

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

Leslie Lynn Miller,  
Appellant,  
vs.  
Brett Robert Miller,  
Respondent.

No. 69353      Electronically Filed  
Dec 31 2015 11:38 a.m.  
**DOCKETING STATEMENT**  
**CIVIL APPEALS**      Clerk of Supreme Court

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

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

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

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

1. Judicial District Eighth Department E  
County Clark Judge Charles Hoskin, district judge  
District Ct. Case No. D-15-511973-D

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

Attorney Jack W. Fleeman, Esq. Telephone (702) 388-1851  
Firm Pecos Law Group  
Address 8925 S. Pecos Rd., Ste. 14A  
Henderson, Nevada 89074

Client(s) Leslie Lynn Miller, Appellant

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

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

Attorney Pro Per Telephone N/A  
Firm N/A  
Address 10521 Hartford Hills Ave.  
Las Vegas, Nevada 89166  
(In Proper Person Address)

Client(s) Brett Robert Miller, Respondent

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_  
Firm \_\_\_\_\_  
Address \_\_\_\_\_

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

(List additional counsel on separate sheet if necessary)

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

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction                                      |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                                  |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute                                      |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____                                    |
| <input type="checkbox"/> Grant/Denial of injunction         | <input checked="" type="checkbox"/> Divorce Decree:                                |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input checked="" type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>Order</u>      |

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

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

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

None other than this appeal.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

The nature of the action at the district court level was a divorce with associated child custody and child support issues. The parties reached a stipulated agreement regarding physical custody of their children wherein they would have a "split-custody" arrangement, with Appellant having primary physical custody of one child, and the parties sharing joint physical custody of the other. The terms of the divorce were set forth on the record at a hearing, with an acknowledgment that the issue of child support remained unresolved. The district court later determined that \$345 per month in child support was the appropriate amount. Appellant filed a motion for reconsideration, et al. regarding the amount. The district court denied Appellant's requested relief and set forth findings regarding the amount of support. Appellant is appealing from both the Decree and the subsequent order denying the motion for reconsideration, et al.

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

The issue on appeal is whether the district court erred in its determination of the child support amount in this case. Related to this issue is what is the proper method of determining child support in split-custody situations.

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

Counsel is unaware of pending proceedings related to these issues, but would imagine that there may be similar proceedings because while split-custody situations are not uncommon in Nevada, the method of how the district court must calculate child support in split-custody situations has not been resolved.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: Split-custody arrangements, one in which a parent's physical custody designation (primary, joint, non-custodial) varies from one child of the parties to another, is not an uncommon occurrence in Nevada. Unfortunately, neither NRS Chapter 125B nor existing Nevada case law provide a formula or specific guidance on how child support must be calculated in these circumstances. As such, this is a substantial issue of first impression in Nevada.

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter is presumptively retained under NRAP 17(a)(14) because its principal issue raises a question of statewide public importance. The issue impacts parents, practitioners, and the judiciary because there is no clear law in Nevada on how child support is supposed to be calculated under a split-custody order. The district court judge in this case recognized the importance of the issue when ruling on Appellant's tolling motion, noting "there is not specific guidance from the Supreme Court or the Nevada Legislature with regard to the circumstances such as the one the parties have agreed to." See court minutes from November 17, 2015, attached to the Notice of Appeal on file.

**14. Trial.** If this action proceeded to trial, how many days did the trial last? N/A

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

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
No.

## TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from 9/29/15

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

17. Date written notice of entry of judgment or order was served 9/30/15

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☒ NRCP 52(b)      Date of filing 10/09/15

☒ NRCP 59      Date of filing 10/09/15

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion 11/23/15

(c) Date written notice of entry of order resolving tolling motion was served 11/24/15

Was service by:

☐ Delivery

☒ Mail

**19. Date notice of appeal filed** 12/07/15

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

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

NRAP 4(a)

**SUBSTANTIVE APPEALABILITY**

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

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

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

The decree appealed from is a final judgment in an action commenced in the district court from which the judgment was rendered. The order denying the tolling motions was likewise a final judgment in the same court.

**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Leslie Lynn Miller, Plaintiff

Brett Robert Miller, Defendant

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

N/A

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

Plaintiff - Divorce, custody, child support, division of property, and attorney's fees. All issues formally resolved by way of decree on 9/29/15.

Defendant - Divorce, custody, child support, division of property, and attorney's fees. All issue fomrally resolved by way of decree on 9/29/15.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

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

Leslie Lynn Miller

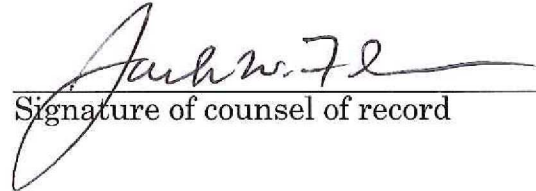
Name of appellant

Jack W. Fleeman, Esq.

Name of counsel of record

December 31, 2015

Date



Signature of counsel of record

Clark County, Nevada

State and county where signed

## CERTIFICATE OF SERVICE

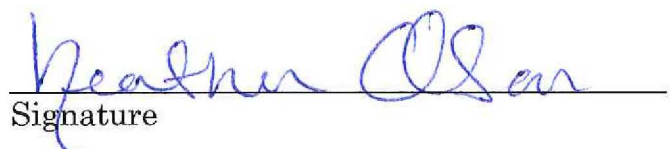
I certify that on the 31st day of December, 2015, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

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

Brett Robert Miller  
10521 Hartford Hills Ave  
Las Vegas, NV 89166  
Respondent in proper person

Dated this 31st day of December, 2015.



Signature

# **Complaint for Divorce**

  
CLERK OF THE COURT

**COMD**  
**Jack W. Fleeman, Esq.**  
Nevada Bar No. 10584  
PECOS LAW GROUP  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
Telephone: (702) 388-1851  
Facsimile: (702) 388-7406  
Email: [Email@pecoslawgroup.com](mailto:Email@pecoslawgroup.com)  
Attorney for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

**Leslie Lynn Miller,**  
Plaintiff,

and

**Brett Robert Miller,**  
Defendant.

Case No. **D-15-511973-D**  
Dept No. E

**COMPLAINT FOR DIVORCE**

COMES NOW Plaintiff, **Leslie Lynn Miller**, by and through her attorney, **Jack W. Fleeman, Esq.**, of PECOS LAW GROUP, and for her cause of action against Defendant, complains and alleges as follows:

**I.**

For more than six (6) weeks immediately preceding the commencement of this action, Plaintiff has been and now is a bona fide and actual resident and domiciliary of the State of Nevada, County of Clark, and has been actually and corporeally present in said State and County for more than six (6) weeks prior to the commencement of this action.

1 II.

2 Plaintiff and Defendant were married on the 30th day of March, 2001,  
3 in Chicago, Illinois, and ever since have been and now are husband and wife.

4 III.

5 There are two (2) minor children born the issue of this marriage, to  
6 wit: **Payton Riley Miller**, born August 24, 2001; and **Jordan Timothy Miller**,  
7 born August 9, 2004; the parties are fit and proper persons to be awarded  
8 joint legal custody, with Plaintiff designated as the primary physical  
9 custodian of said minor children subject to reasonable visitation rights of the  
10 Defendant.

11 IV.

12 Pursuant to NRS 125.510(6), this court should place the parties on  
13 notice of the following:

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

20 V.

21 Pursuant to NRS 125.510(7) and (8), this court should place the parties  
22 on notice that the terms of the Hague Convention of October 25, 1980,  
23 adopted by the 14th Session of the Hague Conference on Private  
24 International Law, apply if a parent abducts or wrongfully retains a child in  
25 a foreign country. For the purposes of applying the aforesaid terms of the  
26 Hague Convention, Nevada should be declared the state, and the United

1 States of America should be declared the country, of habitual residence of  
2 the children.

3 **VI.**

4 Pursuant to NRS 125C.200, this court should enter orders requiring  
5 that in the event either party intends to move his or her residence to a place  
6 outside the State of Nevada, and take the minor children with him or her,  
7 said party must, as soon as possible, and before the planned move, attempt to  
8 obtain the written consent of the other party to move the minor children  
9 from the State. Such orders, when entered by the court, should also require  
10 that if the other party refuses to give the consent, the party planning the  
11 move shall, before he or she leaves the State with the minor children,  
12 petition the Eighth Judicial District Court of the State of Nevada, in and for  
13 the County of Clark, for permission to move with the children, and that the  
14 failure of the party planning to move to comply with this provision may be  
15 considered as a factor if a change of custody is requested by the other party.

16 **VII.**

17 The Defendant is able-bodied, employed and well able to pay the  
18 reasonable sum of twenty-five percent (25%) of his gross monthly income per  
19 month as and for the support and maintenance of the minor children of the  
20 parties, plus maintain health insurance on said minor children, commencing  
21 forthwith and continuing each and every month said minor children are in  
22 Plaintiff's actual custody until said children reach the age of majority or  
23 become otherwise emancipated.

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**VIII.**

The parties should share equally in the cost of providing health insurance coverage for the minor children, and paying for the unreimbursed costs of the children's health care, until said children reach the age of majority or become otherwise emancipated. The parties should follow the standard 30/30 day basis, which requires the incurring party to provide the non-incurring party with proof of out-of-pocket payment within 30 days of such payment (failure to tender may be considered to be a waiver of reimbursement), and the non-incurring party to reimburse the incurring party one-half of the out-of-pocket costs of the incurring party, or dispute such in writing, within 30 days after receipt. If not disputed or paid within the 30 day period, the non-incurring party may be subject to a finding of contempt and sanctions.

**IX.**

Pursuant to NRS 125B.095, this court should place the parties on notice that if an installment of an obligation to pay support for a child becomes delinquent in the amount owed for 1 month's support, a 10% per annum penalty must be added to the delinquent amount.

**X.**

Pursuant to NRS 125B.140, this court should place the parties on notice that if an installment of an obligation to pay support for a child becomes delinquent, the court shall determine interest upon the arrearages at a rate established pursuant to NRS 99.040, from the time each amount became due. Interest shall continue to accrue on the amount ordered until it

1 is paid, and additional attorney's fees must be allowed if required for  
2 collection.

3 **XI.**

4 Pursuant to NRS 125B.145, this court should place the parties on  
5 notice that an award of child support shall be reviewed by the court at least  
6 every three (3) years to determine whether the award should be modified.  
7 The review will be conducted upon the filing of a request by a (1) parent or  
8 legal guardian of the child; or (2) the Nevada State Welfare Division or the  
9 District Attorney's Office, if the Division of the District Attorney has  
10 jurisdiction over the case.

11 **XII.**

12 Pursuant to NRS 125.450(2), this court should place the parties on  
13 notice that the wages and commissions of the parent responsible for paying  
14 support shall be subject to assignment or withholding for the purpose of  
15 payment of the foregoing obligation of support as provided in NRS 31A.020  
16 through 31A.240, inclusive.

17 **XIII.**

18 There is community property belonging to the parties to be  
19 adjudicated by the court, the exact amounts and descriptions of which are  
20 unknown to Plaintiff at this time. Plaintiff prays leave of this court to amend  
21 this Complaint to insert the same when they have become known to Plaintiff  
22 or at the time of trial.

23 **XIV.**

24 There are community debts of the parties to be adjudicated by the  
25 court, the exact amounts and descriptions of which are unknown to Plaintiff  
26

1 at this time. Plaintiff prays leave of court to amend this Complaint to insert  
2 the same when they have become known to Plaintiff or at the time of trial.

3 **XV.**

4 The court should find that there is a compelling reason, pursuant to  
5 NRS 125.150(1)(b), to award Plaintiff a disproportionate share of the  
6 community property, and to thereupon make such an award.

7 **XVI.**

8 During the course of the parties' marriage, Defendant systematically  
9 gifted, converted, or otherwise wasted certain community property assets of  
10 the parties without the full knowledge or consent of Plaintiff. Defendant  
11 should be required to provide an accounting of all income and assets  
12 acquired, improved, altered, transferred and/or dissipated. Further,  
13 Defendant should reimburse Plaintiff for all such community property  
14 gifted, converted or otherwise wasted by Defendant during the parties'  
15 marriage without the knowledge or consent of Plaintiff. Further yet,  
16 Defendant's conduct was malicious, wrongful, willful and oppressive.

17 **XVII.**

18 That Plaintiff reserves her right to request spousal support at time of  
19 trial, in such amount and for such period of time, as the court considers just  
20 and equitable.

21 **XVIII.**

22 Plaintiff requests that this court jointly restrain the parties herein in  
23 accordance with the terms of the Joint Preliminary Injunction issued  
24 herewith  
25 ...  
26

1 **XIX.**

2 Plaintiff has been required to retain the services of **Jack W. Fleeman,**  
3 **Esq.** of the law office of PECOS LAW GROUP to prosecute this action and is  
4 therefore entitled to reasonable attorney's fees and costs of suit.

5 **XX.**

6 The tastes, mental dispositions, views and likes and dislikes of  
7 Plaintiff and Defendant have become so widely separated and divergent that  
8 the parties are incompatible to such an extent that it is impossible for them  
9 to live together as husband and wife; the incompatibility between Plaintiff  
10 and Defendant is so great that there is no possibility of reconciliation  
11 between them.

12 **WHEREFORE,** Plaintiff prays as judgment:

13 1. That the contract of marriage now and heretofore existing  
14 between Plaintiff and Defendant be dissolved and that Plaintiff be granted  
15 an absolute Decree of Divorce and that each of the parties hereto be  
16 restored to the status of a single, unmarried person;

17 2. That the parties are fit and proper persons to be awarded joint  
18 legal custody, with Plaintiff designated as the primary physical custodian of  
19 said minor children subject to reasonable visitation rights of the Defendant;

20 3. That the parties receive notice of the applicability of the above-  
21 referenced statutes relating to the custody and visitation of minor children;

22 4. That Defendant be ordered to pay to Plaintiff the sum of twenty-  
23 five percent (25%) of his gross monthly income per month in child support,  
24 and to maintain health insurance on said minor children until said children  
25 reach the age of majority or otherwise become emancipated;  
26

1           5.     That the parties share equally in the cost of providing health  
2 insurance for the minor children and equally share in unreimbursed health  
3 care costs of the children;

4           6.     That the parties receive notice of the applicability of the above-  
5 referenced statutes relating to the support and maintenance of minor  
6 children;

7           7.     That the court find a compelling reason, pursuant to NRS  
8 125.150(1)(b), to award Plaintiff a disproportionate share of the community  
9 property, and to make such an award;

10          8.     That that the court find a compelling reason, pursuant to NRS  
11 125.150(1)(b), to award Defendant a disproportionate share of the community  
12 debts and obligations, and to make such an award;

13          9.     That the court issue a finding that Defendant engaged in  
14 financial misconduct (e.g., waste) and shall be required to provide an  
15 accounting of all income and assets acquired, improved, altered, transferred  
16 and/or dissipated; and Defendant should reimburse Plaintiff for all such  
17 community property gifted, converted or otherwise wasted by Defendant  
18 during the parties' marriage without the knowledge or consent of Plaintiff.

19          10.    That Plaintiff reserves her right to request spousal support, in  
20 such amount and for such period of time, as the court considers just and  
21 equitable;

22          11.    That this court issue its Joint Preliminary Injunction enjoining  
23 the parties pursuant to the terms stated therein;

24          12.    That Defendant be ordered to pay a reasonable sum to Plaintiff's  
25 counsel as and for attorney's fees, together with costs of bringing this action;  
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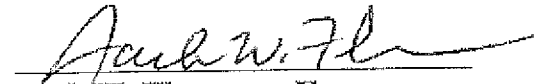
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13. That Plaintiff shall keep her married name; and

14. That Plaintiff be awarded such other and further relief as the court may deem just and proper in the premises.

DATED this 24 day of March, 2015.

PECOS LAW GROUP



Jack W. Fleeman, Esq.

Nevada Bar No. 010584

PECOS LAW GROUP

8925 South Pecos Road, Suite 14A

Henderson, Nevada 89074

(702) 388-1851

Attorney for Plaintiff

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Leslie Lynn Miller, under penalties of perjury, being first duly sworn,  
deposes and says:

*Leslie Lynn Miller*  
LESLIE LYNN MILLER

Ching Ching  
NOTARY PUBLIC



## **Answer and Counterclaim**

COPY

Electronically Filed  
03/27/2015 01:41:33 PM

*Alvin D. Quinn*

ORIGINAL CLERK OF THE COURT

1 ANS  
2 BRETT ROBERT MILLER  
3 10521 Hartford Hills Ave.  
4 Las Vegas, NV 89166  
5 (702) 469-2395  
6 Defendant in Proper Person

DISTRICT COURT  
CLARK COUNTY, NEVADA

6 LESLIE LYNN MILLER,  
7  
8 Plaintiff,  
9  
10 vs.  
11 BRETT ROBERT MILLER,  
12 Defendant,

CASE NO: D-15-511973-D  
DEPT NO: E

ANSWER AND COUNTERCLAIM

13 COMES NOW the Defendant herein, BRETT ROBERT MILLER,  
14 representing himself in Proper Person and for his ANSWER AND  
15 COUNTERCLAIM to the Plaintiff's COMPLAINT FOR DIVORCE on file herein  
16 admits, denies and alleges as follows:

I.

18 Unless otherwise admitted, qualified or explained, Defendant  
19 denies each and every thing matter and allegation contained in  
20 Plaintiff's COMPLAINT FOR DIVORCE.

II.

22 Defendant admits Paragraphs I, II, IV, V, VI, IX, X, XI, XII,  
23 XIII, XIV, XVIII and XX of the Plaintiff's Complaint.

III.

25 Defendant denies Paragraphs III, VII, VIII, XV, XVI, XVII and  
26 XIX of the Plaintiff's Complaint.

27 WHEREFORE, Defendant prays that Plaintiff take nothing by her  
28 Complaint and that Defendant be awarded judgment in his favor.

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COUNTERCLAIM

COMES NOW, the Defendant and for his Counterclaim against the Plaintiff states and alleges as follows:

I.

That the Defendant is now, and for at least six (6) weeks immediately preceding the commencement of this action has been, an actual, bona fide resident and domiciliary of Clark County, Nevada.

II.

That the parties were married to each other in March 30<sup>th</sup>, 2001, in Chicago, State of Illinois, and ever since that date have been husband and wife.

III.

That there are two (2) minor children born the issue of their marriage, namely, PAYTON RILEY MILLER, born August 24<sup>th</sup>, 2001, and JORDAN TIMOTHY MILLER, born August 9<sup>th</sup>, 2004.

That the State of Nevada is the habitual residence of the minor children.

IV.

That the parties are fit and proper persons to have joint legal custody of the minor children with an order for joint physical custody, with an equal timeshare arrangement.

V.

That neither party pay child support to the other, or that support be based upon Wright vs. Osburn, and Rivero vs. Rivero.

1  
2 VI.

3 That both parties provide health insurance for the minor  
4 children, when available and that the parties equally divide any  
5 unpaid or unreimbursed medical expenses of the minor children,  
6 including and deductibles and co-payments.

7 VII.

8 That the parties alternate or otherwise split the dependent  
9 tax exemption for the minor children yearly.

10 VIII.

11 That there are community property and that there are  
12 community debts to be adjudicated by this court that father is  
13 aware of at this time. That Plaintiff reserves the right to  
14 amend this Complaint in the event that community property or  
15 community debts are later discovered that are not now known by  
16 Plaintiff.

17 There is a martial residence of the parties at issue, which  
18 Defendant request the residence be sold or refinanced, and the  
19 proceeds if any, be divided equally after all bills are paid.

20 IX.

21 That neither party pay spousal support one to the other.

22 X.

23 That Defendant is entitled to his attorneys fees, costs and  
24 disbursements incurred herein.

25 XI.

26 That the parties are incompatible in marriage.

27  
28 WHEREFORE, Defendant prays for judgment as follows:

1        1.    That the parties are fit and proper persons to have  
2 joint legal custody of the minor children with an order for joint  
3 physical custody, with an equal timeshare arrangement.

4        2.    That neither party pay child support to the other, or  
5 that support be based upon Wright vs. Osburn, and Rivero vs.  
6 Rivero.

7        3.    That both parties provide health insurance for the  
8 minor children, when available and that the parties equally  
9 divide any unpaid or unreimbursed medical expenses of the minor  
10 children, including and deductibles and co-payments.

11       4.    That the parties alternate or otherwise split the  
12 dependent tax exemption for the minor children yearly.

13       5.    That neither party pay spousal support one to the  
14 other.

15       6.    That there are community property and that there are  
16 community debts to be adjudicated by this court that father is  
17 aware of at this time; There is a martial residence of the  
18 parties at issue, which Defendant request the residence be sold  
19 or refinanced and the proceeds if any, be divided equally after  
20 all bills are paid.

21       7.    For costs of suit including, reasonable attorneys fees.

22       8.    For such other and further relief as the court may deem  
23 just and proper.

24  
25       DATED this 27th day of March, 2015.

26                    Respectfully submitted:

27                      
28                    **BRETT ROBERT MILLER**

                  10521 Hartford Hills Ave.

                  Las Vegas, NV 89166

                  (702) 469-2395

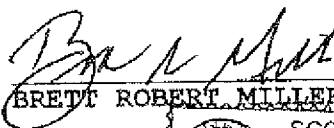
                  Defendant in Proper Person

1 VERIFICATION

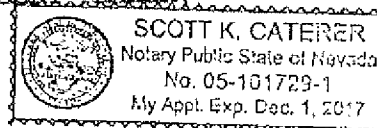
2 STATE OF NEVADA )  
3 ) ss.  
4 COUNTY OF CLARK )

5 **BRETT ROBERT MILLER**, under penalties of perjury, being first  
6 duly sworn, deposes and says:

7 That he is the Defendant in the above-entitled action; that  
8 he has read the foregoing **ANSWER AND COUNTERCLAIM** and knows the  
9 contents thereof; that the same is true of his own knowledge,  
10 except for those matters therein contained stated upon  
11 information and belief, and as to those matters, he believes it  
12 to be true.

13   
14 **BRETT ROBERT MILLER**

15 Subscribed and sworn to before me  
16 this 27 day of MARCH, 2015.



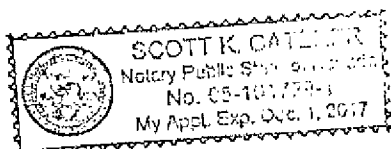
17 SCOTT K. CATERER  
18 NOTARY PUBLIC in and for said County and State

19 ACKNOWLEDGMENT

20 STATE OF NEVADA )  
21 ) ss.  
22 COUNTY OF CLARK )

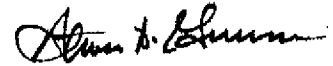
23 On this 27 day of MARCH, 2015,  
24 before me, the undersigned Notary Public in and for said County  
25 and State, appeared, **BRETT ROBERT MILLER**, known to me to be the  
26 person described in and who executed the foregoing instrument and  
27 who acknowledged to me that he did so freely and voluntarily and  
28 for the uses and purposes mentioned therein.

WITNESSETH my hand and official seal.



NOTARY PUBLIC

**Decree of Divorce  
with Parenting Plan  
and Notice of Entry**

  
CLERK OF THE COURT

1 **NEOJ**  
2 **Jack W. Fleeman, Esq.**  
3 Nevada Bar No. 010584  
4 **PECOS LAW GROUP**  
5 8925 South Pecos Road, Suite 14A  
6 Henderson, Nevada 89074  
7 Telephone: (702) 388-1851  
8 Facsimile: (702) 388-7406  
9 E-mail: [Email@pecoslawgroup.com](mailto:Email@pecoslawgroup.com)  
10 Attorney for Plaintiff

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 **Leslie Lynn Miller,**

14 Plaintiff,

15 vs.

16 **Brett Robert Miller,**

17 Defendant.

Case No. **D-15-511973- D**  
Dept. No. **E**

18 **NOTICE OF ENTRY OF DECREE OF DIVORCE**

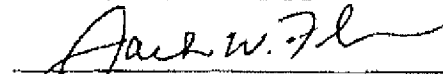
19 **TO: Brett Robert Miller, Defendant in Proper Person:**

20 **PLEASE TAKE NOTICE** that a "Decree of Divorce," was entered in the  
21 above-captioned case on the 29<sup>th</sup> day of September, 2015, by filing with the clerk.

22 A true and correct copy of said Decree of Divorce is attached hereto and made  
23 a part hereof.

24 DATED this 30 day of September, 2015.

25 **PECOS LAW GROUP**

26   
27 **Jack W. Fleeman, Esq.**  
28 Nevada Bar No. 010584  
PECOS LAW GROUP  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
(702) 388-1851  
Attorney for Plaintiff

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**Brett Robert Miller**  
10521 Hartford Hills Ave.  
Las Vegas, Nevada 89166  
Defendant in Proper Person

Heather Olson  
Heather Olson  
an employee of PECOS LAW GROUP

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Brett Robert Miller,**  
Defendant.

## DECREE OF DIVORCE

The Court has complete jurisdiction in the premises, both as to the subject matter thereof and as to the parties thereto; that for more than six weeks before the commencement of this action Plaintiff, Leslie Miller and

☐ Other \_\_\_\_\_  
☐ Dismissed - Want of Prosecution  
☐ Acquitted (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred \_\_\_\_\_

**Total Dispositions:**

☐ Disposed After Trial Start ☐ Judgment Rendered by Trial

**Settled/Withdrawn:**  
☐ Without Judicial Confirmation  
☐ With Judicial Confirmation  
☐ By ADR \_\_\_\_\_

RECEIVED  
SEP 28 2015  
DEPARTMENT E

1 Defendant, Brett Miller were and have been actual bona fide residents and  
2 domiciliaries of the State of Nevada, actually and physically residing and  
3 being domiciled therein during all of said period of time; that there are two  
4 minor children born the issue of the parties' marriage, namely: **Payton**  
5 **Miller**, born August 24, 2001 and **Jordan Miller**, born August 9, 2004; that  
6 there are no other children the issue of the parties' relationship, the parties  
7 have no adopted children, and Plaintiff is not pregnant; that Plaintiff and  
8 Defendant have each attended the seminar as mandated by the Eighth  
9 Judicial District Court Rule (EDCR) 5.07(a); that Plaintiff, Leslie Miller is  
10 entitled to an absolute and final dissolution of marriage on the ground of  
11 incompatibility, and good cause appearing;

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the  
13 parties waive their right to alimony therefore no alimony or spousal support  
14 shall be paid by either party to the other.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that  
16 personal property, such as furniture, has already been divided. There are a  
17 few personal items remaining in the residence that Brett will need to  
18 receive.

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Leslie  
20 shall attempt to refinance the mortgage for the property located at 10316  
21 Ironwood Pass Ave, Las Vegas, Nevada 89166 (hereinafter the "residence").  
22 Should Leslie be able to refinance the residence, Brett shall sign a quitclaim  
23 deed or whatever paperwork is necessary to allow her to accomplish the  
24 refinance. Leslie shall receive the first \$22,000.00 of equity that exists after  
25 all fees and costs are paid, should that amount be available. Beyond that,  
26 any remaining funds shall be used as follows: to pay for one-half of Leslie's  
attorney's fees, then to Leslie to pay one-half of the \$3,500.00 that Leslie paid  
in November 2014 to catch up on the mortgage payments, and then the

1 remaining amount shall be divided equally by the parties.

2 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each  
3 party shall retain the bank accounts, as well as all other accounts held in his  
4 or her own name.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each  
6 party shall retain the debt held in his or her own name and hold each other  
7 harmless from the same.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
9 only joint debts are orthodontics bills related to the minor children and  
10 veterinarian bills, both of which shall be divided equally by the parties.

11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Leslie  
12 shall be solely responsible for the IRS debt that has been determined to exist  
13 currently.

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Leslie  
15 shall assume responsibility for the vehicle in Brett's name and that lists  
16 Leslie as a co-signer. Leslie shall make reasonable efforts to remove Brett's  
17 name from the loan when she is able to.

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Leslie  
19 shall continue to provide health insurance for the minor children while it  
20 remains available to her at a reasonable cost. Leslie pays \$320.00 per month  
21 for the health insurance premium. The parties shall continue to divide the  
22 costs equally pursuant to the 30/30 rule (as previously ordered) such that any  
23 unreimbursed medical, dental, optical, orthodontic or other health related  
24 expense incurred for the benefit of the minor child is to be divided equally  
25 between the parties; either party incurring an out of pocket medical expense  
26 for the child shall provide a copy of the paid invoice/receipt to the other  
party within thirty days of incurring such expense, if not tendered within the  
thirty day period, the Court may consider it as a waiver of reimbursement;

1 the other party will then have thirty days from receipt within which to  
2 dispute the expense in writing or reimburse the incurring party for one-half  
3 of the out of pocket expense, if not disputed or paid within the thirty day  
4 period, the party may be subject to a finding of contempt and appropriate  
5 sanctions.

6 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
7 parties' entered into a Parenting Agreement on September 15, 2015, attached  
8 hereto as Exhibit 1.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Brett  
10 shall pay Leslie \$345<sup>00</sup> per month for child support for the minor  
11 children. *This amount does not include the \$160 Brett pays to Leslie as part of*  
12 *his one-half of the current health insurance premium cost.*

13 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that once  
14 Payton emancipates the parties shall alternate years for claiming the federal  
15 income tax exemption for the younger child, Jordan.

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
17 following statutory notices relating to the custody are applicable to the  
18 parties:

19 A. Pursuant to NRS 125C.200, the parties, and each of them, are  
20 hereby placed on notice of the following:

21 If custody has been established and the custodial parent intends  
22 to move his/her residence to a place outside of this state and to  
23 take the child with him/her, he/she must, as soon as possible and  
24 before the planned move, attempt to obtain the written consent  
25 of the noncustodial parent to move the child from this state. If  
26 the noncustodial parent refuses to give that consent, the  
custodial parent shall, before he/she leaves this state with the  
child, petition the court for permission to move the child. The  
failure of a parent to comply with the provisions of this section  
may be considered as a factor if a change of custody is requested  
by the noncustodial parent. This provision does not apply to  
vacations outside the State of Nevada planned by either party.

1 B. Pursuant to NRS 125.510(6), the parties, and each of them, are  
2 hereby placed on notice of the following:

3 PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT  
4 OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS  
5 PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130.  
6 NRS 200.359 provides that every person having a limited right of  
7 custody to a child or any parent having no right of custody to the  
8 child who willfully detains, conceals or removes the child from a  
9 parent, guardian or other person having lawful custody or a right  
of visitation of the child in violation of an order of this court, or  
removes the child from the jurisdiction of the court without the  
consent of either the court or all persons who have the right to  
custody or visitation is subject to being punished for a category  
D felony as provided in NRS 193.130.

10 C. Pursuant to NRS 125.510(7) and (8), the parties, and each of them,  
11 are hereby placed on notice that the terms of the Hague Convention of  
12 October 25, 1980, adopted by the 14th Session of the Hague Conference on  
13 Private International Law, apply if a parent abducts or wrongfully retains a  
14 child in a foreign country. Upon the agreement of the parties, Nevada is  
15 hereby declared the state, and the United States of America is hereby  
16 declared the country, of habitual residence of the child for the purposes of  
17 applying the aforesaid terms of the Hague Convention.

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
19 following statutory notices relating to child support are applicable to the  
20 parties:

21 A. Pursuant to NRS Chapter 125B.095, if an installment of an  
22 obligation to pay support for a child becomes delinquent in the amount owed  
23 for 1 month's support, a 10% per annum penalty must be added to the  
24 delinquent amount.

25 B. Pursuant to NRS Chapter 125B.140, if an installment of an  
26 obligation to pay support for a child becomes delinquent, the court shall

1 determine interest upon the arrearages at a rate established pursuant to  
2 NRS 99.040, from the time each amount became due. Interest shall continue  
3 to accrue on the amount ordered until it is paid, and additional attorney's  
4 fees must be allowed if required for collection.

5 C. Pursuant to NRS Chapter 125B.145, an award of child support  
6 shall be reviewed by the court at least every three (3) years to determine  
7 whether the award should be modified. The review will be conducted upon  
8 the filing of a request by a (1) parent or legal guardian of the child; or (2) the  
9 Nevada State Welfare Division or the District Attorney's Office, if the  
10 Division of the District Attorney has jurisdiction over the case.

11 D. Pursuant to NRS Chapter 125.450(2), the wages and commissions  
12 of the parent responsible for paying support shall be subject to assignment  
13 or withholding for the purpose of payment of the foregoing obligation of  
14 support as provided in NRS 31A.020 through 31A.240, inclusive.

15 E. Pursuant to NRS 125B.055(3), each party must, within ten (10)  
16 days after the entry of this Order, file with the Eighth Judicial District Court,  
17 Family Division, (601 North Pecos Road, Las Vegas, Nevada 89101), and with  
18 the State of Nevada, Department of Human Resources, Welfare Division,  
19 3120 East Desert Inn Road, Las Vegas, Nevada 89121), a Child Support and  
20 Welfare Party Identification Sheet setting forth:

- 21 (1) His or her social security number;
- 22 (2) His or her residential and mailing address;
- 23 (3) His or her telephone number;
- 24 (4) His or her driver's license number; and
- 25 (5) The name, address and telephone number of his or her  
26 employer.

Each of the parties will thereafter update their respective Child  
Support and Welfare Party Identification Sheets within ten (10) days after  
any of the information contained in the form becomes inaccurate.

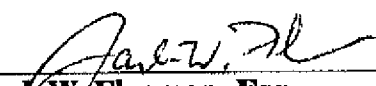
1       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Leslie  
2 shall maintain her married name of "Leslie Lynn Miller."

3       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
4 parties stated they understand and are in agreement with the stipulation  
5 placed on the record.

6       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the  
7 trial set on September 29, 2015 at 1:30 p.m. is vacated.

8       DATED September 28, 2015.

9       PECOS LAW GROUP

10         
11       **Jack W. Fleeman, Esq.**  
12       Nevada Bar No. 010584  
13       PECOS LAW GROUP  
14       8925 South Pecos Road, Suite 14A  
15       Henderson, Nevada 89074  
16       (702) 388-1851  
17       Attorney for Plaintiff

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26  
  
CHARLES J. HOSKIN

# **EXHIBIT 1**

FILED IN OPEN COURT

SEP 16 2015

STEVEN D. GRIERSON  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

BY

CAROL FOLEY DEPUTY

1 LESLIE MILLER, )

2 )  
3 Plaintiff )

4 vs )

Case No. D-15-511973-D

Department No. E

5 )  
6 BRETT MILLER, )

7 )  
8 Defendant )

9 )  
10 )  
11 PARENTING AGREEMENT

12 Date of Hearing: 9-15-15

13 Time of Hearing: 10:00 a.m.

14 The parents have met in mediation and have agreed to a Parenting Agreement. The  
15 intent of this Parenting Agreement is to promote healthy relationships between the children, Payton  
16 Miller, DOB: 8-24-01, Jordan Miller, DOB: 8-9-04, and their parents. Each of the parents, Leslie  
17 Miller, natural mother, and Brett Miller, natural father, agree that co-parenting requires the  
18 acceptance of mutual responsibilities and rights as far as the children are concerned.  
19

20 LEGAL CUSTODY PROVISIONS

21 Legal custody addresses the issues and matters including, but not limited to, the  
22 health, education, religious upbringing and welfare of the children.

23 The parents agree to share joint legal custody of the children named above.

24 The parents agree to provide each other with the names, addresses, telephone  
25 numbers of all medical, educational, child care and other providers of professional services for the  
26  
27  
28

1 children. Should this information change, each parent agrees to provide notification in advance, or  
2 as soon as possible, to the other parent.

3 Both parents are entitled to have access to medical information (both emergency and  
4 routine), school records, and to consult with any and all professionals involved with the children.  
5 The parents agree that each parent shall be empowered to obtain emergency health care for the  
6 children without the consent of the other parent. The parents agree to notify the other parent as soon  
7 as reasonably possible of any illness requiring medical attention or any emergency involving the  
8 children.  
9

#### 10 OBTAINING INFORMATION

11 The parents agree to provide each other with the address and telephone number at  
12 which the children reside.  
13

14 The parents agree to notify each other, and the Clerk of the Court, in writing at least  
15 ten (10) days prior to changing residences, phone numbers, or employment.

16 The parents agree to provide each other, upon receipt, information concerning the  
17 well-being of the children, including, but not limited to, school information, activities involving the  
18 children, and all communications from health care providers.  
19

20 The parents agree to advise each other of school, athletic and social events in which  
21 the children participate, and both parents may participate in activities for the children.

#### 22 PHYSICAL CUSTODY PROVISIONS

23 Physical custody addresses the residential arrangements and specific periods of  
24 parental responsibilities for the children. The parents shall maintain joint physical custody Jordan,  
25 which entails the following:  
26

27 ...  
28

1           The parents agree that beginning July 31, 2015 and in alternating weeks thereafter,  
2 Jordan shall reside with the father beginning Friday at 2:00 p.m. or after school recesses, and  
3 concluding Sunday at 6:00 p.m. The parents further agree that in opposite weeks, Jordan shall reside  
4 with the father beginning Tuesday at 2:00 p.m. or after school recesses, and concluding Friday at  
5 2:00 p.m. or at the start of school. Jordan shall reside with the mother during all other unspecified  
6 times.  
7

8           The parents agree that Payton shall reside primarily with the mother, except as  
9 follows:  
10

11           The parents agree that beginning July 31, 2015 and thereafter, Payton shall reside  
12 with the father every other weekend, with the weekend defined as beginning Friday at 2:00 p.m. or  
13 after school recesses, and concluding Sunday at 6:00 p.m.

#### 14                           HOLIDAYS

15           Holidays and special times shall take precedence over all other time-share  
16 arrangements. The parents agree that the children shall reside with the mother on all holidays except  
17 the ones listed below. The parents further agree that if the father has family in town or is going to  
18 visit family, then the children shall reside with him for the holiday, with at least two (2) weeks  
19 advance notice to the mother. The times shall be based upon travel arrangements and mutual  
20 agreement.  
21

#### 22                           Mother's/Father's Day

23           The parents agree that Mother's/Father's Day shall begin the Saturday preceding  
24 Mother's/Father's Day at 7:00 p.m. and end on Mother's/Father's Day at 7:00 p.m. The mother  
25 shall have the children each year on Mother's Day, and the father shall have the children each year  
26 on Father's Day.  
27  
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**MODIFYING THE PARENTING AGREEMENT**

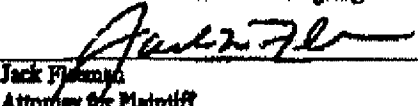
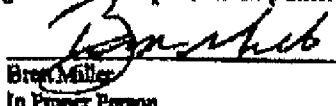
The provisions of this Parenting Agreement may be modified, in writing, as the needs of the children and/or the circumstances of the parents change. However, the parents understand that any changes they agree to do not modify this Court Order. If parenting issues arise in the future, the parents are encouraged to utilize mediation prior to seeking Court intervention. The parents understand that they may return to the Family Mediation Center (FMC) at any time to re-mediate their parenting issues by contacting FMC at 702-455-4186 and paying any outstanding fees.

\*\*\*\*\*

The above agreement reflects the Parenting Agreement formulated in mediation. The parents realize they have the right to review this document with an attorney prior to its being reviewed and adopted by the Court.

 Leslie Miller Mother	 Brett Miller Father
DATE <u>8/20/15</u>	DATE <u>8-17-15</u>

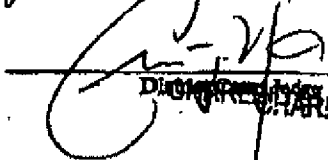
The above and foregoing Parenting Agreement is acceptable to the parties.

 Jack Fleeman Attorney for Plaintiff	 Brett Miller In Proper Person
DATE <u>8/20/15</u>	DATE <u>8-17-15</u>

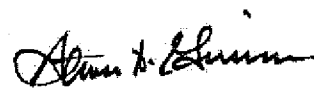
**ORDER**

Based upon the agreement of the parties and good cause being shown, IT IS HEREBY ORDERED that the terms and conditions of the above Parenting Agreement are adopted.

DATED this 15<sup>th</sup> day of September, 2015.

  
CLERK OF COURT  
CHARLES J. HOSKIN

**Motion for Reconsideration, et al.  
(Tolling Motion)**



CLERK OF THE COURT

1 **MOT**

2 **Jack W. Fleeman, Esq.**  
3 Nevada Bar No. 010584  
4 PECOS LAW GROUP  
5 8925 South Pecos Road, Suite 14A  
6 Henderson, Nevada 89074  
7 Tel: (702) 388-1851  
8 Fax: (702) 388-7406  
9 Email: [Email@pecoslawgroup.com](mailto:Email@pecoslawgroup.com)  
10 Attorney for Plaintiff

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9  
10 **Leslie Lynn Miller,**  
11 **Plaintiff,**

12 **vs.**

13 **Brett Robert Miller,**  
14 **Defendant.**

Case No. **D-15-511973-D**  
Dept. No. **E**

Date of Hearing: **11/17/2015**  
Time of Hearing: **9:00am**

15 **MOTION FOR RECONSIDERATION, TO AMEND JUDGMENT,**  
16 **AND FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
17 **ON CHILD SUPPORT CALCULATION**

18 COMES NOW Plaintiff, **Leslie Lynn Miller**, by and through her  
19 attorney, **Jack W. Fleeman, Esq.**, of the PECOS LAW GROUP, and respectfully  
20 requests that this Court enter Orders granting her the following relief:

21 1. An Order reconsidering the Court's award of child support in  
22 this matter;

23 2. A finding that despite the parties' decision to characterize  
24 Defendant as a joint physical custodian of the minor child, Jordan, the  
25 timeshare under Nevada law is one of primary physical custody to Leslie;

1           3.     A finding that child support is properly determined based on  
2     NRS 125B.070 at 25% of Defendant's gross monthly income;

3           4.     An Order amending the Court's ordered child support amount to  
4     award Plaintiff \$1,076.24 per month in child support, which is in compliance  
5     with NRS 125B.070 and is in the children's best interests;

6           5.     In the alternative, should the Court determine that a child  
7     support number less \$1,076.24 is the appropriate amount, that the Court  
8     issue findings of fact and conclusions of law in support of the Court's  
9     ultimate determination of the child support amount; and

10          6.     An Order awarding Plaintiff such other and further relief as this  
11     Court deems just and proper in the premises.

12                 This Motion is made and based on all the papers and pleadings on file  
13     herein, the Points and Authorities submitted herewith, the affidavits  
14     attached hereto, and any further evidence and argument as may be adduced  
15     at the hearing of this matter.

16                 DATED this 9 day of October, 2015.

17  
18                         PECOS LAW GROUP

19                         

20                         **Jack W. Fleeman, Esq.**

21                         Nevada Bar No. 0010584

22                         PECOS LAW GROUP

23                         8925 South Pecos Road, Suite 14A

24                         Henderson, Nevada 89074

25                         (702) 388-1851

26                         Attorney for Plaintiff

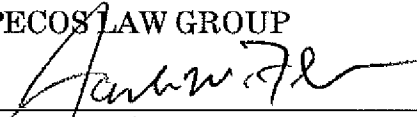
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**NOTICE OF MOTION**

TO: **Brett Robert Miller**, Defendant in Proper Person; and

**PLEASE TAKE NOTICE** that the undersigned will bring the above and foregoing Motion on for hearing before the Court at the Courtroom of the above-entitled Court on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at the hour of \_\_\_\_\_ o'clock \_\_\_\_m. of said day, in Department E of said Court.

DATED this 9 day of October, 2015.

PECOS LAW GROUP  
  
\_\_\_\_\_  
**Jack W. Fleeman, Esq.**  
Nevada Bar No. 010584  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
(702) 388-1851  
Attorneys for Plaintiff

1 **POINTS AND AUTHORITIES**

2 **I. FACTS**

3 **A. Introduction.**

4 Plaintiff, **Leslie Lynn Miller** ("Leslie"), and Defendant, **Brett Robert**  
5 **Miller** ("Brett"), married on March 30, 2001. They have two minor children:  
6 **Payton Riley Miller**, born August 24, 2001; and **Jordan Timothy Miller**, born  
7 August 9, 2004. The parties settled all issues in their divorce except for the  
8 amount of child support owed from Brett to Leslie. On that issue, the Court  
9 took the matter under advisement and stated, at the hearing held on  
10 September 15, 2105, that counsel should submit a Decree with a blank for the  
11 Court to fill in the proper child support amount. Counsel later submitted the  
12 Decree to the Court, and the Court entered the amount of \$345 per month in  
13 child support. Upon information and belief, this amount is far below the  
14 amount that should be due under Nevada law, and is not in the children's  
15 best interests. Thus, this motion for reconsideration, et al. follows.

16 **B. The Court Ordered Custodial Timeshare.**

17 The parties stipulated to their custodial timeshare through mediation.  
18 At that time, it was agreed that the parties' would be designated as joint  
19 physical custodians of their son, Jordan, born August 9, 2004, and that Leslie  
20 would be designated as the primary physical custodian of the parties'  
21 daughter, Payton, born August 24, 2001. Brett agreed to Leslie being named  
22 primary physical custodian of Payton after he read Payton's desires in the  
23 child interview report. See Defendant's Pre-Trial Memorandum, at p. 2. As to  
24 Jordan, Brett steadfastly refused to be called anything less than a joint  
25

1 physical custodian, although he agreed to take less than a joint physical  
2 custody timeshare.

3 The specific custodial timeshare agreed to, and adopted as an order of  
4 the court, was as follows:

5 Jordan shall reside with Brett on an alternating week schedule that  
6 begins Friday at 2:00 p.m. or after school recesses, and concludes on Sunday  
7 at 6:00 p.m. (52 hours) during one week, and then begins on Tuesday at 2:00  
8 p.m. or after school recesses, and concludes on Friday at 2:00 p.m. (72 hours)  
9 during week two. This is a total of 124 hours every 336 hours (two weeks), or  
10 36.9% of the time with Jordan on average. However, this number is likely  
11 reduced on a yearly basis due to Brett's lack of holiday time.<sup>1</sup>

12 Payton shall have visitation with Brett every other weekend from  
13 Friday at 2:00 p.m. or after school recesses until Sunday at 6:00 p.m. (48  
14 hours). This is a total of 48 hours every 336 hours, or a total of 14.3% of the  
15 time with Payton on average.

16 **C. The Parties' Incomes.**

17 Leslie's current gross monthly income, stated on her Financial  
18 Disclosure Form, filed on May 5, 2015, is \$3,986.66 per month. Brett's current  
19 gross monthly income, per he Financial Disclosure Statement filed in  
20 September 10, 2015, is \$4,304.97 per month.

21 ...

22 ...

23 ...

24  
25 <sup>1</sup> In general, unless Brett is going to spend time with his family during a holiday, Leslie has  
26 all holidays with the children except the alternating children's birthdays and father's day.

## II. ARGUMENT

### **A. THE COURT SHOULD RECONSIDER ITS CHILD SUPPORT DECISION BECAUSE IT WAS CLEARLY ERRONEOUS.**

EDCR 2.24 states:

#### **Rule 2.24. Rehearing of motions.**

(a) No motions once heard and disposed of may be renewed in the same cause, nor may the same matters therein embraced be reheard, unless by leave of the court granted upon motion therefor, after notice of such motion to the adverse parties.

(b) A party seeking reconsideration of a ruling of the court, other than any order which may be addressed by motion pursuant to N.R.C.P. 50(b), 52(b), 59 or 60, must file a motion for such relief within 10 days after service of written notice of the order or judgment unless the time is shortened or enlarged by order. A motion for rehearing or reconsideration must be served, noticed, filed and heard as is any other motion. A motion for reconsideration does not toll the 30-day period for filing a notice of appeal from a final order or judgment.

(c) If a motion for rehearing is granted, the court may make a final disposition of the cause without reargument or may reset it for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

The Court may consider a motion for reconsideration when there are “new issues of fact or law are raised supporting a ruling contrary to the ruling already reached should a motion for rehearing be granted.” *Moore v. City of Las Vegas*, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). A district court may consider a motion for reconsideration concerning a previously decided issue if the decision was clearly erroneous. *Masonry and Tile v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). “Points or contentions not raised in the original hearing cannot be maintained or considered on

1 rehearing.” *Achrem v. Expressway Plaza Ltd.*, 112 Nev. 737, 742, 917 P.2d 447,  
2 450 (1996)(internal citations omitted).<sup>2</sup>

3 Here, the Court’s \$345.00 per month child support figure is clearly  
4 erroneous because it does not comply with Nevada’s statutory and case law  
5 requirements for the calculation of child support, as fully explained in the  
6 sections below.<sup>3</sup> Moreover, the Court’s decision with respect to the \$345 per  
7 month child support amount is not supported by findings or conclusions of  
8 law, which are necessary to demonstrate that sufficient evidence exists in  
9 support of the Court’s figure.

10  
11 **B. The Correct Calculation Based on Nevada’s Definition of the  
Timeshare.**

12 Leslie has primary physical custody under Nevada’s definition  
13 because she has more than 60% of the time with both children.<sup>4</sup> See *Rivero v.*  
14 *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009). Thus, child support in this  
15 matter should have been calculated pursuant to NRS 125B.070 with Brett  
16 paying 25% of his gross income, or a total of \$1,076.24 per month in support.

18 <sup>2</sup> The *Achrem* Court’s determination that the court cannot consider “points and  
19 contentions” not previously maintained or considered addresses the situation where a party  
20 attempts to introduce new facts or evidence in a motion for reconsideration. *Id.* That is not  
the case here, where the statute requires the Court to make a child support determination  
based on the law and in the children’s best interests. This is permissible under the rule as  
the court must always make decisions that comport with the law.

21 <sup>3</sup> Even Brett recognizes the amount is not appropriate, as he immediately sought to  
22 antagonize Leslie regarding the low amount, stating he assumed he would have to pay a  
minimum of “\$500 per month” and probably “between \$500 and \$750 per month.” Brett also  
23 laughed at the low amount, telling Leslie that she wanted the house and the car and primary  
of Payton, and look at the low amount of child support she received after having to pay an  
attorney. This conduct is also indicative of Brett’s attitude since the divorce, which has  
24 resulted in the child, Jordan, stating he no longer wants to spend time with Brett.

25 <sup>4</sup> Leslie has at least 63.1% of the time with Jordan, and 85.7% of the time with Payton.

1 The fact that Brett has other obligations, as argued in his pre-trial  
2 memorandum, should be of no consequence as the deviation factors do not  
3 allow the Court to deviate solely for that fact, and the obligation to support  
4 the children trumps all other obligations. Additionally, while the deviation  
5 factors allow the Court to consider the relative income of both parents (NRS  
6 125B.080(9)(l), Leslie makes slightly less than Brett. Further, the deviation  
7 factor related to relative incomes must be weighed against the fact that for  
8 significant majority of each month, Leslie, not Brett, is the parent caring for  
9 the children's daily needs. *See* NRS 125B.080(9)(j).<sup>5</sup>

10  
11 **C. The Correct Calculation Based on the Stated Split, or Mixed, Custody  
Designations.**

12 There does not appear to be any controlling law in Nevada on how  
13 child support must be calculated when parents have split, or mixed, custody  
14 of children. However, upon information and belief, there are two schools of  
15 thought on how the amount should be calculated.

16 The first school of thought is that child support should be calculated  
17 under *Wright v. Osburn*, 114 Nev. 1367, 970 P.2d 1071 (1998) for the joint  
18 physical custody arrangement, and then under NRS 125B.070 for the primary  
19 physical custody arrangement.<sup>6</sup> Under this method of calculation, the *Wright*  
20 calculation for Jordan is \$75.29 per month,<sup>7</sup> and the NRS 125B.070  
21

22 <sup>5</sup> Counsel does not imagine the Court applied any deviations when determining the \$345 per  
23 month child support amount because the Court did not issue any specific findings of fact, as  
required under NRS 125B.080(9) when making deviations to the statutory amount.

24 <sup>6</sup> Again, the Court should consider that Leslie actually has primary physical custody of both  
children in this case, and Brett should pay 25% of his gross monthly income.

25 <sup>7</sup> \$774.89 (18% of \$4,304.97) - \$699.60 (18% of \$3,886.66)

1 calculation for Payton is \$774.89 per month, which is 18% of Brett's income,  
2 for a total child support payment of \$850.18 per month in child support. This  
3 figure makes much more sense that the Court ordered \$345 per month as  
4 Leslie has both children a majority of the time (63.1% with Jordan and 85.7%  
5 with Payton), and Brett's equal responsibility for support under NRS 125.020  
6 requires that he contribute a reasonable amount of his income to assist in  
7 their support while with Leslie. The \$850.18 amount is equivalent to 19.7% of  
8 Brett's gross income, which is much more reasonable given the disparity in  
9 the parties' custodial timeshares and the burden of financial responsibility  
10 that is placed on Leslie. Furthermore, the amount is more in line with best  
11 interests of the children because it adequately provides for their support  
12 and allows the households, given the expense of raising children, on a  
13 similar financial level.

14 The second school of thought on how to calculate split custody support  
15 is to prorate the support per child, based on the statutory presumption that  
16 the total support for two children is 25% of a party's gross income. In the  
17 present case, 25% of Leslie's income is \$971.67, while 25% of Brett's is  
18 \$1,076.24. The prorated number per child using these amounts is \$485.84 per  
19 child for Leslie and \$538.12 per child for Brett. Thus, Dad's support for  
20 Payton would be \$538.12, and for Jordan it would be \$52.28 (\$538.12 - \$485.84  
21 under a *Wright* type calculation), for a total obligation of \$590.40.

22 Therefore, based on these two methods of calculation, an arguably  
23 reasonable and statutorily required child support amount in this case could  
24 be between \$590.40 and \$850.18 per month. These numbers are far greater  
25 than the \$345 per month child support awarded by the Court. As such,

1 because the \$345 per month amount is far below the likely legally required  
2 amount, even if the Court decides not to calculate based on Leslie's primary  
3 status with Jordan; and because the \$345 per month amount cannot be shown  
4 to be in the children's best interests, that amount is clearly erroneous and  
5 should be reconsidered and re-determined with findings of fact and  
6 conclusions of law in support of the number.

7 In the end, "[t]he child's best interest, in the support setting, is tied to  
8 the goal of the support statutes generally, which is to provide fair support, as  
9 defined in NRS 125B.070 and 125B.080, in keeping with both parents' relative  
10 financial means." *Fernandez v. Fernandez*, 126 Nev. Adv. Op. 3, 222 P.3d 1031,  
11 1039 (2010) (quoting *Lewis v. Hicks*, 108 Nev. 1107, 1114 n. 4, 843 P.2d 828 at  
12 833 n. 4 (internal citations omitted)). Here, the extremely low amount of \$345  
13 per month is not in the children's best interests, nor does it take into account  
14 the relative financial means of the parties in light of their custodial  
15 timeshares and obligations to the children.

### 16 III. CONCLUSION

17 WHEREFORE, based upon the foregoing, Plaintiff respectfully  
18 requests this Court enter orders granting her the following relief:

19 1. An Order reconsidering the Court's award of child support in  
20 this matter;

21 2. A finding that despite the parties' decision to characterize  
22 Defendant as a joint physical custodian of the minor child, Jordan, the  
23 timeshare under Nevada law is one of primary physical custody to Leslie;

24 3. A finding that child support is properly determined based on  
25 NRS 125B.070 at 25% of Defendant's gross monthly income;

4. An Order amending the Court's ordered child support amount to award Plaintiff \$1,076.24 per month in child support, which is in compliance with NRS 125B.070 and is in the children's best interests;

5. In the alternative, should the Court determine that a child support number less \$1,076.24 is the appropriate amount, that the Court issue findings of fact and conclusions of law in support of the Court's ultimate determination of the child support amount; and

6. An Order awarding Plaintiff such other and further relief as this Court deems just and proper in the premises.


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

Leslie Lynn Miller  
Leslie Lynn Miller

Dated 10/9/15

Submitted by:

**PECOS LAW GROUP**

  
**Jack W. Fleeman, Esq.**  
 Nevada Bar No. 0010584  
**PECOS LAW GROUP**  
 8925 South Pecos Road, Suite 14A  
 Henderson, Nevada 89074

**Order Re: Tolling Motion  
with Notice of Entry**

1 NEOJ  
2 Jack W. Fleeman, Esq.  
3 Nevada Bar No. 010584  
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9 Email: [Email@pecoslawgroup.com](mailto:Email@pecoslawgroup.com)  
10 Attorney for Plaintiff

  
CLERK OF THE COURT

7 DISTRICT COURT  
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9  
10 Leslie Lynn Miller,  
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12 vs.

13 Brett Robert Miller,  
14 Defendant.

Case No. D-15-511973-D  
Dept. No. E

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

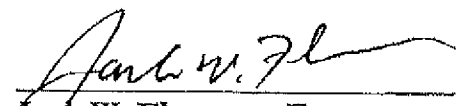
15 NOTICE OF ENTRY OF ORDER

16 TO: Brett Robert Miller, Defendant in Proper Person.

17 YOU WILL PLEASE TAKE NOTICE that an "Order," was entered in  
18 the above-captioned case on the 23<sup>rd</sup> day of November, 2015, by filing with  
19 the clerk. A true and correct copy of said Order is attached hereto and made  
20 a part hereof.

21 DATED this 24 day of November, 2015.

22 PECOS LAW GROUP

23   
24 Jack W. Fleeman, Esq.  
25 Nevada Bar No. 010584  
26 8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
Attorney for Plaintiff

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that the foregoing "ORDER" in  
3 the above-captioned case was served this date as follows:

4 ☐ by e-service, pursuant to Rule 9 of N.E.F.C.R., E.D.C.R.  
5 7.26(a)(4), and E.J.D.C. AO 9-12 and AO 14-2, to the following  
6 email(s), which is/are the email(s) registered with the electronic  
7 filing system:

8 ☒ by placing the same to be deposited for mailing in the United  
9 States Mail, in a sealed envelope upon which first class postage  
10 was prepaid in Las Vegas, Nevada;

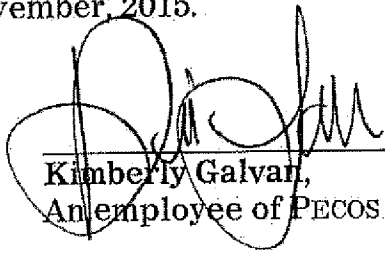
11 ☐ pursuant to EDCR 7.26 to be sent via facsimile, by duly executed  
12 consent for service by electronic means;

13 ☐ by hand-delivery with signed Receipt of Copy.

14 To person(s) listed below at the address:

15 **Brett Robert Miller**  
16 10521 Hartford Hills Ave.  
17 Las Vegas, Nevada 89166  
18 Defendant in Proper Person

19 DATED this 24<sup>th</sup> day of November, 2015.

20  
21  
22  
23  
24  
25  
26  
  
\_\_\_\_\_  
Kimberly Galvan,  
An employee of PECOS LAW GROUP

  
CLERK OF THE COURT

**ORDR**  
**Jack W. Fleeman, Esq.**  
Nevada Bar No. 010584  
PECOS LAW GROUP  
8925 South Pecos Road, Suite 14A  
Henderson, Nevada 89074  
Telephone: (702) 388-1851  
Facsimile: (702) 388-7406  
Email: [Email@pecoslawgroup.com](mailto:Email@pecoslawgroup.com)  
Attorney for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

**Leslie Lynn Miller,**  
  
**Plaintiff,**

Case No. **D-15-511973-D**  
Dept. No. **E**

**vs.**

Date of Hearing: **November 17, 2015**  
Time of Hearing: **9:00 a.m.**

**Brett Robert Miller,**  
  
**Defendant.**

**ORDER**

THIS MATTER having come before the **Honorable Charles J. Hoskin** on 17th day of November 2015 for hearing on *Plaintiff's Motion for Reconsideration, to Amend Judgment, and for Findings of Fact and Conclusions of Law on Child Support Calculation*; Plaintiff **Leslie Lynn Miller** (hereinafter "Mom") present and represented by and through her attorney, **Jack W. Fleeman, Esq.**, of PECOS LAW GROUP; Defendant, **Brett Robert Miller**, present and representing himself in proper person, the court being fully advised in the premises and good cause appearing, makes the following findings and orders:

THE COURT FINDS that the stipulated custody agreement contained in the parenting agreement attached as an exhibit to the parties' Decree of Divorce, with respect to the minor child Jordan, is a joint physical custody

☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntarily (Statutory) Dismissed  
☐ Default Judgment  
☐ Transferred  
☐ Unrecorded After Trial Start  
☐ Judgment Reached by Trial  
☐ Non-Trial Dispositions:  
☐ By Settlement  
☐ Without Judicial Confirmation  
☐ With Judicial Confirmation  
☐ By ADR  
Total Dispositions: ☐ Judgment Reached by Trial

RECEIVED

26

BY:

1 arrangement pursuant to *Rivero* because Dad's timeshare is greater than 40%  
2 of the time with that child.

3 THE COURT FURTHER FINDS that the Court's award of \$345 per  
4 month in child support is in the children's best interests.

5 THE COURT FURTHER FINDS that the award of \$345 per month in  
6 child support is based on the formulas set forth in NRS Chapter 125B given  
7 the parties' timeshares with the children.

8 THE COURT FINDS that it has run the numbers using the statutory  
9 percentages of 18% for one child and 25% for two children and given the  
10 comparative incomes, the deviation factors permitted under NRS  
11 125B.080(9), and all circumstances, the \$345 per month in child support is the  
12 appropriate figure.

13 THEREFORE IT IS ORDERED that Mom's request to reconsider  
14 and/or to amend the judgment regarding child support is denied.

15 IT IS FURTHER ORDERED that Mr. Fleeman is to prepare this Order.

16 DATED this 23<sup>rd</sup> day of November, 2015.

17  
18  
19   
DISTRICT COURT JUDGE

CHARLES J. HOSKIN

20 Submitted by:

21 PECOS LAW GROUP

22   
23 Jack W. Fleeman, Esq.  
Nevada Bar No. 010584

24 PECOS LAW GROUP  
8925 South Pecos Road, Ste. 14A  
25 Las Vegas, Nevada 89074  
(702) 388-1851  
26 Attorney for Defendant