the internet, “talking” on face book, buying things from the

internet, or reading her kindle. Yet when I leave town, Vivian takes the position I am supposed to arrange for other parents to drive our kids. Vivian, previously told me she is leaving on September 29, 2010 for the climb to Mt. Everest base camp and will be returning on October 28, 2010. On Sunday evening, September 12, 2010, Vivian tells me she is leaving this Sunday, September 19, 2010 for Ireland as part of this trip. I asked why are you doing that? She said that is the only way to Mt. Everest. I said I believe there were more direct routes. Vivian said she had to go to Ireland to be part of the group that is going to Mt. Everest -- another 40 days or so away from Brooke and Rylee without blinking an eye.

150. While Brooke, Rylee and I were having breakfast this morning, Tuesday, September 14, 2010, Brooke told Rylee about Vivian leaving for five weeks. Rylee was visibly upset, and Brooke tried to comfort her by saying it won't be as bad as during the summer because they will be busy in school. It is sad that children yearn for attention from a parent who is unwilling or unable to give it. It is so sad that when Vivian sleeps with Brooke and Rylee, but leaves during the night, she is narcissistically feeding upon Brooke and Rylee without regard to the adverse ramifications. Vivian, denies them any real consistent interaction while she is here and has no trouble leaving for many weeks at a time.

151. On Saturday, September 18, 2010, I went up and back to work at ranch. When I got home that night, I discovered that Vivian had taken Brooke and Rylee to stay at Jesse & Heather A.'s for the night. When I picked Brooke and Rylee up the next day, I asked them when they went to the A.'s home yesterday. Brooke said about 9:00 a.m. in the morning. I asked why so early. Brooke said because Vivian had a lot of things to do for her trip. Vivian is going to be away for about 40 days, yet has no problem not seeing Brooke and Rylee for an extra couple of days before she leaves -- they are not even on the radar screen. On Sunday evening,

September 19, 2010, Brooke broke down during dinner. She asked why mom leaves so much. She also asked why Vivian doesn't spend much time with her anymore. She said her friends' mothers spend time with them. She said Vivian spends a lot of time in the office or goes out during the day and no one knows where she is. Later when I was consoling her I asked Brooke how she thought Rylee was dealing with all of this (Rylee has not cried). Brooke responded very quickly, "It's not as tough on Rylee because she has really never had a mom." Brooke had a tough night that night. During dinner she began complaining of stomach pains and she was visibly shaking. She wanted to go to the emergency room. This went on until about 1:30 in the morning when she finally vomited and was better. This was all the result of the stress of an absent and uncaring mother. She and Rylee both got scared during the night and went down and watched television on the couch. Vivian sleeps with them when she's here, so they get scared by having to sleep by themselves.

152. Brooke had another tough night on Monday, September 20, 2010. She started crying about Vivian being gone. She said she just wanted to talk to her, but said Vivian did not leave a phone number for her. Brooke got up and went to the computer and called Rosaleen Thomas on the telephone. Rosaleen is who Vivian stayed with – at least part of the time when she was in Ireland during much of this summer. Rosaleen answered the telephone. Brooke asked to speak to Vivian. Rosaleen said that Vivian hadn't arrived yet. (I suspect Vivian was picked up at the airport by David Walsh and she is staying with him.) Brooke asked Rosaleen for Vivian's international number, which Ros gave to her. Brooke called that number and there was no answer, but Brooke left a voice mail. Brooke had a hard time going to sleep, but much better than the night before.

153. As of early Wednesday evening, September 22, 2010, Vivian still had not called Brooke and Rylee since she left. I pay Vivian's American Express bill each month. There is a charge for \$220.00 for consulting services from Nan O'Brien Inc.. I went on the internet and the services are described as "intuitive counseling". This must be the psychic with whom Vivian has been speaking. I went in the office to watch tv and could not find the remote. I checked in the top drawer of the desk and found a lot of credit card bills. One credit card with the Nevada Society of CPAs has a balance of over \$29,000.00! Vivian is absolutely out of control, and obviously deceitful. What a disaster!

154. Around the first of September, Brooke told Vivian and I that she was having difficulty seeing the writing on the board at school. Vivian scheduled Brooke's eye appointment while she was gone on Friday, September 24, 2010. What happened at the eye appointment is frightening and highlights just how little Vivian actually cares about Brooke and Rylee. Vivian took Brooke to have an eye exam in April. The optometrist said the notes from the April exam revealed that Dr. Griffith was very concerned about Brooke then and wanted to see her in two months and if she had not improved, indicated that she should see a pediatric ophthalmologist. Vivian never took her back. In April they could only correct Brooke to 20-40. Today, they could only correct her to 20-50. I was understandably very concerned as I have worn glasses since I was 8 years old and they have always been able to correct my vision to 20-20. Dr. Kasden referred me to Dr. Grace Shin, who I called first thing Monday.

155. Tahnee previously had told me that Vivian had listed herself as single on Facebook. However, Tahnee told me on Sunday evening, October 3, 2010, that Vivian recently changed it to being in a relationship. I am sure this is because of her relationship with David Walsh. Hopefully, this situation continues and Vivian is motivated to move to Ireland. In

talking with Tahnee, I was reminded of something that Brooke said the other night that is very telling. Up until about a month ago, when Brooke would question why Vivian did not act like a loving parent, I would make excuses for Vivian. My thinking was that it would not be beneficial to Brooke to tell her the truth about Vivian. More recently, I have responded with asking what Brooke thinks about it. Recently, Brooke talked about Vivian stopping acting like a mother and how hard that is for Brooke. Brooke then said that she thinks Rylee is not having as hard a time because she never had a mother. How very sad. Unfortunately, what Brooke said is true. Rylee was only two years old when Vivian checked out.

156. It is Sunday evening, October 10, 2010. Brooke, Rylee and I returned from the ranch a few hours ago. While we were driving in the truck this weekend there was a time when Rylee was sound asleep. Brooke and I were talking and I told her that I had been thinking a lot about what she said about Rylee never really having a mother and it made me sad. Brooke said you know its true dad. I said I know, but it is still sad. On another occasion we were in the cabin, and out of no where Brooke said she thought what mom has done to her body is wrong. I told Brooke that it is important that you bathe regularly, brush your teeth everyday, keep your hair brushed, and wear clean clothes. I said you should take pride in a clean healthy body, but other than that, you should focus on the inside – being a good person and learning as much as you can. She said I know. Nothing more was said. It is only very recently that Brooke has started to open up to me about these types of things. I believe Brooke knows that until very recently I would have quickly dismissed anything at all said that negatively reflected on Vivian. At some point, it is more important that your children have an environment where they feel comfortable speaking openly about things that bother them, than to continue to wrongly protect the image of someone that continues to do harm to your children.

157. Vivian flew to Ireland on Sunday morning, September 19, 2010. I believe the primary reason she went to Ireland, rather than simply fly to Nepal approximately 10 days later, was to spend additional time with David Walsh. She would have arrived in Ireland on September 20, 2010. An extra ten days here and there away from Brooke and Rylee mean absolutely nothing to Vivian.

158. I sent Vivian an email on October 18, 2010 regarding her excessive spending and an email on October 21, 2010 regarding a call from Bank of America Customer Protection Department. On October 24, 2010, Vivian called for the first time in over a week and spoke to Brooke and Rylee. I spoke to Vivian and asked if she got the emails. She said she just got them. I said that her three credit card bills – two American Express and Nordstrom – were over \$20,000.00 for just last month. I said I thought you acknowledged that your spending had been out of control and you would do better. She replied, “I am entitled to half under the law.” I have had to earn every penny I have ever gotten. I never had the option of getting money by doing nothing – but being entitled. After the climb in Nepal, Vivian made no plans to return home. Vivian then traveled from Nepal to India and then to Ireland. She exhibits no regard for Brooke or Rylee whatsoever. About a week to ten days ago, Vivian received a recorded message from GE Money – the Gap about the need to call them.

159. I talked to Tahnee the night of Thursday, October 28, 2010.. Tahnee said she was very concerned about Brooke. Brooke was frustrated about something with Rylee. Brooke tries to compensate for Vivian’s lack of mothering for Rylee, by mothering Rylee. Vivian got home later that night. Another big buying spree – prayer mats that took someone 4 to 5 weeks to paint, brass meditation bowls, sterling silver bracelets, purses, necklaces, etc.

160. On Tuesday evening, November 2, 2010, I put Brooke and Rylee to bed at 9:00 p.m. Vivian came home after 9:30 p.m. and asked where they were. I told her they were in bed and probably asleep. She ran upstairs and got in bed with them. When I got up this morning Rylee was on the couch in the home office. It is appalling that a mother would act in a way that would cause her own seven year old daughter to wake up many nights scared to death and be walking through the home and down a flight of stairs until they found their mother at 3 and 4 in the morning at the computer on Face Book. Every night Vivian is not here, Brooke and Rylee sleep together, but without an adult. They do this for weeks, get comfortable at night, only to have Vivian return and start instilling fear again.

161. On Wednesday afternoon, November 3, 2010, Vivian told Rylee that she is going to help Mrs. Williams, Rylee's 2<sup>nd</sup> grade teacher, after school three days a week to help kids having trouble reading to read better (Vivian only did this a grand total of one day). Unfortunately, she asked Rylee if she wanted to go with her or continue to go swimming. Rylee chose to go with her. This is unfortunate as Rylee enjoys swimming and is a fairly good swimmer. Most importantly, it helps her self esteem as she gets negative feedback at dance because of her size. Later, Vivian was actually helping Rylee with her homework. Just last week, I told Mrs. Williams that Vivian does not help Rylee with her homework. My guess is that either Michelle W. or Mrs. Williams told Vivian she better get more involved with her children. Later this afternoon, Michelle W. came over and was visiting with Vivian. Michelle said that she would be working with Mrs. Williams teaching reading on Monday afternoons. I believe this answers the question as to who was prompting Vivian to start doing something with Brooke and Rylee. Michelle later was talking about her mother wanting to go on a Mediterranean cruise and was looking for someone to go with her. In response to my questions, Vivian said that she was

planning on our entire family going on this Mediterranean cruise during spring break. In front of Michelle, I told Vivian that she has to slow down on her spending. I said my earned income was off drastically last year and it is hardly anything this year. Michelle commented about how an attorney she knows is having problems because of slow paying and non-paying clients. Tahnee texted me at 12:41 p.m. about a phone call she answered or a voice mail she heard on the home phone. The text is as follows: "hey dad. i got a call about an excessive debit card bill for mom...do you know anything about that?i have a number at home to call... Later, Tahnee gave me a post-it where she had written: "Mom's ATM Debit Card Call 18662426289 by Nov. 4<sup>th</sup> Code: 450837 Out of country call: 6025972395. I did not know Vivian had a debit card.

162. I went to the basketball game the evening of Wednesday, November 9, 2010, with John Y. The next morning, Rylee said she was starving. I asked her what she had for dinner. All she had was an instant "Cup of Soup." At breakfast, Brooke said that she had asked Vivian to take her to buy some new jeans. Brooke was excited because Vivian had agreed to take her.

163. When I picked up Brooke from school on Tuesday, November 16, 2010, she did not have her violin. I asked her why she didn't bring it home as she had brought it home three or four days a week for the last several weeks. She said she was bringing it home each day to play for Vivian, but Vivian was always too busy, so there was no need to bring it home. Brooke has played for me in the past. Despite Vivian reading with Rylee in the evenings during the last couple of weeks and actually going to a few parent observations at dance, Vivian still is Vivian. Since Wednesday, November 3, 2010, Vivian has been more involved with Brooke and Rylee than she has been for several years. It is evident she is doing it because she has been advised to do so. However, Vivian doesn't have a job and does almost nothing around the house on a daily basis. Yet, she would not give Brooke ten minutes of her time to listen to her play the violin.



There is no doubt in my mind that this effort by Vivian is temporary and she will abandon them yet again when she pursues a man, becomes consumed on the internet, or travels to Ireland for an extended period.

164. I talked to Kyle L. tonight. I told him I was going to miss having him as a neighbor. I asked if he was having any luck selling his house. Kyle L. said Cam W. approached him about Vivian buying his home. Cam W. told Kyle L. not to tell me about it. I believe this somewhat confirms my suspicion that Michelle W. has told Vivian to get more involved with Brooke or Rylee otherwise she is going to lose them. Vivian gives money and gifts to Cam & Michelle W. including paying for their daughter's pageants. Sometime last year, Vivian wanted to invest in a printing business Cam W. wanted to buy.

165. Vivian's need to draw attention to herself continues. On Wednesday evening, November 17, 2010, Vivian and I went to parent observation for Brooke. All the kids and their parents are there in an enclosed room. The only person talking is the teacher, Mr. Jim. His assistant, Dar, said he hasn't practiced a jump very much, but does the jump. Vivian promptly hollers, "It looked good to me." Similarly, on Thursday evening, November 18, 2010, we went to Brooke's hip hop class for parent observation. Again, only Mr. Jim is speaking. After one of the routines was performed, Vivian hollers for everyone to hear, "The choreography is adorable." Apparently, through Vivian's eyes, the kids were just getting too much attention. Before the class started, Vivian told Heather A. she was having two surgeries during December. I asked Vivian what type of surgeries. She said one was because she was retaining too much urine. The other is because she is bleeding excessively. She said she may need a third surgery in January, based on the outcome of one of these surgeries. The other day Vivian was taking birth control pills. She said she was taking them because she was bleeding excessively. Vivian didn't have

any surgery as that term is commonly used. She temporarily had a catheter to remove excess urine. She later had a IUD inserted. I suspect a lot of Vivian's health problems are the result of her years of taking Phentermine and mixing it with other diet drugs on a continual basis.

166. Brooke came to the breakfast table crying the morning of Friday, November 19, 2010. I asked her what was wrong. She said that Vivian had promised to take her to get new jeans for a long time and the only jeans she has to wear are too short. She also said that Vivian still hasn't done the laundry and she has no tops to wear (I did Brooke and Rylee's jeans and towels earlier in the week). I told Brooke that just like she, Rylee and I had done all year, that we would do the laundry tomorrow. I also told her I would take her to get new jeans after school. When I picked Brooke up from school she said Taylor Krumm wanted to go with us. I telephoned Taylor's father and Brooke telephoned her mother. Later, Lou, Taylor's mother dropped her off. When Vivian learned what we were doing, she told Brooke she wanted to take them. Vivian also told me that she and Michelle W. were going to go see the Larson house that is for sale. I asked Vivian why she wanted to see it.

167. A personal trainer showed up at the house on Saturday morning, November 20, 2010, for Vivian. He just competed in a body building contest. After he left, Vivian said that he works for Dr. Life in his office. He has been Dr. Life's personal trainer for the last four years. He only has time to train 3 or 4 people and Vivian is one of them. I asked how much he charges. She said he normally charges \$65 per hour, but since we live so far from him – he lives near Summerlin – he charges her \$90 per hour. She said that he initially will come to the house twice a week, then once a week. I said that is too much money – about \$750 a month.

168. When Brooke and Rylee go to bed each night the door is closed to their bedroom. Vivian usually goes to bed before them, not aware or caring whether Brooke and Rylee have had

dinner or have done their homework. Each night Vivian gets up in the middle of the night and goes downstairs to the office. When she does this, she leaves the door open and a light on downstairs near the stairs. On the majority of nights, Rylee will wake up scared in the middle of the night and go downstairs looking for Vivian. When I wake up early, the first thing I do is close the bedroom door, so if Rylee wakes up, she stays in the bed with Brooke. On Monday morning, December 6, 2010, I got up and Rylee had already gone downstairs. After I took Brooke and Rylee to school, I went into the home office and told Vivian to please close the bedroom door when she gets up in the night to discourage Rylee from going downstairs. I said I do not want to find my seven year old dead at the bottom of the stairs one morning because she wasn't fully awake when she was frightened and looking for you in the middle of the night. Vivian didn't answer. Vivian continued to leave the door open to encourage Rylee to go downstairs in the middle of the night.

169. For years I struggled in my marriage because I couldn't understand why my relationship with Vivian didn't grow and become more intimate. During the last years I have been frustrated because Vivian has never been willing to articulate why she feels towards me the way she does. The explanation for both is really quite simple. I "was getting all the attention." It is almost irrelevant whether I was seeking any attention, Vivian resented my getting attention, because that meant she wasn't "getting all the attention." I understand now why Vivian has mocked me with my own children over the years. Why any accomplishments and successes in my life had to be belittled to my own children. Why providing for my family all of these years and working real hard was so insignificant to my children. All of it simply took too much attention away from Vivian. If we are ultimately judged as human beings by the compassion we have for others and what we do for others, Vivian is about the lowest form of human existence.

Vivian does not have the ability to love or care for someone else. It is ironic that Vivian gave Brooke a biography of Mother Teresa, so Brooke could “see what Vivian was going to do for the children in India.” There couldn’t be any more polar opposites than Mother Teresa and Vivian. Those who have never had to live with or deal with a pathological narcissist on a very personal level, may naively believe that the totally self-absorbed cause no harm to others. So what if they are into themselves. What harm does it do to others? What Vivian has done to our children was unimaginable to me when I married her. What Vivian has done to our children is unforgivable. The callousness, manipulation, lack of empathy and caring, is all just sick. I pray there is no genetic pre-disposition or component to pathological narcissism.

170. On Monday night, December 6, 2010, Brooke was in trouble with a big extra credit math assignment. Some time ago Brooke hastily had me sign the assignment. Brooke was upset last night because it was due the next day and the teacher never mentioned it to the students from the time she had the students obtain the parents’ signatures until yesterday. Brooke said most of the students will not be able to do it. Vivian criticized me in front of Brooke for signing the assignment, but not making sure Brooke did it. This was all in the middle of me helping Brooke with her math and English. The extra credit assignment required Brooke to make a menu, determine the ingredients, price shop those ingredients at two grocery stores, make a price comparison of the two stores, buy the ingredients, make the dinner and clean up. Brooke and I hurried through her normal homework. I told Vivian we were going to do what we could last night. I asked her if she would help. Her answer was predictably, “No.” Brooke and I went to both grocery stores in town, priced all the items, noting serving size, came home and prepared the menu with prices, made a comparison between stores by multiplying the items by the appropriate quantities. Brooke and I did not get done until after 11:15 p.m. Rylee was not

feeling well, so she and Vivian came downstairs and were on the couches. Despite a bright night light in her bedroom, the hall light left on, and her bedroom door open, Brooke was too scared to sleep by herself and went downstairs to sleep with Vivian – Brooke acted just as Vivian trained her. We get up this morning, Vivian takes one minute, throws some things together, she and Brooke throw it in the microwave, nobody eats it, and Vivian signs a statement that Brooke cooked the meal required as part of the math extra credit assignment. On the way to school, I talked to Brooke about being honest and not cheating. I told her I would prefer her to be honest and get an F, than cheat and get an A. I told her to tell her teacher that she did not cook the family meal as was required in the assignment, and to tell the teacher what she did do.

171. On Saturday evening, December 11, 2010, I was gone during the day helping a friend move a washing machine, running errands, and family grocery shopping at Costco. Brooke had to leave for the Nutcracker at 6:30 p.m. At 5:30 p.m. I asked what she and Rylee had eaten today. She said a bowl of cereal and she and Rylee made some Ritz Crackers and cheese. I made them a quick dinner of chicken burgers and fruit juice.

172. As of Tuesday, December 14, 2010, Vivian still, quite frequently, lets out a scream when she walks into a room. Anything to get attention. Vivian will spend hour after hour on the internet buying herself clothes, shoes, hand bags and jewelry. So much so, a normal person would not believe the inordinate amount of time she spends. When she travels by plane she has particular tops that show most of her new 34Fs. It is an incredibly calculated and focused effort to draw attention to herself. Vivian doesn't care and is usually unaware of whether Brooke and Rylee have eaten each day. This is obviously a serious concern when I have to be out of town. Unless you see someone behave in such a manner, you would not believe it was possible.

173. Vivian said she was going in the afternoon of Thursday, December 16, 2010, to have an IUD inserted. Vivian said she is not going to Rylee's program tonight because of this major procedure. My understanding is that an IUD (intrauterine device) was a commonly used form of birth control before the use of the pill and that it is still used today. If you go on the internet, there is a two minute video which shows how this procedure is performed. There must be something else going on.

174. I talked with Whitney and Joseph on Saturday afternoon, December 25, 2010. Whitney thinks that Vivian is having an affair with a different man that also went on the trip to Nepal, than David Walsh. Whitney also said she had a talk with Nyla R., the gist of which was that Nyla was fully aware there was something wrong with Vivian, but Nyla felt if she kept close to her that she might be able to keep her somewhat in check. Whitney said that Vivian had paid for the pageants that Chloe W. had entered. We talked about Vivian giving Anna W., Brooke and Rylee's clothes they could still wear and wanted to wear. It is consistent behavior of Vivian to try to buy loyalty. Whitney said Vivian wanted to give Whitney's old computer to Heather A., when Sean's computer didn't work and he needed one.

175. On Wednesday morning, December 29, 2010, on the top of the desk in the home office is Vivian's itinerary for next March. She is scheduled to fly to Ireland on March 14 or 15 and is scheduled to return on March 31, 2010. According to the documents, Vivian had reservations to leave March 24, 2010, but is paying \$350.00 to move the departure date up to March 14 or 15, 2011. The Hope Foundation Dublin Ball is March 26, 2011 in the Grand Ballroom of the Burlington Hotel in Dublin, Ireland.

176. On Thursday morning, December 30, 2010, I drove to West Sahara and Buffalo to take Brooke, Rylee, Kenadee and Kamry to cooking school. I then had a meeting with Tahnee

and Tyler J. in Henderson. I then had made an appointment for Joseph with Dr. Mike Lee regarding his wrist at 2:00 p.m. that Joseph wanted me to attend. At 1:15 p.m. I get a call from Vivian saying she cannot get ready in time to drive to Town Center to pick up Brooke's contacts because the place closes at 2:30 p.m. I told her it would make me late for Joseph's appointment. However, I thought she said Town Square and proceeded to drive there. I then realized it was Town Center in Summerlin. I called home and Joseph answered. When I asked for Vivian, Joseph said she was working out. When she got on the phone, I said aren't you picking up the girls from cooking school at 3:00 p.m. She said yes. I said and you couldn't go 30 minutes early to pick up the contacts, but you had time to work out. No answer. I told her it was bullshit. Vivian does almost nothing for the kids day after day. Vivian does almost nothing around the house day after day. I guess her driving the girls to and from cooking school one day and picking them up the next was just too much to expect. This is yet just another example of dealing with a pathological narcissist. Vivian easily had plenty of time to get the contacts. She knew I had other commitments. However, she had no hesitation to throw a wrench in my schedule so she could exercise.

177. I had to run errands on Friday, December 31, 2010, so I just made Brooke and Rylee cereal for breakfast at about 9 am. When I got home at 3:30 p.m. Vivian, Tahnee and Brooke were leaving to get things for Tahnee's new apartment. They were going to take Rylee to Rachel K.'s first. Rylee was slow getting ready so Vivian just left her saying I could take her. Rylee was very upset and, understandably, could not understand why they would not wait for her. I asked Rylee what she had for lunch. Predictably, she had nothing. I suspect this is the reason Rylee was a little out of sorts. I took her to Rachel K.'s. Later the K.'s invited Rylee to spend

the night. Knowing I had to go to the ranch the next morning and Vivian would ignore Rylee if she were home, I agreed. I really like Dave and Lou K. and both are responsible parents.

178. Joseph and I left for the ranch early Saturday morning, January 1, 2011, and got back later that evening. No Brooke. I asked Vivian where Brooke is. Vivian said she is staying the night with the As. Brooke stayed there last night as well and has not been home in between. Vivian knows I have no problem with Brooke spending an occasional night at the As. This is especially true when I am not going to be here the next day and I know that Vivian will ignore Brooke while I am gone. I told Vivian that I didn't like Brooke staying at someone else's house two nights in a row. Vivian's responded, "So." Vivian doesn't care about Brooke being away, she doesn't spend any significant time with her when she is here.

179. On Sunday morning, January 2, 2011, I get up to find Rylee has walked downstairs in the middle of the night. The instillation of insecurity and fear continues. Vivian gets up during the wee hours of the morning to get on the internet. Alone in the bed (Brooke was at Kayla A.'s), Rylee wakes up scared, and at seven years old navigates her way in the middle of the night down the stairs to find Vivian. It is the most callous manipulation. A mother intentionally instills fear in her own child so the child will need the mother. In addition, Vivian is knowingly putting Rylee in harm's way by causing her, at just seven years old, to navigate the stairs in the middle of the night when she is half asleep.

180. At 7:00 a.m. on Saturday morning, January 8, 2010, Rod, the \$90.00 per hour trainer, showed up at the Harrison home. Vivian and Nyla R. trained with him. Rod was here working with Vivian earlier the same week. Vivian's focus is on image, image and image. The Hope Foundation Dublin Ball is March 26, 2011 in the Grand Ballroom of the Burlington Hotel in Dublin, Ireland. Vivian has reservations to fly to Ireland on either March 14 or 15, 2011 and



return on March 31, 2010. The effort to get in shape for Jonathan Rhys Meyers is now in full stride. About a week before, I was taking out the trash and grabbed an empty milk carton. It contained several needles and syringes – HGC. Vivian has been doing yoga daily for about a week. Vivian has been doing cardio on the elliptical everyday for about one week. If Vivian wasn't so vicious and abusive to those around her, this would all be very sad. Vivian will be 50 years old in a little more than a year and a half. Her life is focused on trying desperately to make herself attractive to a 32 year old actor she has never seen.

181. When I got up the morning of Wednesday, January 12, 2011, the door was open to Brooke's bedroom and Rylee was sleeping downstairs on the office couch. Vivian was asleep on a chair in the living room. About a month ago, Vivian put a very bright night light in Brooke's bedroom. The girls have not had a night light for years, if ever. I have removed it on three different occasions and Vivian has put it back each time. Since Vivian has installed the night light, the frequency with which Rylee wakes up in the middle of the night, discovers Vivian is gone, and then proceeds downstairs by herself has increased. It is all part of Vivian's manipulation of Rylee – too make her insecure, afraid of the dark, needy, and dependent upon Vivian.

182. On Sunday morning, January 16, 2011, Vivian told me she is going to be gone from tomorrow, Monday, January 17, 2011 through this Wednesday, January 19, 2011. She said she is going to Santa Monica, California to see Dr. Griffin for more procedures. He is doing something with what she called "bubbles" on her eye lids, work below her eyes, liposuction from her tummy and back and fill a gouge on her left hip or buttock. She said she put the charge on the American Express card and it is about \$5,000.00. Brooke's semester exams are this week. Just another true indication where Vivian's priorities are – Vivian. Vivian said that Heather A.

could not go and Joseph refused to go. Vivian said Lori L. is going with her. Lori L. was a friend of Vivian's many years ago and they parted ways many years ago. Last night when I was driving Rylee to the "Narnia" movie, Rylee showed me her new necklace. It is one half of a heart that when put with the other half says "best friends." I asked Rylee who has the other half. She said Vivian. Vivian took Brooke and Rylee to the mall yesterday and bought them these necklaces after Vivian saw Marvin Gawryn, a therapist. Since last mid-November there has been a clear pattern of manipulation by Vivian of Brooke and Rylee. Vivian has always been highly manipulative of them, but the effort has been much more focused to gain their loyalty. Vivian still doesn't spend that much time with them or care if they eat or not. Later that night when Brooke, Rylee and I were driving home from the K's, Brooke and Rylee were adamant in saying that Vivian thinks Rylee is already eight years old and is turning nine this month. Tahnee is trying to get into medical school and had an opportunity to shadow a wonderful doctor for a couple of days in Provo, Utah that might be able to help. Tahnee and I drove to Provo, Utah Wednesday afternoon after Joseph's appointment where he got a cortisone injection. We returned last night. While we were gone, Vivian went to Tahnee's apartment and took Tahnee's sex and the city dvds without ever talking to Tahnee.

183. Brooke came to Joseph on Sunday evening, January 16, 2011, asking him for the password for his old computer saying Vivian was going to give it to her. Vivian did this without first saying anything to Joseph. Joseph told Brooke that at 11 years old he wasn't sure she needed a lap top and asked why she couldn't use one of the family computers. Brooke left and talked to Vivian. Vivian appeared and told Joseph she had bought his new computer and Brooke could have his old computer. Vivian continued to criticize Joseph. I said the issue was that although Joseph had a new computer, the old one is still his computer and a discussion should

take place before it is given to someone else. Rylee came into the room later and said Vivian told Brooke she would buy her a new lap top. This is another example of Vivian's lack of empathy for other people and her out of control spending. Brooke, at 11, doesn't need a lap top. Had Vivian simply approached Joseph about Brooke using the lap top, it would not have been an issue. However, Joseph was already upset, because either Tahnee or Whitney had previously told him that Vivian had talked about giving his old computer to Heather A. If I gave Vivian's possessions to someone else without first talking to her she would, justifiably, be upset. However, Vivian views herself, vis a vie Joseph, as being in control and having the power to do such things without any discussion with Joseph.

184. About noon on Monday, January 17, 2011, Vivian had hollered for Brooke to come to the home office. I went in a little while later and Vivian was showing Brooke new Dell lap top computers on the home office computer screen. I told Vivian that Brooke does not need a new lap top computer, that Brooke is 11 years old, and that it is not good for Brooke. Vivian just smiled and laughed. Vivian left that afternoon for more plastic surgery in California. Vivian's manipulation of Brooke is working. Brooke has been crying for the last hour. She is scared to sleep with just Rylee tonight. Brooke telephoned Vivian during dinner. Brooke asked, "Why do you go when you say you don't want to?" Brooke said you are going to California and then you are going to Ireland again for the Hope Ball. "If you don't want to leave us, why do you?" Brooke said later that Vivian told her that Vivian's friends are in Ireland and she wants to be with her friends. Earlier this evening, Brooke told me that Vivian told her she is leaving for the Hope Ball earlier this year than last year because she wants to be in Ireland for St. Patrick's Day. During the telephone call at dinner, Brooke repeatedly pled with Vivian to make a U-turn, saying if you haven't paid for the surgery yet, why not just come home. Brooke later asked why don't

you just have the surgery here? During the months Vivian was gone last year, Brooke and Rylee slept with just each other. I had them to the point it was no big deal to go to bed. However, with Vivian's manipulation the last couple of months, she has accomplished her goal with Brooke – Brooke is insecure, frightened, and afraid. Brooke's semester exams are this week. Vivian has no empathy for anyone – especially her own children.

185. On Thursday afternoon, January 20, 2011, I asked Vivian why she was wearing a body suit from her neck down to above her knees if she just had a gouge filled in. She said she had her eyes done. This was obvious – discoloration and tape. Also, the doctor liposuctioned more fat from her stomach and back (probably her buttocks). I spoke to Tahnee on the phone earlier today. Tahnee said she spoke to Vivian about Vivian going to her apartment while she was gone, going into her bedroom, and taking her Sex and The City dvds. Predictably, Vivian's response when Tahnee complained was that Vivian paid for the dvds, seeing no fault of her own whatsoever. As a consequence of Vivian's manipulation of Tahnee over the years there have been a number of instances of kind of a moth to the flame relationship between Tahnee and Vivian. Tahnee said she thinks she is constantly second guessing herself because of Vivian. Tahnee said that Vivian wanted to copy all of the dvds and it took an hour to copy each one. Joseph was there and tried to minimize the issue. Tahnee correctly pointed out that both I and Joseph have a history of minimizing Vivian issues in an effort minimize conflict in our home.

186. I took Brooke shopping on Sunday, January 23, 2011, for Rylee's birthday, school supplies, family groceries, and picked up Rylee's birthday cake. After I set the table and Tahnee and Brooke had wrapped Rylee's presents, we had a family birthday party for Rylee. After we were done, Vivian turned to me and said, "Be sure and clean up the table." It is incredulous just how little Vivian does for anyone but herself on a day to day basis. She spends

most days by herself in the office. The Hope Foundation Dublin Ball is March 26, 2011, so for the last several weeks she has been training with her personal trainer "Rod". I recently got just a brief glimpse of a "page" of her facebook and she has an entire section entitled, "My Personal Trainer" with photographs of Rod. Knowing that divorce is imminent, Vivian has been spending some time with Brooke and Rylee during the last few months. However, she still is oblivious to their existence the vast majority of the time. She still goes to bed many times before Brooke and Rylee, not caring or knowing whether their homework is done or whether they have had dinner. Unfortunately, this is true when I am not here. We went to Lucille's today for Rylee's birthday dinner. Vivian's eyelids and below her eyes for more than an inch are severely discolored and a burnt red in color. Vivian also wears a tight body type suit that goes down to her knees most of the time. Vivian wore very large sunglasses during dinner at Lucille's. Brooke and Rylee haven't got a clue as to how a mother is supposed to behave. At dinner, Vivian told Tahnee she signed up for Net Flicks, so she didn't need to copy Tahnee's Sex and the City dvds. When we were driving home from Lucille's for Rylee's birthday dinner this afternoon, Vivian asked me how many miles I had on my car and what year it was made. The only reason she would be thinking about this is in the context of divorce.

187. When Vivian was gone for her most recent surgery (1/17/11 thru 1/19/11), Brooke told me that Vivian thought Rylee was already eight years old. I responded that I didn't believe that as Vivian obviously knew how old Rylee is. Brooke was adamant that Vivian thought Rylee was already eight and related the conversation to me. Then on Sunday, January 23, 2011, out of no where, Vivian relates a supposed conversation she had with Tahnee wherein Vivian said that Tahnee thought Rylee was already eight. I think they call this covering your tracks. Like I do every Monday, Wednesday and Thursday, I took all of the trash out to the curb. On Mondays

and Thursdays, I first empty all of the trash cans in the house. When I got back from taking Rylee and Anna to school, Vivian had filled the kitchen trash container from trash she had in the home office. I asked Vivian why she simply didn't take that trash directly to the trash cans I had already taken to the curb, as she was just making more work for me. Vivian said she empties the trash "100 times a week". The reality is that Vivian goes weeks without ever emptying one of the small trash containers in the house into the trash containers in the garage that I take out to the street. I later noticed Vivian getting a syringe and needle to inject herself.

188. On the way to school on Monday morning, January 24, 2011, Brooke told me that Vivian was going to take her this afternoon to get new tap shoes. I know that Brooke has been asking Vivian to do this for some time. Brooke has tried various ways to spend time with Vivian and is almost always rebuffed. Vivian came to me a few minutes ago and asked if I would take Brooke to get her tap shoes. Later, Brooke was pleading with Vivian to take her. Vivian decided to order the shoes on-line.

189. On Tuesday morning, January 25, 2011, I noted for the second night in a row and the third night of the last four, Rylee has gotten up in the middle of the night to find Vivian and has walked downstairs to the office. Rylee fell asleep at the breakfast table this morning. Vivian could care less.

190. For the last several years, Vivian has rejected Brooke and Rylee. From about January of 2009 until November of 2010, she wouldn't give them the time of day. However, since mid-November of 2010 she has been working them big time. When Brooke and Rylee leave with me to go to school in the morning they will go in the office to tell Vivian goodbye. I hear Brooke and Rylee say, "I love you." Vivian will respond, "I love you more." In the refrigerator in the laundry room is the new stuff Vivian is injecting into herself. In addition to

the needles and syringes is “Nupro White Gold – 15% Carbamide Peroxide Gel, cyanocobalamin injection, usp 1000 mcg/ml 30 ml multiple dose vial, Neurobion Forte for intramuscular injection Injection of Vitamin B complex with Vitamin B12 5 Ampoules of 3 ml. In the kitchen drawer there are a number of capsules, including Citalopram HBR 40 mg prescribed by Sean R. Duffy.

191. On Sunday morning, January 30, 2011, when I got up, Brooke was asleep in the soft chair in the living room and Rylee was asleep on the couch in the living room. During breakfast with Brooke and Rylee later that morning, Brooke complained that Rylee woke up scared and crying at about 1:30 a.m.. Vivian had already left their bed and gone downstairs, so scared and upset, Brooke and Rylee went downstairs in middle of the night. For Rylee, this happens more times than not during the last couple of months. Vivian gets out of bed in the middle of the night, leaves the door open, and a light on downstairs. Rylee wakes up scared and, at eight years old, navigates the stairs during the middle of the night in search of her mother. On Monday morning, January 31, 2011, I heard the noise that goes off when an entry door is opened to our home at about 6:10 a.m. I could hear Vivian talking to someone and went downstairs to see who was in our home at that time of day. The front door closed as I was coming down the stairs. Vivian said that Dr. Life’s wife had been there to take Vivian’s blood. Sure enough, the door to Brooke’s bedroom was tightly closed and both Brooke and Rylee were still in bed. Apparently, Vivian did not want Dr. Life’s wife to see our children sprawled all over the living room when she arrived at our home this morning. I have told Vivian multiple times in the past to close Brooke’s bedroom door tightly when she gets up so Rylee will not be scared and half asleep when she tries to navigate her way down the stairs in the middle of the night. Vivian refuses to do so. However, this is a clear indication that Vivian, unless someone is coming to our home at 6:00 a.m. in the morning, wants Rylee to wake up scared and follow her downstairs in the middle

of the night. Until witnessing this type of behavior first hand, I and, I suspect, most people would not believe that a parent would be so manipulative and callous toward their own child. I understand with our divorce imminent, Vivian is motivated to manipulate Brooke and Rylee to be needy of her. However, to intentionally instill fear and intentionally cause emotional pain in your own child for your own selfish purposes, is hard to understand. I am trying to get the apartment done at the ranch, so I have a nice place to take Brooke and Rylee to escape from this environment. This week was the first time I had to leave without either Tahnee or Whitney at home to watch out for Brooke and Rylee. I was supposed to be gone no more than two days. It turned into three. When I did the dishes this morning, every spoon and bowl was dirty, and there was only a splash of milk left. Gee, I wonder what Brooke and Rylee had to eat while I was gone – mostly cereal.

192. An unfortunate set of circumstances has caused Joseph to withdraw from school in San Diego. As a consequence, I need to drive the truck down to San Diego this weekend to haul Joseph's queen size bed home. He and I talked about strapping it to the top of his 4 runner, but that is not practical and is dangerous. When I told Vivian on Saturday morning, February 5, 2011, she blew up saying she had a second colonic appointment later that day and would have to get someone to watch the girls. Vivian then said she would call Jesse to go pick up the bed as he is in Disneyland. She then said she would drive down tonight. She then said "she" – just she – would take the girls to Legoland later in the month during a three day weekend and pick it up. She then accused me of making plans "and leaving someone else to pick up the pieces." I guess holding up in a bedroom and the home office for years reading and buying things for yourself and months in Europe, India and Nepal don't count.



193. I helped Joseph pack his things in San Diego and drove home on Sunday, February 6, 2011. While I was eating dinner that night at home, Vivian came in the room. She had a very bright red spot on her cheek bone. I asked her what happened. She said she didn't know. She then volunteered that her IUD that was supposed to stay in for five years, fell out earlier that day. Vivian said she was bleeding a lot and she will probably have to have surgery. I wonder why her Valtrex prescription is from Dr. Smith, who is a general practitioner, and not from Dr. Jameson, her obstetrician. Vivian went to see Dr. Jameson on Tuesday, February 8, 2011. Vivian said she is scheduled for surgery on February 23, 2011. She said that Dr. Jameson will burn her uterus in an attempt to stop the excessive bleeding.

194. It is Wednesday morning, February 9, 2011. Rylee is a big girl for her age and has endured teasing at ballet. There have been many times that Rylee has not wanted to go to ballet and has cried and begged not to go. I consistently tell her she made a commitment to take the class and she needs to finish the class and insist she goes each time. Rylee is not naturally active and will sit and watch television all day if you let her. She has been in swimming for quite some time. After every swimming class, I ask her if she had a good time. Every time she says yes. It is important for Rylee's health, level of physical activity and self-image to continue swimming. On Wednesday morning, February 9, 2011, Rylee said she didn't want to go to swimming and was crying. I said she needed to go as she had made a commitment to do so. I also was giving her a lot of positive reinforcement about how good she is and how much she loves it. Vivian appears from the office and announces to Rylee that all she has to do is finish out the month and she can quit. This is classic Vivian. She will do things like this to curry favor with Brooke and Rylee without regard to what is best for Brooke and Rylee. After I took Rylee to school, I asked Vivian, if it occurred to her to talk to me first before saying something like that. She said no. As

I have pretty much ignored Vivian for quite sometime she was visibly excited about “being the center of attention.” Vivian was elated to be wielding the power. It was totally irrelevant to her that what she did was totally contrary to Rylee’s best interests.

195. Brooke did not want to go to UNLV basketball game on Saturday, February 12, 2011. When Rylee, Joseph and I got home at about 7:30 p.m., Vivian and Brooke were gone. We tried their cell phones and no one answered. They were still not home when we went to bed. Rylee was too frightened to sleep by herself, so I said she could sleep with me. Rylee was emphatic that when I got up in the morning I needed to wake her so she would not be alone. Vivian has instilled this fear of being left alone in Rylee.

196. As is her customary practice, on Monday morning, February 14, 2011, Vivian woke Brooke and Rylee up and quickly disappeared into the home office to get back on the internet. During breakfast, Brooke spilled honey on her skirt. I took the skirt and asked Vivian to see if she could remove the honey while we finished breakfast. Vivian refused. So I ran the dress under cold water and removed the honey and went back to help the girls finish breakfast and get ready for school.

197. Brooke, Rylee, Joseph and I had family game night with the Y’s on Saturday evening, February 19, 2011. I invited Vivian, but of course, she did not go. Vivian was not home when we got back shortly before 10:00 p.m. Since it was Saturday night and they have no school on Monday, Brooke, Rylee and I watched the end of a movie until 11:00 p.m. When I put Brooke and Rylee to bed, Vivian still wasn’t home. Both Brooke and Rylee were crying for fear of going to bed without Vivian – Brooke much more so than Rylee. I believe this is a consequence of Rylee being scared most nights. Rylee gets up four to five nights out of seven

now, and navigates her way downstairs to find Vivian. When I checked on Brooke and Rylee at 3:00 a.m., Vivian was in bed with them.

198. When I got up Tuesday morning, February 22, 2011, both Brooke and Rylee were downstairs asleep on the office couch. Rylee fell asleep at the breakfast table. Brooke complained that Rylee woke her up. Brooke said Rylee was crying and scared. This has to stop. Vivian gets up in the middle of the night to get on the computer, leaves the door open and a light on downstairs. Rylee wakes up, gets scared, starts crying, and heads downstairs. This conduct by Vivian is nothing more than narcissistic feeding on Brooke and Rylee.

199. On Tuesday afternoon, February 22, 2011, when I drove Rylee home from school, I told her that when she wakes up in the middle of the night and Vivian is gone to simply snuggle Brooke and go back to sleep. I told her about the danger of going down the stairs half asleep. Later that night, Vivian hollered down from upstairs that Rylee told her what I said and that Rylee was supposed to go downstairs and be with Vivian when she wakes up in the middle of the night. Vivian has no regard for Rylee's emotional and physical well being whatsoever.

200. On Monday morning, February 28, 2011, Vivian told me she is going to Betty Peeler's house to get a facial treatment. Vivian also said she is going to San Diego on Wednesday, March 9, 2011 to see a David Gray concert. There is a calendar on the desk in the home office. The following is a list of medical appointments Vivian put on the calendar: 2/1/11 4:15 Dr. Jason Michaels; 2/2/11 9:00 a.m. Dr. Anthony Griffin; 2/7/11 2:30 p.m. Dr. Jeffry Life; 2/9/11 10:30 Dr. Jason Michaels; 2/15/11 11:30 a.m. Dr. Warren Smith; 2/16/11 Dr. Jeffry Life; 2/21/11 10:00 a.m. Veinity (Dr. Peter Vajtai) 240-3198; 2/21/11 2:15 p.m. Dr. Florence Jameson; 2/22/11 1:30 p.m. Dr. Carey Noorda; 3/1/11 Dr. Sean Duffy; 3/2/11 Dr. Jason Michaels. Every appointment is most probably about Vivian's appearance and her sex life – diet pills, cosmetic

treatments, minimizing veins, prescription for gardasil (protects against sexually transmitted diseases), prescription for Valtrex equivalent, etc. Dr. Jason Michaels – cosmetic procedures; Dr. Anthony Griffin – plastic surgery; Dr. Jeffry Life – testosterone and other prescriptions to make Vivian “younger”; Dr. Warren Smith – Valtrex; Dr. Veinity (Dr. Peter Vajtai) – treatments for veins; Dr. Florence Jameson – Gardasil, birth control pills, and IUD; Dr. Carey Noorda – orthodontist (Vivian is having the braces removed shortly before her trip to Ireland); Dr. Sean Duffy – a psychiatrist, who I believe has prescribed diet pills for Vivian in the past. Eleven (11) appointments with eight (8) different doctors in just thirty (30) days. If you just look at business days, Monday through Friday, Vivian had a doctor’s appointment every other day for a month! None of these appointments include the numerous cosmetic appointments during the same thirty day period, such as the one today with Betty Peeler. Vivian’s entire focus is on Vivian. During this same time, Vivian has had numerous deliveries of clothing items. The cost of the dress she has purchased for the Dublin Ball is undoubtedly staggering. The best interests of Brooke and Rylee are not even a blip on Vivian’s radar screen.

201. Joseph’s birthday, is March 4<sup>th</sup>. Vivian was gone all day and into the evening on Thursday, March 3, 2011. When Vivian came into the kitchen to get coffee on Friday morning, March 4, 2011, her face was all discolored from whatever treatment she had from Dr. Jason Michaels the day before. Vivian asked me if I had anything planned for Joseph. I said I was getting a cake and ice cream and was taking him out for his birthday dinner with Brooke, Rylee, and Tahnee, and indicated she was welcome to go. Not three minutes later, Brooke, Rylee, Joseph and I are having breakfast. Vivian is standing in the kitchen and asked Joseph if he was going to dinner tonight or if he had personal plans to do something on his own. I said, “Vivian, you just asked me if I had anything planned for Joseph’s birthday, and I told you we were all

going to dinner.” Vivian then hollers from the kitchen, “Joseph is 22 years old and you need to stop treating him like a child.” I said we always try to have a family birthday dinner on each family member’s birthday, including Tahnee and Whitney. Vivian says words to the effect that I am making that up and goes into the office.

202. Vivian was gone all day on Saturday, March 5, 2011. No one knew where she was. However, she had arranged for Heather A. to pick up Brooke and Rylee around 3:00 p.m. and Brooke and Rylee spent the night at the As. Vivian didn’t return until around 9:00 p.m. For the last few months, Vivian has been doing things here and there to make it appear she cares about Brooke and Rylee. For example, helping in Rylee’s class two or three times. But for these few token appearances, Vivian spends very little time with Brooke and Rylee on a day to day basis. Vivian is leaving for Ireland for seventeen days a week from Monday and just like almost every other weekend, Vivian spends little time with Brooke and Rylee.

203. Vivian keeps numerous prescriptions in a kitchen drawer. I have seen other prescription bottles in her car and I have seen her take additional prescription bottles out of her purse. On Sunday morning, March 6, 2011, I checked the kitchen drawer. There are two bottles of Citalopram HBR 40 mg Tab, prescribed by Dr. Sean R. Duffy. It is RX# 615846. The bottle states it is a substitute for Celexa 40 mg tablet. The second bottle is the same prescription, but has RX# 588595. Perhaps one is for Vivian 8/16/62 and the other is for Vivian 8/16/67. The Costco Pharmacy has Vivian’s birthday as 8/16/67, rather than 8/16/62. It has been this way for quite some time. I have told Vivian about it on several occasions, but Vivian has done nothing to change it. Another bottle in the drawer is of Phentermine 37.5 mg tablet kvk, prescribed by Dr. Warren L. Smith. It is Rx# 613431. There are numerous other prescriptions in the drawer.

204. Perhaps not comfortable with placing her entire future with the telephone clairvoyant Vivian has never met, Vivian has now sought a second opinion. Vivian has now turned to a “highly credentialed” tarot card reader to help her make important life decisions.

205. In the desk in the home office were emails to Vivian, that Vivian had highlighted, from Ann Marie Goldstein, with an email address of “tarot\_of\_faith@yahoo.com.” These emails are dated January 17, 2011 and January 20, 2011, and are both a reading regarding “Sergio.” I believe Sergio is another man Vivian is pursuing in Ireland. Ann Marie Goldstein’s own bio provides, “I’m a licensed massage therapist, professional astrologer and tarot card reader for the past 20 years. I run a successful pet sitting business in Las Vegas, Nevada. I have a published book, BUSTED! which is a true life account of life behind the bright lights of the Las Vegas casinos.” Perhaps cashing in on her ability to read tarot cards, Ms. Goldstein has been able to position herself to take care of other people’s dogs and cats, including the waste management duties that are ancillary to such an occupation. Apparently, making important life decisions based upon common sense, gathering as much information possible to make an informed decision, or simply trying to do what is right weren’t viable options for Vivian.

206. During the week before Vivian’s planned 17 day trip to Ireland beginning Monday, March 14, 2011, numerous, and obviously very expensive new items of clothing began appearing on the couch, chair and floor in the home office, including: (1) a BG Haute silk dress covered with gold sequins; (2) a Tadashi Shoji sequined dress with sequins and gold bars. (3) a Jovani, nude color, sequined dress; (4) a Fashinist black lace jacket; (5) a PRPS black leather jacket; (6) a Botkier White Diamond Lamskin purse; (7) a pair of “Pour La Victoire - P” Irina Camel Patent leather shoes; (8) a pair of “Pour La Victoire - P” Irina Black patent leather shoes; (9) a pair of Pour La Victoire – Vero Cuoio 8 ½ in patent leather camel color shoes; (10) a pair of

Via Spiga – Vero Cuoio platinum shoes; (11) a pair of La Victoire – Vero Cuoio in suede tobacco shoes; (12) a pair of Boutique 9 shoes in a brown leather; (13) a pair of Boutique 9 shoes in black leather; (14) a pair of True Religion jeans with a price tag of \$319.00; (15) a pair of True Religion jeans with a price tag of \$233.00; (16) a pair of True Religion with a price tag of \$319.00, and; (17) black lace thong underwear.

207. On Friday morning, March 11, 2011 there was a prescription sitting on the kitchen counter. It is from Dr. Geoffrey C. Hsieh of the Women's Cancer Center. It is dated 12/9/10 and it is for Keflex 500mg. On Friday night, March 11, 2011, there was another prescription sitting on the kitchen counter: Crestor 5mg prescribed by Dr. Jeffry Life, prescription dated 2/18/11 with #614084.

208. On Wednesday morning, March 9, 2011, I overheard Vivian tell Rylee that she would not see her until tomorrow. A few days ago Vivian told me she was going to a David Gray concert in San Diego. I asked Vivian who was going with her to the concert. Vivian said that Jesse and Heather A. were going with her. I then said, "Just you three?" Vivian said, "Yes." Jesse and I have been trading calls for a week about them fixing our swimming pool, which has needed a new part or parts for over six months. I spoke to him later this morning. At the end of the conversation, I asked him when they were leaving for the concert. Jesse said he was too busy and was not going. This afternoon, Whitney is at the A's house making preparations for her bridal shower. I called to see if she wanted to go with me to watch Rylee swim. Whitney said that Heather did not go with Vivian either. Vivian is, apparently driving all the way down there to see a concert by herself and driving back by herself. With Vivian, you never know what really is the truth. Vivian showed up the morning of Thursday, March 10, 2011 at about 6:30 a.m. She said she drove home after the concert in San Diego. She said she had to pull to the side of the

road three different times during the drive back. She told Whitney and Joseph that she had four front row seats and her seat was the best in the place.

209. Vivian was not home when I put Brooke and Rylee to bed on Saturday night, March 12, 2011. Brooke was emotional when I kissed her goodnight. Vivian's manipulation of Brooke's tender heart is working. I intellectually understand that Vivian has a narcissistic personality disorder and that she lacks empathy for people, including her own children.. However, it remains incomprehensible how a mother can knowingly and intentionally manipulate her children so they are fearful, insecure, needy and emotionally distraught.

210. If Vivian had her way, Brooke would sleep overnight at the As every weekend. This doesn't bother Vivian as she rarely does anything with Brooke and Rylee. When Brooke stays overnight at the As, Heather lets the kids stay up very late and sleep in very late. The As' son, Kyler, is 12 years old and their daughter, Kayla, is 10 years old. Although the As are seemingly nice people, this is not a good situation. I have seen a study that estimates that more than 40% of the girls in the United States are molested before the age of 15. I don't believe it is wise for Brooke to be too comfortable sleeping at anyone else's house, especially when there is a 12 year old boy. For the foregoing reasons and the fact that I like to spend the weekends doing things with Brooke and Rylee, I have tried to limit Brooke's sleep overs. What I have told Brooke in the past is that I don't mind if she sleeps over there once in a while and I don't mind if she plays over there during the day, but I have made it clear I do not want her sleeping there every weekend. On Saturday, March 12, 2011, Brooke told me that Vivian wanted her to sleep at the As next weekend (Vivian is leaving for Ireland Monday morning for 17 or 18 days). I told Brooke that she slept over there last weekend and then again just this last Friday night, and I wanted to spend next weekend with her. On Sunday evening, March 13, 2011, Vivian went



crazy in front of Brooke and Rylee. Vivian attacked me for telling Brooke she could not stay at the As while Vivian was gone on her 18 day trip. I responded to Vivian that Brooke had stayed overnight at the As last weekend and again Friday night. Vivian kept attacking me in front of Brooke and Rylee saying I was a bad person. She said Brooke wanted to stay at Heather's because she didn't want to be with me and she wanted to be around a mother figure – Heather. I said if that is the issue, why don't you just cancel your trip. That set Vivian off. Vivian then goes to Brooke and says when I get back you can sleep at Heather's anytime you want. Vivian then turns to me and says she isn't letting them go to the ranch anymore. I leave the room to avoid any further conflict in front of Brooke and Rylee. I then hear Vivian talking to Brooke and Rylee and she hollers to me to come into the room because I need to hear what she is telling Brooke and Rylee. Vivian then tells them that she is filing for divorce the day after the wedding, and that Brooke and Rylee are going to have to choose with whom they want to live. Vivian then tells them she is going to get the house. I said I thought you said you wanted me to get the house. Vivian said she changed her mind. Vivian tells Brooke and Rylee that she will get the house and I will get the ranch, and her lawyer told her that she would probably get part of the ranch as well. Vivian then tells Brooke and Rylee that if she doesn't get the house, the court will order it sold. When I started to leave the room, Vivian said, "I am the primary care giver. The kids are just a hobby to you and you will have to find a new hobby." Minutes later I heard Brooke and Rylee crying. When I came into the room, Vivian said you are a bad person and indicated she wanted to fight me physically. I could hear Vivian continue to talk to Brooke and Rylee when I left. During this episode, Vivian looked like a crazy person. This is another indication of how Vivian has no empathy whatsoever for Brooke and Rylee. It was so unnecessary to say the things she did in front of Brooke and Rylee.

211. Shortly before Brooke and I got in the car Wednesday morning, March 16, 2011, to go to school, Brooke received a text from Vivian stating that Vivian was coming home Friday. While we were driving to school, Vivian called Brooke. I could hear much of what Vivian was saying. She said that she could not sleep worrying about Brooke and Rylee after they heard the argument with her dad about the divorce. Vivian told Brooke she felt bad that dad would not let her do what she wanted (sleep over at the As practically every weekend). Vivian said she would try to get a plane out tomorrow, but that it was St. Patrick's Day in Ireland and she did not think she could get a plane out until Friday. Vivian then told Brooke that all of this is your dad's fault. Vivian's focus since she returned from her Ireland, Mt. Everest, Nepal, Ireland trip has been to prepare for this trip. Vivian is not coming home early because she is worried about Brooke and Rylee. When Vivian left Brooke and Rylee for much of last year, Vivian did not modify her behavior or cut a trip short when Brooke was distraught and begged her to come home. I suspect she is coming home early because of one or a combination of the following reasons: (1) Sergio Becerra rejected her – it was not in the cards after all; and/or (2) David Walsh ended his relationship with her.

212. Vivian has been telling Brooke and Rylee for years she was going to pay them an allowance each week equal to their age. Vivian has rarely paid them anything. When Brooke has come to me for payment because Vivian almost never pays them, I refuse because I believe that you need to teach your children that money has to be earned as opposed to just getting it automatically. On Sunday morning, March 19, 2011, Brooke asked me to take her to the mall as Vivian just gave her \$44 for four weeks allowance. Just as Vivian does with her friends, Vivian is now trying to buy Brooke and Rylee's loyalty on the eve of the divorce.

213. Vivian left the morning of Wednesday, March 23, 2011 for Ireland to ostensibly spend time with her friends and attend the Hope Foundation Gala in Dublin on March 26, 2011. Vivian is not scheduled to return until Wednesday evening, March 30, 2011.

214. Since she returned from Ireland, Vivian has been staying at the A's during the day and coming home about when the girls go to bed – about 9:30 p.m. Brooke called Vivian to see when she was coming home Tuesday evening, March 22, 2011. Although Vivian had told Brooke within the last two days that she was going back to Ireland, Vivian, apparently, had told Brooke she was leaving for just a few days. During this telephone call, Vivian told Brooke she was leaving tomorrow morning for Ireland and would not be back until Wednesday, March 30, 2011. Brooke was crying and upset for the next hour and a half.

215. Rylee had a sleep over at Rachael K.'s on Saturday night, March 26, 2011, after Rachael's birthday party. Brooke, who will be twelve years old on June 26, 2011, was scared to death to sleep alone, became very emotional, and pleaded with me to let her sleep with me for just one night. Although I have had a policy of not letting Brooke or Rylee sleep with me for a long time, I relented for one night.

216. On Sunday afternoon, March 27, 2011, Vivian called Brooke and Rylee for the first time since she left on Wednesday, March 23, 2011. Vivian also only called one time during her earlier trip to Ireland and spoke only to Brooke during that call.

217. It is Thursday afternoon, March 31, 2011. Vivian's callous behavior towards Brooke and Rylee, bother Rylee more than I thought. Rylee hates taking ballet. When we were driving home from school on Thursday afternoon, March 31, 2011, Rylee started moaning about going to ballet this afternoon. She complains just about every Thursday afternoon about going to ballet. I told her that even though she complains about ballet, when I went to parent observation

day (which was several months ago) I saw that she and Rachael had a very good time at ballet. Rylee responded, "Why didn't mom go? She could have gone. Why didn't she go dad?" I responded the only way I thought I could, "You'll have to ask her."

218. Tahnee and Whitney have both told me in the past how Vivian talks about plastic surgery in front of Brooke and Rylee, including having fat injected into her butt to make it look better. The sad reality is that Vivian's appearance, some celebrity's appearance, or someone else's appearance is the dominant theme of most of Vivian's conversations. I am concerned not only about the negative impact this has on Brooke and Rylee, but my older children as well. All of the focus is on image, looks, clothes, body, hair style, etc. With Vivian, there is no conversation about truly improving one's self. There are no conversations with Vivian about being a really good person.

219. Vivian is totally self absorbed, has uncontrolled fits of rage, is exploitive of her own children, is delusional, is preoccupied with fantasies of an ideal love with Jonathan Rhys Meyers, is envious of other members of our family, has almost no sense of propriety, will say anything in front of Brooke and Rylee without any thought as to the harm it is doing to them, will manipulate Brooke and Rylee for her own selfish purposes (including saying negative false statements about me), consistently exhibits a lack of any thought whatsoever about whether Brooke and Rylee have had dinner or have done their homework, rarely does anything with Brooke and Rylee, rarely does anything for Brooke and Rylee, and has repeatedly left Brooke and Rylee for extended periods of time without any regard whatsoever for their best interests. I have witnessed the ill-effects of Vivian's conduct has had upon Brooke in particular.

220. I take good care of Brooke and Rylee on a daily basis. I make them a complete hot breakfast every school day morning and make sure they always have a good dinner meal. I

help them with their home work whenever they need help. I take them to and from school, to and from dance classes, and to and from any sports activities. I, Brooke and Rylee do our laundry together, except on those occasions that Vivian does their laundry. I make sure Brooke and Rylee take regular showers during the week and brush their teeth at night. I take Brooke and Rylee shopping and to children's movies on a regular basis. I take Brooke and Rylee shopping to buy most of their shoes, socks, underwear, swim suits, jackets, coats, and jeans, and many of their shirts and outfits as well. I take Brooke and Rylee to the ranch with their friends for fun weekends. When I have to be out of town, I call every day and talk to Brooke and Rylee so they know I care about them and to make sure Brooke and Rylee have done their homework, have eaten dinner, and are going to bed on time. I am attentive with Brooke and Rylee, and Brooke and Rylee know I care deeply about them and that I love them.

221. On March 14, 2011, I walked over to Nyla Rs. to get Vivian's car. Nyla said she is worried about Rylee developing prematurely and that I should make an appointment with a pediatric endocrinologist. Nyla said she was telling me because she knew I would act on it. She said that she had told Vivian, but knew Vivian probably would not do anything. Rylee has really been suffering from what I believe to be allergies and has recently developed a cough and sore throat, so I made an appointment to see Dr. Walter Schroeder, and Ear, Nose and Throat Specialist on March 30, 2011. During that appointment, I asked Dr. Schroeder for referral to a pediatric endocrinologist for Rylee. On Wednesday afternoon, April 13, 2011, I took Rylee to see pediatric endocrinologist, Dr. Asheesh Dewan. Vivian met Rylee and I at the doctor's office. After a series of questions and answers, Vivian tells Dr. Dewan that Vivian has been applying testosterone to the inside of her forearms for a couple of years (Dr. Jeffry Life initially prescribed testosterone on October 26, 2009), and more recently to her stomach. Dr. Dewan asked Vivian

why she was doing that. Vivian responded that her testosterone level was too low. Assuming Vivian is much more responsible than she is, Dr. Dewan said he has seen this before where the parent applies the testosterone to themselves, then washes their hands and the child touches the faucet to wash their hands. He cautioned Vivian that after she applies the cream Vivian has to be careful because your children can then touch the faucets you touched after applying the cream. It was apparent that Vivian was going to let Dr. Dewan believe that Rylee's exposure to testosterone had been minimal. Therefore, I said it was much worse than what he assumed and explained to Dr. Dewan that Vivian applies the cream to her forearms, then sleeps with Rylee holding her with her forearms. Dr. Dewan ordered blood tests for Rylee. Based upon the discussions with Dr. Dewan, it was evident his preliminary belief is that Rylee's exposure to the testosterone on Vivian has caused Rylee's premature development. Dr. Dewan said that if that is confirmed by the blood tests, Rylee will have a device implanted in her arm that will need to be replaced annually until Rylee is twelve years old. Dr. Dewan said that without the device Rylee's growth will be stunted. Vivian exhibited absolutely no noticeable response upon hearing this. No guilt. No emotion. Nothing. The cost of the device is \$14,000.00 per year. At this point, I do not know what other potential adverse effects are possible or probable from having Rylee's endocrine system so disrupted and compromised, nor do I know what risks are associated with the implantation of the device in Rylee's arm. This is just the latest example of Vivian's callous and wanton disregard of Brooke and Rylee. This never should have happened. Vivian obviously knows by applying the testosterone to her skin it is absorbed into her body. It is common sense that if it is absorbed into your body through your skin, if someone else comes in contact with the cream it will be absorbed into their body as well. Vivian applies it to her forearms before going to bed with Rylee and Brooke. Rylee sleeps in between Brooke and Vivian, and snuggles Vivian

every night. Rylee is a big snuggler. If Vivian had the ability to care one iota about Rylee, she would have known when her forearms came in contact with Rylee's skin it would be absorbed into Rylee's body. More unnecessary suffering for Rylee. I knew Vivian was taking testosterone, but I thought she took it orally. I have seen Vivian rubbing what I thought was just some kind of lotion on her forearms at night.

222. On Saturday morning, April 16, 2011, I noticed a number of women's high-heeled dress shoes strewn about on the floor of the master bedroom closet. One pair is a sparkly pair of platinum Steve Madden high-heeled dress shoes. There is another pair of toupe or cream colored Steve Madden high-heeled dress shoes. I know almost nothing about women's fashion, but even I have heard that Steve Madden is an expensive line.

223. Vivian has a practice of letting out a scream whenever she walks into a room in the house that is already occupied by other family members. Many times, Vivian will let out a scream when Brooke and Rylee walk into a room Vivian is already occupying. On Monday afternoon, April 25, 2011, Vivian did all of this and then when Brooke and I were walking out of the kitchen to go to dance rehearsal, Vivian let out another big scream. Vivian does this to draw attention to herself. This week is a big week for Brooke and Rylee as the Peter Pan production is this Thursday, Friday and Saturday. Dress rehearsals are everyday between now and then. Since there is more focus on Brooke and Rylee than usual, Vivian feels a greater need to draw attention to herself than normal, thus more screams.

224. I took Rylee to Lab Corp on Lake Mead to have her blood drawn at 6:30 a.m. on Friday, April 15, 2011. They took 10 vials of blood from Rylee's arm. At about 5:30 p.m. on Monday, April 25, 2011, Dr. Dewan called to tell us the results of the blood tests. He said Rylee's testosterone level is 32. Normal for her age is below 10. Rylee will have blood drawn

again in three months to see if the testosterone level has gone down. Dr. Dewan asked Vivian if she could use a testosterone patch or a testosterone injection instead of the cream. Vivian said there is no patch for women. Vivian promised Dr. Dewan she would only use the injection from now on. Dr. Dewan said Rylee's cholesterol is too high from eating too much fat. He said Rylee does not have diabetes.

225. Vivian purchased a little Yorky terrier about six years ago and named her Bella. Initially, Vivian made it clear that Bella was her dog, she was not allergic to Bella, and she would bring Bella in the house once and awhile. However, Vivian lost interest in Bella years ago and has pretty much discarded the dog. Vivian will now go months and never see the dog. I could have given Bella away to someone else three months ago, and Vivian would not know she was gone. I feed and water Bella and our other dog, Jimmy, daily.

226. Vivian taught draping classes a few semesters at a technical college in Henderson. Vivian could not understand why the administration of the school did not appreciate how great a teacher she was. The top administrator of the school could not stand Vivian and eventually showed her the door or, at least, made it abundantly clear to Vivian she was not welcome.

227. Vivian has gone out of her way to make sure she has told each of our older children what Vivian perceives to be their personal physical defects.

228. On Monday evening, May 2, 2011, Brooke came downstairs with a drinking cup with a cover on it. Brooke said she had chocolate milk in it, had left it in her bedroom, it was disgusting, and wanted me to clean it. I told her she could clean it herself (she will be 12 years old next month) and told her to simply run hot water in it, put some soap in it and let it sit overnight. She started crying saying she couldn't do it and repeatedly pled with me to do it. I kept responding it was something she could easily do. She became extremely emotional, broke



down, and could not do it. This type of scenario happens with alarming frequency with Brooke, where she encounters something that reasonably should not be that big a deal, but causes her an unreasonable amount of stress, and she reacts by crying and becoming very emotional. Vivian has got to stop sleeping with her.

229. It is about 9:00 p.m. on Sunday night, May 15, 2011. Brooke stayed Friday night, May 13, 2011, and most of the next day at the As. Rylee spent Saturday night, May 14, 2011, and most of Sunday at the As. Vivian and Brooke went to the As on Sunday afternoon, May 15, 2011. All this was after I told Vivian on Thursday evening, May 12, 2011, that I was going to take Brooke and Rylee to a movie during the weekend.

230. At about 4:00 p.m. on Wednesday, May 18, 2011, Vivian came up to me and said, "I am going in tomorrow morning to have my face burned off." I asked if the appointment was with Betty Peeler. Vivian said, "No. It is with a doctor." It was with Dr. Jason Michaels.

231. On Wednesday evening, May 18, 2011, I was looking for a children's Tylenol for Rylee, she got bands and head gear from the orthodontist earlier that day, in the medicine closet in the bathroom. I noticed Vivian has a lot of medications in there in addition to what is in the kitchen drawer. Although there are many other vials in there, I found the following: (1) Premarin 1.25 mg tablets, prescribed by Dr. Florence Jameson; (2) Ondansetron odt 8 mg tab san (substitute for Zofran odt 8mg tablet glx), prescribed by Dr. Richard Clement; (3) Zolpidem Tartrate 10 mg tabnor (substitute for Ambien 10 mg tablet sea), prescribed by Dr. Richard Clement; (4) Ciprofloxacin 500 mg tab reddy, prescribed by Dr. Michael Silvers; (5) Malarone Tablet Glx, prescribed by Dr. Michael Silvers (discard after 3-feb-11); (6) Metronidazole 500 mg tablet sd (substitute for Flagyl 500 mg tablet sea), prescribed by Dr. Anthony Griffin; (7) Hydrocodone/apap 5/500 tab w (substitute for Vicodin 5/500 tablet kno), prescribed by Dr.

Anthony Griffin; (8) Lorazepam 0.5mg tablet gen (substitute for Ativan 0.5mg tab), prescribed by Dr. Anthony Griffin; (9) Hdrocodone-apap 5-500 tablmck (substitute for Lortab 5-500 tablet phy), prescribed by Dr. Richard W. Clement [prescription filled at CVS Pharmacy in Scottsdale, Arizona – discard after 03/15/2011]. In addition, there are a number of prescribed creams: (1) Metronidazole topical cream 0.75%, prescribed by Dr. Jason Michaels; (2) Sulfacetamide sodium topical suspension, prescribed by Dr. Jason Michaels [the dispensing pharmacy is Walmart, 540 Marks Street, Henderson]; (3) Hydroquinone 4% cream gla, prescribed by Dr. Jason Michaels; (4) Metronidazole Vaginal Gel .75% gel 70G, prescribed by Dr. Florence Jameson [prescription filled at Walgreens, 1701 North Green Valley, Henderson]; (5) Hydrocortisone 1%, prescribed by Dr. Jason Michaels. There is also a cream called Voltaren 50 – diclofenac.natr. manufactured by Novartis (has a Dubai duty free label – dhs 49.50. There are also numerous bottles and creams with Dubai duty free labels on them, including three bottles of Glycerin B. P. By Bell's Health Care.

232. Vivian came back from the doctor's office Thursday afternoon, May 19 2011, looking like she had been in a fire. Her entire face and neck appeared burned. She was a deep purple color below both eyes continuing down the top of her cheeks. What a sight for Brooke and Rylee. Unfortunately, for Brooke and Rylee, an all too frequent sight. Vivian continues to sleep with Brooke and Rylee in Whitney's room, while Brooke's room is being redecorated. Vivian bought a bright night light they are using in Whitney's room. Vivian is making sure Brooke and Rylee continue to be afraid of the dark. When I got up this morning, both Vivian and Rylee were downstairs on the living room couch and chair. Rylee is getting up in the middle of the night and going downstairs to be with Vivian about 40 to 50 percent of the time. Vivian is making sure Rylee has an inviting pathway to Vivian when Rylee wakes up scared in the middle

of the night – a bright night light, the bedroom door left open, and a light on at the bottom of the stairs. How incredibly callous and sick for a parent to so obviously intentionally emotionally torture their own eight year old daughter each night. In addition, Vivian is intentionally unnecessarily exposing Rylee to serious physical harm each night knowing she is causing her to negotiate stairs while half-asleep.

232. I put Brooke and Rylee to bed on Sunday night, May 22, 2011. Vivian is at Heather As. I just put Brooke and Rylee to bed in Whitney's room. Vivian and Connie F. are still redecorating Brooke's room. The hall light is on with the door wide open. There is a bright night light in Whitney's room. Brooke is crying and shaking with fear, even though Rylee is lying right beside her. What Vivian has done to these kids is so abusive and callous.

233. On Wednesday, May 25, 2011, I was working at the computer in the pool room. Vivian came in the room and wanted to talk. Vivian broached the subject of her loaning money to Jesse and Heather A. to buy the Clothier house on Providence. Vivian said she had been advised to do a lease/option. This is another example of Vivian trying to buy loyalty. On Wednesday afternoon, June 1, 2011, Vivian came into the pool room to tell me about an offer she made on the Robinson house for \$368,000.00. She is buying it for the As. She said she will make 5% on her money.

234. On or about Thursday, May 26, 2011, Dr. Dewan's office returned my telephone call. The lady confirmed that Rylee's testosterone level is supposed to be between 2.5 and 10. Rylee's testosterone level is 32.

235. When I finally figured out Vivian's phentermine addiction several weeks ago, I told Vivian I would no longer pick up her prescriptions from Costco. On Tuesday morning, May 31, 2011, Vivian asked me to pick up a prescription for Joseph at Costco. When I went to

pick it up, the lady at Costco Pharmacy said they did not have a prescription for Joseph. I telephoned Vivian and she said it was in her name, but it was for Joseph's mouth. The prescription was a substitute for Valtrex. I telephoned Joseph and asked if he had a cold sore on his mouth. He said he did not. I then asked him if he had a cold sore recently. He said he did not. I told Joseph what had occurred, and told him there is a reason the medicine requires a prescription, that it is normally prescribed for genital herpes, there may be risks associated with its use for which he is not familiar, and if does get a cold sore on his lip, not to use the medicine.

236. In addition to letting out a scream when she walks into a room in the house or when Brooke or Rylee walk into a room she is occupying, Vivian has started yawning very loudly in an effort to draw attention to herself.

237. As a consequence of having her sleep disrupted at night by waking up scared and going downstairs to look for Vivian in the middle of the night, Rylee has fallen asleep at the breakfast table on a number of occasions.

238. Vivian has been aware that I am seeking primary custody of Brooke and Rylee for at least a couple of months. As a consequence, Vivian has done more with Brooke and Rylee the last couple of months, than she has done for six or seven years. However, the appearance of being a good mother is much more important to Vivian, than what is in Brooke and Rylee's best interest. After sitting on and breaking Brooke's eye glasses on Friday evening, June 3, 2011, Vivian is taking Brooke to Lenscrafter's on Sunday, June 5, 2011, to get eye glasses in one hour. The eye glasses were lost for about a week before Vivian broke them and Brooke has been wearing her contacts, so it is not imperative that Brooke gets new eye glasses today. I asked Vivian to wait until she could get Brooke's most current and most accurate prescription before getting new eye glasses. Vivian refused. Vivian took Brooke to get her eyes examined last

December when Brooke got her contacts and that is the prescription Vivian is using. However, I took Brooke to Dr. Grace Shin in January and that is her most recent prescription. Importantly, the reason I took Brooke to Dr. Shin is because two different optometrists at Costco had been unable to correct Brooke's vision to 20-20 with correction and had strongly recommended that Brooke see a pediatric ophthalmologist. Dr. Shin was recommended by the optometrist at Costco and by an ear, nose and throat physician. Both individuals said she is the best pediatric ophthalmologist in Southern Nevada. I believe the person who prescribed Brooke's contacts is an optometrist, who may have had the same issues the optometrists at Costco had in correcting Brooke's vision. I suggested Vivian just wait one day until Monday, June 6, 2011, so that Brooke's new eye glasses would have the most current and accurate prescription. After explaining all of this to Vivian, she again refused. Luckily for Brooke, the Lenscrafters' computers were down and we were able to get the prescription from Dr. Shin's office the next morning, Monday, June 6, 2011.

239. On Sunday, June 6, 2011, Whitney told me that when she was a senior in high school, Vivian told her she was too fat and took her to the Unicorn Medical Weight Loss Center where she was prescribed diet pills. Whitney thinks she was given Phentermine. Whitney's senior year in high school was the academic year 2004/2005.

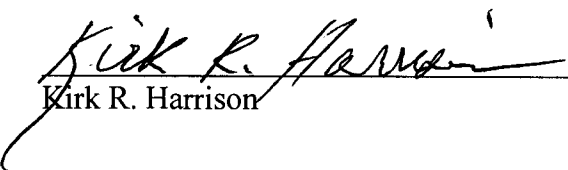
240. Vivian's blatant behavior of trying to buy loyalty from people continues. Vivian and I had previously agreed that we would buy each of our children a new car when they graduated from college. When Tahnee graduated from college, she got a new Honda Accord. When Whitney graduated from college, she got a new Honda Accord. Neither Tahnee nor Whitney had a car during college. Joseph still has at least a year to two years left to graduate. Within the last couple of weeks, Joseph and I had a conversation where we both agreed that his

2005 Toyota Forerunner still looks brand new and has been a wonderful car for him. On Wednesday afternoon, June 8, 2011, Vivian asked me if I had seen Joseph's new car, a brand new Toyota Venza. It is in the garage. This is certainly not the best message to send Joseph, and clearly not in his best interest. Of course what is best for Joseph is irrelevant to Vivian.

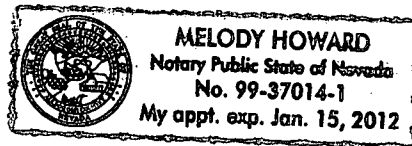
241. Each of the factual averments contained in the Motion for Joint Legal and Primary Physical Custody and Exclusive Possession of Marital Residence are true and correct.

FURTHER AFFIANT SAYETH NAUGHT.

Subscribed and sworn before me  
this 9th day of June, 2011.

  
Kirk R. Harrison

  
Notary Public



A

March 21, 2010

Vivian,

It is sad that I feel the only way I can effectively communicate with you concerning the best interests of Brooke and Rylee is in a memorandum. Unfortunately, that is the reality you have created.

As I told you on Wednesday morning (3/10/10) while you were in India, I had Brooke and Rylee sleep without a parent. Both were very frightened and cried the first couple of nights. It is not an exaggeration to say that Brooke's entire body was shaking from fear. Each night during the first three nights, Brooke came into my room in the middle of the night crying and scared. Each time I walked her back to her room, put her in bed, said good night, and left. After the first three nights there were no problems whatsoever. Each night I read them bedtime stories, kissed them good night and left.

When you first returned, you initially cooperated. Then, starting Sunday night (3/7/10) you started getting in bed with them before they fell asleep. We argued Wednesday morning about this problem and the argument, unfortunately, continued in front of Brooke and Rylee.

During this argument you accused me of trying to interfere with your bonding with Brooke and Rylee, saying this is the only country in the world where mothers do not sleep with their children. That is simply not true. I repeated then what I have said in the past: Hold and snuggle Brooke and Rylee as much as you want before they go to bed, or, if they get in bed early enough, snuggle with them before it is time for them to go to sleep, or, get in bed with them after they are asleep. I would much prefer the first two, as Brooke started sleeping with me because your and Rylee moving around in the bed at night was waking her up. None of this satisfied you.

Your concept of the "family bed" is inconsistent with everything I have read and seen. Traditionally, and long before Dr. Spock's book in 1946, babies did not sleep with mom and dad. They slept in a crib in another room – a bedroom or a nursery – although, initially, the crib might be in the same room as the parents. Children simply didn't sleep with their parents. Neither of my parents slept with their parents. Neither I, nor any of my siblings slept with my parents. The notion of the family bed is that there are benefits (there are also negatives) to having a baby, perhaps up to age 2 sleep in the same bed as mom and dad. Although I prefer the traditional approach, the "family bed" as just described doesn't cause me major problems.

However, everything that I have read and seen indicates that after age 2 the children need to go to sleep by themselves. I have previously seen two of the three articles you gave me Wednesday (3/10/10) morning. These articles address sleeping with infants that are nursing and very young children – they do not apply to 7 and 10 year olds and do not apply to just one parent sleeping with the children.

The problem is that you don't just want to bond with Brooke and Rylee. You want them to have insecurities and fears about going to bed without you. It is disturbing that you have no



problem whatsoever making Brooke and Rylee pay the price of continued fear and insecurity, and the accompanying dependence, so Brooke and Rylee will be dependent upon you. This is not bonding. This is making your own children frightened, insecure, and dependent, when your goal should be to do everything in your power to make them independent, self-reliant and confident. You slept with Joseph until he was 10 – when Brooke was born. He just turned 21 and this is the first time he has been home and didn't need to have both the hall light and his closet light on to be able to go to sleep at night.

In addition to causing the foregoing problems, you are conditioning Brooke and Rylee to sleep with their children, without their husbands, at ridiculously older ages, which will, undoubtedly, cause problems for their children as well as in their marriages. Most husbands, rightfully, will not put up with this nonsense.

I have watched a total of three episodes of "Nanny 911". The focus of two of those three shows was how wrong it is for parents to sleep with their children over the age of 2. On one show the mother was heading off to bed with her son, who was about 7 years old. The nanny questioned the mother as to what she was doing. Just like you, the mother said that sleeping with her son was one of her favorite times of the day. The nanny responded by saying, "How can you be so selfish?" In the other episode, involving a different family and a different English nanny, the father had grown up in a home where his mother was absent much of the time. Well intended, the father would sleep with his children. In this episode, the English nanny had the same reaction as the other English nanny, saying you cannot do that to your children – you are creating insecurities in your children. I saw another show called, "Super Nanny." The show involved another family. This family had the same problem with the mom staying with the children until they went to sleep. The entire show was about how mom had to force the kids to go to sleep by themselves and sleep by themselves.

You cannot continue to rationalize your behavior that is hurting our children by saying that these people are just following Dr. Spock. Long before Dr. Spock, most mothers in this country were smart enough not to leave the marital bed and sleep with their older children. The fact that you may have a friend that also does it is no way to justify this behavior. The fact that she is doing something that is clearly detrimental to her children, does not mean you should do the same. Similarly, saying that our older three children turned out just fine is also not justification to do this. First, they turned out just fine in spite of this. Second, the jury is still out on what damage this has done to their ability to have happy marriages and family lives.

Its bad enough that you go to bed with them, but you make it even worse by not being there when they awaken in the morning – creating even more insecurities in our children. As you might be aware, until recently, there were times when Brooke cried at the least little thing. I believe this is the consequence of her being ten years old and not developing the independence and confidence to deal with things because she was still sleeping with a parent. There might be other causes of this behavior, although I do not know what. I do know there hasn't been such an incident since she and Rylee have been sleeping without a parent.

You are well aware that sleeping with our children is not in their best interests nor in our

family's best interest. A review of the literature reveals that there is general debate about co-sleeping or the family bed (which includes the father) until the child is no more than 2 years old. However, when the children are older, everyone that has any credibility believes that children need to be in their own beds by themselves.

As I stated above, as parents, we have a responsibility to create an environment that will give our children the best chance of success and happiness in their own marriages and families. If our adult children are sleeping in their children's beds and not with their spouses, that can only cause problems.

As you know, Brooke does not like being awakened in the middle of the night by you and Rylee so she slept in my bed for several months. As you also know, I have always strongly encouraged her to sleep in her own bed. The problem is that you and Rylee were sleeping in her bed, and you wouldn't leave. I finally figured out this was the worst possible situation for Rylee. You would get up every night during the night and go downstairs to sleep on a couch or go on the internet. Rylee, who was six years old, would wake up, become frightened, and go downstairs looking for her mother in the middle of the night. I told you this had to stop. You again refused to stop sleeping with them. So I told Brooke she had to start sleeping in the same bed as Rylee so Rylee wouldn't be walking through the house scared in the middle of the night looking for you.

This is not about you or me. It is about what is best for Brooke and Rylee. During this trip please think long and hard about this. Please do what is clearly in the best interest of Brooke and Rylee and do not continue getting in bed with them when they are trying to go to sleep.

Kirk

## EXHIBIT 2

1  
2 **AFFIDAVIT OF TAHNEE L. HARRISON**

3 **filed in Support of Plaintiff's Motion for Temporary Custody**

4 STATE OF NEVADA       )  
5                                )       ss.  
6 COUNTY OF CLARK       )

7       TAHNEE L. HARRISON, declare and say:

8       1.       I am the daughter of Kirk and Vivian Harrison and am over the age of 18. If  
9 called upon to testify, I could and would competently testify to the facts set forth herein.

10       2.       The matters stated in this Affidavit are based upon my personal knowledge  
11 (or upon information and belief if so stated).

12       3.       I graduated from college at the end of the fall semester in 2008. I have been  
13 living at home since that time until January of 2011. Prior to my graduation, I lived at home  
14 each summer. During college, I would generally come home for Thanksgiving, Christmas  
15 and spring break.

16       4.       During the summer of 2005, my mother abruptly took my little sisters Brooke  
17 and Rylee and they lived somewhere secretly for several weeks without the rest of the family  
18 knowing where they were.

19       5.       It was during this time period that my mother started to act differently  
20 towards other members of the family.

21       6.       After my dad retired in early 2006, my mother began withdrawing from the  
22 other members of the family, including Brooke and Rylee. Each year she has gotten  
23 progressively worse.

24       7.       Sometime in June of 2008, my mother, Whitney, Brooke, Rylee and I were  
25 riding in the car. My mother began belittling Whitney's intelligence and criticizing her for  
26  
27  
28

1  
2 her weight. I then tried to stand up for Whitney. My mother started screaming obscenities  
3 and threatening to hurt me in front of Brooke and Rylee. My mother stopped the car and  
4 started to attack me. Whitney was trying to get Brooke and Rylee out of harm's way when  
5 my mother struck Whitney in the head.  
6

7 8. On Friday, January 30, 2009 another family invited my dad, Brooke and  
8 Rylee to dinner. My mother wanted my dad to take another girl with them. My dad  
9 confirmed that girl's family could watch her and said it would be inappropriate to bring her  
10 to the dinner of the two families. My mother told me she was leaving my dad for not taking  
11 the girl to dinner with the other family.  
12

13 9. On Friday, February 27, 2009, my mother got in an argument with my dad  
14 and threw a coffee mug at him.  
15

16 10. On Thursday, March 12, 2009, my mother said that my dad had just cooked  
17 two dinners for Brooke and Rylee this week and it is the first time he had cooked dinner in  
18 ten years. This was not true at all. My dad cooks most of the dinners. My mother then told  
19 me that she thought Dad was cooking the dinners because he was planning on filing for  
20 divorce and he was trying to set it up so he would get custody of Brooke and Rylee. I told  
21 my mother that she was paranoid and that Dad had cooked dinner many times before. My  
22 mother persisted and I said that I had cooked dinner for Brooke and Rylee as well and that  
23 Dad and I were simply making sure Brooke and Rylee got dinner. My mother interpreted  
24 this as implying that she was not doing what she should be doing. My mother then "went  
25 crazy" and told me she never wanted to speak to me again. After my mother said that, I told  
26 her she was "psycho" and that dad was right when he said in her family when they couldn't  
27 control their children they simply discarded them and kicked them out of their home. I told  
28

1 my dad what happened, that I wanted to move out of the house, that he needed to do  
2 something, and that he should file for divorce. My dad told me that in my mother's present  
3 condition, if they got a divorce and had partial custody, he would be fearful for Brooke and  
4 Rylee.  
5

6 11. On Monday night, March 16, 2009 we had a birthday party and dinner for my  
7 brother Joseph. While still at the table Brooke complained the cleaning ladies had taken her  
8 Nintendo DS to another room. My mother said she is sure the cleaning ladies would not take  
9 it out of the room. I merely commented that they had moved items from my bedroom to my  
10 bathroom. My mother then said that this is her house, she will have the cleaning ladies not  
11 clean my room anymore, and that I was lucky not to have to pay rent.  
12

13 12. Soon after the Kindles first came out, my mother got one. After this she  
14 became even more isolated from the other members of the family, including Brooke and  
15 Rylee. My mother would spend most of each day in the office or Brooke's bedroom reading  
16 her Kindle, sleeping, or buying things on the internet. On the rare occasion she would go  
17 anywhere with the family, my mother would read the Kindle in the car, during dinner, or  
18 during whatever event we were attending.  
19

20 13. On or about July 31, 2009 our whole family drove in my dad's car to St.  
21 George to see a play and then the next day to Cedar City, Utah for the dedication of a bronze  
22 statue honoring my great-great-great-grandfather, Richard Harrison. My mother was reading  
23 her Kindle when Brooke commented that my mother stays in a bedroom with the door shut  
24 reading her Kindle 24/7. My mother severely scolded Brooke for the comment.  
25

26 14. On Saturday, August 29, 2009 I saw that Brooke was on the Internet at an  
27 Ashley Tisdale fan chat room. I told my dad about it and said that my mother being in  
28

1 Brooke's bedroom all the time was a real problem and that my dad had to do something  
2 about it, as I was worried about Brooke and Rylee. My dad told me that he had done all he  
3 could concerning my mother, and all he could do was be the best father he could and that all  
4 of us needed to do our best in looking out for one another. My dad spoke to Brooke and  
5 explained she was not allowed to be in any chat room. I emphasized the dangers to Brooke.  
6 Later that day, out of Brooke's presence, I told Dad that Whitney had told me that my  
7 mother had told both Michelle Walker and Nyla Roberts that she was filing for divorce. I  
8 told my dad that he needed to go to a counselor to find a way to get my mother into  
9 counseling. My dad said that my mother refused to see a counselor and that his going to a  
10 counselor would not overcome that problem. I told my dad he should do something rather  
11 than simply wait for my mother to file for divorce.  
12

13  
14 15. Sometime around the first of September, 2009, my mother told me she was  
15 going to spend three to four months in Europe the following summer. She said Brooke and  
16 Rylee were going to stay home and go to our family's ranch with Dad.

17  
18 16. On Saturday, September 12, 2009, my mother had five or six 16-year-old  
19 girls over to watch a movie in the home theater. I told my dad how bizarre it was that my  
20 mother was in the home theater with these five or six 16-year-olds watching a movie. One  
21 of the 16-year-old girls was Chloe Walker. The day before my mother had told me, "Chloe  
22 is such a great dancer I wish she was my daughter." It, understandably, upset me that she  
23 would say in front of me that she wished another girl was her daughter. I told my dad I  
24 wished there was some way to stop this toxic behavior. I recalled when I was younger when  
25 my mother told me how smart another girl was in my class. My dad reminded me of last  
26 summer when my mother made the hurtful comments to Whitney about not being as smart  
27  
28

1 as Whitney's friend Shilpa. He said my mother is simply incredibly insecure and needs to  
2 tell others that they are inadequate. He told me about an incident the prior year when my  
3 mother told him that nobody wants to be with him.  
4

5 17. My mother has a fixation for a television show called "The Tudors" and its  
6 star Jonathon Rhys-Meyers. On Wednesday, October 7, 2009, I was playing the piano. My  
7 mother came up to me and said, "If you meet Jonathon Rhys-Meyers and he flirts with you, I  
8 will kill him."  
9

10 18. On Monday afternoon, October 12, 2009, my mother asked me if I thought  
11 Jonathon Rhys-Meyers would be at the Justin Timberlake event she and I would be attending  
12 the next evening. When she is home, my mother spends the vast majority of her waking  
13 hours watching "The Tudors," researching Jonathon Rhys-Meyers on the internet, buying  
14 things for herself on the Internet, and reading vampire fantasy novels in Brooke's bedroom  
15 or in the home office.  
16

17 19. On Tuesday evening, October 13, 2009, my mother and I attended a  
18 fundraiser event related to the Justin Timberlake celebrity golf tournament. When my  
19 mother and I were getting ready for the evening, my mother said, "Do you think we will  
20 attract a couple of hot young guys?" There was an auction at the fundraiser. My mother  
21 started bidding for a guitar autographed by the Rolling Stones. Justin Timberlake was also  
22 bidding on the guitar. At one point, in the bidding my mother hollered out to Justin  
23 Timberlake and called him a "bum." I was so embarrassed I wanted to crawl into a hole.  
24 When my mother left the table for a while, the other people sitting at the table said that she  
25 was "crazy." They were not joking. My mother has no sense of propriety. She paid  
26 \$3,500.00 for the guitar. When we got home that night, my mother told my dad that she had  
27  
28



1 a great time, but did not think I had a very good time because I was jealous of my mother for  
2 getting all of the attention.  
3

4 20. On Friday evening, October 16, 2009, my sister Whitney and I spoke to Dad  
5 about our concerns. Whitney told Dad how my mother talks about divorcing him in front of  
6 Brooke and Rylee. Both Whitney and I told our dad that we think Brooke and Rylee would  
7 be a lot better off with him than with my mother. We also told him that a divorce would be  
8 in everyone's best interest because of my mother's seemingly constant adversarial behavior  
9 towards everyone in the family. Whitney used the example of Brooke coming to her a  
10 couple of nights before saying she had left her homework over at the Walkers and wanted  
11 Whitney to take her to get it. Whitney said, "Why don't you ask mom?" Brooke's response  
12 was that my mother was reading and she will get mad at Brooke for interrupting her. Both  
13 Whitney and I told Dad how much my mother had deteriorated during the last year. I told  
14 my dad that I thought that my mother's deterioration was at least partially due to her  
15 prolonged prescription drug use. I said that Phentermine is to be only used by the extremely  
16 obese and only for a short period of time – a few months. My mother has been taking it for  
17 years. Whitney said that my mother told her she is going to have a hair removal process  
18 done in a very personal location of the body. Whitney said she would not be having that  
19 done unless she was planning to have sex with someone.  
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22

23 21. My dad is trying to build an apartment at the ranch for Brooke and Rylee. He  
24 has told me that Brooke and Rylee especially, but all the children in the family need a place  
25 to go to at the ranch that is clean and mouse-proof, but more importantly, always happy and  
26 positive. My dad has told me that he is trying to get the apartment done while Whitney and I  
27 are still at home so Brooke and Rylee are not alone in our home with my mother upstairs  
28

1 reading with the door shut. My dad was working on the apartment during the week of  
2  
3 October 20, 2009. My dad calls each day while he is working at the ranch. I told him during  
4 one of these telephone calls that I got home one night after 10:00 p.m. to discover that  
5 Brooke and Rylee had not eaten any dinner.

6         22.     On Friday, November 13, 2009, my mother told me that she put her name on  
7 Google Alert for Jonathon Rhys-Meyers and that she got a google alert today that Jonathon  
8 went to dinner last night with his girlfriend. My mother expressed her displeasure upon  
9 learning that he had gone to dinner with his girlfriend. It concerned me because she seemed  
10 genuinely upset. My sister Whitney was selected to be on the television show "Say Yes to  
11 the Dress," which is about selecting a wedding dress. My mother and I went with her and  
12 were also going to be on the show. My mother told me she was very concerned that  
13 Jonathon might see her on the show since she has not yet lost her weight. I assured her that  
14 Jonathon Rhys-Meyers surely did not watch such shows. I told my dad later that day that I  
15 think my mother is bi-polar/manic depressive.

16         23.     While we were in New York, my mother, Whitney's fiancée's mother, Mrs.  
17 Birmingham, Mrs. Walker, and I stayed in the same hotel room. My mother had only met  
18 Mrs. Birmingham on one prior occasion. Whitney stayed with her friend Shilpa. While we  
19 were there, my mother told Mrs. Birmingham, Mrs. Walker and me that she, Vivian, knows  
20 that Jonathon Rhys-Meyers, the 32-year-old actor she has never seen, but who is all over our  
21 family computer screens, is her soulmate. She also made a point to show Mrs. Birmingham  
22 all of her small thong underwear, leopard skins, etc. My mother also told these women how  
23 her older sister, Cindy, was involved with satanic rituals and was a drug addict. My mother  
24 also told these woman and I that she has some major plastic surgery planned for this Spring  
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1 that my dad doesn't know about. My mother then said she was going to spend the summer  
2 in Europe. My mother also told these women and I that she wanted to go to the sex museum  
3 in New York. My mother's condition is worsening as she exhibits extremely bizarre  
4 behavior more and more in her effort to be the center of attention.  
5

6         24.     On Saturday, December 4, 2009, my mother told me that she paid \$300.00  
7 per hour to speak to a female psychic on the telephone. My mother told me that she asked  
8 the psychic if Geothermic, a new company in which my dad is involved, was going to be  
9 successful. The psychic told my mother it was going to be huge and would change the  
10 world. My mother asked the psychic when this was going to happen. The psychic said it  
11 would be within the next 12 to 24 months. The psychic also told my mother that she is a  
12 "Master Soul." My mother explained to me that this means she is very advanced from being  
13 reincarnated many times. My mother also told me that she is getting into philanthropy and  
14 that she is going to a philanthropic event in California where Jonathan Rhys-Meyers'  
15 foundation will also be present. My mother again told me she was going to Europe for the  
16 summer. I questioned her as to how she could leave Brooke and Rylee. My mother initially  
17 responded that my dad was taking Brooke and Rylee to the ranch. When I told her that Dad  
18 had never said that, she admitted he had not. I then asked my mother why she didn't wait  
19 until Brooke and Rylee were at least 14 or 15. My mother responded that she needs the time  
20 alone and she will be too old if she waits that long. I related this conversation to my dad the  
21 next day. I told my dad that my mother was getting very unstable and that I thought she was  
22 manic-depressive because she is always buying things.  
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24         25.     In our home there is a loft area above our kitchen area. On Sunday morning,  
25 December 13, 2009, I was in the loft area and starting to go downstairs when I overheard my  
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1 dad and my mother talking. My mother had just returned from California where she had  
2 another procedure done on her face and her face was swollen and discolored. My dad was  
3 expressing concern to my mother about the cosmetic procedures she is having done — two  
4 face peels in less than 4 or 5 weeks. My mother said she didn't like talking about it because  
5 people were judgmental. My dad told her no one was being judgmental and simply  
6 expressing concern. She then started to rip on me saying that I wasn't concerned, because I  
7 had no problem so long as I was getting something out of it. I came downstairs and, as  
8 calmly as I could, defended myself. My mother blew up shouting at me and my dad, saying  
9 my dad was a liar and that I had never expressed concern about her. My dad told her that I  
10 had expressed concern. My mother then started screaming questioning my dad as to what  
11 were the exact words of concern that I said. He responded that he did not recall the exact  
12 words, but that I had expressed concern. My mother kept attacking my dad saying he was  
13 lying and to say what I had said. My mother then turned on me, and began belittling me in  
14 front of Brooke and Rylee, saying things like, Why do you even live here? I stayed calm and  
15 said nothing.

19         26.     On Sunday evening, December 13, 2009, my dad, Whitney and I went to  
20 dinner. My mother had taken Brooke and Rylee to do some Christmas shopping. It turned  
21 out my mother took Brooke and Rylee to see Santa without Dad, saying she was taking  
22 Brooke and Rylee to get presents for him. This is one of the rare times she has done anything  
23 with Brooke and Rylee for many months. I told my dad during dinner that my mother now  
24 plans to go to India for the summer to do philanthropy. Both Whitney and I told dad that my  
25 mother is constantly on the internet looking for stuff about Jonathan Rhys-Meyers. We told  
26 dad that Jonathan Rhys-Meyers is involved with some organization in Ireland, where he is  
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1 from, and this organization is doing philanthropic work in India. We told dad that this trip  
2 to India is just an attempt to get close to Jonathon Rhys-Meyers. Whitney said my mother  
3 will only do things where she thinks she will be given credit. For example, she will spend  
4 considerably more time after class helping her students than helping Brooke and Rylee with  
5 their homework.  
6

7 27. I went to see the movie "Avatar" on or about December 23, 2009 with Dad,  
8 Joseph and Joseph's friend, Darius. While we were there, Joseph and I told Dad that my  
9 mother had just bought herself a \$875 jacket and two pairs of jeans that cost \$500 each. We  
10 told Dad that my mother bought the jeans because Jonathan Rhys-Meyers had worn the same  
11 brand. Joseph and I both told Dad he had to do something as my mother's spending was out  
12 of control.  
13

14 28. On Christmas evening, December 25, 2009, I told my dad that Whitney had  
15 discovered that my mother just bought a pair of boots online for \$800.00.  
16

17 29. On Thursday afternoon, December 31, 2009, my mother started screaming at  
18 dad because he had taken Brooke and Rylee to lunch and then they planned to go see the  
19 movie "Avatar" that afternoon. Dad asked my mother if she wanted to go with them.  
20 Initially, she just declined, but then blew up saying she had an agreement with dad that she  
21 would take Brooke and Rylee to the next movie. My mother started screaming that dad was  
22 a liar and started saying "fuck" in front of Rylee, Brooke, Joseph and I. I told my mother to  
23 take it into another room so it is not in front of Brooke and Rylee. My mother then turned  
24 on me and in a threatening tone said, "Are you taking me on?" In order to stop the  
25 screaming and the apparent imminent violence, my dad said, "Go ahead, take them to the  
26 movie." My mother then got in Dad's face saying, "I'm taking them to Lego Land, too,  
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1 without you." My mother's unstable and volatile personality was front and center for all of  
2 us to see, including Brooke and Rylee.  
3

4 30. On Wednesday, February 3, 2010, I told my dad he needed to see something  
5 in the home office. There was a box of ladies' shoes next to the desk in the office. They  
6 were Christian Louboutin Spartenvol Strass suede dress shoes. The price tag on the box was  
7 \$1,395.00. I told Dad that my mother told me she was going to wear the shoes to the ball in  
8 Ireland in March. I showed Dad a quote from my mother's February 2010 edition of  
9 Cosmopolitan. There were a series of questions and answers with Jonathan Rhys-Meyers.  
10 One of which is as follows: "What's the hottest thing a chick can wear? I think every girl  
11 should have two pairs of Christian Louboutin shoes." I also pointed to a box in the office  
12 and said my mother had purchased a pair of Prps jeans that cost \$500.00. I then went on the  
13 Internet to a Jonathan Rhys-Meyers fan site. I told my dad that my mother is on this site a  
14 lot. There is a photo of JRM and his girlfriend. Under the photo, the first two sentences  
15 provide, "Tudors star Jonathan Rhys-Meyers and girlfriend Reena Hammer attended the  
16 Prince's Rainforest Project in London, Rhys-Meyers is wearing Prps "Dart" Jeans. These  
17 come from the women's collection and Prps told us this trend has been happening a lot lately  
18 as more men desire a skinny leg they have been buying women's jeans."  
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22 31. On Wednesday evening, February 3, 2010, I went to Brooke's basketball  
23 game with my mother. My mother usually doesn't go, but my dad had an appointment. My  
24 mother was dressed in high heels and a leather coat for the game. When we got there she  
25 began flirting with the man she was sitting next to portraying herself as being single.  
26 Boulder City is a small town and it was at her 10 year old daughter's basketball game. My  
27 mother has no sense of propriety. My dad told me that at the next game, assuming my  
28

1 mother was single, the man approached my dad about going out with my mother.  
2

3 32. On Monday, March 1, 2010, I told Dad that he must do something about my  
4 mother. I said she is damaging Brooke and Rylee on a daily basis. I told Dad that the day  
5 before my mother talked about having the fat injected into her butt in front of Brooke. I told  
6 Dad that when he is not within ear shot in the mornings, she will tell Brooke and Rylee that  
7 he will get upset if they do not hurry. I had been reading the book, "Will I Ever Be Good  
8 Enough – Healing the Daughters of Narcissistic Mothers". I read passages from the book to  
9 dad and told him my belief that the long term adverse effects upon Brooke and Rylee will be  
10 significant. I also told dad that my mother is ruining his life. I told dad that he needed to  
11 stand up to my mother and set boundaries in their relationship. My dad said that if there was  
12 a divorce and he did not get total custody, he was extremely concerned for Brooke and Rylee  
13 when they would be alone with my mother. I told dad that we should speak to a family  
14 counselor and have a family intervention with my mother.  
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17 33. On Monday, March 8, 2009, my mother started sleeping with Brooke and  
18 Rylee again. My dad, again, told my mother why it was bad for Brooke and Rylee. He also  
19 said she was making them frightened and told my mother how scared Brooke got at the  
20 prospect of going to bed without my mother in the bed. My mother ignored what we said  
21 and went to bed with Brooke and Rylee. Dad, Joseph and I talked about some of the issues  
22 with my mother, including the incident at Brooke's ball game with the other man and her  
23 meeting a man on the airplane, giving him a ride to his hotel and having drinks with him in a  
24 bar, then discovering he was a neighbor's boss. We also talked about her lack of attention to  
25 Brooke and Rylee. I explained to Joseph how a narcissist focuses almost exclusively on  
26 himself and really does not genuinely care about others. I reiterated the need for an  
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1 intervention by the family and a family counselor.  
2

3 34. On Monday morning, April 5, 2010, my mother, Whitney and I drove to Salt  
4 Lake City, Utah to attend a Muse concert. While we were there, my mother told Brooke on  
5 the telephone that she would have taken Brooke to the Muse concert, but that there was not  
6 enough time to get another ticket. The sad truth is that my mother had four tickets and one  
7 went to waste. My mother had no intention whatsoever of taking Brooke to the concert. It is  
8 an example of how my mother lies and manipulates Brooke and Rylee. While in Salt Lake  
9 City, my mother and I had an argument after my mother said she might have more children.  
10 I said that she was too old to have any more children and talked about how the risk of having  
11 a child with Down's Syndrome was substantially increased at my mother's age. An  
12 argument ensued with my mother arguing that she was still young.  
13

14 35. On Tuesday evening, April 6, 2010, My mother, Whitney and I were driving  
15 home from the concert in Salt Lake City, Utah. We stopped at a Mexican restaurant in St.  
16 George. During dinner, Whitney suggested that Brooke participate in sports as well as  
17 dance. My mother flew off the handle, shoved her plate at Whitney and I, and stood up  
18 pointing her finger at us and yelling at us in the middle of the restaurant. My mother told  
19 Whitney she was a liar and that everything Whitney says is a lie. She accused Whitney of  
20 being selfish. All Whitney had done was make a suggestion she thought was in Brooke's  
21 best interest. After we got in the car, my mother yelled at us for 45 minutes saying one  
22 vulgar word after another. She accused Whitney and I of playing word games and said that  
23 we both need to grow a backbone. Immediately afterward, she turned on the radio and began  
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1 dancing in a highly sexual manner. It shocked me that she could volley from being in an  
2 uncontrollable rage to enjoying a Black-Eyed Peas song on the radio. When we got home I  
3 told Dad that my mother is crazy. She is crazy.  
4

5 36. On Wednesday, August 25, 2010, my dad was still in the hospital recovering  
6 from a bicycle accident. I drove Brooke to the orthodontist that morning because my  
7 mother would not drive her because she was on the telephone with her psychic. Later that  
8 evening, Brooke had to go to her 7:15 p.m. dance class without dinner because my mother  
9 was too busy for several hours Photoshopping her profile photo for her Facebook account.  
10

11 37. On Sunday evening, October 3, 2010, I told Dad that my mother had  
12 previously listed herself as "Single" on Facebook. However, recently she changed it to  
13 being "In a Relationship."  
14

15 38. On Saturday evening, March 19, 2011, I noticed my mother had both  
16 removed me as a friend on Facebook in addition to blocking my profile. I was later told by  
17 my sister Whitney that this was because I "did not talk to her enough" at Whitney's bridal  
18 shower.  
19

20 39. My mother is totally self-absorbed, has uncontrolled fits of rage, is exploitive  
21 of her own children, is delusional, is preoccupied with fantasies of an ideal love with  
22 Jonathon Rhys- Meyers, is envious of other members of our family, has almost no sense of  
23 propriety, will say anything in front of Brooke and Rylee without any thought as to the harm  
24 it is doing to them, will manipulate Brooke and Rylee for her own selfish purposes  
25 (including saying negative false statements about their father), consistently exhibits a lack of  
26 any thought whatsoever about whether Brooke and Rylee have had dinner or have done their  
27 homework, rarely does anything with Brooke and Rylee, rarely does anything for Brooke and  
28

1 Rylee, and has repeatedly left Brooke and Rylee for extended periods of time without any  
2 regard whatsoever for their best interests. I have witnessed the ill-effects my mother's  
3 conduct has had upon Brooke in particular.  
4

5 40. I have had differences with my dad. I am 25-years-old and he still feels the  
6 need to parent me. His view is that he is simply giving me fatherly advice. However, there  
7 is no  
8 question in my mind that he genuinely cares about me, loves me, and wants what is best for  
9 me.  
10

11 41. My dad takes good care of Brooke and Rylee on a daily basis. He makes  
12 them a complete hot breakfast every school day morning and makes sure they always have a  
13 good dinner meal. He helps them with their homework whenever they need help. He takes  
14 them to and from school, to and from dance classes, and to and from any sports activities.  
15 My dad, Brooke and Rylee do their laundry together, when my mother is away on her many  
16 trips. He makes sure Brooke and Rylee take regular showers during the week and brush  
17 their teeth every night. He takes them shopping and to children's movies on a regular basis.  
18 He takes Brooke and Rylee to the ranch with their friends for fun weekends. When my dad  
19 has to be out of town, he calls every day he is gone and talks to Brooke and Rylee so they  
20 know he cares about them and to make sure Brooke and Rylee have done their homework,  
21 have eaten dinner, and are going to bed on time. He is attentive, and Brooke and Rylee  
22 know he cares deeply about them and that they are loved by him.  
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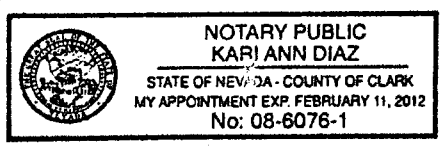
42. It is, without question, in Brooke and Rylee's best interests for my dad to have primary custody of them.

FURTHER AFFIANT SAYETH NAUGHT.

Tahnee L. Harrison  
Tahnee L. Harrison

Subscribed and sworn before me  
this 22 day of March, 2011.

Kari Ann Diaz  
Notary Public



## EXHIBIT 3

1  
2 **AFFIDAVIT OF WHITNEY J. HARRISON**

3 **filed in Support of Plaintiff's Motion for Temporary Custody**

4 STATE OF NEVADA       )  
5                               )       ss.  
6 COUNTY OF CLARK       )

7       WHITNEY J. HARRISON, declare and say:

8       1.       I am the daughter of Kirk and Vivian Harrison and am over the age of 18. If called  
9 upon to testify, I could and would competently testify to the facts set forth herein.

10       2.       The matters stated in this Affidavit are based upon my personal knowledge (or upon  
11 information and belief if so stated).

12       3.       I graduated from college at the end of spring semester in 2009. I lived at home after  
13 graduation until September of 2010. Prior to my graduation, I lived at home at least part of each  
14 summer during college. Also, during college, I would generally come home for Thanksgiving, and  
15 Christmas.  
16

17       4.       During the summer of 2005, my mother abruptly took my little sisters Brooke and  
18 Rylee and they lived somewhere secretly for several weeks without the rest of the family knowing  
19 where they were.  
20

21       5.       It was during this time period that my Mother started to act differently towards other  
22 members of the family.

23       6.       After my Dad retired in early 2006, my Mother began withdrawing from the other  
24 members of the family, including Brooke and Rylee. Each year she has gotten progressively worse.  
25

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2 7. Sometime in June of 2008, my Mother, Tahnee, Brooke, Rylee and I were riding in  
3 the car. My Mother began belittling my intelligence by comparing me to my best friend and  
4 criticizing me about my weight. My sister Tahnee then got in an argument with my Mother. My  
5 Mother started screaming obscenities and threatening to hurt Tahnee in front of Brooke and Rylee.  
6 My Mother stopped the car and started to attack Tahnee. I was trying to get Brooke and Rylee away  
7 from the screaming and likely violence when my Mother grabbed me by the hair and struck me very  
8 hard in the side of my head.  
9

10 8. I did a semester abroad in Australia during the summer and fall of 2008 (July  
11 through November). While I was there, my Dad and my roommate's father came down and the four  
12 of us spent several days in New Zealand and then several days in Australia. My Dad had expressed  
13 concern about going out on a dive boat for three days on the Great Barrier Reef and had left  
14 messages with my Mother in the event something happened. I was on the telephone with my  
15 Mother while she was in the car with Brooke and Rylee. In front of Brooke and Rylee, my Mother  
16 told me, your Dad didn't leave the most important information – "where the money is." My Mother  
17 also told me, in front of Brooke and Rylee, "be sure and cut your Dad before he gets into the water,  
18 to make sure the sharks can do their job."  
19  
20

21 9. On or about July 31, 2009 our whole family drove in my Dad's car to St. George to  
22 see a play and then the next day to Cedar City, Utah for the dedication of a bronze honoring my  
23 great great great grandfather, Richard Harrison. My Mother was reading her Kindle when Brooke  
24 commented that mom stays in a bedroom with the door shut reading her Kindle 24/7. My Mother  
25 severely scolded Brooke for the comment.  
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1  
2 10. About the middle of September of 2009, I complained to my Mother that she was  
3 going into a bedroom, closing the door, and reading every night by herself. She would also read  
4 at the table when we went out to dinner instead of conversing with us. I said I thought she needed  
5 to spend more time with Brooke and Rylee. My Mother got mad at me for suggesting she was a  
6 negligent mother.  
7

8 11. During the first week of October of 2009, my Dad spent about four days at the ranch.  
9 While he was gone, there were two nights when I came home at around 10:00 p.m. and neither  
10 Brooke nor Rylee had eaten anything for dinner. About all Brooke and Rylee had eaten while my  
11 Dad was gone is cereal.  
12

13 12. On Friday evening, October 16, 2009. Tahnee and I had a frank discussion with our  
14 Dad. I told Dad that my Mother talks about divorcing him in front of Rylee with Michelle Walker  
15 and Nyla Roberts. Tahnee and I told Dad that we both believed a divorce would be in everyone's  
16 best interest because of my Mother's constant adversarial behavior towards everyone. We told Dad  
17 that we both thought Brooke and Rylee would be much better off with him. I used the example of  
18 Brooke coming to me a couple of nights before saying she had left her homework over at the  
19 Walkers and wanted me to take her to get it. I asked Brooke why don't you ask mom? Brooke's  
20 response was that mom was reading and she will get mad at Brooke for interrupting her. Brooke  
21 was afraid to bother my Mother while she was reading because she knew that my Mother put that  
22 first. Tahnee and I both told Dad how much my Mother had deteriorated during the last year.  
23 Tahnee said that it might partially be attributable to my Mother's prolonged prescription drug use.  
24 Tahnee said that Phentermine is to be only used by the extremely obese and only for a short period  
25 of time – a few months. My Mother has been taking it for years. I told my Dad that my Mother told  
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1  
2 me that she is going to have a hair removal process done in a very personal location of the body and  
3 that she would not be having that done unless she was planning to have sex with someone. Tahnee  
4 said she thinks my Mother may have already had sex with someone because of her late nights not  
5 coming home after her evening classes.

6  
7 13. Sometime during the summer of 2009, my Mother started saying that she was going  
8 to go to Europe for several months the following summer without Brooke and Rylee. When I asked  
9 about Brooke and Rylee, my Mother said they would probably spend the summer at the ranch with  
10 their Dad.

11  
12 14. Starting around the summer of 2009, my Mother started to have this fascination with  
13 the actor Jonathan Rhys-Myers. His image was on two of our family computers for many many  
14 months. My Mother would go in the home office close the door and watch episode after episode  
15 of the Tudors and watch every other film he ever made. My Mother then started watching all of his  
16 movies by herself.

17  
18 15. In November of 2009, I told my Mother that I was inviting my fiancée for  
19 Thanksgiving Dinner. My Mother told me she wasn't going to make dinner because it wasn't fun  
20 and it was a lot of work. On Saturday evening, November 8, 2009, my Dad and I talked about the  
21 preparations we needed to make for Thanksgiving Dinner. I told my Dad that my Mother is getting  
22 very weird. I told him that if Tahnee would have won Miss Nevada the night before, she would  
23 have gotten an upscale apartment free for a year. I told my Dad that I had told my Mother that if  
24 Tahnee had won, she had invited me to come live with her. My Mother's response, and it was clear  
25 she was not joking, was that she was hurt that Tahnee didn't ask her to move in with her. I told her  
26 that because you have two little children. My Mother did not respond. I also told Dad that when  
27



1  
2 My Mother learned that Sean had spent some time in Cork, Ireland, she wanted to speak to him.  
3 My Mother told me that she is going to spend a lot of time in Cork, Ireland when she spends the  
4 summer in Europe. Jonathan Rhys Meyers is from Cork, Ireland.

5         16.     During about October and November of 2009, my Mother began having numerous  
6 treatments on her face. On or about November 29, 2009, my Mother came home with another  
7 chemical peel and I am worried about the effect it has on Brooke and Rylee seeing their mother's  
8 face burned off. My fiancée was at my home for the Thanksgiving break and did not leave until  
9 November 29, 2010. Except for Thanksgiving Day, where my Mother finally helped prepare the  
10 meal by supervising (my fiancée and I did most of the cooking), we all ate together, cleaned up, and  
11 went to a movie. My Mother spent the entire time in the office with the door closed reading her  
12 Kindle or sleeping. When asked to play games with the family after the movie on Thanksgiving  
13 Day, she declined saying she had already spent more time with the family than she wanted. While  
14 my fiancé was here she asked me why I liked him because he is shorter than me and that he as big  
15 eyebrows.

16         17.     On Sunday evening, December 13, 2010, Tahnee, my Dad and I went to dinner.  
17 Tahnee and I told Dad how my Mother now plans to go to India for the summer to do philanthropy.  
18 We told Dad that my Mother is constantly on the internet looking for stuff about Jonathan Rhys  
19 Meyers. He apparently is involved with some organization in Ireland, where he is from, and this  
20 organization is doing philanthropic work in India. Tahnee and I both told Dad our opinion that the  
21 trip to Indian is just an attempt to get close to Jonathan Rhys Meyers. I told Dad that my Mother  
22 will only do things where she thinks she will be given credit. For example, she will spend more  
23 time after class helping students other than Brooke and Rylee with their homework.

1  
2 18. My Mother always sleeps with Brooke and Rylee. I know it is not in Brooke and  
3 Rylee's best interests because it makes them insecure and afraid. I started encouraging Brooke and  
4 Rylee to sleep with each other, but not with my Mother or my Dad. When it was time for the girls  
5 to go to bed, I said they could sleep with me if they were by themselves, but after the first of the  
6 year they should sleep by themselves. I described this as baby steps as all of their friends have been  
7 sleeping by themselves for years. Rylee told my Mother what I had said and my Mother told me I  
8 had overstepped my bounds and that she was very mad at me.  
9

10 19. Sometime during late December of 2009, I discovered that my Mother bought a pair  
11 of boots on line for \$800.00, and several leather jackets together being thousands of dollars.  
12

13 20. On Wednesday, January 6, 2010, I told Dad that my Mother wanted me to change  
14 my wedding date because my Mother did not think she would be recovered from elective plastic  
15 surgery in time. My Mother told me she was planning to have her buttocks expanded to get a butt  
16 like mine. My Mother told Tahnee and I that before she goes to India to do the work, she first is  
17 going to Ireland for training. Tahnee said that she hoped to get to go to Ireland. My Mother  
18 responded that neither Tahnee nor I was going because "you guys aren't fun anymore." My Mother  
19 then said that both Tahnee and I thought she was ugly. I told my Dad that another weird thing that  
20 my Mother did recently occurred within the last couple of days when she asked where my ankle  
21 medicine was located. I had surgery on my ankle after an accident during my senior year of high  
22 school – over four years before. I told my Mother that the medicine was old and I probably threw  
23 it away. My Mother responded that she had seen it in the lower drawer of my bathroom within the  
24 last few months. I also expressed concern to Dad about my Mother's spending. She bought  
25 expensive purses for Tahnee and me. My Mother had told me that she had bought a particular \$300  
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1  
2 purse in several different colors. I also told my Dad about the \$800 boots my Mother had recently  
3 purchased.

4       21. For several years, my Dad plans and prepares the family birthday parties. It was  
5 Rylee's seventh birthday on January 24, 2010. As usual, Dad got the presents, cards, cake, ice  
6 cream, etc. My Mother stayed in Brooke's room while the rest of the family had the birthday dinner  
7 for Rylee that my Dad had prepared. My Mother showed up briefly when Rylee opened her  
8 presents only to quickly disappear before we had cake and ice cream.  
9

10       22. My Mother scheduled a trip to California to have plastic surgery. She was going to  
11 have liposuction performed and a Brazillian butt lift. My Mother asked me to go with her so she  
12 would have someone to drive. I told her that I could not go and suggested she ask Tahnee to go  
13 with her. My Mother responded that she would not ask Tahnee because Tahnee would smother me  
14 with a pillow in my sleep.  
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16       23. On Monday morning, April 5, 2010, my Mother, Tahnee and I drove to Salt Lake  
17 City, Utah for a Muse concert. While we were in Salt Lake City, my Mother and Tahnee got in a  
18 fight when my Mother said she might have more children. Tahnee said that my Mother was too old  
19 to have any more children and talked about how the risk of having a child with Downes' Syndrome  
20 was substantially increased at my Mother's age (48 in August). A fight ensued with my Mother  
21 saying she was still young and that she was the same as us. I overheard her tell Brooke on the  
22 telephone that she would have taken Brooke to the Muse concert, but that there was not enough  
23 time to get another ticket. The truth is that my Mother had four tickets and one went to waste. My  
24 Mother had no intention whatsoever of taking Brooke to the concert and lied to her. On the way  
25 home on Tuesday evening, April 6, 2010, we stopped at a Mexican restaurant in St. George to eat.  
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2 During dinner, we were talking about Brooke, and I expressed concern that instead of just doing  
3 dance, she should do sports like we did. My Mother shoved her plate at Tahnee and I and stood up  
4 pointing her finger at us and yelling. I think my Mother allows Brooke to do just dance because she  
5 gets attention for it and not sports. After we got in the car, my Mother yelled at Tahnee and I for  
6 45 minutes saying one vulgar word after another. My Mother accused Tahnee and I of playing word  
7 games and that we both needed to grow a backbone. My Mother told me I was a liar and that  
8 everything I say is a lie. My Mother also accused me of being selfish. She said all of this to me and  
9 all I was trying to do was to help Brooke and to make a suggestion that I thought was in Brooke's  
10 best interest. My Mother told Tahnee and I that we expected everyone to do everything for us and  
11 that we "play Dad and [she] against each other." My Mother said Dad lets you treat him like this.  
12 I sent my Dad the following text at 6:27 p.m.: "just to warn you. My Mother is on a rampage" My  
13 Dad texted back at 6:51 p.m.: "over what?" At 6:54 p.m. I responded: "we were talking about  
14 Brooke and her dance and I mentioned how she should do sports like we did and she flew off the  
15 handle it got ugly"

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18 24. Sometime in early April, 2009 my Mother told me that she and my Dad are waiting  
19 until next year to get a divorce. My Mother said that she will get half of everything Dad has. My  
20 Mother told me that she first met her lawyer when she was living at Lake Las Vegas with Brooke  
21 and Rylee. She said the lawyer is a "big gun". The lawyer told my Mother to move back into the  
22 house. My Mother told me that she has continued to talk to this lawyer. My Mother told me that  
23 the reason she is having all of this plastic surgery done now, taking all these trips, and spending all  
24 this money is that it will not be counted in the divorce.  
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2 25. In March 2011, my Mother told me she hopes my wedding dress fits because I have  
3 gained weight.

4 26. My Mother spends most of her waking hours by herself in the home office with the  
5 door closed. When you go in there she is usually on the internet shopping, reading, or watching a  
6 dvd with Jonathan Rhys Meyers. My Mother rarely cooks a meal for Brooke and Rylee. My  
7 Mother rarely cleans the kitchen. My Mother seldom does anything with Brooke and Rylee other  
8 than sleep in the same bed. My Mother seldom takes Brooke and Rylee anywhere or wants to do  
9 anything with them. My Mother normally doesn't help Brooke and Rylee with their homework.  
10 In conversations with my Mother the topics are usually about her – something she is buying, some  
11 cosmetic procedure, something about fashion, or something about Jonathan Rhys Meyers or the  
12 Hope Foundation. Almost every conversation with my Mother is about her. My Mother seldom  
13 talks about Brooke or Rylee or asks about my life or what I'm doing. When my Mother is home  
14 she doesn't do the laundry more than about once a month. On those days when my Dad goes to the  
15 ranch to work, there have been a number of times when my Mother doesn't get or make Brooke and  
16 Rylee dinner. My Mother is oblivious to Brooke and Rylee's needs most of the time. I don't think  
17 she is a good influence morally or shows them good character. She is obsessed with appearance  
18 and it is her practice of telling her children that they have physical defects.  
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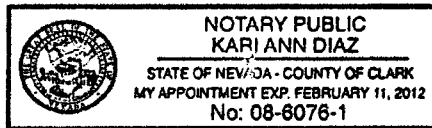
27. My Dad should be granted total custody of Brooke and Rylee until my Mother gets some professional help and is able to establish she will be a good, caring, and attentive mother for Brooke and Rylee and then she should be allowed visitation rights.

FURTHER AFFIANT SAYETH NAUGHT.

Whitney J. Harrison  
Whitney J. Harrison

Subscribed and sworn before me  
this 22 day of March, 2011.

Kari Ann Diaz  
Notary Public



## EXHIBIT 4



Vivian





Vivian and Tania Zorrilla



Tania Zorrilla and Vivian



Vivian and Sergio Becerra



Photograph of Jonathan Rhys Meyers  
newspaper ad



Vivian



Vivian and Tania Zorrilla



Vivian



Vivian and David Walsh





Vivian and David Walsh

## EXHIBIT 5



Vivian (left) Posing at The Hope Foundation Gala  
The Dublin Ball 2011, March 26, 2011