

IN THE SUPREME COURT OF THE STATE OF NEVADA

LYUDMYLA ABID,

Appellant,

v.

SEAN ABID,

Respondent.

Supreme Court No. 69995

District Court Case No. JD-10-42480

Electronically Filed

JD-10-42480-2:09 p.m.

Tracie K. Lindeman  
Clerk of Supreme Court

Appeal from the Eighth Judicial District Court

APPELLANT'S APPENDIX

RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
RADFORD J. SMITH, CHARTERED  
2470 Saint Rose Parkway, Suite 206  
Henderson, Nevada 89074  
Attorneys for Appellant

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

2  
3           LYUDMYLA ABID,

4  
5                   Appellant,

6           v.

7  
8           SEAN ABID,

9                   Respondent.

Supreme Court No. .69995

District Court Case No. D-10-424830-Z

10  
11  
12                   **NRAP 26.1 DISCLOSURE**

13  
14  
15           The undersigned counsel of record certifies that the following are persons and entities  
16 described in NRAP 26.1(a), and must be disclosed. These representations are made in order  
17 that the justices of this court may evaluate possible disqualification or recusal.  
18

19           1. All parent corporations and publicly –held companies owning 10 percent or more  
20 of the party’s stock: None  
21

22           2. Names of all law firms whose attorneys have appeared for the party or amicus in  
23 this case (including proceedings in the District Court or before an administrative  
24 agency) or are expected to appear in this court: RADFORD J. SMITH  
25  
26 CHARTERED  
27  
28

1 3. If litigant is using a pseudonym, the litigant's true name: None

2 DATED this 7<sup>th</sup> day of July, 2016.

3  
4 RADFORD J. SMITH, CHARTERED

5 

6 RADFORD J. SMITH, ESQ.

7 Nevada State Bar No. 002791

8 KIMBERLY A. MEDINA, ESQ.

9 Nevada State Bar No. 014085

10 2470 St. Rose Parkway, Ste. 206

11 Henderson, Nevada 89074

12 *Attorney for Appellant*

### CERTIFICATE OF COMPLIANCE

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2013 in Font Size 14, in Times New Roman;

2. I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either proportionately spaced, has a typeface of 14 points or more, and contains 3,813 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 7<sup>th</sup> day of July, 2016.

RADFORD J. SMITH, CHARTERED



RADFORD J. SMITH, ESQ.

Nevada State Bar No. 002791

KIMBERLY A. MEDINA, ESQ.

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Appellant,

v.

SEAN ABID,

Respondent.

Supreme Court No. 69995

District Court Case No. D-10-424830-Z

Appeal from the Eighth Judicial District Court

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**APPELLANT'S APPENDIX**

**VOLUME 1**

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09-09-15

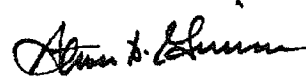
11-18-15

11-19-15

01-11-16

01-25-16

1507-1526

  
CLERK OF THE COURT

1 **DECD**  
2 JOSEPH IARUSSI, ESQ.  
3 Nevada State Bar No. 9284  
4 320 E. Charleston Blvd  
5 Suite 105  
6 Las Vegas, Nevada 89104  
(702) 473-9640  
(702) 473-9641  
Attorney for Petitioners

**ORIGINAL**

**DISTRICT COURT, FAMILY DIVISION**

**CLARK COUNTY, NEVADA**

In the matter of the )  
Joint Petition of )  
SEAN R. ABID, )  
and )  
LYUDMYLA A. ABID, )  
Co-Petitioners. )

CASE NO.: D-10-424830-Z  
DEPT. NO.: K

**DECREE OF DIVORCE**

The above entitled cause having been submitted to the above-entitled Court for decision pursuant to Chapter 125 of the Nevada Revised Statutes and based upon the Joint Petition by Petitioner SEAN R. ABID, and Petitioner LYUDMYLA A. ABID, and all of the papers and pleadings on file, the Court finds as follows:

1. That all of the allegations contained in the documents on file are true;
2. That all of the requirements of NRS 125.181 and NRS 125.182 have been met;
3. That this Court has complete jurisdiction as to the parties and the subject matter

thereto;

**RECEIVED**

FEB 08 2010

DISTRICT COURT  
DEPT K.

**DISPOSITIONS**

Converted from  
Blackstone  
Involuntary  
Dismissal  
Transferred  
Voluntary  
Dismissal  
Decision w/out  
Trial/Hearing  
Decision w/  
Hearing  
Decision w/  
Trial/Evidentiary  
Hearing  
Guardianship  
Death  
Age of Majority  
Restoration of  
Competency  
Order  
Terminating  
Guardianship

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

4  
5           5.     That the Petitioners were married in Las Vegas, Nevada, on the 20th day of  
6 January, 2006, and have since said date have been and now still are husband and wife.

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

9                 That there is one (1) minor child of this marriage TO WIT: Aleksandr Anton Abid;

10                Born: February 13, 2009. There are no minor children who have been adopted by the  
11 parties, and Co-Petitioner LYUDMYLA ABID is not pregnant.  
12

13           7.     The parties are fit and proper persons to be awarded and will share joint legal  
14 custody of Aleksandr Anton Abid;

15           8.     The parties are fit and proper persons to be awarded and will share joint physical  
16 custody of Aleksandr Anton Abid set forth as follows:  
17

18                 **FIRST WEEK OF EACH MONTH** Sean Abid will have physical custody of  
19 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
20 at school until Saturday morning at 9:00 A.M.

21                 **SECOND WEEK OF EACH MONTH** Sean Abid will have physical custody of  
22 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
23 at school until Sunday night at 8:00 P.M.  
24

25                 **THIRD WEEK OF EACH MONTH** Sean Abid will have physical custody of  
26 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
27 at school until Saturday morning at 9:00 A.M.  
28

1                   **FOURTH WEEK OF EACH MONTH** Sean Abid will have physical custody of  
2 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
3 at school until Sunday night at 8:00 P.M.  
4

5                   **FIFTH WEEK OF EACH MONTH ( \*only four (4) times a year)**

6 Sean Abid will have physical custody of the minor child Aleksandr Anton Abid from Wednesday  
7 at 3:20 P.M. when he picks the child up at school until Saturday morning at 9:00 A.M.

8                   a.) The person receiving Aleksandr Anton Abid will be responsible for picking  
9 him up.  
10

11                   b.) For holidays and birthdays, the person receiving the child will be responsible  
12 for picking up the child. The parties agree to a holiday and birthday schedule in the  
13 following manner:

14                   Fourth of July will be alternated with the father having the child in 2010 and each  
15 even year thereafter;  
16

17                   Labor Day will be alternated with the Mother having the child in 2010 and each  
18 even year thereafter.

19                   Halloween/Nevada Day will be alternate with the Mother having the child in 2010  
20 and each odd year thereafter.  
21

22                   Veteran's Day will be alternated with the Father having the child in 2010 and  
23 each even year thereafter.

24                   Thanksgiving will be alternated with thee the Father having the child in 2010 and  
25 each even year thereafter.  
26

27                   Christmas will be alternate with the Mother having the child in 2010 and each  
28 even year thereafter.



1 New Year's Day will be alternated with the Mother having the child in 2011 and  
2 each odd year thereafter.

3 Martin Luther King's Birthday will be alternated with the Father having the child  
4 in 2011 and each odd year thereafter.

5 President's Day will be alternated with the Mother having the child in 2010 and  
6 each even year thereafter.

7 Easter Sunday will be alternated with the Father having the child in 2010 and each  
8 even year thereafter.

9 Memorial Day will be alternated with the Mother having the child in 2010 and  
10 each even year thereafter.

11 The child's birthday will be alternated with the Father having the child in 2010  
12 and each even year thereafter.

13 The Mother shall have the child on Mother's Day and the Father shall have the  
14 child on Father's Day.

15 9. Each parent shall notify the other if they take the child of the State of Nevada for  
16 more than 24 hours, for any reason. Notification shall be made prior to leaving the State and  
17 shall include the date leaving the State, the destination, the date returning to the State, the type  
18 of transportation, and, if possible, a telephone number for contact while the child is out of the  
19 State.

20 10. Each parent shall keep the other informed of the child caregiver for the child,  
21 including name, address and telephone number.

22 11. Each parent shall have the right of first refusal to care for the child when the other  
23 parent is not available to care for the child for a period of twelve (12) hours or more. In  
24  
25  
26  
27  
28

1 other words, if the child is in Mother's custody and Mother is not available to care for the  
2 child for 12 hours or more, the Father shall be notified and given the right of first refusal  
3 to care for the child, before any third party is called in to care for the child. The Mother  
4 has the same right of first refusal when the child is with the Father and the Father is not  
5 available to care for the child for twelve hours or more  
6

7 12. Both parents are to have equal access to all the child's medical records, school  
8 records, and any other records generated for the benefit of or on behalf of the child.

9 13. The parties have stipulated to a child support obligation. SEAN ABID will pay  
10 child support to LYUDMYLA ABID in the amount of One Thousand One Hundred Dollars and  
11 No Cents (\$1,100.00) per month, beginning on March 1, 2010. The child support shall be paid  
12 on or before the first day of each month. This agreement is based upon Sean Abid's (the  
13 Father's) gross monthly income of Six Thousand Dollars and No Cents (\$6,000.00). The amount  
14 agreed upon is in compliance with NRS 125B.070 and is 18% of the father's gross monthly  
15 income.  
16

17  
18 13. The amount of child support agreed upon meets the child's current financial  
19 needs.

20 14. The child support obligation shall continue until the child reaches the age of  
21 eighteen years.  
22

23 15. Sean Abid will claim the child, Aleksandr Anton Abid, as a dependent for tax  
24 purposes on odd years beginning 2011. Lyudmyla Abid will claim the child, Aleksandr Anton  
25 Abid, as a dependent for tax purposes on even years beginning 2010.

26 16. Sean Abid will be responsible for paying for the expenses associated with the  
27 child's daycare.  
28

- 1           17.    Lyudmyla Abid will be responsible for paying for the child's health insurance.
- 2           18.    The parties have stipulated that there will be no spousal support obligation due to
- 3 either.
- 4
- 5           19.    There is no community debt of the Petitioners to be divided by this court.
- 6           20.    There is community property to be divided amongst the Petitioners as follows:
- 7           A.     **SEAN ABID** will retain the following as his sole and separate property:
- 8               a.)    All personal property currently in his possession;
- 9               b.)    The vehicle currently in his possession;
- 10
- 11           B.     **LYUDMYLA ABID** will retain the following as her sole and separate property:
- 12               a.)    All property currently in her possession.
- 13               b.)    The marital residence located at 2167 Montana Pine, Henderson, NV
- 14                       89052. LOT # 150 BLOCK # 6
- 15               c.)    The vehicle currently in her possession.
- 16
- 17           21.    **LYUDMYLA ABID** will refinance the property located at 2167 Montana Pine,
- 18 Henderson, NV 89052 in her name only within ten (10) years of the filing of this decree, after the
- 19 mortgage is refinanced in **LYUDMYLA ABID'S** name only, and upon payment of **Forty Two**
- 20 **Thousand Dollars and No Cents (\$42,000.00)** from **LYUDMYLA ABID** to **SEAN ABID**,
- 21 **SEAN ABID** will quick claim the deed to said property to **LYUDMYLA ABID** releasing all
- 22 rights and title to said property.
- 23
- 24           22.    If **LYUDMYLA ABID** is unable to refinance the property located at 2167
- 25 Montana Pine, or unable to buyout Sean Abid's portion of the equity in the house in the amount
- 26 of **Forty Two Thousand Dollars and No Cents (\$42,000.00)**, then the house will be placed in
- 27 the open market and sold for a price to be agreed upon by the parties. After the house is sold the
- 28

1 profit will not be divided equally amongst the parties, but rather Sean Abid will receive only  
2 Forty Two Thousand Dollars and No Cents (\$42,000.00) of the profit, and Lyudmyla Abid will  
3 receive the remainder of the profit. If the parties can not agree on a selling price of the house  
4 then the house will be listed in the open market for Five Thousand Dollars (\$5,000.00) less than  
5 the higher suggested listing price of the parties.  
6

7 23. The current mailing address of Petitioner Sean Abid is: 2203 Alanhurst Drive,  
8 Henderson, NV 89052.  
9

10 24. Co-Petitioner LYUDMYLA ABID does not request restoration of her former  
11 maiden name.

12 25. The Petitioners desire that the Court enter a Decree of Divorce, incorporating into  
13 that Decree the provisions made herein.

14 26. Petitioners understand that entry of the Decree of Divorce constitutes a final  
15 adjudication of the rights and obligations of the parties with respect to the status of the marriage.  
16

17 27. The Petitioners hereby waive their respective rights to written Notice of Entry of  
18 Decree of Divorce, to appeal, to request findings of fact and conclusions of law and their right to  
19 move for a new trial.

20 28. Petitioners understand that a final Decree of Divorce entered by this summary  
21 procedure does not prejudice or prevent the rights of either Petitioner to bring an action to set  
22 aside the final decree for fraud, duress, accident, mistake or the grounds recognized at law or in  
23 equity.  
24  
25  
26  
27  
28

1  
2 29. That as of the filing of this Petition, every condition set forth in NRS 125.181 has  
3 been met.

4  
5 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that  
6 bonds of matrimony now and therefore existing between the Petitioners are hereby wholly  
7 dissolved, set aside and forever held for naught, and an absolute Decree of Divorce is hereby  
8 Granted to the parties, and each of the parties are hereby restored to the status of single,  
9 unmarried person.

10  
11 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that SEAN ABID shall  
12 receive as his separate property the following:

- 13 a.) All personal property currently in his possession;  
14 b.) The vehicle currently in his possession;

15  
16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LYUDMYLA  
17 ABID shall receive as his separate property the following:

- 18 a.) All property currently in her possession.  
19 b.) The marital residence located at 2167 Montana Pine, Henderson, NV  
20 89052. LOT # 150, BLOCK # 6  
21 c.) The vehicle currently in her possession.

22  
23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LYUDMYLA  
24 ABID will refinance the property located at 2167 Montana Pine, Henderson, NV 89052 in her  
25 name only within ten (10) years of the filing of this decree, after the mortgage is refinanced in  
26 LYUDMYLA ABID'S name only, and upon payment of **Forty Two Thousand Dollars and No**  
27  
28

1 Cents (\$42,000.00) from LYUDMYLA ABID to SEAN ABID, SEAN ABID will quick claim  
2 the deed to said property to LYUDMYLA ABID releasing all rights and title to said property.

3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that if LYUDMYLA  
4 ABID is unable to refinance the property located at 2167 Montana Pine, or unable to buyout  
5 Sean Abid's portion of the equity in the house in the amount of **Forty Two Thousand Dollars**  
6 **and No Cents (\$42,000.00)**, then the house will be placed in the open market and sold for a  
7 price to be agreed upon by the parties. After the house is sold the profit will not be divided  
8 equally amongst the parties, but rather Sean Abid will receive only Forty Two Thousand Dollars  
9 and No Cents (\$42,000.00) of the profit, and Lyudmyla Abid will receive the remainder of the  
10 profit. If the parties can not agree on a selling price of the house then the house will be listed in  
11 the open market for Five Thousand Dollars (\$5,000.00) less than the higher suggested listing  
12 price of the parties.

13 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties are fit  
14 and proper persons to be awarded and will share joint legal custody of Aleksandr Anton Abid.

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties are fit  
16 and proper persons to be awarded and will share joint physical custody of Aleksandr Anton Abid  
17 set forth as follows:

18 **FIRST WEEK OF EACH MONTH** Sean Abid will have physical custody of  
19 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
20 at school until Saturday morning at 9:00 A.M.

21 **SECOND WEEK OF EACH MONTH** Sean Abid will have physical custody of  
22 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
23 at school until Sunday night at 8:00 P.M.

1                   **THIRD WEEK OF EACH MONTH** Sean Abid will have physical custody of  
2 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
3 at school until Saturday morning at 9:00 A.M.  
4

5                   **FOURTH WEEK OF EACH MONTH** Sean Abid will have physical custody of  
6 the minor child Aleksandr Anton Abid from Wednesday at 3:20 P.M. when he picks the child up  
7 at school until Sunday night at 8:00 P.M.  
8

9                   **FIFTH WEEK OF EACH MONTH ( \*only four (4) times a year)**  
10 Sean Abid will have physical custody of the minor child Aleksandr Anton Abid from Wednesday  
11 at 3:20 P.M. when he picks the child up at school until Saturday morning at 9:00 A.M.  
12

13                   a.) The person receiving Aleksandr Anton Abid will be responsible for picking  
14 him up.  
15

16                   b.) For holidays and birthdays, the person receiving the child will be responsible  
17 for picking up the child. The parties agree to a holiday and birthday schedule in the  
18 following manner:

19                   Fourth of July will be alternated with the father having the child in 2010 and each  
20 even year thereafter;

21                   Labor Day will be alternated with the Mother having the child in 2010 and each  
22 even year thereafter.

23                   Halloween/Nevada Day will be alternate with the Mother having the child in 2010  
24 and each odd year thereafter.

25                   Veteran's Day will be alternated with the Father having the child in 2010 and  
26 each even year thereafter.  
27  
28

1 Thanksgiving will be alternated with thee the Father having the child in 2010 and  
2 each even year thereafter.

3 Christmas will be alternate with the Mother having the child in 2010 and each  
4 even year thereafter.

5 New Year's Day will be alternated with the Mother having the child in 2011 and  
6 each odd year thereafter.

7 Martin Luther King's Birthday will be alternated with the Father having the child  
8 in 2011 and each odd year thereafter.

9 President's Day will be alternated with the Mother having the child in 2010 and  
10 each even year thereafter.

11 Easter Sunday will be alternated with the Father having the child in 2010 and each  
12 even year thereafter.

13 Memorial Day will be alternated with the Mother having the child in 2010 and  
14 each even year thereafter.

15 The child's birthday will be alternated with the Father having the child in 2010  
16 and each even year thereafter.

17 The Mother shall have the child on Mother's Day and the Father shall have the  
18 child on Father's Day.

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each parent shall  
20 notify the other if they take the child of the State of Nevada for more than 24 hours, for any  
21 reason. Notification shall be made prior to leaving the State and shall include the date leaving the  
22 State , the destination, the date returning to the State, the type of transportation, and, if possible,  
23 a telephone number for contact while the child is out of the State.  
24  
25  
26  
27  
28



1       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each parent shall  
2 keep the other informed of the child caregiver for the child, including name, address and  
3 telephone number.  
4

5       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each parent shall  
6 have the right of first refusal to care for the child when the other parent is not available to care  
7 for the child for a period of twelve (12) hours or more. In other words, if the child is in Mother's  
8 custody and Mother is not available to care for the child for 12 hours or more, the Father shall be  
9 notified and given the right of first refusal to care for the child, before any third party is called in  
10 to care for the child. The Mother has the same right of first refusal when the child is with the  
11 Father and the Father is not available to care for the child for twelve hours or more  
12

13       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that both parents are to  
14 have equal access to all the child's medical records, school records, and any other records  
15 generated for the benefit of or on behalf of the child.  
16

17       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that SEAN ABID will  
18 pay child support to LYUDMYLA ABID in the amount of One Thousand One Hundred Dollars  
19 and No Cents (\$1,100.00) per month beginning March 1, 2010. The child support obligation  
20 shall be paid on or before the 2<sup>nd</sup> day of each month. The amount agreed upon is in compliance  
21 with NRS 125B.070, and meets the child's current financial needs.  
22

23       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the child support  
24 obligation shall continue until the child reaches the age of eighteen years of age.

25       **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the father SEAN  
26 ABID will claim the child as a dependent for tax purposes on the odd years beginning with the  
27  
28

1 tax return for the year 2011. The mother LYUDMYLA ABID will claim the child as a  
2 dependent for tax purposes on the even years.

3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LYUDMYLA  
4 ABID shall maintain health insurance for the child.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that SEAN ABID shall  
6 be responsible for paying for the child's daycare and all expenses associated with the child's  
7 daycare.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** LYUDMYLA ABID  
9 will retain the marital residence located at 2167 Montana Pine, Henderson, NV 89052 (Parcel  
10 No.: 178-32-413-110; Assessor description: Sunridge Summit HGTS, PLAT BOOK 113  
11 PAGE 98, LOT 150 BLOCK 6, SEC 32 TWP 22 RNG 62.) as her sole and separate property.

12 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LYUDMYLA ABID will  
13 refinance the mortgage on the property taking SEAN ABID'S name off the mortgage. Upon  
14 LYUDMYLA ABID refinancing the mortgage in her name only, and upon payment of **Forty**  
15 **Two Thousand Dollars and No Cents (\$42,000.00)** from LYUDMYLA ABID to SEAN ABID,  
16 SEAN ABID will quick claim the deed to said property to LYUDMYLA ABID releasing all  
17 rights and title to said property.

18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that If LYUDMYLA  
19 ABID is unable to refinance the property located at 2167 Montana Pine, or unable to buyout  
20 Sean Abid's portion of the equity in the house in the amount of **Forty Two Thousand Dollars**  
21 **and No Cents (\$42,000.00)**, then the house will be placed in the open market and sold for a  
22 price to be agreed upon by the parties. After the house is sold the profit will not be divided  
23 equally amongst the parties, but rather Sean Abid will receive only **Forty Two Thousand Dollars**

1 and No Cents (\$42,000.00) of the profit, and Lyudmyla Abid will receive the remainder of the  
2 profit. If the parties can not agree on a selling price of the house then the house will be listed in  
3 the open market for Five Thousand Dollars (\$5,000.00) less than the higher suggested listing  
4 price of the parties.  
5

6 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that there is no  
7 spousal support obligation imposed on either of the parties

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that LYUDMYLA  
9 ABID does not request restoration of her former maiden name, and therefore her name will  
10 remain unchanged.  
11

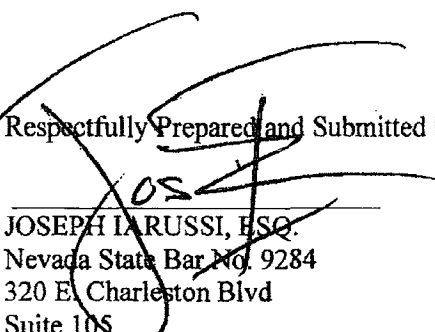
12 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Court hereby  
13 enters a Decree of Divorce restoring the parties hereto to the status of single, unmarried persons.  
14

15 **IT IS SO ORDERED.**

16 DATED this 8<sup>th</sup> day of February, 2010.

17   
18 DISTRICT COURT JUDGE  
19 *m.d.*

20 Respectfully Prepared and Submitted by:

21   
22 JOSEPH IARUSSI, ESQ.  
23 Nevada State Bar No. 9284  
24 320 E. Charleston Blvd  
25 Suite 105  
26 Las Vegas, Nevada 89104  
27 (702) 473-9640  
28 Attorney for Petitioners

1 **NOTC**

2 **BLACK & LOBELLO**

3 John D. Jones

4 Nevada State Bar No. 6699

5 10777 West Twain Avenue, Suite 300

6 Las Vegas, Nevada 89135

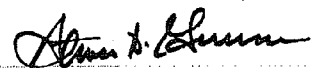
7 (702) 869-8801

8 Fax: (702) 869-2669

9 Email Address: jjones@blacklobellolaw.com

10 Attorneys for Plaintiff,

11 SEAN R. ABID



CLERK OF THE COURT

12 **DISTRICT COURT**  
13 **FAMILY DIVISION**  
14 **CLARK COUNTY, NEVADA**

15 SEAN R. ABID,

16 Plaintiff,

17 vs.

18 LYUDMYLA A. ABID

19 Defendant.

CASE NO.: D424830

DEPT. NO.: N

20 **NOTICE OF ENTRY OF ORDER**  
21 **RE: DECEMBER 9, 2013 EVIDENTIARY HEARING**

22 PLEASE TAKE NOTICE that an Order re: December 9, 2013 Evidentiary Hearing was  
23 entered in the above-entitled matter on the 12<sup>th</sup> day of March, 2014, a copy of which is attached  
24 hereto.

25 DATED this 17<sup>th</sup> day of March, 2014.

26 **BLACK & LOBELLO**

27 John D. Jones

28 Nevada State Bar No. 6699

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

Attorneys for Plaintiff,

SEAN R. ABID

**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

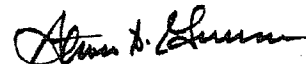
**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of March, 2014 I served a copy of the **NOTICE OF ENTRY OF ORDER RE: DECEMBER 9, 2013 EVIDENTIARY HEARING** upon each of the parties by facsimile and by depositing a true and correct copy of the same in a sealed envelope in the First Class United States Mail, Postage Pre-Paid, addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
***Facsimile: (702) 314-2811***  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO



CLERK OF THE COURT

**ORDR**

BLACK & LOBELLO  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

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

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: N

**ORDER RE: DECEMBER 9, 2013 EVIDENTIARY HEARING**

This matter having come before this Court on the 9<sup>th</sup> day of December, 2013 for an Evidentiary Hearing; Plaintiff, SEAN ABID ("Sean"), present and represented by his attorneys of record, John D. Jones, Esq., of the law firm of Black & LoBello; Defendant, LYUDMYLA ABID ("Lyudmyla"), present and represented by her attorney of record, Michael R. Balabon, Esq., of the Balabon Law Office; the Court having considered the papers and pleadings on file herein, as well as the argument of counsel and the parties at the last hearing, and otherwise finding good cause, finds, orders and rules as follows:

The Court referred Mr. Jones to his Pretrial Memorandum, page 3, and clarified that the "pure best interest Truax standard" did not apply. Court noted the parties agreed to joint physical custody and cited NRS 125.490(1) and Mosley vs. Figliuzzi case. Opening statements WAIVED. Testimony and exhibits presented, see worksheets.

THE COURT ORDERED, John Paglini, Psy.D., report dated October 4, 2013, shall be ADMITTED as the Court's Exhibit 1, pursuant to EDCR 5.13. Discussion regarding Dr.

**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

1 Paglini's testimony regarding Defendant's husband, Ricky Marquez. The Court noted that it is  
2 not concerned with guns, as long as they are kept in a safe. The Court is inclined to refer Mr.  
3 Marquez for a criminal risk assessment with Shera Bradley, Ph.D (at Plaintiff's cost), and  
4 inclined to refer the matter to a Parenting Coordinator. The Court is also inclined to maintain  
5 supervised visitation for a period of 3 years. If Defendant wants the supervised visitation lifted,  
6 Defendant shall pay the cost of the criminal risk assessment. Further, if Plaintiff can prove that  
7 Defendant left the minor child alone with Mr. Marquez, the Court shall modify custody  
8 immediately. Matter TRAILED. Counsel agreed to confer on the issue. Matter RECALLED.

9 The parties reached the following agreement:

10 a. The parties shall maintain their time share of Monday and Tuesday to Defendant  
11 and Wednesday and Thursday to Plaintiff, alternating weekends. The following modification will  
12 apply: Plaintiff shall pick up the minor child after school on his custodial days and shall keep  
13 him until 5:30 PM. The parties shall work with each other on the exchanges and will  
14 communicate in a manner that is positive and reasonable. Further, the parties will be reasonable  
15 and flexible with the exchange times;

16 b. The minor child will attend American Heritage School and the parties shall  
17 equally pay the cost of the tuition;

18 c. Beginning next year, the minor child will attend school in Plaintiff's school zone;

19 d. Defendant shall reimburse Plaintiff one half of Dr. Paglini's cost (approximately  
20 \$12,000 to \$14,000), for his evaluation and testimony time;

21 e. The parties holiday schedule shall remain the same; however, the default return  
22 time shall be 8:00 AM the next day. The parties may agree to a different time, but if no  
23 agreement is reached, the default time shall apply;

24 f. The following schedule shall apply during the summer: in even years, beginning  
25 2014, Plaintiff shall have 6 weeks of summer vacation and Defendant shall have 4 weeks of  
26 summer vacation with the minor child. In odd years, beginning 2015, Defendant shall have 6  
27 weeks of summer vacation and Plaintiff shall have 4 weeks of summer vacation with the minor  
28 child;

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1 g. The parties shall refer to a Parenting Coordinator if difficulties arise in the future.  
2 The parties agreed to use Margaret Pickard;

3 h. All other provisions of the prior Custody and Support Orders shall remain in  
4 effect;

5 i. The temporary Order requiring supervised visitation for Mr. Marquez is lifted;

6 j. There will be no police involvement unless there is a violation of the Orders.

7 Mr. Jones and Mr. Balabon stipulated to EDCR 7.50. COURT ORDERED as follows:

8 1. The above agreement is binding and enforceable pursuant to EDCR 7.50;

9 2. If problems arise in the future, Plaintiff and/or Defendant shall contact  
10 Department N for a Parenting Coordinator Order. The Court shall incorporate Ms. Pickard's  
11 name in the Order. If Ms. Pickard finds that a Coordinator with a Psy.D level is necessary, the  
12 Court suggested Michelle Gravley; and

13 3. Mr. Jones shall prepare the Order and Mr. Balabon shall review and sign off.

14 IT IS SO ORDERED this 11<sup>th</sup> day of March, 2014.

15  
16   
DISTRICT COURT JUDGE sc

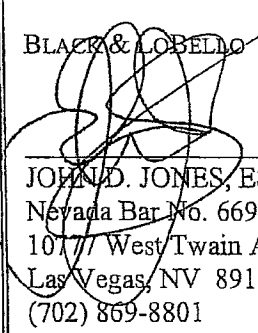
MATHEW HARTER


17  
18 DATED this \_\_\_\_ day of February, 2014

DATED this \_\_\_\_ day of February, 2014

19 ~~BLACK & LOBELLO~~

BALABON LAW OFFICE

20  
21   
22 JOHN D. JONES, ESQ.  
Nevada Bar No. 6699  
23 10777 West Twain Ave., Suite 300  
Las Vegas, NV 89135  
24 (702) 869-8801  
Attorney for Plaintiff,  
25 SEAN R. ABID

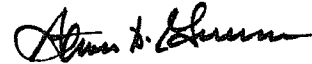
26  
27   
28 MICHAEL BALABON, ESQ.  
Nevada Bar No. 4436  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
(702) 450-3196  
Attorney for Defendant,  
LYUDMILA A. ABID



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Las Vegas, Nevada 89135  
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1 NEOJ  
2 BLACK & LOBELLO  
3 John D. Jones  
4 Nevada State Bar No. 6699  
5 10777 West Twain Avenue, Suite 300  
6 Las Vegas, Nevada 89135  
7 (702) 869-8801  
8 Fax: (702) 869-2669  
9 Email Address: jjones@blacklobellolaw.com  
10 Attorneys for Plaintiff,  
11 SEAN R. ABID

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09/15/2014 11:30:59 AM

  
CLERK OF THE COURT

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

10 SEAN R. ABID,

11 Plaintiff,

12 vs.

13 LYUDMYLA A. ABID

14 Defendant.  
15

CASE NO.: D424830

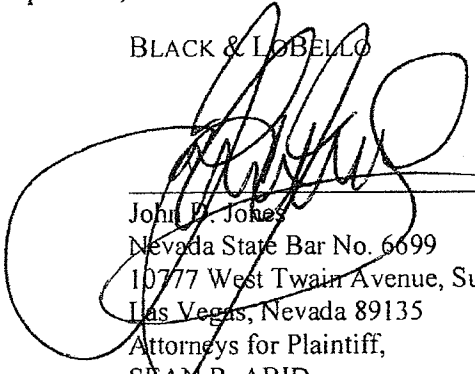
DEPT. NO.: N

16 **NOTICE OF ENTRY OF AMENDED ORDER**  
17 **RE: DECEMBER 9, 2013 EVIDENTIARY HEARING**

18 PLEASE TAKE NOTICE that an Amended Order re: December 9, 2013 Evidentiary  
19 Hearing was entered in the above-entitled matter on the 9<sup>th</sup> day of September, 2014, a copy of  
20 which is attached hereto.

21 DATED this 12 day of September, 2014.

22 BLACK & LOBELLO

23  
24  
25   
26 John D. Jones  
27 Nevada State Bar No. 6699  
28 10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
Attorneys for Plaintiff,  
SEAN R. ABID

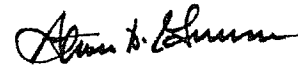
BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF SERVICE

I hereby certify that on the 15<sup>th</sup> day of September, 2014 I served a copy of the NOTICE OF ENTRY OF AMENDED ORDER RE: DECEMBER 9, 2013 EVIDENTIARY HEARING upon each of the parties by electronic service through Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to N.E.F.C.R. 9; and by depositing a true and correct copy of the same in a sealed envelope in the First Class United States Mail, Postage Pre-Paid, addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO

  
CLERK OF THE COURT

1 **ORDR**  
2 **BLACK & LOBELLO**  
3 John D. Jones  
4 Nevada State Bar No. 6699  
5 10777 West Twain Avenue, Suite 300  
6 Las Vegas, Nevada 89135  
7 (702) 869-8801  
8 Fax: (702) 869-2669  
9 Email Address: jjones@blacklobellolaw.com  
10 Attorneys for Plaintiff,  
11 SEAN R. ABID

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

12 SEAN R. ABID,

CASE NO.: D424830

13 Plaintiff,

DEPT. NO.: N

14 vs.

15 LYUDMYLA A. ABID

16 Defendant.

**AMENDED ORDER RE: DECEMBER 9, 2013 EVIDENTIARY HEARING**

17 This matter having come before this Court on the 9<sup>th</sup> day of December, 2013 for an  
18 Evidentiary Hearing; Plaintiff, SEAN ABID ("Sean"), present and represented by his attorneys  
19 of record, John D. Jones, Esq., of the law firm of Black & LoBello; Defendant, LYUDMYLA  
20 ABID ("Lyudmyla"), present and represented by her attorney of record, Michael R. Balabon,  
21 Esq., of the Balabon Law Office; the Court having considered the papers and pleadings on file  
22 herein, as well as the argument of counsel and the parties at the last hearing, and otherwise  
23 finding good cause, finds, orders and rules as follows:

24 The Court referred Mr. Jones to his Pretrial Memorandum, page 3, and clarified that the  
25 "pure best interest Truax standard" did not apply. Court noted the parties agreed to joint physical  
26 custody and cited NRS 125.490(1) and Mosley vs. Figliuzzi case. Opening statements  
27 WAIVED. Testimony and exhibits presented, see worksheets.

28 THE COURT ORDERED, John Paglini, Psy.D., report dated October 4, 2013, shall be  
29 ADMITTED as the Court's Exhibit 1, pursuant to EDCR 5.13. Discussion regarding Dr.

**RECEIVED**

AUG 19 2014

**FAMILY COURT  
DEPARTMENT N**

**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred  
☐ Disposed After Trial Start  
☒ Judgment Reached by Trial  
Trial Dispositions:  
☒ Not Trial/  
☐ Settled/  
☐ Without Judicial Conf/Hrg  
☐ With Judicial Conf/Hrg  
☐ By ADR

1 Paglini's testimony regarding Defendant's husband, Ricky Marquez. The Court noted that it is  
2 not concerned with guns, as long as they are kept in a safe. The Court is inclined to refer Mr.  
3 Marquez for a criminal risk assessment with Shera Bradley, Ph.D (at Plaintiff's cost), and  
4 inclined to refer the matter to a Parenting Coordinator. The Court is also inclined to maintain  
5 supervised visitation for a period of 3 years. If Defendant wants the supervised visitation lifted,  
6 Defendant shall pay the cost of the criminal risk assessment. Further, if Plaintiff can prove that  
7 Defendant left the minor child alone with Mr. Marquez, the Court shall modify custody  
8 immediately. Matter TRAILED. Counsel agreed to confer on the issue. Matter RECALLED.

9 The parties reached the following agreement:

10 a. The parties shall maintain their time share of Monday and Tuesday to Defendant  
11 and Wednesday and Thursday to Plaintiff, alternating weekends. The following modification will  
12 apply: Plaintiff shall pick up the minor child after school on Defendant's custodial days and shall  
13 keep him until 5:30 PM. The parties shall work with each other on the exchanges and will  
14 communicate in a manner that is positive and reasonable. Further, the parties will be reasonable  
15 and flexible with the exchange times;

16 b. The minor child will attend American Heritage School and the parties shall  
17 equally pay the cost of the tuition;

18 c. Beginning next year, the minor child will attend school in Plaintiff's school zone;

19 d. Defendant shall reimburse Plaintiff one half of Dr. Paglini's cost (approximately  
20 \$12,000 to \$14,000), for his evaluation and testimony time;

21 e. The parties holiday schedule shall remain the same; however, the default return  
22 time shall be 8:00 AM the next day. The parties may agree to a different time, but if no  
23 agreement is reached, the default time shall apply;

24 f. The following schedule shall apply during the summer: in even years, beginning  
25 2014, Plaintiff shall have 6 weeks of summer vacation and Defendant shall have 4 weeks of  
26 summer vacation with the minor child. In odd years, beginning 2015, Defendant shall have 6  
27 weeks of summer vacation and Plaintiff shall have 4 weeks of summer vacation with the minor  
28 child;

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Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

g. The parties shall refer to a Parenting Coordinator if difficulties arise in the future.  
The parties agreed to use Margaret Pickard;

h. All other provisions of the prior Custody and Support Orders shall remain in effect;

i. The temporary Order requiring supervised visitation for Mr. Marquez is lifted;

j. There will be no police involvement unless there is a violation of the Orders.

Mr. Jones and Mr. Balabon stipulated to EDCR 7.50. COURT ORDERED as follows:

1. The above agreement is binding and enforceable pursuant to EDCR 7.50;

2. If problems arise in the future, Plaintiff and/or Defendant shall contact Department N for a Parenting Coordinator Order. The Court shall incorporate Ms. Pickard's name in the Order. If Ms. Pickard finds that a Coordinator with a Psy.D level is necessary, the Court suggested Michelle Gravley; and

3. Mr. Jones shall prepare the Order and Mr. Balabon shall review and sign off.

IT IS SO ORDERED this 3 day of September, 2014.

DISTRICT COURT JUDGE  
Mathew Harter

DATED this 18 day of August, 2014

BLACK & LOBELLO

JOHN D. JONES, ESQ.  
Nevada Bar No. 6699  
10777 West Twain Ave., Suite 300  
Las Vegas, NV 89135  
(702) 869-8801  
Attorney for Plaintiff,  
SEAN R. ABID

DATED this 12 day of August, 2014

BALABON LAW OFFICE

MICHAEL BALABON, ESQ.  
Nevada Bar No. 4436  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
(702) 450-3196  
Attorney for Defendant,  
LYUDMILA A. ABID

Approved:

LYUDMILA A. ABID

Parties are put on notice of NRS 125.510(6):

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

Parties are put on notice of NRS 125.510(8):

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

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

(b) Upon motion of one 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 locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

Parties are put on notice of NRS 125C.200:

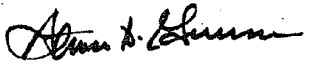
If custody has been established and the custodial parent intends to move his or her residence to a place outside of this State and to take the child with him or her, the custodial parent must, as soon as possible and before the planned move, attempt to obtain the written consent of the noncustodial parent to move the child from this State. If the noncustodial parent refuses to give that consent, the custodial parent shall, before leaving 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.

**NOTICE IS HEREBY GIVEN** that the parties are subject to the provisions of NRS 31A and 125.450 regarding the collection of delinquent child support payments.

**NOTICE IS HEREBY GIVEN** that either party may request a review of child support pursuant to NRS 125B.145.

0125  
MICHAEL R. BALABON, ESQUIRE  
Nevada Bar No. 4436  
5765 So. Rainbow, #109  
(702) 450-3196  
Las Vegas, NV 89118  
Attorney for Defendant

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CLERK OF THE COURT

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

CASE NO. D-10-424830-Z  
DEPT. NO. N B

MOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER  
REGARDING TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT OF  
A PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR CHILD'S  
PASSPORT AND FOR ATTORNEY FEES

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS  
MOTION WITH THE CLERK OF 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 PROVIDE A WRITTEN RESPONSE WITH THE  
CLERK OF 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.

COMES NOW, Defendant, by and through her attorney, MICHAEL  
R. BALABON, ESQ., hereby moves this Court for the following  
relief:

1  
2 1. That the Order entered and filed herein of the 9<sup>th</sup> day of  
3 September, 2014, be modified.

4 2. In the alternative, that this Court appoint a Parenting  
5 Coordinator (PC), Margaret Pickard, to deal with the issue of  
6 timeshare modification as detailed herin.

7 3. That in the event of a PC appointment, that Plaintiff be  
8 ordered to bear 100% of the cost of the PC, as his actions as  
9 described herein have left Defendant no choice but to seek relief  
10 from the Court.

11 4. That Plaintiff be compelled to provide Defendant with the  
12 minor child's passport so as to permit Defendant to make travel  
13 arrangements for her contemplated trip to the Ukraine in the  
14 summer, 2015.

15 5. That Plaintiff be held in contempt of Court for refusing  
16 to provide Defendant with the minor child's Passport thereby  
17 effectively denying Defendant her Court authorized summer trip  
18 to the Ukraine.

19 6. For an award of attorney fees to Defendant.

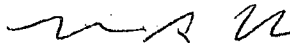
20 7. For such other and further relief as the Court may deem  
21 appropriate.

22 This Motion is based upon all the pleadings and papers on  
23 file herein, the attached Points and Authorities, and oral  
24 argument to be heard at the time of hearing of this cause.

25 DATED this 9 day of January, 2015.



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MICHAEL R. BALABON, ESQUIRE  
5765 So. Rainbow, #109  
Las Vegas, NV 89118  
Attorney for Plaintiff

**NOTICE OF MOTION**

TO: JOHN JONES, ESQ., attorney for Plaintiff, and  
TO: SEAN ABID, Plaintiff:

PLEASE TAKE NOTICE that the Defendant will bring the foregoing Motion on for hearing on February 9, 2015 at or 10:00 a.m. as soon thereafter as the matter can be heard before the Family Court, Department B.

**POINTS AND AUTHORITIES**

I

**STATEMENT OF THE CASE**

1. The parties were divorced by way of Joint Petition which Decree was filed on 02/17/2010. Pursuant to the terms of the stipulated Decree and subsequent Orders, both parties were awarded joint legal and joint physical custody of the minor child, ALEKSANDR ANTON ABID, born 02/13/09 (Sasha). The parties' timeshare pursuant to previous Custody Orders is as follows:

a) With Defendant (Lyuda), on all Mondays and Tuesdays, with the Plaintiff (Sean) on all Wednesdays and Thursdays, and the parties alternate weekends, Friday through Sunday.

b) Sean is allowed to pick up the minor child after school on Lyuda's custodial days and shall keep him until 5:30 p.m.

1  
2 c) The parties shall work with each other on the exchanges  
3 and will communicate in a manner that is positive and reasonable.  
4 Further the parties will be reasonable and flexible with the  
5 exchange times.

6 2. The latest custody Order was entered and filed herein on  
7 the 9<sup>th</sup> day of September, 2014. This Order modified an existing  
8 Order that was entered on the 12<sup>th</sup> day of March, 2014.

9 3. The Order filed on 03/12/14 had to be modified because  
10 it contained a clerical error in that it provided that Sean was  
11 entitled to pick up the minor child on his days after school.  
12 Rather, it should have provided that Sean was allowed to pick up  
13 the child after school until 5:30 p.m. on Lyuda's days.

14 4. By way of background, the Order filed on 09/09/14 was the  
15 result of a stipulation reached by the parties at a hearing held  
16 on December 7, 2013.

17 5. The parties reached and agreement that was placed on the  
18 record in open Court. Prior to entry of that Stipulation, the  
19 parties met together outside of Court and negotiated for an  
20 extended period of time in the absence of counsel.

21 6. Of particular relevance to the instant proceeding is that  
22 portion of the Stipulated Order that provided that Sean would be  
23 allowed to pick up the minor child after school on Lyuda's days  
24 and keep the child until 5:30 p.m.. These days would include  
25 Mondays, Tuesdays, and every other Friday. The only reason Lyuda  
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1  
2 agreed to this provision was because at the time she worked until  
3 5:00 p.m. and Sean had requested that he be allowed to pick up  
4 the child after school in lieu of after school care. As  
5 indicated, the parties further agreed to henceforth "work with  
6 each other on exchanges and communicate with each other in a  
7 manner that is positive and reasonable. Further, the parties will  
8 be reasonable and flexible with exchange times".

9  
10 7. Subsequent to the December, 2013 hearing the parties got  
11 along reasonably well. In the spirit of good faith and  
12 cooperation, there were many instances when Lyuda would get off  
13 work early, she would text Sean, and Sean would allow her to pick  
14 up the child before 5:30. This certainly made sense because the  
15 only reason Sean was given the time after school on Lyuda's days  
16 was the fact that she was at work. There were other instances  
17 when Lyuda would allow Sean extra time with the child, on her  
18 time, and on many occasions Sean reciprocated.

19 8. In an e-mail dated 07/07/14, Sean's counsel contacted  
20 Lyuda's counsel and requested that the Order filed on 03/12/14  
21 be modified because it contained the error as indicated above.  
22 In response, in an e-mail to Sean's counsel dated 08/04/14, Lyuda  
23 advised that her work schedule had changed, that she was now off  
24 every day at 3:30 and there was no longer a need for Sean to pick  
25 up the child after school on Lyuda's days. Lyuda requested in  
26 good faith that the new Order contain a stipulation to delete  
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2 that portion of the Order that allowed Sean to pick up the child  
3 on Lyuda's days based upon her schedule change.

4 9. In response, Sean asserted that the Order had to be  
5 drafted in strict accordance with the terms of the stipulation  
6 that was placed on the record. Notably, through counsel, Sean  
7 conceded in e-mail correspondences dated 08/11/14 and 08/14/14  
8 that if in fact Lyuda's schedule had changed, that there would  
9 no longer be a need for Sean to pick up the child after school  
10 and keep him until 5:30. But the Order had to be submitted based  
11 upon the agreement that was placed on the record.

12  
13 10. Lyuda contemplated filing for relief in August, 2014 to  
14 modify the Order. However, the parties communicated via phone and  
15 Sean made a promise to Lyuda that he would always release Sasha  
16 to Lyuda early on her days when she got off work and there was  
17 no need to modify the Order.

18 11. Sean continued to allow Lyuda to pick up the child when  
19 she got off work, before 5:30. Therefore, as Sean was in fact  
20 complying with the that portion of the Order that required both  
21 parties to work with each other on exchanges and communicate with  
22 each other in a manner that is positive and reasonable, Lyuda  
23 felt no need to file to modify the Order.

24 12. This all changed in November, 2014. For whatever reason,  
25 Sean again became belligerent and uncooperative towards Lyuda.  
26 He commenced again calling Lyuda names and making threats that  
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1  
2 he was going to get full primary physical custody. That he had  
3 found out things about Ricky, Lyuda's Husband, and he started  
4 calling Ricky's parole officer in a renewed campaign of  
5 harassment. He also indicated that he had the absolute right to  
6 keep the child on Lyuda's days until 5:30 and that it did not  
7 matter that Lyuda was off work and available to pick up the  
8 child. On several occasions, Lyuda would show up at Sean's home  
9 at 3:15 and Sean would deny her custody and tell her to return  
10 at 5:30. This position was now being echoed by Sean's counsel.  
11 That the Order was not conditional on whether Lyuda was available  
12 to pick up the child, and represented a 100% change from their  
13 earlier position on this issue. As an apparent defense, it was  
14 alleged that the child's school performance was improving because  
15 Sean was allegedly working with the child. (The child is in  
16 kindergarten).  
17

18 13. Since refusing to allow Lyuda to pick up the child after  
19 school on her days, Sean has commenced removing the child's daily  
20 correspondences and other assignments from the child's backpack.  
21 Lyuda is now effectively precluded from participating in the  
22 child's education as Sean has custody on Wednesdays and Thursdays  
23 and every other Friday.

24 14. Lyuda is also precluded from enrolling the child in  
25 after school extra-curricular activities. Lyuda has wanted to  
26 enroll Sasha in Jiu Jitsu classes after school. Sean has advised  
27  
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2 he absolutely will not cooperate and if she wants to enroll the  
3 child in any activity she can do so only on her time. With a  
4 later pick up at 5:30 there simply is not enough time.

5 15. Pursuant to the terms of the Order filed on 12/03/12,  
6 Lyuda is allowed to take the minor child to the Ukraine to visit  
7 her family during the summer vacation period. That Order was  
8 modified in the Order from the December, 2013 hearing in that the  
9 parties agreed to a modified summer schedule. Notably, there was  
10 no restriction placed in the latest Stipulation and Order that  
11 prevented Lyuda taking her summer vacation in the Ukraine.  
12

13 16. On or about October, 2014, Lyuda asked Sean for the  
14 minor child's Passport so she could purchase flight tickets in  
15 advance to realize a substantial cost savings. In a confrontation  
16 at Sean's residence in October, 2014, Sean commenced calling  
17 Lyuda names and angrily stated that he would never give Lyuda the  
18 Passport.  
19

20 17. This coincided with Sean taking the irrational, bad  
21 faith stance that Lyuda had to wait until 5:30 to pick up the  
22 child.

23 18. Lyuda retained counsel and e-mails were sent to Sean's  
24 counsel requesting the production of the passport and a  
25 modification of the time share to eliminate Sean's right to pick  
26 up Sasha on Lyuda's days. The first e-mail was sent on 11/19/14.  
27 In a responsive e-mail dated 11/21/14, the timeshare modification  
28

1  
2 request was denied and a request was made by Sean for more  
3 specifics about the Lyuda's contemplated summer vacation to the  
4 Ukraine. That responsive e-mail contained the first purported  
5 excuse for Sean to deny the trip, that Lyuda had to be present  
6 at all times with the child because Sasha "is too young to be  
7 anywhere for any period of time without one of his parents  
8 present". Notwithstanding the fact that Sean had left Sasha in  
9 the care of his Wife's relatives in Iowa for one (1) full week  
10 in a previous vacation taken by Sean to Iowa, an e-mail was sent  
11 dated 12/11/14 providing all details of the proposed trip and  
12 assurances were given that Lyuda would be with the child at all  
13 times during the vacation.  
14

15 19. Sean responded through counsel in an e-mail dated  
16 12/22/14. Sean advised he would not produce the passport, citing  
17 a State Department travel advisory that warned against travel to  
18 Eastern Ukraine. Sean also made his very first demand that Lyuda  
19 be required to post a substantial bond because it was alleged  
20 that based upon Ricky's past, that he represented a flight risk.  
21 It was further alleged that the Passport would not be turned over  
22 unless and until the Court ruled in Lyuda's favor and all  
23 appellate relief is exhausted.  
24

25 20. The travel advisory is specific to two provinces in far  
26 Eastern Ukraine. Ukraine is a very large country. As Sean is  
27 aware, Lyuda's family resides in far Western Ukraine, more than  
28

1  
2 700 miles from the "war zone". There are no travel restrictions  
3 or warnings for Western Ukraine and there have been no  
4 hostilities in Western Ukraine. Lyuda's daughter from a previous  
5 marriage has traveled to the Ukraine every summer to visit family  
6 with absolutely no problems.

7 21. Sean's refusal to provide the passport, his demand that  
8 Lyuda post a bond, and his unreasonable refusal to modify the  
9 timeshare represents a return by Sean of his extreme hostility  
10 and anger towards Lyuda that the Order from the December, 2013  
11 hearing was designed to address. Sean freely admitted his "anger"  
12 issues towards Lyuda and her Husband Ricky in an e-mail to Lyuda  
13 dated 06/19/14 wherein Sean freely admits his anger and for  
14 "crossing the line". In that e-mail exchange Sean rightfully  
15 points out that a return to hostilities that preceded the  
16 December, 2013 hearing was not in Sasha's best interest.

17 22. But Sean runs hot and cold. He simply cannot control his  
18 anger towards Lyuda and her Husband Ricky. Sean feels that he is  
19 the superior parent and he desires total control over Sasha. His  
20 return to name calling and making threats at recent custody  
21 exchanges is further evidence of Sean's bad faith and refusal to  
22 co-parent in a productive and healthy manner that is clearly in  
23 the best interest of the child.  
24  
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26 2. THE SHOULD TIMESHARE SHOULD BE MODIFIED  
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1  
2 NRS 125.510 provides in relevant part:

3 1. In determining custody of a minor child in an action  
4 brought under this chapter, the court may:

5 (a) During the pendency of the action, at the final hearing  
6 or at any time thereafter during the minority of any of the  
7 children of the marriage, make such an order for the custody,  
8 care, education, maintenance and support of the minor children  
9 as appears in their best interest; and

10 (b) At any time modify or vacate its order, even if the  
11 divorce was obtained by default without an appearance in the  
12 action by one of the parties. The party seeking such an order  
13 shall submit to the jurisdiction of the court for the purposes  
14 of this subsection. The court may make such an order upon the  
15 application of one of the parties or the legal guardian of the  
16 minor.

17 2. Any order for joint custody may be modified or terminated  
18 by the court upon the petition of one or both parents or on the  
19 court's own motion if it is shown that the best interest of the  
20 child requires modification or termination. The court shall state  
21 in its decision the reasons for the order of modification or  
22 termination if either parent opposes it.

23 In the instant case, the parties have been awarded joint  
24 legal and joint physical custody. In Rivero vs. Rivero, 125 Nev.  
25 410, 216 P.3rd 213 (2009), the Nevada Supreme Court defined the  
26 standard of review for custody modification requests when the  
27 parents have joint physical custody, as follows:

28 "That when considering whether to modify a physical custody  
arrangement the district court must first determine what type of  
custody arrangement exists.....A modification to a joint  
physical custody arrangement is appropriate if it in the child's  
best interest. Citing 125.510(2).

Lyuda's request to modify the existing timeshare to  
eliminate Sean's time after school on her days is in the child's  
best interest for a number of reasons.

1  
2 First, Sean, in bad faith and out of his continuing desire  
3 to control everything regarding the minor child, has excluded  
4 Lyuda from participation in the minor child's schooling. Sean has  
5 commenced removing all of the child's papers from his backpack,  
6 including daily assignments and teacher notices. Lyuda had to go  
7 to the school and meet with Sasha's teacher and request that two  
8 separate mailings go out to each parent because Sean was taking  
9 everything. Although helpful, Lyuda still misses many notices and  
10 other information that is not typically mailed out. This  
11 precludes Lyuda from any meaningful participation in the minor  
12 child's schooling as Sean has access to the backpack contents  
13 each and every school day.  
14

15 The Nevada Supreme Court, in Mosley vs. Mosley, 113 Nev. 51,  
16 930 P.2d 1110 (1997) set forth the public policy of the State of  
17 Nevada in child custody matters, as follows:

18 "NRS 125.460 dictates the public policy of this state in  
19 child custody matters. The policy is that the best interests of  
20 children are served by "frequent associations and a continuing  
21 relationship with both parents" and by a sharing of parental  
22 rights and responsibilities of child rearing".

23 In this case, Sean feels he is the better parent and that  
24 only he can assist the minor child with his schooling. In fact,  
25 that is one of Sean's primary arguments in denying Lyuda's  
26 request to eliminate Sean's timeshare on her days. That with the  
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2 timeshare change that somehow the child's performance in  
3 Kindergarten has improved. Implied in that position is the belief  
4 that Lyuda is not as capable as Sean in assisting Sasha with  
5 Kindegarden level schoolwork. This is ludicrous. The importance  
6 to Lyuda of this time after school cannot be understated. Lyuda  
7 actively lobbied her employer for the schedule change for the  
8 sole reason that she would be able to spend this quality time  
9 after school with Sasha. She certainly did not anticipate that  
10 Sean would then insist on the 5:30 exchange time. Lyuda is a  
11 competent and involved parent and wants the same opportunity to  
12 participate in the minor child's schooling as Sean. And that  
13 desire for equal participation is consistent with the policy of  
14 the State of Nevada as indicated in the Mosely decision, that the  
15 best interests of the child are served by a "sharing of parental  
16 rights and responsibilities of child rearing".

17  
18 Second, the elimination of Sean's timeshare after school on  
19 Lyuda's days reduces the number of child exchanges between the  
20 parties, which reduces the chances of the reoccurrence of the  
21 name calling and parental conflict that has existed in previous  
22 custody exchanges between the parties. The minor child has been  
23 witness to this hostility towards his mother on Sean's part, and  
24 it is not in the child's best interest to be witness to such  
25 events.

26 Given Sean's continued, admitted hostility towards Lyuda  
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1  
2 and her Husband Ricky; and his feeling of superiority, these  
3 conflicts are bound to continue and steps should be taken to  
4 minimize such confrontations. To substantially reduce the number  
5 of child exchanges between the parties, would go a long way to  
6 accomplishing that goal.

7 Third, Lyuda's work schedule constitutes a material change  
8 in circumstance and this change completely eliminates the need  
9 for Sean to watch the minor child after school on Lyuda's days.  
10 In good faith and consistent with the spirit of negotiated  
11 settlement from the December, 2013 hearing, Lyuda agreed to  
12 allow Sean to pickup the child after school on her days because  
13 she was working until 5:00. The work schedule issue was the *only*  
14 reason why the parties agreed to this modification. And Lyuda's  
15 agreement to the modification at the time was absolutely  
16 consistent with the overall intent of the agreement that the  
17 parties would be flexible and reasonable with each other in  
18 child custody exchanges and times. This intent was plainly  
19 indicated by Sean's counsel in open Court at the December, 2013,  
20 prove-up hearing.  
21

22 In this matter, Sean, by now insisting upon strict  
23 compliance with a 5:30 exchange time when Lyuda is at the door  
24 requesting to pick up the child on her days at 3:15 p.m., is  
25 absolutely inconsistent with and violates those provisions of  
26 the Order that mandate that the parties will be reasonable and  
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1  
2 flexible with exact dates and times for custody exchanges. In  
3 fact, this position is the exact opposite of being reasonable  
4 and flexible.

5 Fourth, this timeshare is very restrictive for Lyuda and  
6 she is not on equal footing with Sean in the sharing of  
7 "parental rights and responsibilities of child rearing" that  
8 she is entitled to by virtue of having joint legal and joint  
9 physical custody. Lyuda is not only precluded from equal  
10 participation in the minor child's education, but the existing  
11 timeshare effectively prevents/restricts Lyuda from enrolling  
12 the child in after school activities, like Jiu Jitsu, that she  
13 would be free to pursue with a return to the custody schedule  
14 that the parties had for the previous 4 years prior to the  
15 December, 2013 hearing. Sean has made it clear to Lyuda on more  
16 than one (1) occasion that he will not accommodate any extra-  
17 curricular activity that Lyuda chooses for the child, and Lyuda  
18 must schedule events "on her time". A return to the timeshare  
19 previously enjoyed by the parties for almost 4 years will allow  
20 Lyuda to pursue these activities for Sasha.

22 In summary, the timeshare request by Lyuda will have the  
23 effect of restoring the parties to equal footing so that each  
24 party can share equally in parental rights and the  
25 responsibilities of child rearing.

26 The restoration of an equal timeshare between the parties  
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2 takes on even greater significance where you have one parent  
3 (Sean) who feels he is the superior parent and he actively seeks  
4 to limit and/or completely eliminate Lyuda's involvement in the  
5 minor child's life and education.

6 For these reasons, the best interests of Sasha mandate that  
7 this Court restore the timeshare that pre-dated the last custody  
8 Order and eliminate Sean's timeshare on Lyuda's custodial days.  
9

10  
11 3. SEAN SHOULD BE HELD IN CONTEMPT OF COURT FOR REFUSING TO  
12 TURN OVER SASHA'S PASSPORT; SEAN SHOULD ORDERED TO TURN OVER  
13 PASSPORT

14 This Court has the authority to hold Sean in contempt for  
15 his failure to abide by the terms of the Order filed herein on  
16 12/03/12 pursuant to NRS 22.010, which provides in pertinent  
17 part as follows:

18 The following acts or omissions shall be deemed as  
19 contempt:

20 3. Disobedience or resistance to any lawful writ, order or  
21 judge at chambers.....

22 Sean has, through counsel indicated a steadfast refusal to  
23 turn over Sasha's passport knowing that the refusal to provide  
24 the passport will have the direct effect of denying Lyuda her  
25 Court authorized trip to the Ukraine. This constitutes Contempt  
26 of Court.

27 Sean's alleged reasons for the denial are without merit.  
28

1  
2 First, as stated, the travel restrictions cited by Sean only  
3 deal with two (2) far eastern regions of the Ukraine, more than  
4 700 miles from where Lyuda will be staying.

5 And to demand a bond because Lyuda's Husband Ricky  
6 represents a flight risk is ludicrous. Lyuda is an American  
7 citizen and she has no right to permanently reside in the  
8 Ukraine or any other country for that matter. Lyuda has  
9 maintained gainful employment with Freeman Decorating Co. in Las  
10 Vegas for more than eight (8) years, and she has a beautiful  
11 home here in Las Vegas. She has absolutely no incentive to flee  
12 the Country with Sasha and she has no past history of fleeing  
13 the Country with Sasha or of violating any of the previous  
14 custody orders that have been filed in this case. There is  
15 absolutely no factual basis in this case to justify the  
16 imposition of a bond.  
17

18 In summary, Sean's various excuses for his refusal to turn  
19 over the passport are without merit. His refusal constitutes  
20 Contempt of Court for which Sean should be liable for contempt  
21 sanctions, including an award of attorney fees. And Sean should  
22 be ordered to turn over the passport without further delay.

23 5. APPOINTMENT OF PARENTING COORDINATOR

24 The written Order from the December, 2013 hearing provided  
25 that in the event of problems in the future that either party  
26 may contact the Department for the appointment of Parenting  
27  
28

1  
2 Coordinator.

3 In the present circumstances, Lyuda feels that the  
4 appointment of a PC is unnecessary to deal with the custody  
5 modification request, and that the PC should not be dealing with  
6 contempt issues. PCs are expensive and the issues to be resolved  
7 are relatively straightforward. Accordingly, Lyuda is content to  
8 let the Court decide these issues.

9  
10 Should the Court disagree and elect to appoint a PC to deal  
11 with the issues, Lyuda requests that Sean be ordered to bear the  
12 cost thereof as it has been Sean's unreasonable, bad faith  
13 actions as described herein that have forced Lyuda to seek  
14 relief from the Court.

15 5. LYUDA IS ENTITLED TO AN AWARD OF ATTORNEY FEES

16 Prior to the filing of the instant Motion, and in compliance  
17 with EDCR 5.11, Lyuda made several attempts to contact Sean  
18 (through counsel) in an effort to resolve the issues in dispute.

19 Despite these attempts, Sean has refused to provide the  
20 passport and has refused to modify the timeshare which  
21 modification would serve the child's best interests.

22 Lyuda therefore seeks recovery of her attorney fees and  
23 costs she has incurred in this action by virtue of the Sean's  
24 unreasonable refusal to negotiate these issues in good faith  
25 thereby necessitating the filing of the instant motion, pursuant  
26 to the applicable provisions of EDCR 5.11 et. seq. and NRS  
27




1  
2 18.010(2), prevailing party.

3 III

4 CONCLUSION

5 Based upon the foregoing facts, Memorandum of Law and Legal  
6 Argument, Lyuda respectfully requests that she be granted the  
7 relief requested herein, and for such other and further relief  
8 as the Court may deem just and equitable.

9 DATED this 9 day of January, 2015.

10  
11   
12 MICHAEL R. BALABON, ESQ.  
13 5765 So. Rainbow, #109  
14 Las Vegas, NV 89118  
15 Attorney for Plaintiff

16 AFFIDAVIT OF LYUDMYLA A. ABID IN SUPPORT OF MOTION

17 STATE OF NEVADA )  
18 ) SS  
19 COUNTY OF CLARK )

20 LYUDMYLA A. ABID, being first duly sworn, deposes and says:

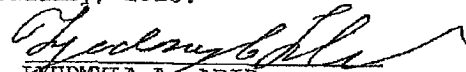
21 1. That I am the Defendant in the above-entitled action  
22 and I am competent to testify as to the matters set forth herein  
23 based on my own knowledge except to those matters stated upon  
24 information and belief and as to those matters I believe them to  
25 be true.

26 2. I have read the contents of the foregoing Motion and I  
27 do hereby affirm and certify under penalty of perjury that all  
28 the allegations contained herein in are true and correct to the  
best of my knowledge and they are, therefore, incorporated  
herein in this Affidavit as if fully set forth herein.

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I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING  
STATEMENT IS TRUE AND CORRECT

DATED this 8 day of January, 2015.

  
LUDMYLA A. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Sean R. Abid

Plaintiff/Petitioner

-vs-

Ludmyla A. Abid

Defendant/Respondent

CASE NO. D-10-424830-Z

DEPT. B

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

Party Filing Motion/Opposition:

☐ Plaintiff/Petitioner

☒ Defendant/Respondent

MOTION FOR/OPPOSITION TO \_\_\_\_\_

Notice

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

Excluded Motions/Oppositions

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

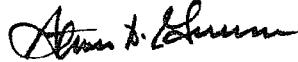
NOTE: If no boxes are checked, filing fee **MUST** be paid.

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

Date: 1-9-15, 2015

Michael Balaban  
Printed Name of Preparer

[Signature]  
Signature of Preparer

  
CLERK OF THE COURT

OPPC  
BLACK & LOBELLO  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,  
  
Plaintiff,

CASE NO.: D424830  
DEPT. NO.: B

vs.

Date of Hearing: February 9, 2015  
Time of Hearing: 10:00 a.m.

LYUDMYLA A. ABID  
  
Defendant.

NOTICE: 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.

OPPOSITION OF PLAINTIFF, SEAN R. ABID, TO DEFENDANT'S MOTION TO  
HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER REGARDING  
TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT OF A  
PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR CHILD'S  
PASSPORT AND FOR ATTORNEY FEES  
AND  
COUNTERMOTION TO CHANGE CUSTODY AND FOR ATTORNEYS' FEES AND  
COSTS

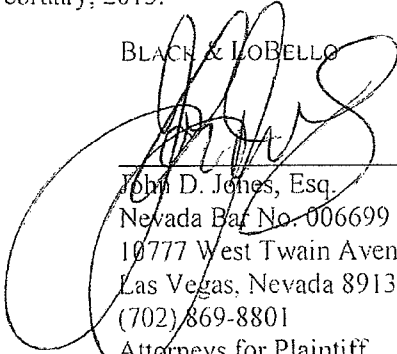
COMES NOW, Plaintiff, SEAN R. ABID ("Sean"), by and through his attorneys of record, John D. Jones and the law firm of BLACK & LOBELLO, and hereby files his OPPOSITION OF PLAINTIFF, SEAN R. ABID, TO DEFENDANT'S TO DEFENDANT'S

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

1 MOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER  
2 REGARDING TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT OF A  
3 PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR CHILD'S  
4 PASSPORT AND FOR ATTORNEY FEES as well as his COUNTERMOTION FOR  
5 ATTORNEYS' FEES AND COSTS.

6 DATED this 4 day of February, 2015.

7 BLACK & LOBELLO

8   
9 John D. Jones, Esq.  
10 Nevada Bar No. 006699  
11 10777 West Twain Avenue, Suite 300  
12 Las Vegas, Nevada 89135  
13 (702) 869-8801  
14 Attorneys for Plaintiff,  
15 SEAN R. ABID

16 NOTICE OF COUNTERMOTION

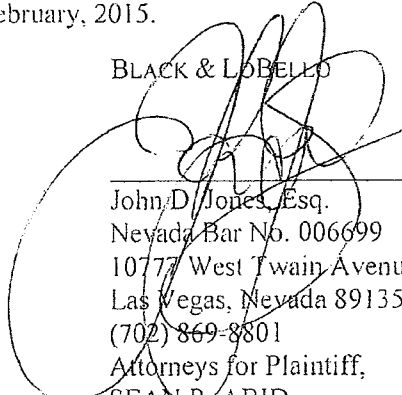
17 TO: LYUDMYLA A. ABID, Defendant, and

18 TO: MICHAEL R. BALABON, ESQ., Counsel for Defendant:

19 YOU WILL PLEASE TAKE NOTICE that the undersigned will bring the above and  
20 foregoing COUNTERMOTION FOR ATTORNEYS' FEES AND COSTS, on for hearing before  
21 the above-entitled Court on the 9<sup>th</sup> day of February, 2015, at 10:00 a.m. of said day, or as soon  
22 thereafter as counsel can be heard in Department B.

23 DATED this 4 day of February, 2015.

24 BLACK & LOBELLO

25   
26 John D. Jones, Esq.  
27 Nevada Bar No. 006699  
28 10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Attorneys for Plaintiff,  
SEAN R. ABID

## I. INTRODUCTION

The Motion currently before the Court is the ultimate example of bad faith on the part of a litigant and parent. As set forth hereinafter, and in the Declarations of Sean Abid, Lyuda's bad faith Motion practice is the least of her transgressions. Each and every position taken by Lyuda is specifically addressed in the DECLARATION OF SEAN ABID IN SUPPORT OF RESPONSE TO DEFENDANT'S MOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER REGARDING TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT OF A PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR CHILD'S PASSPORT AND FOR ATTORNEY FEES (attached hereto as **Exhibit "1"**). This declaration is incorporated herein by reference as if fully set forth herein.

With regard to the Motion, Sean's attorney tried to resolve it prior to the Motion being filed. (see email attached as **Exhibit "2"**) The simple facts, which Lyuda ignores, is that a month long visit to the Ukraine is not in Sasha's best interest and creates a significant risk to Sasha and his relationship with his father. The bigger issue is the absolutely baseless request to vacate an order that was negotiated in order to resolve Sean's first Change of Custody Motion on the day of trial. Sean having Sasha each day after school until 5:30 p.m. was a material part of the resolution. It was not dependent upon Lyuda's work schedule. Settlement, however, was dependent upon that additional time being awarded to Sean. Even more baseless still is the request for contempt. The request is without a qualifying affidavit or even a citation to an order that was allegedly violated. This request is made in bad faith and is worthy of sanctions.

The Court's real focus should be on what Sean has recently discovered. Based upon things that Sasha has said to Sean, Sean has always been concerned about Lyuda and her husband bad-mouthing Sean to Sasha. These concerns were also recorded by Dr. Paglini in his report which resulted from this Court's outsource evaluation order. The report specifically stated that Lyuda's inappropriate comments about Sean to Sasha "NEEDS TO STOP." (Paglini Report p. 57) Clearly such alienation is not in the best interests of Sasha. In order to protect the best interests of his son, Sean placed a recording device in Sasha's book bag to confirm or eliminate his fear of the abuse that Sasha may be suffering at the hands of his mother.

As set forth in the DECLARATION OF SEAN ABID IN SUPPORT OF HIS COUNTERMOTION TO CHANGE CUSTODY, (attached as Exhibit "3") what was learned from just a few days of recording is absolutely shocking. Despite being told by Dr. Paglini that her badmouthing of Sasha is contrary to his best interests, Lyuda has continued her campaign to destroy Sean's relationship with Sasha. Her abuse of a 5 year old boy is absolutely diabolical. The recordings will be made available to the Court at the time of the evidentiary hearing in this matter.

Sean, who has always tried to avoid conflict and litigation, has no choice but to seek Primary Custody in order to protect his son and preserve his bonded relationship with him that Lyuda seeks to destroy.

## II. LEGAL ANALYSIS

### A. The Recordings In Question Are Absolutely Legal.

It is likely, that rather than recognize the horrific nature of her manipulations and alienations, that Lyuda will argue that the recordings should not be considered by the Court. Whereas the recordings would certainly be considered by a custody evaluator, fortunately, the current status of the law is that this Court can consider the recordings directly. NRS 200.650 states as follows:

**200.650. Unauthorized, surreptitious intrusion of privacy by listening device prohibited**

Except as otherwise provided in NRS 179.410 to 179.515, inclusive, and 704.195, a person shall not intrude upon the privacy of other persons by surreptitiously listening to, monitoring or recording, or attempting to listen to, monitor or record, by means of any mechanical, electronic or other listening device, any private conversation engaged in by the other persons, or disclose the existence, content, substance, purport, effect or meaning of any conversation so listened to, monitored or recorded, unless authorized to do so by one of the persons engaging in the conversation.

The key aspect of the statute is that of consent. Case law recognizes the ability of a parent to consent to recording on behalf of a child. In Pollock v. Pollock, the 6<sup>th</sup> Circuit Court of Appeals address the issue of "vicarious consent" by summarizing the status of the law as follows:

Conversations intercepted with the consent of either of the parties are explicitly exempted from Title III liability. The question of whether a parent can "vicariously consent" to the recording of her minor child's phone calls, however, is a question of first impression in all of the federal circuits. Indeed, while other circuits have addressed cases raising similar issues, these have all been decided on different grounds, as will be discussed below. The only federal courts to directly

address the concept of vicarious consent thus far have been a district court in Utah, Thompson v. Dulaney, 838 F.Supp. 1535 (D.Utah 1993), a district court in Arkansas, Campbell v. Price, 2 F.Supp.2d 1186 (E.D.Ark.1998), and the district court in this case, Pollock v. Pollock, 975 F.Supp. 974 (W.D.Ky.1997).

....

The district court in the instant case held that Sandra's "vicarious consent" to the taping of Courtney's phone calls qualified for the consent exemption under § 2511(2)(d). Accordingly, the court held that Sandra did not violate Title III. The court based this decision on the reasoning found in Thompson v. Dulaney, 838 F.Supp. 1535 (D.Utah 1993), and Silas v. Silas, 680 So.2d 368 (Ala.Civ.App.1996).

The district court in Thompson was the first court to address the authority of a parent to vicariously consent to the taping of phone conversations on behalf of minor children. In Thompson, a mother, who had custody of her three and five-year-old children, recorded conversations between the children and their father (her ex-husband) from a telephone in her home. 838 F.Supp. at 1537. The court held:

[A]s long as the guardian has a *good faith basis* that it is *objectively reasonable* for believing that it is *necessary* to consent on behalf of her minor children to the taping of phone conversations, vicarious consent will be permissible in order for the guardian to fulfill her statutory mandate to act in the best interests of the children.

Id. at 1544 (emphasis added). The court noted that, while it was not announcing a *per se* rule approving of vicarious consent in all circumstances, "the holding of [Thompson] is clearly driven by the fact that this case involves two minor children whose relationship with their mother/guardian was allegedly being undermined by their father." Id. at 1544 n. 8.

An obvious distinction between this case and Thompson, however, is the age of the children for whom the parents vicariously consented. In Thompson, the children were three and five years old, and the court noted that a factor in its decision was that the children were minors who "lack[ed] both the capacity to [legally] consent and the ability to give actual consent." Id. at 1543. The district court in the instant case, in which Courtney was fourteen years old at the time of the recording, addressed this point in a footnote, stating:

Notwithstanding this distinction [as to the age of the children], Thompson is helpful to our determination here, and we are not inclined to view Courtney's own ability to actually consent as mutually exclusive with her mother's ability to vicariously consent on her behalf.

Clearly, the current status of the law is to accept and admit recordings of this nature. The only question the Court should have is just what abuse and manipulation occurs beyond the parameters of Sean's recorder.

**B. The Best Interests Of Sasha Require A Change Of Custody.**

Because the current custodial order is one of joint custody, the Truax best interests



standard applies to the instant Motion.

**NRS 125.480 States as follows:**

**NRS 125.480 Best interests of child; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child.**

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her custody.

(b) Any nomination by a parent or a guardian for the child.

(c) Which parent is more likely to allow the child to have frequent associations and a 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.

(l) Whether either parent or any other person seeking custody has committed any act of abduction against the child or any other child.  
(emphasis added)

The highlighted considerations above make clear what the Court must do in this case. Lyuda is not well, and is clearly incapable of sharing joint custody. Her desire is to destroy Sean's relationship with his son. It always has been, as noted by Dr. Paglini, and apparently, it always will be. The physical and developmental needs of the children can only be protected by the relief requested herein. Pursuant to NRS 125.480, it is in the children's best interests for Sean to be awarded Primary Physical Custody.

**III. ATTORNEY FEES**

There are multiple authorities for this Court to award attorneys' fees. Pursuant to NRS 18.010:

1. The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law.
2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:
  - a. When he has not recovered more than \$20,000; or

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

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

4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or agreement which entitles the prevailing party to an award of reasonable attorney's fees.

NRS 18.010(2)(b) provides that the court may award attorneys' fees to the prevailing party in such circumstances. Pursuant to NRS 18.010, this Court should liberally construe the provisions of this statute "in favor of awarding attorney's fees in all appropriate situations." Lyuda's Motion is completely frivolous. Moreover, her bad faith throughout these proceedings require that Sean be awarded his attorney fees, now, and once the evidentiary hearing in this matter is concluded.

#### IV. CONCLUSION

Based upon the foregoing, and the Declarations of Sean, filed separately and attached hereto, the Court should enter the following orders:

1. Denying Lyuda's Motion.

2. Awarding Sean temporary primary physical custody subject to Lyuda having visitation every other weekend.

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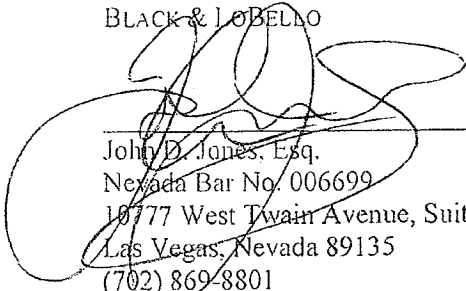
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10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

3. Requiring that Lyuda attend intensive therapy regarding her alienation issues.
4. Awarding Sean his attorney fees.
5. Any other relief that this Court deems just and proper.

DATED this 4 day of February, 2015.

BLACK & LOBELLO

  
John D. Jones, Esq.  
Nevada Bar No. 006699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Attorneys for Plaintiff,  
SEAN R. ABID

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF MAILING

I hereby certify that on the 4<sup>th</sup> day of February, 2015 a true and correct copy of the  
OPPOSITION OF PLAINTIFF, SEAN R. ABID, TO DEFENDANT'S TO DEFENDANT'S MOTION TO HOLD  
PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER REGARDING TIMESHARE OR IN THE  
ALTERNATIVE FOR THE APPOINTMENT OF A PARENTING COORDINATOR, TO COMPEL  
PRODUCTION OF MINOR CHILD'S PASSPORT AND FOR ATTORNEY FEES AS WELL AS HIS  
COUNTERMOTION FOR ATTORNEYS' FEES AND COSTS upon each of the parties by **electronic**  
service through Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant  
to N.E.F.C.R. 9; and by depositing a copy of the same in a sealed envelope in the United States  
Mail, Postage Pre-Paid, addressed as follows:

Michael Balabon, Esq.  
Balabon Law Office  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: mbalabon@hotmail.com  
*Attorney for Defendant,*  
*Lyudmila A. Abid*

  
an Employee of BLACK & LOBELLO

4181.0001

MOFI

**BLACK & LOBELLO**

John D. Jones, Esq.

Nevada State Bar No. 6699

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

Telephone No.: (702) 869-8801

Facsimile No.: (702) 869-2669

Email: [jjones@blacklobellolaw.com](mailto:jjones@blacklobellolaw.com)

Attorneys for Plaintiff,

SEAN R. ABID

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

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

CASE NO. D424830

DEPT. NO. B


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

Party Filing Motion/Opposition: <input checked="" type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent	
<b>MOTION FOR/OPPOSITION TO:</b> Opposition Of Plaintiff, Sean R. Abid, To Defendant's To Defendant's Motion To Hold Plaintiff In Contempt Of Court, To Modify Order Regarding Timeshare Or In The Alternative For The Appointment Of A Parenting Coordinator, To Compel Production Of Minor Child's Passport And For Attorney Fees As Well As His Countermotion For Attorneys' Fees And Costs	
<b>Motions and Oppositions to</b> <b>Motions filed after entry of a</b> <b>final Order pursuant to NRS</b> <b>125, 125B or 125C are subject</b> <b>to the Re-open filing fee of</b> <b>\$25.00, unless specifically</b> <b>excluded. (NRS 19.0312)</b> <i>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.</i>	<b><u>Excluded Motions/Oppositions</u></b>  1. No Final Decree or Custody Order has been entered. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  2. This document is filed <u>solely to adjust the amount of support for a child.</u> No other request is made. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  3. This motion is made for <u>reconsideration</u> or a <u>new trial and is filed within 10 days of the Judge's Order.</u> If YES, provide file date of Order. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  If you answered YES to any of the questions above, you are <u>not</u> subject to the \$25 fee.
<input checked="" type="checkbox"/> Motion/Opposition IS subject to \$25.00 filing fee <input type="checkbox"/> Motion/Opposition IS NOT subject to filing fee	

Date: February 4, 2015

Cheryl Berdahl

Print Name of Preparer

  
Signature of Preparer

# Exhibit 1

# Exhibit 1

**Details of filing:** *Declaration of Sean Abid in Response to Defendant's Motion to Hold Plaintiff in Contempt of Court, to Modify Order Regarding Timeshare or in the Alternative for the Appointment of a Parenting Coordinator, to Compel Production of Minor Child's Passport and for Attorney Fees*

**Filed in Case Number:** D-10-424830-Z

**E-File ID:** 6620668

**Lead File Size:** 2663788 bytes

**Date Filed:** 2015-02-04 09:36:30.0

**Case Title:** D-10-424830-Z

**Case Name:** In the Matter of the Joint Petition for Divorce of: Sean R Abid and Lyudmyla A Abid, Petitioners.

**Filing Title:** Declaration of Sean Abid in Response to Defendant's Motion to Hold Plaintiff in Contempt of Court, to Modify Order Regarding Timeshare or in the Alternative for the Appointment of a Parenting Coordinator, to Compel Production of Minor Child's Passport and for Attorney Fees

**Filing Type:** EFS

**Filer's Name:** Black & LoBello

**Filer's Email:** NVClarkCountyEfilng@blacklobellolaw.com

**Account Name:** efile card

**Filing Code:** DECL

**Amount:** \$ 3.50

**Court Fee:** \$ 0.00

**Card Fee:** \$ 0.00

**Payment:** Filing still processing. Payment not yet captured.

**Comments:**

**Courtesy  
Copies:**

**Firm Name:** Black & LoBello

**Your File  
Number:** Abid - 4181-0001

**Status:** Pending - (P)

**Date Accepted:**

**Review  
Comments:**

**Reviewer:**

**File Stamped  
Copy:**

**Cover Document:**  
**Documents:**

**Lead Document:** Abid - Declaration in Response to Motion to Hold Plaintiff in Contempt.pdf 2663788 bytes

**Data  
Reference ID:**

**Credit Card System Response:** VSHCCB07D30F  
**Response:** Reference:

1 DECL

2 BLACK & LOBELLO

3 John D. Jones

4 Nevada State Bar No. 6699

5 10777 West Twain Avenue, Suite 300

6 Las Vegas, Nevada 89135

7 (702) 869-8801

8 Fax: (702) 869-2669

9 Email Address: jjones@blacklobellolaw.com

10 Attorneys for Plaintiff,

11 SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

12 SEAN R. ABID,

CASE NO.: D424830

13 Plaintiff,

DEPT. NO.: B

14 vs.

15 LYUDMYLA A. ABID

16 Defendant.

**DECLARATION OF PLAINTIFF, SEAN R. ABID, IN RESPONSE TO DEFENDANT'S  
MOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER  
REGARDING TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT  
OF A PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR  
CHILD'S PASSPORT AND FOR ATTORNEY FEES**

17 SEAN ABID, being first duly sworn, deposes and says:

18 1. That I am the Plaintiff in this action and I offer this declaration of my own  
19 personal knowledge and in response to Defendant's Motion to Hold Plaintiff in Contempt of  
20 Court, to Modify Order Regarding Timeshare or in the Alternative for the Appointment of a  
21 Parenting Coordinator, to Compel Production of Minor Child's Passport and for Attorney Fees.

22 2. In the hearing held on December 7, 2013, Lyudmyla ("Lyuda") and I negotiated  
23 and reached an agreement that I would be allowed to be pick up the minor child (Sasha) after  
24 school on Lyuda's days and keep him until 5:30 p.m. Lyuda claims in her most recent motion  
25  
26  
27  
28



(page 5, lines 2-4 and then again lines 14-16) that the only reason she agreed to this was because she worked until 5:00 pm. Lyuda even italicizes the word "only" on page 14, line 14, stating that the only reason the parties agreed to the modification was because of her work schedule. Contrary to this statement, the settlement we reached was never contingent upon her work hours. In fact, as you will see in the stipulation that was reaffirmed in September 2014, Lyuda agreed to allow me to have Sasha on her days only if I would agree to remove the supervised visitation provision of Ricky Marquez (her husband) from the previous stipulation. Now that I have agreed to lift the supervised contact, Lyuda is trying to take back the time that she negotiated with. By lifting supervised contact, Lyuda gained what she wanted most of all from the hearing process, which was to allow Ricky to transfer his probation to Las Vegas from San Diego so that he could move here. I agreed to this settlement, though not ideal for what I initially wanted (primary custody), because I realized it would allow me to see Sasha every day. It also allows me to provide a daily routine for Sasha which is extremely important for children to have, including completing homework, eating a snack, reading, practicing sight words and practicing sports. Notably, the current timeshare closely mirrors the primary custody recommendation set forth in the custody evaluation by Dr. Paglini.

3. On page 6, Lyudmyla continues to incorrectly characterize the negotiation by leaving out the only reason she actually gave up her time, which was to get Ricky Marquez's supervised contact lifted. Knowing that this timeshare schedule was solidified in writing through the courts and reaffirmed by the opposing party on September 15th, I resigned my position as a varsity volleyball coach and declined the opportunity to interview for the Director of Guidance for the Clark County School District so that I could be home for Sasha every day after school.

4. Due to the lack of consistent amicable relations between Lyuda and me, I would never enter into any agreement with Lyuda unless it is in writing, such as email or text message. I have never entered into any verbal agreement with Lyuda either in person or by phone as she states on page 6, lines 13-17. As the record will reflect, there are no texts or emails that Lyudmyla can produce from me that will show there has been any communication other than positive, reasonable, and focused upon Sasha's best interests in the time period that she is

1 alleging a spike in animosity (November 2014). I follow the stipulation assiduously and  
2 communicate positively and reasonably when necessary.

3 5. In contrast to Lyuda's statement on page 7, lines 2-5, I have had no phone  
4 communication with Ricky's parole officer since August 2014, and have done absolutely nothing  
5 to harass Ricky Marquez.

6 6. Modifying the existing timeshare is not in Sasha's best interest for many reasons.  
7 First, Sasha has a daily routine with me that he loves. It is important for children to have  
8 consistency and stability. By keeping the timeshare as it is, Sasha does not have to remember  
9 which days to go to Safekey and which days to ride the bus. Sasha should not have to attend  
10 Safekey when he can be with me, whom he adores spending time with. Consistency for Sasha  
11 has not been a priority for Lyuda, as was evidenced when she enrolled Sasha in a different  
12 preschool than Sean did, after she became angry with Sean. Sasha was attending two different  
13 preschools for a few months before the courts agreed that Sean's school was the appropriate  
14 choice for Sasha.

15 7. Additionally, this timeshare has helped Sasha's performance in Kindergarten to  
16 improve, not necessarily because Lyuda isn't capable of helping a Kindergartner with his  
17 homework (as stated on page 13, lines 4-5), but because he has a steady routine of completing  
18 his homework at the same time every day without distractions. On page 13, lines 18-26, Lyuda is  
19 deceitfully claiming that a modification of timeshare would reduce the number of child  
20 exchanges between the parties. The only time the parties see each other face to face is when  
21 Lyudmyla chooses for it to happen. When I drop Sasha off at his mom's house, Sasha walks up  
22 to the door while I wait in the car to make sure he enters the house safely. There is no interaction  
23 between parties at exchanges.

24 8. Again on page 7, lines 18-23 and page 12, lines 1-14, Lyuda is making dishonest  
25 claims. I have never removed correspondences or assignments from Sasha's backpack. In fact, I  
26 has emailed Lyudmyla to inform her of current assignments. This was done as a courtesy  
27 because she had not been accessing the information on her own via the school district Infinite  
28 Campus system. This system, which provides all parents with login credentials, is an incredibly

1 powerful tool for parental involvement. If used properly, she would be able to access the school  
2 calendar, current assignments, and it allows direct communication to the classroom teacher via  
3 email. It assures in a divorce situation that one parent is not at all reliant on the other parent to be  
4 fully engaged in the educational process. Furthermore, the Twitchell school website is extremely  
5 comprehensive, and is what I use to supplement Infinite Campus information. It is an absolute  
6 falsehood that I am the gatekeeper for Lyudmyla's parental involvement. On page 12, line 6-9,  
7 Lyuda says that she "had to go to the school and meet with Sasha's teacher" in order to request  
8 separate mailings. This was a required parent teacher conference, not a special meeting that  
9 Lyuda arranged, and it is the first conference she has attended since Sasha started attending  
10 school in pre-Kindergarten. Not only have I not taken any documents out of Sasha's backpack,  
11 but I have left 120 flash cards of Kindergarten sight words that I created, in the backpack, which  
12 she has yet to discover. Sasha himself claims that his mother does not practice sight words or  
13 read with him at her house. I communicate frequently with the teacher, which Lyuda could also  
14 do without my blessing. Rather than seeing me as someone with a superiority complex, she could  
15 be grateful that I am a devoted and impassioned father who is highly involved in my son's  
16 education. In no way have I hindered Lyuda's ability to be involved in her son's education, and it  
17 certainly is not my responsibility to stimulate or inspire her to be an involved parent. Lyudmyla  
18 has the opportunity to be just as involved and impassioned as I about Sasha's education, but  
19 instead she chooses to blame me for her failures in using Infinite Campus and other reliable  
20 tools. I take no pleasure in Sasha's mother not fulfilling her role as an involved parent.

21 9. On page 8, lines 2 and 3, Lyuda alleges that I absolutely will not cooperate with  
22 her enrolling Sasha in activities such as Jiu Jitsu. Since the hearing, Lyuda has not expressed to  
23 me any interest in signing Sasha up for Jiu Jitsu again, or any other activity. I have not refused to  
24 take him, and she has never asked to take Sasha to any activities that she wants to enroll him in.  
25 In fact the exact opposite is true. I texted Lyuda on January 7th, 2015, to ask her about enrolling  
26 Sasha in baseball, which she refused, stating that I can do what I wants with Sasha on my days. It  
27 is ironic that she claims that I said this to her (page 8, line 3).

28 10. On page 8, lines 19-21, Lyuda claims that I began making her wait until 5:30 to

1 pick up Sasha because she asked me for the passport. In fact, this verbal conversation never took  
2 place, but was a text conversation that commenced when I texted Lyuda to tell her, in good faith,  
3 that on her days Sasha was falling asleep in school and after school. I asked her to please adhere  
4 to her promise to put Sasha to bed at a reasonable time. Her response was that "as God as her  
5 witness, she would get this fixed" and would be taking me back to court. She then showed up at  
6 my door, banging on the door and screaming through the door, which scared my 1 year old child.  
7 It was at this time that I realized Lyuda's proclivity for emotional outbursts and rage would make  
8 it impossible for us to make any joint, commonsense decisions without using the 5:30 time as a  
9 fallback. Also, it has now been only 4 months since the last motion was reaffirmed, and when  
10 she became unhappy with one text conversation, she is suddenly bringing me back to court  
11 again. This is not helpful for us moving forward civilly, and is certainly not helpful for Sasha.  
12 This motion is replete with examples of Lyuda's continued anger towards me, and completely  
13 lacks a focus on Sasha's best interests.

14 11. On page 10, Lyuda claims that I continue to have anger towards her and cannot  
15 control this anger. There have been no angry correspondences originating from me in the period  
16 that she is claiming that there has been increased hostility. She is just trying to support her  
17 baseless reason for filing this motion. Lyuda cannot support her claims by producing any texts or  
18 emails where there have been any acrimonious statements from me. We can show through our  
19 exhibits that she is in fact the source of anger and hostility. As an example, following one of her  
20 angry outbursts at my door during the month of November when she alleges I was the instigator,  
21 Lyuda sent a text (**Exhibit 1**) to me threatening to get me fired from school and also to expose  
22 Superintendent Skorkowsky because he helped her son to get into all-day Kindergarten when  
23 they were initially not successful in the school lottery. This is a cogent illustration of Lyuda's  
24 desire to exact revenge and carry out her vendetta towards me rather than to view what is in  
25 Sasha's best interest. I went to great lengths to get Sasha into full-day Kindergarten, requesting a  
26 favor from the Superintendent of the school district. Rather than seeing this as a good faith effort  
27 of me to do what is best for Sasha, she uses it as an opportunity to try to harm me, in effect  
28 harming Sasha. There are numerous examples that I can produce where Lyuda has made threats

1 to either have me audited and jailed by the IRS (**Exhibit 2**), fired from my high school, and most  
2 tellingly, a video where she tells me she will be fighting me in court for the rest of Sasha's life.

3 12. I have found it extremely challenging to co-parent with Lyudmyla with even the  
4 simplest of concerns. For example, I recently found out from Sasha that he received the game  
5 "Call of Duty: Black Ops" from his mother for Christmas. I sent Lyuda a text (**Exhibit "3"**)  
6 asking her to please read about the game before allowing our five-year old to play it. I provided  
7 her with a link which highlights the game's violence and explicitly states it is not for children.  
8 Her response was irrational, and she said Sasha played it at a friend's house on my day (untrue)  
9 so it should be OK. She also viewed my concerned text as harassment and refused to discuss it  
10 further. Sasha told me upon returning from his mother's house that she was mad at Sasha for  
11 betraying her. He told me that she said, "Do you want them to take you away from me? You  
12 can't play the game anymore if you can't keep a secret from your dad." Sasha said that even his  
13 sister, Iryna, tried to tell her mother that the game wasn't OK for children to play. Clearly she is  
14 placing blame and guilt on a child for her poor decisions as a parent and asking him to deceive  
15 me. How can I trust her?

16 13. Lyuda has a history of perjuring herself in court and filing baseless motions. In  
17 August 2012, she filed a motion against me claiming that I owed her back child support, when in  
18 fact she was paying back a loan that she owed to me by allowing me to withhold monthly child  
19 support payments. Her motion suggested that I be jailed. Thankfully I had enough evidence to  
20 prove that I had paid her what she was owed. She admitted to Dr. Paglini in the custody  
21 evaluation that she was paying a loan back to me and had lied to the Court.

22 14. Last year when we were in court because of my fears about Lyuda's new husband  
23 and her refusal to provide me with any insight into Ricky's criminal background to assuage my  
24 worry about Sasha's safety, the judge ordered Lyuda to pay half of all my costs (totaling  
25 approximately \$14,000.00). Lyuda paid me \$5,000.00 in cash, which was shrink wrapped with  
26 the year 2003 written on it. Lyuda chose to mock my fears about Ricky's criminal career by  
27 making it look as though they had dipped into a hidden money stash from before Ricky's  
28 incarceration. She shared with me that Ricky is making around \$9.00 an hour at a door factory,

1 yet they suddenly can afford to buy a new BMW, a new refrigerator, new washer and dryer, etc.  
2 The spike in spending so soon after Ricky's entrance into Lyuda's life also increased my concern  
3 that something isn't right.

4 15. Listed below are many reasons that my protective instincts have been activated  
5 regarding Lyudmyla acquiring Sasha's passport and traveling with him to Ukraine. Her judgment  
6 and decisions are not congruent with putting Sasha's safety and best interests first. (It is  
7 important to note that I offered to discuss these great concerns with her, but she refused, saying  
8 that she has already paid her lawyer and it would be settled in court).

9 16. Lyuda has married a questionable character without knowing him for very long.  
10 She became engaged to Ricky Marquez in November 2012, the day that he was released from  
11 federal prison after serving 10 years for international drug and weapons trafficking. Furthermore,  
12 this was his second stint in prison, having served another sentence for marijuana trafficking as a  
13 member of the Mexican Mafia. Ricky Marquez spent the night in Lyudmyla's home the night  
14 after being released from prison. Lyudmyla was in a different relationship in October 18, 2012,  
15 so this leaves less than a month for her to have met someone in prison, and have him in her home  
16 and around her children. In two different portions of the custody evaluation, when Dr. Paglini  
17 directly asked her about the suddenness of her decision to get married in combination with  
18 Ricky's background as a felon and having him so quickly around her children, she responded, "at  
19 least he isn't a murderer or a rapist."

20 17. On page 17, lines 14-15, it is asserted that Lyuda has never violated any previous  
21 custody orders that have been filed in this case. This is absolutely false, and was mentioned in  
22 the initial motion for change of custody in June 2013. In this motion, there are exhibits which  
23 prove she took Sasha out of state at least twice to be with Marquez and other members of his  
24 family who are also convicted felons without notifying me of the trip, the address they would be  
25 staying at, or who Sasha would be staying with. These actions were in direct violation of the  
26 divorce decree.

27 18. On page 9, lines 5-14, Lyuda suggests that Sasha being in Iowa with my wife and  
28 family for one week is the same as him being in Ukraine. This is specious logic for many

1 reasons. First-of all, Sasha does not speak Russian, so if Lyudmyla is not with him, he has no  
2 way to communicate with people. Secondly, Iowa is not under a state department-issued travel  
3 advisory and is not in the middle of a civil war as Ukraine is. Third, Lyudmyla claims that the  
4 size of the country makes travel to Ukraine safe. Ukraine is the size of New Mexico. This does  
5 not reassure me that Sasha would not be in harm's way. When does civil war stay strictly  
6 confined to geographical boundaries? Fourth, Lyudmyla's mother is Russian, and she has family  
7 in Russia. I do not trust that my son would be safe in Western Ukraine, and certainly don't trust  
8 that she wouldn't travel with him outside of this area. Her past gross violations of the divorce  
9 decree in terms of travel requirements do not instill confidence. Not only was she travelling and  
10 not telling me where she was taking Sasha, but she was travelling surreptitiously with a  
11 convicted felon. Fifth, all international travel into Ukraine takes place in Kiev, which was a site  
12 of civil war this past summer. On page 10, line 4-6, Lyuda admits that she sent her daughter into  
13 this chaos last summer, as an unaccompanied minor, during this time. This suggests an absence  
14 of continued vigilance to protect her children.

15 19. Any reasonable parent would have alarms going off all over the place or would  
16 have their protective instincts triggered with such a situation. First, you have a parent who has a  
17 history of threatening abduction. Second, her brother-in-law in Ukraine is a known organized  
18 crime figure with the resources to help her organize an international abduction. Third, she is  
19 married to an international drug and weapons dealer who is attempting to start a business venture  
20 (door business) with the referenced brother-in-law in Ukraine. Federal law enforcement officials  
21 have been in contact with me about these dynamics. Fourth, she has previously violated court  
22 orders relating to travel with Sasha. Fifth, she has a poor history of supervising Sasha here in Las  
23 Vegas, so how can I trust that he will be properly supervised in a foreign country?

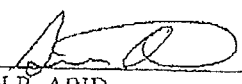
24 20. Lyudmyla is only asking for the negotiated hours to be modified because of her  
25 vindictive nature. She is angry that Sean required a discussion about his concerns before handing  
26 over the passport. This new order must include more specific provisions regarding the housing  
27 and exchange of the passport.

28 21. Attorney fees: I do not want to be back in court again and again. I have two other

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21. Attorney fees: I do not want to be back in court again and again. I have two other sons under the age of two: a 16 month old and a two month old. Because of Lyudmyla's failure to communicate with me in healthy and productive ways and her two motions based on lies, I have been forced to spend money that could be used for the support of my family, which includes a wife, three sons, and the financial support of my elderly mother. I want a peaceful relationship with Sasha's mother, but also have valid reasons for concern about Sasha's safety while in his mother's care. I feel that my job is to protect my children. That is my only motivation. Lyuda has now filed two baseless motions that are taking precious money from my family and precious time from the courts. When Lyuda doesn't like what she hears from me, she immediately goes to the courts without waiting for her emotions to calm down for rational conversation. Because Lyuda brought me to this position, she should cover all attorney fees.

Dated this 3 day of February, 2015.

  
SEAN R. ABID



BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of February, 2015 I served a copy of the  
DECLARATION OF SEAN ABID IN SUPPORT OF RESPONSE TO DEFENDANT'S MOTION TO HOLD  
PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER REGARDING TIMESHARE OR IN THE  
ALTERNATIVE FOR THE APPOINTMENT OF A PARENTING COORDINATOR, TO COMPEL  
PRODUCTION OF MINOR CHILD'S PASSPORT AND FOR ATTORNEY FEES upon each of the parties  
by electronic service through Wiznet, the Eighth Judicial District Court's e-filing/e-service  
system, pursuant to N.E.F.C.R. 9; and by depositing a true and correct copy of the same in a  
sealed envelope in the First Class United States Mail, Postage Pre-Paid, addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: mbalabon@hotmail.com  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO

## Exhibit 1

## Exhibit 1

 Messages

Lyuda

Details

You can pick him up at  
5:30 or we will bring him  
to you at 5:30

Brings him to my house.  
This will be fixed through  
PC. I am going to your  
top supervisor about  
everything. You  
superintendent will get in  
trouble too for corruption  
in CCSD I have all your  
messages. I have a lot to  
disclose about you.  
Good luck.

Wed, Nov 26, 8:47 AM

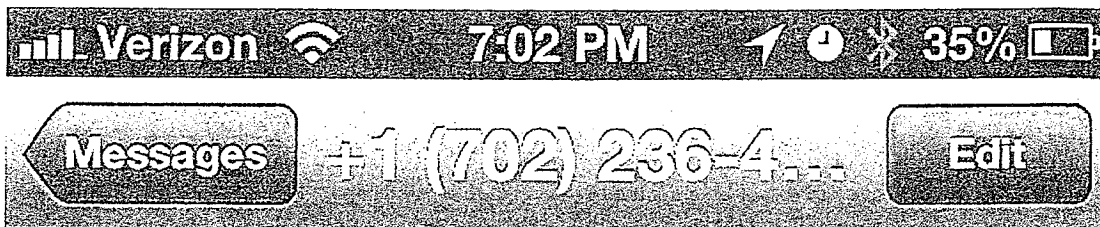


Write a message



## Exhibit 2

## Exhibit 2



iMessage

Jun 6, 2013, 7:01 PM

By the way I am reporting you to IRS for tax fraud. 2010 you didn't report rental income and you itemized interest on mortgage that was paid by Dion and Kris. You also use exemption for your mom when she lives in her own house. And last Tara will confirm living at your house and paying you rent 900-1100 per month. You want to play dirty with me....

Get ready for audit




Message

Send

## Exhibit 3

## Exhibit 3

 Messages

Lyuda

Details

Monday 6:52 PM

Sasha told us that he spent the entire weekend playing Call of Duty at your house. I realize that you can do what you want with him on your days, but he is FIVE years old playing a game NOT recommended for children before the age of 14. I can send you twenty + articles that will all say the same thing. Come on, Lyuda! How can you possibly argue that you should have



iMessage



 Messages

Lyuda

Details

more time with him when  
THIS is how he spends  
ALL of his time with you?

[https://  
www.common sense medi  
a.org/game-reviews/call-  
of-duty-black-ops](https://www.common sense media.org/game-reviews/call-of-duty-black-ops)

As I recall Sasha is  
playing this game with  
Riley at Craig house all  
the time... That is the  
only reason he wants to  
go to your house ...to go  
play with Riley and  
watch those crazy  
videos as well. I never





## Exhibit 2

## Exhibit 2

## John Jones

---

**From:** John Jones  
**Sent:** Monday, December 22, 2014 9:03 AM  
**To:** 'michael Balabon'  
**Cc:** 'Sean R. Abid'  
**Subject:** Response to 5.11 email.

1. With regard to the Ukraine, it is not currently in Sasha's best interests, or any US citizen for that matter to travel to the Ukraine. Please see Travel warning at the following web address:

<http://travel.state.gov/content/passports/english/alertswarnings/ukraine-travel-warning.html> . There are similar travel advisories issued by the UK and Canada.

Even if our government did not advise against such travel, because of your client's husband's past, and the legitimate concerns my client has that he is a flight risk, even if the Court ignores the travel advisory, we will be asking to Court for your client to post a significant bond to cover my client's expenses in the event your client does not return. Too many Countries in that area are not Hague Signatories. If the Court rules in your favor, and all appellate relief is exhausted, the passport will be turned over.

2. The portion of the Order which gives my client custody of Sasha from after school until 5:30 was an integral part of the settlement that was reached the day of trial. It was not contingent upon your client's schedule remaining the same. Sasha and Sean have an established homework regimen which has produced very positive results for Sasha. There can be no settlement which vacate this portion of the order. My client only acquiesced on lifting Mr. Marquez' supervised contact with Sasha, because it afforded meaningful time during the school week with Sasha so he could provide much needed structure and participation in his education. Your client got what she wanted, Marquez off supervised contact, now she is trying to take back what she agreed to. We would not have settled and, rather, pursued primary had we known she had no intention to follow an agreement that was reaffirmed in September.

If you feel the need to file a motion, I suppose that the judge will decide.

John D. Jones, Esq.  
Partner.  
Nevada Board Certified Family Law Specialist

BLACK LOBELLO

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## Exhibit 3

---

Exhibit 3

**Details of filing:** *Declaration of Sean Abid in Support of His Countermotion to Change Custody*  
**Filed in Case Number:** D-10-424830-Z

**E-File ID:** 6620677

**Lead File Size:** 682367 bytes

**Date Filed:** 2015-02-04 09:37:29.0

**Case Title:** D-10-424830-Z

**Case Name:** In the Matter of the Joint Petition for Divorce of: Sean R Abid and Lyudmyla A Abid, Petitioners.

**Filing Title:** Declaration of Sean Abid in Support of His Countermotion to Change Custody

**Filing Type:** EFS

**Filer's Name:** Black & LoBello

**Filer's Email:** NVClarkCountyEfilng@blacklobellolaw.com

**Account Name:** efile card

**Filing Code:** DECL

**Amount:** \$ 3.50

**Court Fee:** \$ 0.00

**Card Fee:** \$ 0.00

**Payment:** Filing still processing. Payment not yet captured.

**Comments:**

**Courtesy Copies:**

**Firm Name:** Black & LoBello

**Your File Number:** Abid - 4181-0001

**Status:** Pending - (P)

**Date Accepted:**

**Review Comments:**

**Reviewer:**

**File Stamped Copy:**

**Documents:** Cover Document:

Lead Document: Abid - Declaration in Supp of Countermotion to Change Custody.pdf 682367 bytes

**Data Reference ID:**

**Credit Card Response:** System Response: VXHCCCE7B4C  
Reference:

DECL

BLACK & LOBELLO

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Attorneys for Plaintiff,

SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: B

DECLARATION OF PLAINTIFF, SEAN R. ABID, IN SUPPORT OF HIS  
COUNTERMOTION TO CHANGE CUSTODY

SEAN ABID, being first duly sworn, deposes and says:

1. That I am the Plaintiff in this action and I offer this declaration of my own personal knowledge.

2. That because of things that Sasha had been telling me, and Lyuda's history of alienating him from me, I placed a recording device in Sasha's backpack. I did so out of concern that Sasha's mother was abusing Sasha by denigrating me. In the few days that it recorded, what I heard was devastating.

3. On January 26, 2015, this dialogue took place after Sasha returned to his mother's from a weekend with me. There was no inciting incident on my end to warrant more "daddy bashing" from Lyudmyla.

1 L: Did Riley ask you to play Call of Duty?  
2 S: But Momma, It's your choice, if you want me to play "Call of Duty"  
3 then....  
4 Lyuda interrupts: Listen! You've got to tell me everything when you  
5 go back to daddy house.  
6 Sasha weakly: Why?  
7 L: You have to tell me every single thing that he ask you. Did you play  
8 with Riley? Think about it.  
9 S: Ya, but he has a toy set (inaudible) I played (inaudible) MineCraft.  
10 L: You played MineCraft. What else?  
11 S: Um (inaudible) I wanna get one of those cuz I really wanna play that  
12 too. (Inaudible)  
13 L: Ya. You did not play "Call of Duty" no more?  
14 S: Ya but it's OK for me to play here.  
15 L: (Inaudible)  
16 S: I want to play but  
17 L: But what?  
18 S: He doesn't think I should play the game there. (Inaudible) It's Ok for  
19 me to play here.  
20 L: Did you watch Riley play?  
21 S: No  
22 L: Why not?  
23 S: I wanted to play but  
24 L: But what?  
25 S: But I did not tell him that it's not his age. He knows it's not his age. I  
26 told him and he says he doesn't know. But it's your choice.  
27 L: Ya, but did Riley play while you were there?  
28 S: I told him to see if he knows and he does know. It's your choice  
L: What do you think is my choice right now?  
S: Your choice is whether I play "Call of Duty."  
L: (Inaudible)

1 S: Ugh, I don't like that kind of choice to make

2 L: You say, that's my choice, and your daddy give me problems. He  
3 gives me problems. He writes me nasty messages.

4 S: He just want you to

5 Lyuda interrupts: No, you brought this game to our home from Riley's  
6 house. I never knew about it before you told me. Is that true? I did not  
7 know about this game.

8 S: No but he told you, he was trying to tell you

9 L: (Inaudible) It happened today? When did this happen? It happened  
10 today?

11 S: No, it happened a couple days ago. But daddy, I mean momma, it's  
12 your choice. If you want me to play, you let me play

13 L: (Inaudible) You can't play, do you know why?

14 S: Why?

15 L: Because you going to go to daddy house and tell him that momma  
16 (inaudible) is bad mother who lets you play this violent game and then  
17 he takes you away from your mother. Is that what you want? Because  
18 if you don't keep your promise, and you tell everything to your daddy  
19 and you are not allowed to play this game.

20 S: Ya but...

21 Lyuda interrupts: No! Tell your daddy it's not his business what you do  
22 at our house. But you not keep your promise and you tell every single  
23 thing to daddy.

24 Inaudible

25 S: Ya, but it's your choice (inaudible)

26 Lyuda flippantly: Nope, that's it

27 Sasha crying

28 L: What?

L: Ira, you know how sneaky his daddy is. (Inaudible) Sasha crying  
harder and louder.

L: Because your daddy is sneaky, he wants you to tell him everything.  
Everything! Your daddy is a sneaky guy. K? And very nasty and mean  
person, that's what he is. Everything what he does is try to hurt your  
momma, every single day. Do you understand what he is doing? Do you  
want him to take you away from me? Cuz that's what he's doing right  
now. Do you understand? (Sasha crying) He and Angie is lying to you  
every single time. You know why? If they can take you away from you,

1 from me, then I will have to pay him money. That's why they want to do  
2 this. You understand? You will play sometimes, not every day, but  
3 sometimes.

4 Sasha inaudible

5 Sasha, you will be able to play only if you keep the secret from daddy.  
6 You play at momma's house, you have to say, no my momma is not  
7 letting me.

8 S: I tell him no?

9 L: Ya!

10 S: And then I can play?

11 L: Ya!

12 S: Ok!

13 L: But I don't trust that you're going to do it!

14 Sasha crying: I will try to

15 L: What will you say if your daddy says, "Sasha, I'm OK if you play  
16 at your momma house? Did you play, Sash, at momma house?  
17 (Mocking Sean) Sasha crying

18 S: I will try to .... I will try to but...

19 Lyuda interrupts: Because Angie will be sneaky too. Angie will say,  
20 "Sasha, did you play at your momma house? (Mocking Angie) You  
21 can play at your momma house. That's Ok." That's what they will try  
22 to do, Sasha.

23 S: I will try to

24 L: Listen. When they ask you what you do at momma's house, they  
25 trying to use it against me. Everything what you say to them, they use  
26 against your momma. Is that what you want? You tell them I love my  
27 mom more than anybody. And more than you daddy, I love my  
28 momma. And not ask me about my momma. Because I'm going to be  
with my momma.

Sasha says something while crying

L: No. I love my mom more than my dad. My mom carry me in her  
belly for so many months. My mom gave me milk breast so I would  
get healthy. That was not my dad. That was my mom. My dad give me  
nothing. What your dad did? Nothing. Ira, who you like? Your dad or  
mom?

Ira: Both

L: Ok both...but who do you like more? Your daddy?



1 Ira: (Inaudible)

2 L: Ira, it's your choice. Ok, who do you like more, your momma or your  
3 daddy?

4 Ira and Lyuda arguing

5 Sasha: Daddy, Momma, I really will try to not tell him

6 L: I don't trust you

7 Ira: You said that last time, Sasha!

8 Lyuda: Ya, you said that last time and then I got this nasty message on  
9 my phone. You know what he said to me? I will tell you what he said  
10 to me. Here is what he said to me.

11 S: You already told me!

12 L: This is what he told me. (Reading) "Come on, Lyuda! How can you  
13 possibly argue that you should have time with Sasha when this is how  
14 he spends time in your house, playing games." (Inaudible) Do you  
15 think this will hurt my feelings? Do you think it's OK it against your  
16 mom? But he does it. He does it. That's why. You are a boy. You have  
17 to protect your momma. When he accuse me about something, I love  
18 my momma, more than anybody. (Sasha crying) Huh? It's OK Sash.  
19 He just bad person. He's gonna be like that all his life. (Sasha crying  
20 louder)

21 Ira: Sasha, how old are you? How old are you?? How old are you?

22 Sasha crying: Five

23 Ira: You're almost six. (Inaudible) Let me tell you this. When I was your  
24 age I had never played a game like that ever ever ever. Sasha, you have so  
25 much, like, to do. If you play "Call of Duty", it will hurt your brain, you  
26 are so young. (Continues, inaudible) Look at the game, Sasha. It's 17 and  
27 up. It's mature.

28 L: Did you ask Riley to play again?

Sasha: I forgot to.

L: You forgot to? You can play Minecraft, and you can have Mario (Sasha  
crying)

Sasha, what do you want to eat? Hmm? What do you eat in daddy  
house?

S: Corn dog

L: Corn dog? Hmm.

Quizzing him: What car is Angie driving? New car? Did she stop  
working? When you get home, is she home with the babies? How are

the babies? Reed and Brook? Is Angie there?

4. Another recording made on Wednesday evening, January 22, 2015. Lyuda is angry about a text she received from me, in which I asked her to read up on the game "Call of Duty" before allowing Sasha to play it all day at her house. This conversation carries over into the morning of Jan. 23 in the car. Below is a summary of what is recorded:

Sasha says he wants to play Call of Duty

Lyuda: Do you know your daddy contacted me?

Iryna: Sasha, you said you wouldn't tell and you told. No more Call of Duty for you.

Lyuda: Your dad said you told him you were playing full weekend here with Ira. Do you want your daddy to take you away from me?

Ira: This game is not for your age.

Sasha crying. Lyuda: You can blame your daddy.

Ira: No this game is not for his age. It's true.

Lyuda: This is your daddy. You want to hear his message? Come here, I'll read it to you. Sasha continues to cry.

She reads text to him. He continues to cry. Your daddy says you never played the game with Riley. You tell him that you have played this game with Riley and momma found out about this game from me. Continues to read text to Sasha.

He says you never played at Riley's. Is he lying? Did you play this game at Riley's house?

Is he lying? Sasha—Ya (Crying)

Keeps asking him over and over if he played the game at Riley's house. Who plays the game at Riley's house? Does your daddy allow you to play games?

Sounds like she is playing back a recording of Sasha saying that he played the game at Riley's while Sasha is talking to Ira.

Sasha says something about telling his daddy. Lyuda says and do you see what happened? What happened?

Sasha, he cannot tell me what to do at my house, do you understand? If you want to play, you can play, that's my decision.

Oh Sash, you know I love you so much and he's trying to hurt me all the time. He thinks I'm a bad mother you understand? Do you think I'm a bad mother? Do you think Angie could be your mother? What

1 do you think about that? Do you want Angie to be your mother? Your  
2 daddy does. What do you think about the babies? How are the babies  
3 doing? Do they sleep at night?

4 Do you see what I deal with? These messages from your daddy?

5 Sasha: Today Reed fell off a chair and cried.

6 L: What did Angie do? Was she sad? Did Angie yell at daddy?

7 The next time your daddy asks if you play this game, you tell him it's  
8 Ira's game. Not my game. You tell him only Minecraft. "Call of Duty"  
9 is Ira's.

10 Ira: You are going to blame it on me?

11 Ira can play the game as much as she wants, right? You can play the  
12 game too, you just can't tell daddy. Do you understand? You do not  
13 tell him nothing. When you do that, you go against your mom. Do you  
14 understand that? You can't play today. You made a mistake. What do  
15 you think about that?

16 Mocking Sean asking Sasha questions. What should you say, Sasha?

17 Sasha repeats back what he should say.

18 He tells about a time that he tricked his daddy, and she encourages him.  
19 She laughs loudly and claps. Sasha seems happy about this and continues.  
20 What happened? How did they find out you played this game? How did  
21 you say it? Do you remember? What did you tell them? How did you say  
22 it? Can hear Sasha telling her his answers, she keeps asking questions. Did  
23 you tell them the truth? You tell them Call of Duty is Ira's game. My  
24 game is Marble? And Minecraft. Call of Duty is Ira's game.

25 She keeps telling him what he should say.

26 Sasha is crying again.

27 I like Call of Duty myself. Ira what do you think? Ira says her friends are  
28 11. Lyuda talks about all the friends who play who are young.

Sasha: They don't understand that this game isn't for their age. Have to be  
13, 14, 15, 18.

Still talking about it at 55 min.

Did you tell your daddy you played with Riley or you didn't discuss it?  
Did you talk about it today? 57 min

1:11 Sasha if I ever get a nasty message from your dad you will never play  
this game again. That's on you. You going to talk to him about me, you're  
going to take it. Deal? Or not?

Ira—Do you want to play call of duty? If you want to play, you can't tell  
your dad.

1 Lyuda—This is what you tell your dad. I play Minecraft. Ira plays call of  
2 duty. Is that so hard?

3 Ira and Sasha start playing Call of Duty.

4 5. This is audio text from when Lyuda is driving Sasha to school in the morning,  
5 after also interrogating him the day before.

6 Sasha, if I will find out that you tell daddy, oh, momma says not tell you  
7 this, momma says not tell you this, you will never touch Xbox. Do you  
8 understand? You do not talk about your momma because all what he  
9 wants is hurt your momma. Every time you talk about momma, you're  
hurting your own momma. Do you understand? So every time he ask you  
about momma, about Ira, you say I do not want to talk about my momma  
with you, that's it. How..how difficult is that? That's your right. Do you  
hear me?

10 Sasha: YA!

11 Is it that hard?

12 Sasha: No!

13 So why you talking with him about me? Hm? You forget you are  
14 hurting me. You think it's OK?

15 Sasha weakly: No

16 Then he send me this messages, accusing me of something that he is  
17 doing himself. Every time he ask you about games, Daddy, I started  
18 play games with Vanessa and Riley, not my mom. Why this is so hard  
19 to say, the truth? Hm? Tell me. You got to be strong. You have to be  
20 strong. He cannot ...? He takes you to Riley you playing there all  
21 kinds of games. He doesn't care. The minute you go to your momma  
22 home and play with your sister, oh, you cannot play this game. But I  
23 was playing Riley's house. What does it matter? You cannot play  
24 momma's house. You think it's OK?

25 Sasha weakly: No

26 That's what you have to tell him.

27 Sasha: Maybe he doesn't want me to play...

28 He doesn't want you to have fun in momma house. That's what he  
wants. He doesn't want you to have fun in momma house. That's it.

Sasha: I think he only wants me to play Call of Duty at Riley's house

Yea. That's it.

Sasha: He just wants me to not have...?

Yea.

1 Sasha mumbling. I will play it Riley, but he just forgot. Mumbling...

2 So only when you play at momma's house he brings this up. When  
3 you playing in Riley house he doesn't care. That's called double  
4 standards.

5 Sasha: Maybe he was mad because I was playing it all year, like all  
6 day long.

7 Why do you tell him that?? You should not tell him that. I asked you  
8 to go to park, you tell me you don't want to. Why you tell him? You  
9 see what you doing to me? Huh? Why you doing this? I ask you. How  
10 many times I tell you not tell this idiot nothing! Do you understand?  
11 All he wants is hurt me, nothing else. You understand?

12 Sasha: Yes

13 Why you doing this? Why you keep talking with him about me? You  
14 should stop doing this, Sasha. Hm? Be smart. Every time he ask you  
15 about Ira, momma, do not answer. Tell him, I forgot. I don't  
16 remember. Do you understand? Huh?

17 Sasha weakly: Ya (crying)

18 You want him to take you away forever?

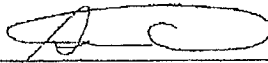
19 Sasha: No

20 Well then be smart. That's all that he wants. To hurt your mom, take  
21 you away from mom forever. That's what he wants. He tried last year,  
22 I stop him. Do you understand?

23 Sasha weakly: Ya

24 Obviously, it is not in Sasha's best interest to be with his mother 50% of the time. I am  
25 asking the Court to change custody to protect my son and preserve my relationship with him.

26 Dated this 3 day of February, 2015.

27  
28  
  
SEAN R. ABID

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February, 2015 I served a copy of the  
DECLARATION OF SEAN ABID IN SUPPORT OF HIS COUNTERMOTION TO CHANGE CUSTODY  
upon each of the parties by electronic service through Wiznet, the Eighth Judicial District  
Court's e-filing/e-service system, pursuant to N.E.F.C.R. 9; and by depositing a true and correct  
copy of the same in a sealed envelope in the First Class United States Mail, Postage Pre-Paid,  
addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: [mbalabon@hotmail.com](mailto:mbalabon@hotmail.com)  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO

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

LYUDMYLA ABID,

Appellant,

v.

SEAN ABID,

Respondent.

Supreme Court No. 69995

District Court Case No. D-10-424830-Z

Appeal from the Eighth Judicial District Court

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**APPELLANT'S APPENDIX**

**VOLUME 2**

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oo. Transcript of 01-25-16 Hearing, vol I	01-25-16	1221-1323
pp. Transcript of 01-25-16 Hearing, vol II	01-25-16	1324-1506
qq. Minutes from Hearings	07-03-13 10-08-13 12-09-13 03-18-15 03-24-15 06-25-15 07-16-15 08-10-15	



09-09-15

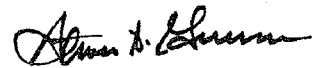
11-18-15

11-19-15

01-11-16

01-25-16

1507-1526

  
CLERK OF THE COURT

1 **DECL**  
2 **BLACK & LOBELLO**  
3 John D. Jones  
4 Nevada State Bar No. 6699  
5 10777 West Twain Avenue, Suite 300  
6 Las Vegas, Nevada 89135  
7 (702) 869-8801  
8 Fax: (702) 869-2669  
9 Email Address: jjones@blacklobellolaw.com  
10 Attorneys for Plaintiff,  
11 SEAN R. ABID

12 **DISTRICT COURT**  
13 **FAMILY DIVISION**  
14 **CLARK COUNTY, NEVADA**

15 SEAN R. ABID,

16 Plaintiff,

17 vs.

18 LYUDMYLA A. ABID

19 Defendant.

CASE NO.: D424830

DEPT. NO.: B

20 **DECLARATION OF PLAINTIFF, SEAN R. ABID, IN RESPONSE TO DEFENDANT'S**  
21 **MOTION TO HOLD PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER**  
22 **REGARDING TIMESHARE OR IN THE ALTERNATIVE FOR THE APPOINTMENT**  
23 **OF A PARENTING COORDINATOR, TO COMPEL PRODUCTION OF MINOR**  
24 **CHILD'S PASSPORT AND FOR ATTORNEY FEES**

25 SEAN ABID, being first duly sworn, deposes and says:

26 1. That I am the Plaintiff in this action and I offer this declaration of my own  
27 personal knowledge and in response to Defendant's Motion to Hold Plaintiff in Contempt of  
28 Court, to Modify Order Regarding Timeshare or in the Alternative for the Appointment of a  
Parenting Coordinator, to Compel Production of Minor Child's Passport and for Attorney Fees.

2 In the hearing held on December 7, 2013, Lyudmyla ("Lyuda") and I negotiated  
and reached an agreement that I would be allowed to be pick up the minor child (Sasha) after  
school on Lyuda's days and keep him until 5:30 p.m. Lyuda claims in her most recent motion

(page 5, lines 2-4 and then again lines 14-16) that the only reason she agreed to this was because she worked until 5:00 pm. Lyuda even italicizes the word "only" on page 14, line 14, stating that the only reason the parties agreed to the modification was because of her work schedule. Contrary to this statement, the settlement we reached was never contingent upon her work hours. In fact, as you will see in the stipulation that was reaffirmed in September 2014, Lyuda agreed to allow me to have Sasha on her days only if I would agree to remove the supervised visitation provision of Ricky Marquez (her husband) from the previous stipulation. Now that I have agreed to lift the supervised contact, Lyuda is trying to take back the time that she negotiated with. By lifting supervised contact, Lyuda gained what she wanted most of all from the hearing process, which was to allow Ricky to transfer his probation to Las Vegas from San Diego so that he could move here. I agreed to this settlement, though not ideal for what I initially wanted (primary custody), because I realized it would allow me to see Sasha every day. It also allows me to provide a daily routine for Sasha which is extremely important for children to have, including completing homework, eating a snack, reading, practicing sight words and practicing sports. Notably, the current timeshare closely mirrors the primary custody recommendation set forth in the custody evaluation by Dr. Paglini.

3. On page 6, Lyudmyla continues to incorrectly characterize the negotiation by leaving out the only reason she actually gave up her time, which was to get Ricky Marquez's supervised contact lifted. Knowing that this timeshare schedule was solidified in writing through the courts and reaffirmed by the opposing party on September 15th, I resigned my position as a varsity volleyball coach and declined the opportunity to interview for the Director of Guidance for the Clark County School District so that I could be home for Sasha every day after school.

4. Due to the lack of consistent amicable relations between Lyuda and me, I would never enter into any agreement with Lyuda unless it is in writing, such as email or text message. I have never entered into any verbal agreement with Lyuda either in person or by phone as she states on page 6, lines 13-17. As the record will reflect, there are no texts or emails that Lyudmyla can produce from me that will show there has been any communication other than positive, reasonable, and focused upon Sasha's best interests in the time period that she is

1 alleging a spike in animosity (November 2014). I follow the stipulation assiduously and  
2 communicate positively and reasonably when necessary.

3 5. In contrast to Lyuda's statement on page 7, lines 2-5, I have had no phone  
4 communication with Ricky's parole officer since August 2014, and have done absolutely nothing  
5 to harass Ricky Marquez.

6 6. Modifying the existing timeshare is not in Sasha's best interest for many reasons.  
7 First, Sasha has a daily routine with me that he loves. It is important for children to have  
8 consistency and stability. By keeping the timeshare as it is, Sasha does not have to remember  
9 which days to go to Safekey and which days to ride the bus. Sasha should not have to attend  
10 Safekey when he can be with me, whom he adores spending time with. Consistency for Sasha  
11 has not been a priority for Lyuda, as was evidenced when she enrolled Sasha in a different  
12 preschool than Sean did, after she became angry with Sean. Sasha was attending two different  
13 preschools for a few months before the courts agreed that Sean's school was the appropriate  
14 choice for Sasha.

15 7. Additionally, this timeshare has helped Sasha's performance in Kindergarten to  
16 improve, not necessarily because Lyuda isn't capable of helping a Kindergartner with his  
17 homework (as stated on page 13, lines 4-5), but because he has a steady routine of completing  
18 his homework at the same time every day without distractions. On page 13, lines 18-26, Lyuda is  
19 deceitfully claiming that a modification of timeshare would reduce the number of child  
20 exchanges between the parties. The only time the parties see each other face to face is when  
21 Lyudmyla chooses for it to happen. When I drop Sasha off at his mom's house, Sasha walks up  
22 to the door while I wait in the car to make sure he enters the house safely. There is no interaction  
23 between parties at exchanges.

24 8. Again on page 7, lines 18-23 and page 12, lines 1-14, Lyuda is making dishonest  
25 claims. I have never removed correspondences or assignments from Sasha's backpack. In fact, I  
26 has emailed Lyudmyla to inform her of current assignments. This was done as a courtesy  
27 because she had not been accessing the information on her own via the school district Infinite  
28 Campus system. This system, which provides all parents with login credentials, is an incredibly

1 powerful tool for parental involvement. If used properly, she would be able to access the school  
2 calendar, current assignments, and it allows direct communication to the classroom teacher via  
3 email. It assures in a divorce situation that one parent is not at all reliant on the other parent to be  
4 fully engaged in the educational process. Furthermore, the Twitchell school website is extremely  
5 comprehensive, and is what I use to supplement Infinite Campus information. It is an absolute  
6 falsehood that I am the gatekeeper for Lyudmyla's parental involvement. On page 12, line 6-9,  
7 Lyuda says that she "had to go to the school and meet with Sasha's teacher" in order to request  
8 separate mailings. This was a required parent teacher conference, not a special meeting that  
9 Lyuda arranged, and it is the first conference she has attended since Sasha started attending  
10 school in pre-Kindergarten. Not only have I not taken any documents out of Sasha's backpack,  
11 but I have left 120 flash cards of Kindergarten sight words that I created, in the backpack, which  
12 she has yet to discover. Sasha himself claims that his mother does not practice sight words or  
13 read with him at her house. I communicate frequently with the teacher, which Lyuda could also  
14 do without my blessing. Rather than seeing me as someone with a superiority complex, she could  
15 be grateful that I am a devoted and impassioned father who is highly involved in my son's  
16 education. In no way have I hindered Lyuda's ability to be involved in her son's education, and it  
17 certainly is not my responsibility to stimulate or inspire her to be an involved parent. Lyudmyla  
18 has the opportunity to be just as involved and impassioned as I about Sasha's education, but  
19 instead she chooses to blame me for her failures in using Infinite Campus and other reliable  
20 tools. I take no pleasure in Sasha's mother not fulfilling her role as an involved parent.

21 9. On page 8, lines 2 and 3, Lyuda alleges that I absolutely will not cooperate with  
22 her enrolling Sasha in activities such as Jiu Jitsu. Since the hearing, Lyuda has not expressed to  
23 me any interest in signing Sasha up for Jiu Jitsu again, or any other activity. I have not refused to  
24 take him, and she has never asked to take Sasha to any activities that she wants to enroll him in.  
25 In fact the exact opposite is true. I texted Lyuda on January 7th, 2015, to ask her about enrolling  
26 Sasha in baseball, which she refused, stating that I can do what I wants with Sasha on my days. It  
27 is ironic that she claims that I said this to her (page 8, line 3).

28 10. On page 8, lines 19-21, Lyuda claims that I began making her wait until 5:30 to

1 pick up Sasha because she asked me for the passport. In fact, this verbal conversation never took  
2 place, but was a text conversation that commenced when I texted Lyuda to tell her, in good faith,  
3 that on her days Sasha was falling asleep in school and after school. I asked her to please adhere  
4 to her promise to put Sasha to bed at a reasonable time. Her response was that "as God as her  
5 witness, she would get this fixed" and would be taking me back to court. She then showed up at  
6 my door, banging on the door and screaming through the door, which scared my 1 year old child.  
7 It was at this time that I realized Lyuda's proclivity for emotional outbursts and rage would make  
8 it impossible for us to make any joint, commonsense decisions without using the 5:30 time as a  
9 fallback. Also, it has now been only 4 months since the last motion was reaffirmed, and when  
10 she became unhappy with one text conversation, she is suddenly bringing me back to court  
11 again. This is not helpful for us moving forward civilly, and is certainly not helpful for Sasha.  
12 This motion is replete with examples of Lyuda's continued anger towards me, and completely  
13 lacks a focus on Sasha's best interests.

14 11. On page 10, Lyuda claims that I continue to have anger towards her and cannot  
15 control this anger. There have been no angry correspondences originating from me in the period  
16 that she is claiming that there has been increased hostility. She is just trying to support her  
17 baseless reason for filing this motion. Lyuda cannot support her claims by producing any texts or  
18 emails where there have been any acrimonious statements from me. We can show through our  
19 exhibits that she is in fact the source of anger and hostility. As an example, following one of her  
20 angry outbursts at my door during the month of November when she alleges I was the instigator,  
21 Lyuda sent a text (**Exhibit 1**) to me threatening to get me fired from school and also to expose  
22 Superintendent Skorkowsky because he helped her son to get into all-day Kindergarten when  
23 they were initially not successful in the school lottery. This is a cogent illustration of Lyuda's  
24 desire to exact revenge and carry out her vendetta towards me rather than to view what is in  
25 Sasha's best interest. I went to great lengths to get Sasha into full-day Kindergarten, requesting a  
26 favor from the Superintendent of the school district. Rather than seeing this as a good faith effort  
27 of me to do what is best for Sasha, she uses it as an opportunity to try to harm me, in effect  
28 harming Sasha. There are numerous examples that I can produce where Lyuda has made threats

1 to either have me audited and jailed by the IRS (**Exhibit 2**), fired from my high school, and most  
2 tellingly, a video where she tells me she will be fighting me in court for the rest of Sasha's life.

3 12. I have found it extremely challenging to co-parent with Lyudmyla with even the  
4 simplest of concerns. For example, I recently found out from Sasha that he received the game  
5 "Call of Duty: Black Ops" from his mother for Christmas. I sent Lyuda a text (**Exhibit "3"**)  
6 asking her to please read about the game before allowing our five-year old to play it. I provided  
7 her with a link which highlights the game's violence and explicitly states it is not for children.  
8 Her response was irrational, and she said Sasha played it at a friend's house on my day (untrue)  
9 so it should be OK. She also viewed my concerned text as harassment and refused to discuss it  
10 further. Sasha told me upon returning from his mother's house that she was mad at Sasha for  
11 betraying her. He told me that she said, "Do you want them to take you away from me? You  
12 can't play the game anymore if you can't keep a secret from your dad." Sasha said that even his  
13 sister, Iryna, tried to tell her mother that the game wasn't OK for children to play. Clearly she is  
14 placing blame and guilt on a child for her poor decisions as a parent and asking him to deceive  
15 me. How can I trust her?

16 13. Lyuda has a history of perjuring herself in court and filing baseless motions. In  
17 August 2012, she filed a motion against me claiming that I owed her back child support, when in  
18 fact she was paying back a loan that she owed to me by allowing me to withhold monthly child  
19 support payments. Her motion suggested that I be jailed. Thankfully I had enough evidence to  
20 prove that I had paid her what she was owed. She admitted to Dr. Paglini in the custody  
21 evaluation that she was paying a loan back to me and had lied to the Court.

22 14. Last year when we were in court because of my fears about Lyuda's new husband  
23 and her refusal to provide me with any insight into Ricky's criminal background to assuage my  
24 worry about Sasha's safety, the judge ordered Lyuda to pay half of all my costs (totaling  
25 approximately \$14,000.00). Lyuda paid me \$5,000.00 in cash, which was shrink wrapped with  
26 the year 2003 written on it. Lyuda chose to mock my fears about Ricky's criminal career by  
27 making it look as though they had dipped into a hidden money stash from before Ricky's  
28 incarceration. She shared with me that Ricky is making around \$9.00 an hour at a door factory,

1 yet they suddenly can afford to buy a new BMW, a new refrigerator, new washer and dryer, etc.  
2 The spike in spending so soon after Ricky's entrance into Lyuda's life also increased my concern  
3 that something isn't right.

4 15. Listed below are many reasons that my protective instincts have been activated  
5 regarding Lyudmyla acquiring Sasha's passport and traveling with him to Ukraine. Her judgment  
6 and decisions are not congruent with putting Sasha's safety and best interests first. (It is  
7 important to note that I offered to discuss these great concerns with her, but she refused, saying  
8 that she has already paid her lawyer and it would be settled in court).

9 16. Lyuda has married a questionable character without knowing him for very long.  
10 She became engaged to Ricky Marquez in November 2012, the day that he was released from  
11 federal prison after serving 10 years for international drug and weapons trafficking. Furthermore,  
12 this was his second stint in prison, having served another sentence for marijuana trafficking as a  
13 member of the Mexican Mafia. Ricky Marquez spent the night in Lyudmyla's home the night  
14 after being released from prison. Lyudmyla was in a different relationship in October 18, 2012,  
15 so this leaves less than a month for her to have met someone in prison, and have him in her home  
16 and around her children. In two different portions of the custody evaluation, when Dr. Paglini  
17 directly asked her about the suddenness of her decision to get married in combination with  
18 Ricky's background as a felon and having him so quickly around her children, she responded, "at  
19 least he isn't a murderer or a rapist."

20 17. On page 17, lines 14-15, it is asserted that Lyuda has never violated any previous  
21 custody orders that have been filed in this case. This is absolutely false, and was mentioned in  
22 the initial motion for change of custody in June 2013. In this motion, there are exhibits which  
23 prove she took Sasha out of state at least twice to be with Marquez and other members of his  
24 family who are also convicted felons without notifying me of the trip, the address they would be  
25 staying at, or who Sasha would be staying with. These actions were in direct violation of the  
26 divorce decree.

27 18. On page 9, lines 5-14, Lyuda suggests that Sasha being in Iowa with my wife and  
28 family for one week is the same as him being in Ukraine. This is specious logic for many



1 reasons. First of all, Sasha does not speak Russian, so if Lyudmyla is not with him, he has no  
2 way to communicate with people. Secondly, Iowa is not under a state department-issued travel  
3 advisory and is not in the middle of a civil war as Ukraine is. Third, Lyudmyla claims that the  
4 size of the country makes travel to Ukraine safe. Ukraine is the size of New Mexico. This does  
5 not reassure me that Sasha would not be in harm's way. When does civil war stay strictly  
6 confined to geographical boundaries? Fourth, Lyudmyla's mother is Russian, and she has family  
7 in Russia. I do not trust that my son would be safe in Western Ukraine, and certainly don't trust  
8 that she wouldn't travel with him outside of this area. Her past gross violations of the divorce  
9 decree in terms of travel requirements do not instill confidence. Not only was she travelling and  
10 not telling me where she was taking Sasha, but she was travelling surreptitiously with a  
11 convicted felon. Fifth, all international travel into Ukraine takes place in Kiev, which was a site  
12 of civil war this past summer. On page 10, line 4-6, Lyuda admits that she sent her daughter into  
13 this chaos last summer, as an unaccompanied minor, during this time. This suggests an absence  
14 of continued vigilance to protect her children.

15 19. Any reasonable parent would have alarms going off all over the place or would  
16 have their protective instincts triggered with such a situation. First, you have a parent who has a  
17 history of threatening abduction. Second, her brother-in-law in Ukraine is a known organized  
18 crime figure with the resources to help her organize an international abduction. Third, she is  
19 married to an international drug and weapons dealer who is attempting to start a business venture  
20 (door business) with the referenced brother-in-law in Ukraine. Federal law enforcement officials  
21 have been in contact with me about these dynamics. Fourth, she has previously violated court  
22 orders relating to travel with Sasha. Fifth, she has a poor history of supervising Sasha here in Las  
23 Vegas, so how can I trust that he will be properly supervised in a foreign country?


24 20. Lyudmyla is only asking for the negotiated hours to be modified because of her  
25 vindictive nature. She is angry that Sean required a discussion about his concerns before handing  
26 over the passport. This new order must include more specific provisions regarding the housing  
27 and exchange of the passport.

28 21. Attorney fees: I do not want to be back in court again and again. I have two other

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10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8601 FAX: (702) 869-2669

21. Attorney fees: I do not want to be back in court again and again. I have two other sons under the age of two: a 16 month old and a two month old. Because of Lyudmyla's failure to communicate with me in healthy and productive ways and her two motions based on lies, I have been forced to spend money that could be used for the support of my family, which includes a wife, three sons, and the financial support of my elderly mother. I want a peaceful relationship with Sasha's mother, but also have valid reasons for concern about Sasha's safety while in his mother's care. I feel that my job is to protect my children. That is my only motivation. Lyuda has now filed two baseless motions that are taking precious money from my family and precious time from the courts. When Lyuda doesn't like what she hears from me, she immediately goes to the courts without waiting for her emotions to calm down for rational conversation. Because Lyuda brought me to this position, she should cover all attorney fees.

Dated this 3 day of February, 2015.

  
SEAN R. ABID

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

CERTIFICATE OF SERVICE

I hereby certify that on the 4<sup>th</sup> day of February, 2015 I served a copy of the  
DECLARATION OF SEAN ABID IN SUPPORT OF RESPONSE TO DEFENDANT'S MOTION TO HOLD  
PLAINTIFF IN CONTEMPT OF COURT, TO MODIFY ORDER REGARDING TIMESHARE OR IN THE  
ALTERNATIVE FOR THE APPOINTMENT OF A PARENTING COORDINATOR, TO COMPEL  
PRODUCTION OF MINOR CHILD'S PASSPORT AND FOR ATTORNEY FEES upon each of the parties  
by **electronic service** through Wiznet, the Eighth Judicial District Court's e-filing/e-service  
system, pursuant to N.E.F.C.R. 9; and by depositing a true and correct copy of the same in a  
sealed envelope in the First Class United States Mail, Postage Pre-Paid, addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: [mbalabon@hotmail.com](mailto:mbalabon@hotmail.com)  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO

# Exhibit 1

# Exhibit 1

 Messages

Lyuda

Details

You can pick him up at 5:30 or we will bring him to you at 5:30

Brings him to my house.  
This will be fixed through  
PC. I am going to your  
top supervisor about  
everything. You  
superintendent will get in  
trouble too for corruption  
in CCSD I have all your  
messages. I have a lot to  
disclose about you.  
Good luck.

Wed, Nov 26, 8:47 AM

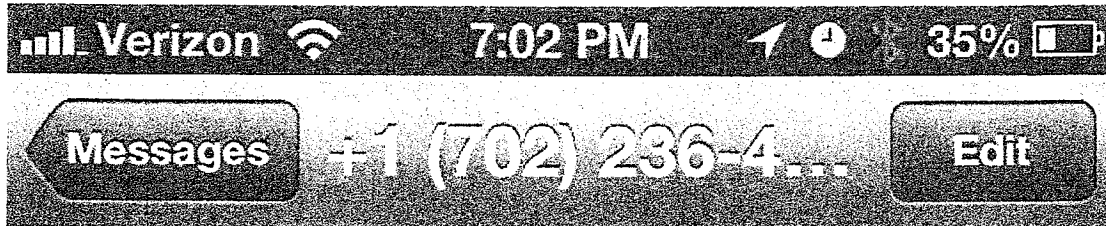


1/24/2014



## Exhibit 2

## Exhibit 2



iMessage

Jun 6, 2013, 7:01 PM

By the way I am reporting you to IRS for tax fraud. 2010 you didn't report rental income and you itemized interest on mortgage that was paid by Dion and Kris. You also use exemption for your mom when she lives in her own house. And last Tara will confirm living at your house and paying you rent 900-1100 per month. You want to play dirty with me....

Get ready for audit



Messages

Send

## Exhibit 3

## Exhibit 3



 Messages

Lyuda

Details

Monday 6:52 PM

Sasha told us that he spent the entire weekend playing Call of Duty at your house. I realize that you can do what you want with him on your days, but he is FIVE years old playing a game NOT recommended for children before the age of 14. I can send you twenty + articles that will all say the same thing. Come on, Lyuda! How can you possibly argue that you should have



Message



 Messages

Lyuda

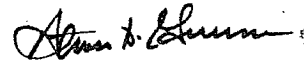
Details

more time with him when  
THIS is how he spends  
ALL of his time with you?

[https://  
www.common sense medi  
a.org/game-reviews/call-  
of-duty-black-ops](https://www.common sense media.org/game-reviews/call-of-duty-black-ops)

As I recall Sasha is  
playing this game with  
Riley at Craig house all  
the time... That is the  
only reason he wants to  
go to your house ...to go  
play with Riley and  
watch those crazy  
videos as well. I never





CLERK OF THE COURT

0001  
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Nevada Bar No. 4436  
5765 So. Rainbow, #109  
(702) 450-3196  
Las Vegas, NV 89118  
Attorney for Defendant

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

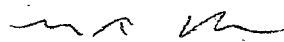
CASE NO. D-10-424830-Z  
DEPT. NO. B

DECLARATION OF LYUDMYLA A. ABID IN SUPPORT OF HER MOTION AND IN  
RESPONSE TO PLAINTIFF'S OPPOSITION AND COUNTERMOTION

COMES NOW, Defendant, LYUDMYLA A. ABID, and her hereby  
submits the attached Declaration in Support of her Motion and in  
Response to Plaintiff's Opposition and Countermotion.

DATED this 13th day of March, 2015.

Submitted by:



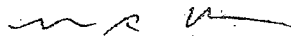
MICHAEL R. BALABON, ESQ.  
5765 So. Rainbow, #109  
Las Vegas, NV 89118  
Attorney for Defendant

1  
2  
3 CERTIFICATE OF SERVICE OF DECLARATION OF LYUDMYLA A. ABID  
4

5 I, Michael R. Balabon, Esq., hereby certify that on the 13th  
6 day of March, 2015, a true and correct copy of DECLARATION OF  
7 LYUDMYLA A. ABID IN SUPPORT OF HER MOTION AND IN RESPONSE TO  
8 PLAINTIFF'S OPPOSITION AND COUNTERMOTION was served to the Law  
9 Offices of JOHN D JONES, ESQ., via electronic service pursuant to  
10 Eighth Judicial District Court, Clark County, Nevada  
11 Administrative Order 14.2, to jjones@blacklobellolaw.com, and by  
12 depositing a copy thereof in a sealed envelope, first class  
13 postage prepaid, in the United States Mail, to the following:

14 John D. Jones, Esq.  
15 Black & Lobello  
16 10777 W. Twain Ave., #300  
17 Las Vegas, NV 89135  
Attorneys for Plaintiff

18 DATED this 13<sup>th</sup> day of March, 2015

19   
20 MICHAEL R. BALABON, ESQ.  
21  
22  
23  
24  
25  
26  
27  
28

## DECLARATION OF LYUDMYLA A. ABID

I am hopeful that after reviewing my declaration and reviewing the exhibits provided that court will begin to see the entire picture of the constant harassment and manipulation my family endures on a daily basis. I am shocked at the opposition filed to my motion to change the hours that I pick up Sasha to my new work schedule on my scheduled days. It is evident that in order to stop me from getting my 2 hours back on my days with my son they broke the law, committed a crime and have come to court with lies. I am fearful for my family. I believe that only a mentally unstable person would have such a level of obsession and go so far as to break the law and try to justify his actions. I am asking the court to help the police in procuring all tapes of conversations recorded at my house without our knowledge. I am asking the court to punish Sean and his attorney for lies and complete disrespect to court, judge and law.

### I. BACKGROUND

After an evidentiary hearing On December 9<sup>th</sup> 2013, it was resolved through extensive custody evaluations By Dr. Paglini, that no "Parenting Alienation" had been executed by the mother and that there was no imminent danger to myself nor my family by my current husband who had been incarcerated for a non-violent crime. It was also discovered that the Plaintiff, Sean Abid, made false statements in court claiming that he and his family were moving to Iowa to better his position for full custody. After Dr. Paglini testified the hearing was stopped and it was agreed that we would settle without a trial. An agreement was reached that the defendant would pay half of Dr. Paglini's Psychologists bill (\$14,000.00) and Sean Abid would recant all accusations regarding Ricky Marquez. All restrictions for Ricky were lifted.

The order states further that the parents shall work together with each other on the exchanges and will communicate in a manner that is positive and reasonable. Further, the parties will be reasonable and flexible with the exchange times. During the settlement Sean asked me if he would be able to pick up Sasha from school and help him with his homework since I worked until 5pm. I felt this was a reasonable request and I agreed based on my work schedule. John Jones was in charge to write the order but he failed to clarify what exactly this change means. **I never gave up my time on my days and I agreed to allow Sean to pick up my son only because I was working till 5pm.** Because order didn't have important clarifications like what if mother was off from work early, what if she is not working and has PTO, etc... That allowed Sean again to start prior behavior of complaining about my current husband Ricky Marquez, instituting, harassing, controlling and manipulating has escalated to the point where I am fearful for my family's safety and well-being. Again threatening to take primary custody of Sasha. I firmly believe that my child is being manipulated and is at risk.

On August 5, 2014 I changed my time schedule at work so that I would be able to pick up Sasha from school on my court appointed days and asked to adjust the custody schedule peacefully and reasonably. After a lengthy telephone conversation on August 20<sup>th</sup> 2014 with Sean and Angela, they agreed to put all anger aside and stop all the harassment for the sake of our son. It was after this conversation that I wrote to my Attorne y to stop any further action against Sean because I felt we had finally come to an understanding. I am attaching copy of minutes that prove that conversation took place on August 20<sup>th</sup> 2014 at 2:29 pm and my correspondence with my attorney. **SEE EXHIBIT #A**

The agreement was that I was going to pick up Sasha after work on my way home from 3pm. Starting November 7<sup>th</sup> and continuing for two to three weeks after on my way home from work I would stop at Sean's house to pick up my son at 3pm as agreed based on my new work schedule. Sean refused to give me Sasha and each time asked me to come back at 5:30 to pick him up or he and his wife would bring him to my house at 5:30pm. I would also like to note that from September through October when I

arrived to pick Sasha up they would make me wait in the car for 25-40 minutes after acknowledging my presence.

On Monday November 24<sup>th</sup> and the next day when after not seeing my son for 5 days I came to their home at 3pm to pick up my son and they refused to give me my son. Sean ran outside while his wife Angela was pulling her car into the garage demanding her to ignore me. These actions left me no choice, but to wait at my house on my court appointed days from 3pm till 5:30pm for my son, as that is when they would return him to me or text me where I should drive to pick him up. I was so emotionally destroyed that I sent a mean text message that evening but regretted next morning and apologized for it in text message. **SEE EXHIBIT #B**

On February 2<sup>nd</sup> 2015 my day Sean notified me that they may be late returning home due to an emergency. I arrived to discover Sasha had been left with a friend of Sean's who was babysitting. I was still expected to wait until 5:30 even when Sasha wasn't with Sean. **SEE EXHIBIT #C**

On February 27 2015 Sean texted me at 4:28 pm that I can pick up Sasha from his house. **It is very clear to me that our co-parenting is not about being reasonable and flexible, but it is only about Sean, what is convenient for him at that day.** The reason that Sean didn't bring Sasha to my home that day is because we went to watch a basketball game with his friend Tico. **SEE EXHIBIT #D**

After consistently refusing me access to Sasha, and me asking politely to be reasonable and flexible with the exchange times (as per our court order), Sean and his attorney John Jones told me NO, that the time was stipulated within the agreement discussed on December 9, 2013. These actions left me no choice but file with the court again to change the time schedule were Sean has no court appointed time on my days.

I feel like Sean has invaded my life... secretly taping intimate moments, sex life and personal conversations at my home. I have no idea how many times Sean had taped conversations until he found one he felt was discriminatory. It is also ironic that just prior to learning of the tape recording that my home was broken into. My daughter arrived home while a perpetrator was still in the house. A police report was filed. A witness saw the young man leave. I am not being accusatory, however, I would also like to point out that Sean has a young male non-relative living in his home. I feel violated and unsafe within my own home. I believe that Sean Abid and his attorney violated not only Nevada law NRS 200.650, but the Federal Wiretap Act as well which are crimes in the law's eye. This needs to be reviewed and resolved within the justice system. An open investigation is currently proceeding within the Henderson Police Department as well as the Clark County District Attorney's office. John Jones tried to justify this criminal act as legal based of the one party consent, all knowing that per Nevada regulations the state is all parties consent state.

Through this recording device conversations were recording at my home:

1. Sasha is at bed by 8 pm. In the evening Sean was listening all conversation between my husband Ricky Marquez and I.
2. Conversations between my daughter Ricky and I
3. I skype with my family every night, so conversations on skype between my mom and I, my sister and I.

There is no way for Sean to know that Ricky is planning on opening window business with my brother in law without that listening device that was placed into my house.

This back pack is in our living area when Sasha gets home and later before I go sleep I am taking it to my bedroom to go through all old papers that Sean leaves for me. So I am afraid that more private staff is on those tapes.

## II. HARRASSMENT OF RICKY MARQUEZ

1. On many occasions Sean was laughing at me that I am with a man without higher education, that I am with a loser. It began with strange calls on my phone stating "Did you fill out application on line for Marquez higher education", another; "Did you fill out the application for Marquez for hair restoration"? Then I received an envelope addressed to my house (See Exhibit #1). The name on the envelope altered. Instead of "Ricky Marquez" it is "Dicky Marquez"... It is very clear to me that, my ex-husband's obsession with my current husband is crossing all limits. **SEE EXHIBIT #E**
2. A letter was written and delivered to each of my neighbors describing all the particulars involved with my current husbands' prior incarceration warning them that he was dangerous. I was unaware of this until two separate neighbors approached me with their concerns. Most have said "Lyuda, I don't want to be involved in your personal life". Same email was sent to my daughter's father in the Ukraine. This email has destroyed a once amicable relationship with him making communications regarding our daughter extremely difficult. **SEE EXHIBIT #F**
3. Sean has harassed Ricky's probation officer up until August, 2014
4. Sean placed a hidden recording device into Sasha's backpack in order to record my household's personal conversations and life. Their primary reason was to find out if I and my husband Ricky Marquez are doing any illegal activities. Sean clearly indicates that he "knows what my current husband Ricky Marquez is up too." That he is trying to open his own business to sell and install windows and doors, which was part of a private conversation that took place within my residence. Within the counter complaint filed by Sean Abid's Attorney they attached transcripts of the recorded conversations as evidence. John Jones, Sean's attorney, tried to justify this criminal act as legal based on the one party consent, all knowing that per Nevada regulations the state is all parties consent state. At no point in time was there ever reasonable cause to

## III. FALSE STATEMENT ON SEAN ABID BEHALF

I want to address each issue that was presented by Sean Abid with attached EXHIBITS which prove that all what they state is untrue.

1. They informed the court that my husband Ricky Marquez is on parole. That is absolutely untrue; Ricky is on probation that ends on November 1<sup>st</sup> 2015, basically in 7 months. They claimed that they had stopped harassing his probation officer on December 9<sup>th</sup> 2013, while mentioning the last time he called Ricky's probation officer in August 2014.

2. On page 2 lines 23-28 Sean states "that we never had a verbal agreement with Lyuda either in person or by phone." I am attaching the minutes that I spoke with Sean on August 2014. On that day Sean called me from his cell phone 702-290-7406 at 02:29 PM, we spoke for 39 minutes **SEE Exhibit # A**. That same day I asked my attorney to postpone filing a material change in my schedule when I don't need Sean present on my scheduled days. I asked my attorney to wait one month to see if Sean is going to keep his promises. I am attaching the email that I sent to my attorney.
3. Defamation of character of my brother-in-law, Kolya, stating he is part of organized crime and part of an international kidnapping scheme. My sister and her husband were here to receive medical treatment not available in their country. His text, attached, acknowledges my brother in-law's illness. **SEE EXHIBIT #G**
4. I never lied that Sean owed me child support in 2012. If Mr. Jones wants to go back we can address who is lying. I still have all correspondence between my attorney and John Jones. I told Dr Paglini exactly what happened and it is clearly different from what Sean is trying to accuse me of today. That was part of the settlements between us. I forgave Sean the unpaid child support and he allowed me to travel with my kids to Ukraine to visit my parents and relatives. We also adjusted schedule so it is 50/50.
5. On page 7, Sean accuses me of violating some kind of order while I was visiting my husband in San Diego. There was no order broken and it is a completely false statement.
6. It is simply disgusting for me to read on (page 3) on Sean's response "The simple facts, which Lyuda ignores is that a month long visit to the Ukraine is not in Sasha's best interest and creates a significant risk to Sasha and his relationships with his father". How can they write that after taking my son for 6 weeks during the summer 2014 for vacation to IOWA. This coming summer, 2015, is my turn for 6 weeks' vacation and their one month vacation.
7. On page 4 Sean claims that I refused to enroll my son into baseball. He also stating that I never asked about Sean agreeing to bring Sasha into my classes on his days. Here are messages exchanged between Sean and myself regarding baseball. He is attending practices starting February 14<sup>th</sup> on my days. And I still never received responses if they are going to do the same for my class on their days. During a conversation on Jan 2<sup>nd</sup> I clearly asked Sean about Israeli class and on January 24<sup>th</sup> I agreed to bring Sasha to baseball practice. I still have \$200 deposit is sitting at Israeli school for Sasha that I can use when he will start his training. **SEE EXHIBIT #H**
8. Sean claims that he never discussed my class that I want my son to be enrolled into. On February 18, 2013 Sean told me that under no circumstances will he allow Sasha to be in any type of fighting/self-defense class. This position on Sean's behalf has never changed since. **SEE EXHIBIT #I**
9. Sean states that consistency for Sasha has not been priority for me and stating that I enrolled Sasha into different preschool after I got angry with Sean. This is absolutely another lie. My mother in law was watching Sasha on my days; during those days Sean could see Sasha all the time. In order to get back to me on August 12<sup>th</sup> 2013, they told me that my mother in law, Mary Abid, is no longer available so I have to find my own school. **SEE EXHIBIT #J**



10. On page 2 Sean claims that he has only communicated with me in a positive and reasonable way. Please see attached messages of our relationship since December 2013. I have installed an application on my phone where I archived all conversations between myself and Sean Abid. I will address each issue by date's time since our last order.
- A. On May 20<sup>th</sup> 2014 while Sasha was attending American Heritage preschool I informed Sean that I will pick up Sasha from school (that was Friday, my day according to schedule) and we are going for the weekend to San Diego. Sean's response was that I have to wait till 5:30 because it is his time before I can go to San Diego. **SEE EXHIBIT #K**
  - B. Same day I contacted Sean's wife again about things are going out of control and offered to meet with Sean and Angie to resolve all issues. Angie informed me that Sean has no interest to resolve it, but she would meet me. **SEE EXHIBIT #L**
  - C. After I met Angie on June 1<sup>st</sup> 2014 at Starbucks at Target, Sean sent me a message that I can't use his wife Angela to communicate regarding Sasha. **SEE EXHIBIT #M**
  - D. Because Sean was allowed to pick up Sasha on my days he was making me drive after my work around Las Vegas to find my son. Later his wife Angela agreed with me that it is not right what Sean was doing. Examples are represented. **SEE EXHIBIT #N**
  - E. My four weeks' vacation with Sasha has started on June 2<sup>nd</sup> till June 30<sup>th</sup>, same weekend Sean asked me to take Sasha to California to visit his dad and I did let him. He also was allowed to watch Sasha during those days while I was at work. Next weekend Sean again asked for favor in demand form and that time I said no. **SEE EXHIBIT #O**
  - F. On June 19<sup>th</sup> after that escalated tension Sean sent me messages demanding me to inform him who is watching Sasha during my weeks. After realizing that he crossed the line he sent me apologies **SEE EXHIBIT #P**
  - G. Sean came to Las Vegas without my son from IOWA summer vacation. I didn't know that while I was writing these messages later my son and Angela told me that Sasha arrived in Las Vegas one week later. When I asked him about arrival and that there is one more week left of my summer vacation left with my son this is how he treated me. I wrote to my attorney about detail of days that Sean owed me. Thanks to my attorney it was fixed. I asked Sean about my son on Thursday August 7<sup>th</sup> but he finally gave me my son on Sunday August 10<sup>th</sup> very well knowing that I was missing my son terribly after not seeing him for 6 weeks. He was completely ignoring that all favors that I gave him were with condition that I will get all my days back. **SEE EXHIBIT #Q**
  - H. There are daily logs in messages between me and Sean that prove that Sean did allow me to pick up my son from first day at school till November 7<sup>th</sup>. See last log when I was able to pick up my son at 3pm on November 8<sup>th</sup> **SEE EXHIBIT #R**
  - I. On November 9<sup>th</sup> I requested Sean to bring Sasha passport and he completely ignored my request. Sending me email stating that I never asked for my son passport. **SEE EXHIBIT #S**

#### IV. PARENTING ALLIENATION

This is the second time when Sean is accusing me of Parenting Alienation in court. He is bragging that he sent me a message using our son Sasha and recorded my reaction at my own house at this message. I want court to address the fact that Sean and his attorney have no respect for law, court or judge. They have no problem to break the law in order to get back at me. I agree with my attorney that Mosley VS Mosley case clear indicates that when parents have agreed on joint custody and suddenly one is demanding primary. It is true that that parent is guilty who refuses to agree, compromise and co-parent. That parent is the one who exercises Parenting Alienation.

I want to remind all favors that were giving to Sean on daily basis... All these favors were given to Sean, on top of that he had access to my son on my days on daily basis. There is no one favor was given to me on their behalf since December 9<sup>th</sup> 2013.

1. On February 2<sup>nd</sup> 2014 Sean asked me if he can take Sasha to Superball party to his friend Randy. I did let him.
2. During spring break at school Sean asked me to give him my days April 14-15th 2014 to take Sasha to California on a trip. I did let him. The unacceptable thing was that they gave me false places where they were going to stay. They told me that they are going to Santa Barbara and provided me below with hotel site; instead they went to San Diego at LEGO LAND according to our son.
3. On June 5<sup>th</sup> during my four weeks' vacation no interrupt. Sean asked me to allow them to take Sasha to visit his grandfather in California and I let him.
4. On June 10<sup>th</sup> Sean asked me if he can keep Sasha longer that day because his friend Randy is bringing his girls to his house. I let Sasha stay there longer to play with kids.
5. When school started I asked Sean if he wants me to pay for safe key for his days as well so he will reimburse me later. Later in November I paid accidently for his days and he refused to reimburse me but took advantage of situation.
6. On August 29<sup>th</sup> Sean asked me if he can take Sasha to football game with his friend Bobby and I let them.
7. On August 30<sup>th</sup> Sean asked me if he can take Sasha to Lazer tag with Riley his friend Craig's kid. And I let him.
8. On September 12<sup>th</sup> Sean again asked me if he can take Sasha to football game and I let him.
9. On September 25<sup>th</sup> Sean asked me if he can take Sasha to Utah to watch football game and I let him.
10. On October 10<sup>th</sup> Sean asked me if he can take Sasha to football game again and I let him.

#### V. CONCLUSION

I see no other solution but restrict communications between us as parents. Sean is always trying to create an argument, trying to bait me and has no interest in peace and what is the best for our son. I didn't come to court because I want a war I came to court because I had no choice.

I feel like every time when I settle with John Jones somehow he always finds the way to get around it.

First time when I forgave Sean all unpaid child support in order to have rights for my kids to visit my country, to know my culture my parents and relatives. Today Sean and his attorney claim that my husband Ricky Marquez is a flight risk and I will kidnap my son. I don't want to make comments on that since it is completely ludicrous. They are using any argument but just not to provide me with my son's passport. My parents live in West of Ukraine and there is no war going on. My family will never allow me to visit them if there is a chance for any danger to me or my kids. I already missed the time when I can afford tickets to Ukraine since I can't buy them without passport. However I want court to address the fact that Sean is in contempt of court for denying passport of my son.

During same settlement we agreed that we will represent to each other our true earnings and will adjust child support. A different order was filed inconsistent with our settlement. I never filed to change it since I just want peace.

I regret on settling at court on December 9, 2013. They lied at court about relocation to IOWA, they filled ex-parte trying to get primary custody on false accusations. Two days before trial Sean was at my pre-school bragging that starting Monday December 9<sup>th</sup> Sasha will see his mom once in two weeks under supervision... I made myself forgive them and move on. One year later they have same issues with my husband Ricky Marquez and they again demand primary custody.

As a mother I have problems with Sean regarding my son:

- They don't provide food for my son when they pick him up on my days. Sasha complains of being hungry and has stated that he doesn't eat after school. By the way on tape that was recorded that was actually first time that they fed him. Of course, they did they knew it will be recorded.
- They don't have winter jackets, shoes back pack and school uniforms for my son. It is all provided by me. School supplies are purchased by me. I have all receipts that show how much money I spent.
- During 5 years after divorce Sean took my son to cut his hair only one time. I am the only one who cares that my son looks neat and clean. Every hair cut cost me \$12 every time I am taking my son to salon and Sean never bothered to share these expenses.
- We have been in court back and forth since 2011 and they never enrolled my son in any activities. Their intentions are documented in the court custody battles. They committed to start Sasha in tennis and dancing classes but it never happened. Currently they stated that Sasha would be enrolled into baseball class. We will see how long it will last and I will not be surprised that after this court my son again will be locked at their home at back yard.
- In the summer of 2012 Sean took my son to dentist one day before hearing and they pulled a tooth without my consent. When I took Sasha to my own dentist he couldn't understand why the tooth was pulled.
- Sasha's appearance is consistently sloppy and dirty. Bathing is not a priority when at Sean's house resulting in a rash and infection around his uncircumcised penis that made urination painful. We had the argument on many occasions about it. It is breaking my heart as a mother to see my son being neglected. Every time when my son spends 5 nights at his father home he comes to my home with rash. I am attaching for you doctor's report that support my

accusations. In the past responses from Sean was always that I am lying and it is untrue... It is true SEE EXHIBIT #T For court I have pictures to show clear neglect of my son. I asked Sean about rash in writing on two occasions but he completely ignored me. SEE EXHIBIT #U

- He is sent to school with holey, tattered clothing which will eventually result in teasing and alienation from his school mates. On Friday my son came home from their house with huge holes on the knees. I asked him "did you fall today at school?" his response was "No mama it happened couple of days ago". "Did your dad dress you today for school with these huge holes on the pants?", "Yes mama". Obviously when Sasha gets home they don't change clothes and result three pairs of my pants are destroyed. See pictures in EXHIBIT#V
- Sean is refusing to give me Sasha's passport so we can visit my parents abroad. He declares it is too much time away from his father after me allowing 6 weeks away from me so he could travel to Iowa.

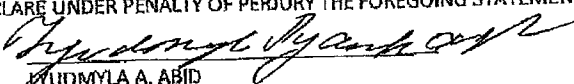
Enough is enough I am asking court to step in and put everything into 50/50 with limited correspondence between me and my ex. The conflict level has exceeded all limits. As a mother and human being I am looking for a stable, predictable life. I can no longer put myself and my family into nonstop stress. I did try to co-parent, be reasonable and flexible, but what I get in return is unacceptable.

As mother of two kids I am not interested in court battles. I spent \$20,000 in court in two years. I could spend this money on my own kids and I am sure it is the same for Sean.

My older daughter is at High School and I have to prepare her for college. I dealing with stress that Sean puts me and it affects my job performance.

At this point based on history with Sean I can only rely on court to help me to resolve this situation

I DECLARE UNDER PENALTY OF PERJURY THE FOREGOING STATEMENT IS TRUE AND CORRECT

  
LUDMYLA A. ABID

# EXHIBIT "A"

Billing Account Number	Cost Center	Wireless Number	User Name	Call Date	Call Time	In/Out Number	Rate	Usage Type	Orig	Dest	Intd Call Duration
821744619-00001	1080000	702-208-0633	LYUDA ABID	7-Aug-14	10 25AM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	53
821744619-00001	1080000	702-208-0633	LYUDA ABID	8-Aug-14	03 55PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	8-Aug-14	0401PM	702-290-7406	Peak	Planallow	HENDERSON NV	INCOMING CL	13
821744619-00001	1080000	702-208-0633	LYUDA ABID	11-Aug-14	10 18AM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	11-Aug-14	10 26AM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	20-Aug-14	02 29PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	INCOMING CL	39
821744619-00001	1080000	702-208-0633	LYUDA ABID	21-Aug-14	12 58PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	3
821744619-00001	1080000	702-208-0633	LYUDA ABID	21-Aug-14	12 59PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	21-Aug-14	04 00PM	702-290-7406	Peak	Planallow	HENDERSON NV	INCOMING CL	3
821744619-00001	1080000	702-208-0633	LYUDA ABID	22-Aug-14	10 59AM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	22-Aug-14	02 56PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	2
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	06 43AM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	02 17PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	INCOMING CL	5
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	02 28PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	09 44PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	04 33PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	03 44PM	702-290-7406	Peak	Planallow	HENDERSON NV	LAS VEGAS NV	7
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	03 25PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	03 27PM	702-290-7406	Peak	Planallow	LAS VEGAS NV	INCOMING CL	4
821744619-00001	1080000	702-208-0633	LYUDA ABID	25-Aug-14	11 49AM	702-290-7406	Peak	Planallow	LAS VEGAS NV	LAS VEGAS NV	1
821744619-00001	1080000	702-208-0633	LYUDA ABID	29-Aug-14	09 37PM	702-290-7406	Off-Peak N&M		HENDERSON NV	LAS VEGAS NV	2

Michael I think it sounds reasonable and they have to sign it. Disregard my previous message.

**Lyudmyla Pyankovska**

Business Analyst

**Freeman**

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**From:** Lyuda Pyankovska

**Sent:** Wednesday, August 20, 2014 3:15 PM

**To:** [mbalabon@hotmail.com](mailto:mbalabon@hotmail.com)

**Subject:** Abid vs Abid

Michael I don't know what to do. My ex just called me with his wife they swear that they will prove me to be reasonable and stop harassing me.

I want to give them two month chance and if this again goes to crap than we will file clarification.

I will pick up Sasha by my first request after I am done with work at 3:30pm

Please keep the money(that I will use in future) because I am sure we will need to file in future, now I want to stop the war before it has started and see how it goes.

**Lyudmyla Pyankovska**

Business Analyst

**Freeman**

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# EXHIBIT "B"



---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Tue, Nov 25, 2014 at 4:38 PM

To: Sean <7022907406@unknown email>

Brings him to my house. This will be fixed through PC. I am going to your top supervisor about everything. You superintendent will get in trouble too for corruption in CCSD I have all your messages. I have a lot to disclose about you. Good luck.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Tue, Nov 26, 2014 at 8:47 AM

To: Sean <7022907406@unknown.email>

I apologize for my text yesterday I snapped which is human nature when someone is pushed too far. I again pulled to your house to get my Sasha and was told I couldn't have him until after 5pm. I have when you understanding and have been flexible when you asked for favors with extra time but you have not returned that courtesy. Since you do not show me the same respect as a parent I show you I feel the only way to resolve our issues is to go back to court.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Mon, Dec 1, 2014 at 4:05 PM

To: Sean <7022907406@unknown.email>

I will not come to your house going forward. Bring Sasha to my home. We are going to Parenting Coordination and it will be resolved in near future

---

# EXHIBIT "C"

509 seanabid@icloud.com	+1 (702) 208-0633	in	2015-02-02 15:29:12	We experienced an emergency this afternoon. Therefore, you will need to pick sasha
510 seanabid@icloud.com	+1 (702) 208-0633	in	2015-02-02 15:29:26	Up from our house at 5:30pm
511 +1 (702) 208-0633	seanabid@icloud.com	out	2015-02-02 15:32:14	I will pick him up in 20 minutes.
512 seanabid@icloud.com	+1 (702) 208-0633	in	2015-02-02 15:32:16	5:30 will be fine
513 +1 (702) 208-0633	seanabid@icloud.com	out	2015-02-02 15:33:17	No you have emergency I will get Sasha now
515 seanabid@icloud.com	+1 (702) 208-0633	in	2015-02-02 15:36:32	Once again you are welcome to show up at 5:30pm--not before
516 +1 (702) 208-0633	seanabid@icloud.com	out	2015-02-02 15:38:26	No you can bring him to my house at 5:30 if I cannot pick him up now.
518 +1 (702) 208-0633	seanabid@icloud.com	out	2015-02-02 15:57:03	Let the record show that I was trying to accommodate your emergency, but you have refused my
520 +1 (702) 208-0633	seanabid@icloud.com	out	2015-02-02 17:40:21	access to my son. Let Sasha out we are next to your home

# EXHIBIT "D"

From	To	Subject	Date	Time	Content
959 seanbid@icloud.com	+1 (702) 208-0633	In	2015-02-27	16:28:57	You can pick up sasha anytime
960 +1 (702) 208-0633	seanbid@icloud.com	Out	2015-02-27	17:33:05	You have to bring him this is agreement
961 seanbid@icloud.com	+1 (702) 208-0633	In	2015-02-27	17:42:24	I am ok with bringing him most days, but today I need you to pick him up

# EXHIBIT "E"

**BOSLEY**

9100 WILSHIRE BOULEVARD  
EAST TOWER PENTHOUSE  
BEVERLY HILLS  
CALIFORNIA 90212

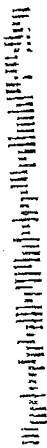
Electronic Service Requested

**HERE IS  
THE INFORMATION  
YOU REQUESTED.**

PSRST STANDARD AUT3  
Time Sensitive Material



DHL# 1041850472709335



3062	1-6
1-6	LAX

TI-8ZCPLZ  
Mr. Dicky Marquez  
2167 Montana Pine Dr.  
Henderson, NV 89052-5800

# EXHIBIT "F"



**Lyuda Pyankovska**

---

**Subject:** FW: Iryna's New step dad

**From:** Sergiy NEZHURBIDA [mailto:s.nezhurbida@gmail.com]

**Sent:** Wednesday, June 26, 2013 6:40 AM

**To:** Lyuda Abid

**Subject:** Fwd: Iryna's New step dad

----- Forwarded message -----

**From:** Sean R. Abid <abidsr@interact.ccsd.net>

**Date:** 2013/6/4

**Subject:** Fwd: Iryna's New step dad

**To:** s.nezhurbida@gmail.com

**The person in these links is now living with your daughter.**

----- Original Message -----

<http://legacy.utsandiego.com/news/metro/20040422-9999-1m22jackson.html>

<http://legacy.utsandiego.com/news/metro/20040609-9999-6m9rock.html>

<http://www.bop.gov/iloc2/InmateFinderServlet?Transaction=NameSearch&needingmorelis=false&firstname=ricky&middle=&lastname=marquez&race=U&sex=U&age=&x=60&y=14>

**Sean Abid MA NCC NCSC  
CCSD NCAA Eligibility Liaison  
Lead Guidance Counselor  
Last Names A-C  
Desert Oasis HS  
702-799-6881 Ext. 4301**

**"Better to fight on your feet than live on your knees!"**

Sergiy NEZHURBIDA

PhD (in Law), Associate Professor, Head of Department

Department of Criminal Law and Criminalistics  
Chernivtsi National University  
19, Universytetska Str.  
Chernivtsi, Ukraine 58000

# EXHIBIT "G"

Sean <7022907406@unknown.email>

Mon, Dec 16, 2013 at 6:38 AM

To lyuda.abid@gmail.com

We were sleeping when you sent this message. I am sad for kolya and hope he can receive the best treatment. As a father, I cannot imagine how difficult this is for him and his family. I have never forgot how kind he was to me when I visited Chernovtsy.

# EXHIBIT "H"

---

Sean <7022907406@unknown.email>

Sat, Jan 24, 2015 at 11:39 AM

To: lyuda abid@gmail.com

Sasha wanted you to know that he was a superstar at baseball tryouts today! He was the top 6 year old and played better than 75% of the 7 year olds who've been playing for two years. He's going to play in the highest level of little league for his age. Month of training and preparation have paid off. He feels great about himself and it'll be a great way to bolster his self-confidence. I hope you will re-consider taking him on your days. I'll send you the schedule when I know what it is, in case you change your mind.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Sat, Jan 24, 2015 at 11 42 AM

To: Sean <7022907406@unknown email>

I have no problems to take him if you will agree to take him to my class on your days. I still have deposit sitting there since he attended year ago. I believe it is fair request.

---

133 Sean [+17022907406] +1 (702) 208-0633 in 2015-01-02 09:35:58 Little League sign-up is tomorrow morning at 10 at Dick's Sporting Goods. Are you planning to take him or should I? You will need his birth certificate and proof of address.  
134 +1 (702) 208-0633 Sean [+17022907406] out 2015-01-02 09:40:24 Please do so on your days. I will sign up Sasha to jujitsu on my days after court will adjust visitation schedule and restore my mother's rights on my days.

135 Sean [+17022907406] +1 (702) 208-0633 in 2015-01-02 09:45:29 For Sasha to be involved in team sports, it will require cooperation on both of our days. This is the sport I have been preparing him for, as we discussed before. Now you have changed your mind? I can't sign Sasha up for a sport that he will only participate in half the time. It will require commitment from both of us.

136 +1 (702) 208-0633 Sean [+17022907406] out 2015-01-02 09:57:57 You told me that you will never put him in Israeli class which he loved and was attending. So how can you expect me to agree with what ever you decide while completely ignore my activities that I want my son to be enrolled at. It can't be just your way seen. Vacate your time on my days. Provide me with Sasha passport so I can take him for vacation to visit my family and the last thing stop harassing and hate my husband Ricky Marquez. Only after that maybe again maybe I will start believe that you really a normal ex husband who wants the best for Sasha and all of us. Until it is achieved there will be no more favors on my days. I paid already to my attorney to resolve what I am dealing with at court. I was more than exceptional ex wife I was always flexible with you regarding Sasha and what I got in return from you is unacceptable.

137 Sean [+17022907406] +1 (702) 208-0633 in 2015-01-02 10:05:52 So is that a no for sign-ups tomorrow? FYI, we took Sasha to the fighting class you enrolled him in, which you never consulted with me about beforehand. I treasure and value my time with Sasha during the week. He has learned to read because I spend one on one time with him everyday, teaching and coaching him. We don't spend our time watching movies and playing video games. All of our time is spent together, for his development and growth. Any change from his weekly routine would only hurt him at this point. I would think any mother would be quite happy to have this commitment shown to their son everyday.

138 +1 (702) 208-0633 Sean [+17022907406] out 2015-01-02 10:15:38 He is my son and I have equal rights as you as father. I am capable to do homework and all other stuff with my son. I don't think it is ok for any court to decide that I have to wait two hours on my days to get my son after your time on my days. I wrote very clear above if you ignore my activities that I want for my son you get same attitude from me regarding that you want. It will not go one way only. And I have your messages that you clear stating that Sasha will never attend on your days my classes. I am busy right now and you can enroll Sasha on your days where ever you want and I will do same as you told me couple months ago.

Remember, you gave up your time with Sasha as part of our settlement because you thought it was more important to have Ricky off supervised contact. Now that you have that, you can't go back on your part of the deal. It doesn't work that way. The court didn't decide this you did. This is about Little League. If you don't want to sign him up because you are trying to hurt me, you are only hurting Sasha. Think about Sasha first before you decide not to allow him to participate in a sport that he's been preparing for. You have chosen to have animosity now between us because you became angry when I told you that Sasha is falling asleep at our house after your days. I'm still in the same position as before with co-parenting.

139 Sean [+17022907406] +1 (702) 208-0633 in 2015-01-02 10:25:04

Sean we are not trading meat or stocks etc... This is About my SON. Last year you came to court lying that Sasha's life is in danger, after you came and claimed relocation to Iowa which was lie as well. You were responsible for all Paglini bill you asked me to settle and help with half of the bill. You tried to steal my son and get primary custody. You were stopped. The only reason that I agreed for you to pick up Sasha from school on my days was the only fact that I was working till 5 pm and as normal human being as mother I thought it was great that Sasha will spend that time with you while I am at work. As you know I am off from work early now. So you presents on my days no needed.

140 +1 (702) 208-0633 Sean [+17022907406] out 2015-01-02 10:36:18

# EXHIBIT "I"



4  
 Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 1 59 PM

So under no circumstances do I allow my son to be in any type of fighting/self defense class

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 1 59 PM

Lol

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 1 59 PM

3 kids 3 dads = unstable home

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 2 00 PM

Parental alienation is not ok

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 2 00 PM

I warned you about teaching hate

lyuda.abid@gmail.com <lyuda abid@gmail.com>  
 To: Sean <7022907406@unknown email>

Mon, Feb 18, 2013 at 2 02 PM

Just read that you wrote makes me wonder when are you going to move on and be respectful for sake of our son

lyuda.abid@gmail.com <lyuda abid@gmail.com>  
 To: Sean <7022907406@unknown email>

Mon, Feb 18, 2013 at 2 02 PM

No comments

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 2 02 PM

Go back and read your hate filled texts and emails The counselor is shocked at what she has heard so far

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 2 05 PM

I will have sole custody You will not continue to teach him that 50% of him is bad He will know in time that I am good man You will lose him on you

Sean <7022907406@unknown email>  
 To lyuda abid@gmail.com

Mon, Feb 18, 2013 at 2 05 PM

r own by teaching hate Our judge is an advocate for parental alienation

<https://mail.google.com/mail/u/0/?ui=2&ik=e6c8e777a2&view=pt&cat=SMS&search=cat...> 3/12/2015

# EXHIBIT "J"

I got it from Angie

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 12:58 PM

I also informed you via text on the day of the tooth extraction. You chose to call the dental office and accuse me of having an extraction done because of

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
To: Sean <7022907406@unknown.email>

Mon, Aug 12, 2013 at 12:58 PM

I notified you on July 30 you didn't have issues. Today is too late to cancel

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 12:58 PM

of the court case. They told you that his abscess was a serious threat to his health.

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:02 PM

Read the divorce decree. This decision does not reflect making collaborative decisions in regards to Sasha's medical care. Your basis for changing dentists

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:02 PM

his is alleged dishonesty. We wholeheartedly disagree.

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:47 PM

When we were negotiating preschool in the spring, you informed me that you preferred to take care of your own days regarding where Sasha would be while you

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:48 PM

you're at work. My mother is NOT an option for you after next Tuesday, August 20th. I will leave work early tomorrow, Friday, and next Monday and Tuesday

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:48 PM

to assist my mother with watching Sasha. Linda is no longer there to help her, and it is too much strain on her to watch him all day by herself. Also, I

---

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Aug 12, 2013 at 1:48 PM

do not approve your mother to watch Sasha on your days due to safety concerns which I've already mentioned to you. They do not speak the same language as

# EXHIBIT "K"

Sean <7022907406@unknown email>

Fri, May 23, 2014 at 1:15 PM

To lyuda.abid@gmail.com

Court order allows me to have him till 5:30

I suggest you return him

You are violating a court order. I will contact my attorney.

I expect my son will be returned to my home

The order filed with the court is correct. Your attorney failed to show you the annebbed document. This is a clear violation. We can settle this, and some other issues before a judge.

Violation of court order. Action already taken

It is in Sasha's best interest for the judge to examine new information and reevaluate custody so

Threats from you are meaningless Keep checking Clark county web site for new filings

# EXHIBIT "L"

7022364442 <7022364442@unknown.email>

Wed, May 28, 2014 at 3:02 PM

To: lyuda abid@gmail.com

Lyuda, I got your voice message and spoke with Sean. He is not interested in meeting with you, but I would be willing to if you'd like.

# EXHIBIT "M"



Sean <7022907406@unknown.email>

Sun, Jun 1, 2014 at 7:20 AM

To: lyuda.abid@gmail.com

All communication regarding Sasha needs to go through me, not my wife. It is fine if you start your four weeks on Monday, June 2nd, but we are planning to leave June 26th for Iowa. I said the 30th earlier because that was our weekend with Sasha. You may need to use your final week when we get back.

# EXHIBIT "N"

---

Sean <7022907406@unknown.email>  
Fri, Feb 28, 2014 at 4:03 PM  
To: lyuda.abid@gmail.com

We will be at Craig's when you get off from work

---

Sean <7022907406@unknown.email>  
Tue, May 27, 2014 at 3:43 PM  
To: lyuda.abid@gmail.com

You can pick up Sasha from Nila's house.  
I am telling you not asking

---

Sean <7022907406@unknown.email>  
Mon, Jun 2, 2014 at 3:42 PM  
To: lyuda.abid@gmail.com

Sasha will be at Nila's.

---

Sean <7022907406@unknown.email>  
Tue, Jun 3, 2014 at 2:20 PM  
To: lyuda.abid@gmail.com

Sasha is at school with me. You can pick him up here

---

# EXHIBIT "O"

---

Sean <7022907406@unknown.email>

Wed, Jun 11, 2014 at 11:28 AM

To: lyuda.abid@gmail.com

The Robertson family is having a reunion this weekend in Utah and we will be staying with Linda, leaving early Friday through Monday. We'd love to take Sasha if you are ok with it.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Wed, Jun 11, 2014 at 11:30 AM

To: Sean <7022907406@unknown.email>

No Sean sorry but I will not see my son 6 weeks this summer. You can't take him

---

Sean <7022907406@unknown.email>

Wed, Jun 11, 2014 at 11:32 AM

To: lyuda.abid@gmail.com

We are requesting that he see his family. You may make a similar request in the future. Your refusal will be noted.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Wed, Jun 11, 2014 at 11:32 AM

To: Sean <7022907406@unknown.email>

Too much you asked already spring vacation, last weekend...etc Please start think about Sasha's time with his mother. Sorry but no.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Wed, Jun 11, 2014 at 11:34 AM

To: Sean <7022907406@unknown.email>

You are crossing all limits you have 6 weeks with Sasha this summer not me. Please start plan your vacation according to your family plans reunions. NOT during my time with my son.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Wed, Jun 11, 2014 at 11:35 AM

To: Sean <7022907406@unknown.email>

Your abuse of my parent cooperation will be noted and is noted.

---

Sean <7022907406@unknown.email>

Wed, Jun 11, 2014 at 11:36 AM

To: lyuda.abid@gmail.com

You have a poor choice as usual.

---

Lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
Wed, Jun 11, 2014 at 11:37 AM  
To: Sean <7022907406@unknown.email>

Really Sean... no comments.

---

Sean <7022907406@unknown.email>  
Wed, Jun 11, 2014 at 11:37 AM  
To: lyuda.abid@gmail.com

We are anxious to get back to court. We had an informative meeting with someone in Santa Barbara. Seems he had his own investigator.  
We are pretty excited  
You are putting Sasha at risk. It will get fixed. Good luck

# EXHIBIT "P"

---

Sean <7022907406@unknown email>  
Thu, Jun 19, 2014 at 6:55 PM  
To: lyuda.abid@gmail.com

I was already aware that you had him in daycare without right of first refusal. You are required to notify me of any caregiver.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
Thu, Jun 19, 2014 at 7:10 PM  
To: Sean <7022907406@unknown.email>

50/50 to the teeth after your threats of court, disrespectful attitude towards me and my family. If you can't grow up and be reasonable for sake of our son than it is not my problem anymore.

---

Sean <7022907406@unknown.email>  
Thu, Jun 19, 2014 at 8:56 PM  
To: lyuda.abid@gmail.com

I crossed the line last week with you, and I apologize. I appreciate the time that you were willing to let me see Sasha during your four weeks. If things continue the way they are, the only one who will get hurt is Sasha, and I know neither of us wants that. For his sake, I'm willing to put aside my angry feelings and speak with you and Ricky and Angela in person so that we can try to bring things back to where they were in December.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
Thu, Jun 19, 2014 at 8:58 PM  
To: Sean <7022907406@unknown.email>

That is all I want piece and mutual respect.

---

Sean <7022907406@unknown.email>  
Thu, Jun 19, 2014 at 8:59 PM  
To: lyuda.abid@gmail.com

I'm willing to come to the table with an open mind so that I can put to rest my frustration with the circumstances that brought us to court. I realize the trust between us gone, but I have no other agenda than to put all this to rest once and for all. Tell ricky that I will try to hear him out and understand where he is coming from. I want him to understand where my anger is coming from as well, which is simply a desire to protect my son. I'm sure all this is quite a surprise to you and a lot to process. Just please think it over, and let us know if you'd like to meet up. Good night.

---

Sean <7022907406@unknown.email>  
Sat, Jun 21, 2014 at 10:35 AM  
To: lyuda.abid@gmail.com



I understand you guys may not be ready or willing to meet us at this time. We were hoping to have a peaceful accord before we leave for Iowa. The offer stands at any time.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Sat, Jun 21, 2014 at 11:04 AM

To: Sean <7022907406@unknown.email>

Sean there is no need for meeting since words and promises has no value at this point based on history. After you come back from IOWA you decide how you want relations between us to be. American way 50/50 by court or normal human and most beneficial for Sasha. I am tired that every time when I am nice to you for sake of my son I get back threats of court, insults towards my family and completely unacceptable behavior toward me. Imagine that I am your neighbour on the street basically nobody to you the only that we have is Sasha to raise together. I want only piece and no interaction for at least 6 monthes. If you go back for looking for reasons to hate me and create tensions we will be completely 50/50 for sake of all of us. I must be mentally stable at work and be a mom who is calm and happy. Your behavior was putting me in stressfull mode which is cruel to my family. And I want that stop. I cant live around your mood switches I am looking for stable predicting life.

---

Sean <7022907406@unknown.email>

Sat, Jun 21, 2014 at 11:08 AM

To: lyuda.abid@gmail.com

I respect your position.

---

Sean <7022907406@unknown.email>

Sat, Jun 21, 2014 at 11:09 AM

To: lyuda.abid@gmail.com

I do need to know if you still intend to give Sasha to us on the 26th so we can reserve our flights. We have decided not to drive.

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Sat, Jun 21, 2014 at 11:10 AM

To: Sean <7022907406@unknown.email>

Of course you get Sasha on 26 as agreed

---

Sean <7022907406@unknown.email>

Sat, Jun 21, 2014 at 11:14 AM

To: lyuda.abid@gmail.com

Thank you.

# EXHIBIT "Q"

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
Thu, Aug 7, 2014 at 9:59 AM  
To: Sean <7022907406@unknown.email>

When are you arriving? Today is my day.

---

Sean <7022907406@unknown.email>  
Thu, Aug 7, 2014 at 10:14 AM  
To: lyuda.abid@gmail.com

Today is Thursday

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
Thu, Aug 7, 2014 at 12:13 PM  
To: Sean <7022907406@unknown.email>

You are violating order. Please return my son to me so I will have remained week of my four weeks' vacation with my son

---

Sean <7022907406@unknown.email>  
Thu, Aug 7, 2014 at 1:01 PM  
To: lyuda.abid@gmail.com

Today is my court ordered timeshare. I did not offer you any of my court ordered visitation. Sasha will be returned to you according to the court ordered schedule on Monday. I will expect Sasha to be returned to me Wednesday morning at 8 am.

# EXHIBIT "R"

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Fri, Nov 7, 2014 at 2:48 PM

To: Sean <7022907406@unknown.email>

I will pick up Sasha in 15 minutes

---

Sean <7022907406@unknown.email>

Fri, Nov 7, 2014 at 2:52 PM

To: lyuda.abid@gmail.com

Ok

# EXHIBIT "S"

---

lyuda.abid@gmail.com <lyuda.abid@gmail.com>

Sat, Nov 8, 2014 at 9:04 AM

To: Sean <7022907406@unknown.email>

Bring Sasha passport I am buying ticket for summer

# EXHIBIT "T"



**AB** ABID, ALEKSANDR  
Chart ABIA001  
DOB 2/13/09  
Provider GREGORY, DON

**15**

PEDIATRIC PROGRESS NOTE: AUC-PPN

MAR 09 2015		S
Date	Triage Time	Room #
<input checked="" type="checkbox"/> Established <input type="checkbox"/> New Patient	<input type="checkbox"/> Appointment <input checked="" type="checkbox"/> Walk-In	Triage Level (1-5)

Chief Complaint: Genit Buttock's Rash new onset

Triage Assessment: Mother noticed genital rash & buttock's rash. please see photos on her phone (Mother's)

Past Medical History:

- ☐ Born Full-Term via ☐ Vaginal Delivery ☐ C-Section  
☐ Born Premature @ \_\_\_\_\_ Weeks via ☐ Vaginal Delivery ☐ C-Section
- ☐ Asthma ☐ Diabetes ☐ Seizures  
☐ Pneumonia ☐ Eczema ☐ Meningitis  
☐ RAD ☐ Heart Murmur ☐ Appendectomy  
☐ RSV ☐ Reflux ☐ T&A Surgery (Tonsils & Adenoids)  
☐ ADD / ADHD ☐ UTIs ☐ Myringotomy (Ear) Tubes  
☐ Develop Delay ☐ Cerebral Palsy ☐ Hospitalizations

Sexually Active? ☐ Yes ☒ No LMP: \_\_\_\_\_ Normal ☐ Abnormal  
G: \_\_\_\_\_ P: \_\_\_\_\_ SAB: \_\_\_\_\_ EAB: \_\_\_\_\_ Ectopic: \_\_\_\_\_  
☐ Cervical Dysplasia ☐ OSIP LEEP ☐ OSIP Conization

Height 42	Weight 51 lbs	Head Circum
Triage Signature <u>[Signature]</u>		

VITAL SIGNS:					
Time:	Temp.	RR	O <sub>2</sub> Sat.	HR	B/P
0823	97.2	22	98	100	96 / 64

HPI: ☐ Triage Note and assessment reviewed.

Historian ☒ Parent ☐ Patient ☐ Other

[Signature]  
[Signature]

Medications:

Mother's device

Immunization Status:

☒ Up-to-date ☐ Behind

ALLERGIES:

☒ None ☐ Clitons ☐ Sulfas ☐ Codeine ☐ E-mycin ☐ Tylenol ☐ Motrin

Social History:

Daycare? ☐ Yes ☒ No School/Preschool? ☒ Yes ☐ No  
Tobacco ☐ None ☐ Secondhand Smoke ☐ PPD  
EtOH ☐ None ☐ \_\_\_\_\_  
Drugs ☐ None ☐ THC ☐ Amphet ☐ \_\_\_\_\_

Family History:

☐ None ☐ Noncontributory  
☐ Cancer  
☐ DM  
☐ HTN  
☐ Other

History Elements: Minimum 4 for Levels III+

Onset: Chronic Gradual Acute Time  
Time Course: Constant Intermittent Resolved  
Lasted  
Provoked by: Exertion Movement At Rest  
Position  
Relieved by: Nothing Medication  
Rest Position  
Quality: Sharp Stabbing Burning "Pain" Dull  
Pressure Aching Throbbing Crampy  
Other  
Radiation: None To  
Severity: Mild Moderate Severe /10  
Associated Sx: Rash Nausea/Vomiting SOB Dizziness  
None Other

Review of Systems: Minimum 10 for New Pt/Level IV (2 otherwise)

Checked box is negative

☐ Constitutional T > 100.3°F Dec Feeding Fussy  
☐ Eyes Discharge Redness Pain  
☐ ENT Sore Throat Congestion Earache  
☐ Cardiovascular Palpitations Chest Pain  
☐ Respiratory Cough SOB Wheezing  
☐ Gastrointestinal Nausea Vomiting Diarrhea Constipation  
☐ Immunologic Allergic Rhinitis Hives

Checked box is negative

☐ Musculoskeletal Arthralgias Myalgias  
☐ Skin Rash Pruritis Bruising  
☐ Neurologic Headache Limpness  
☐ Psychiatric Depression Suicidality Anxiety  
☐ Lymphatic Edema Swollen Glands  
☐ Genitourinary Dysuria Frequency Hematuria  
Decreased # Wet Diapers

# EXHIBIT "U"



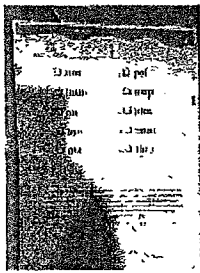
Lyuda Abid &lt;lyuda.abid@gmail.com&gt;

## SMS with Sean

14 messages

Sean <7022907406@unknown.email>  
To: lyuda.abid@gmail.com

Mon, Oct 27, 2014 at 5 26 PM



IMG955631.jpg  
223K

Sean <7022907406@unknown email>  
To: lyuda.abid@gmail.com

Mon, Oct 27, 2014 at 5 27 PM

Sasha needs to learn these words by tomorrow. We did not have time today.

Sean <7022907406@unknown email>  
To: lyuda.abid@gmail.com

Tue, Oct 28, 2014 at 2 59 PM

Two days in a row sasha is falling asleep and whining when we are trying to complete his work. Keeping him up late is hurting his ability to learn.

lyuda.abid@gmail.com <lyuda.abid@gmail.com>  
To: Sean <7022907406@unknown email>

Tue, Oct 28, 2014 at 3 38 PM

Sean I told you already he goes sleep at 8. He whining at my home all the time. He got sick and my question is if you give him jacket in the morning? He was sick with running nose. I want to ask you to make sure he takes a bath every night. This last Friday all his man staff was red and on fire. This is very serious he had pain only because he was dirty and didn't have bath in your home. As mother that breaks my heart that you don't give him right care. Angie is pregnant with a baby I have no rights to bother her about it.

Sean <7022907406@unknown email>  
To: lyuda.abid@gmail.com

Tue, Oct 28, 2014 at 3 40 PM

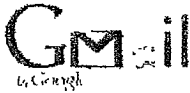
Talking on the phone right now might not be the best idea to keep things civil between us. Sasha is falling asleep and exhausted every day that I pick hi.

Sean <7022907406@unknown email>  
To: lyuda.abid@gmail.com

Tue, Oct 28, 2014 at 3 40 PM

m up on your days. I have never had this problem on my days. He is constantly sick, tired, and whiny after coming back from being with you. I work hard o

<https://mail.google.com/mail/u/0/?ui=2&ik=e6c8e777a2&view=pt&cat=SMS&search=cat...> 3/12/2015



Lyuda Abid <lyuda.abid@gmail.com>

---

**SMS with Sean**

3 messages

---

**lyuda.abid@gmail.com** <lyuda.abid@gmail.com>  
To: Sean <7022907406@unknown email>

Sat, Oct 4, 2014 at 8 07 AM

Sean, Sasha pipi was hurt yesterday I gave him hot bath and put a lot of cream I checked and the opening on pipi got smaller I am thinking of taking him to doctor We might ask doctor to open it Let me know that you are ok with that

---

**Sean** <7022907406@unknown email>  
To: lyuda.abid@gmail.com

Sat, Oct 4, 2014 at 8 40 AM

I am ok with you taking to a doctor

---

**lyuda.abid@gmail.com** <lyuda.abid@gmail.com>  
To: Sean <7022907406@unknown email>

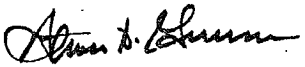
Sat, Oct 4, 2014 at 8 40 AM

Ok

<https://mail.google.com/mail/u/0/?ui=2&ik=e6c8e777a2&view=pt&cat=SMS&search=cat...> 3/12/2015

OPPS  
MICHAEL R. BALABON, ESQUIRE  
Nevada Bar No. 4436  
5765 So. Rainbow, #109  
(702) 450-3196  
Las Vegas, NV 89118  
Attorney for Defendant

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CLERK OF THE COURT

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

CASE NO. D-10-424830-Z  
DEPT. NO. B

OPPOSITION TO PLAINTIFF'S MOTION TO CHANGE CUSTODY AND  
COUNTERMOTION TO STRIKE PLAINTIFF'S OPPOSITION AND TO SUPPRESS  
THE ALLEGED CONTENTS OF THE UNLAWFULLY OBTAINED RECORDING AND FOR  
SANCTIONS AND ATTORNEY FEES

COMES NOW, Defendant, LYUDMYLA A. ABID, by and through her  
attorney, MICHAEL R. BALABON, ESQ., and hereby moves this Court  
for an Order awarding her the following relief:

1. That Plaintiff's requests for relief relative to a change  
of custody, be denied.

2. That Plaintiff's entire Opposition and Countermotion be  
stricken and that Defendant's Motion be granted.


3. That this Court impose sanctions against Plaintiff for  
abusive litigation practices, including attorney fees.

4. For such and further relief as the Court may deem just

1  
2 and proper.

3 This Motion is based upon all papers and pleadings on file,  
4 the attached points and authorities, the Declaration of Defendant  
5 and the Exhibits attached thereto, and oral argument to be  
6 adduced at the time of hearing of this cause.

7 DATED this 13 day of March, 2015.

8  
9   
10 MICHAEL R. BALABON, ESQ.  
11 5765 So. Rainbow, #109  
12 Las Vegas, NV 89118  
13 702-450-3196  
14 Attorney for Defendant

15 POINTS AND AUTHORITIES

16 I

17 1. THE VICARIOUS CONSENT DOCTRINE

18 NRS 200.650 provides as follows:

19 Unauthorized, surreptitious intrusion of privacy by  
20 listening device prohibited.

21 Except as otherwise provided in NRS 179.410 to NRS 179.515, a  
22 person shall not intrude upon the privacy of other persons by  
23 surreptitiously listening to, monitoring or recording, or  
24 attempting to listen to, monitor or record, by means of any  
25 mechanical, electronic or other listening device, any private  
26 conversation engaged in by the other persons, or disclose the  
27 existence, content, substance, purport, effect or meaning of any  
28 conversation so listened to, monitored, or recorded, unless  
authorized to do so by one of the persons engaging in the  
conversation.

29 In the instant case, it is undisputed that Plaintiff  
intentionally placed a listening device in the minor child's  
backpack and proceeded to record the conversations that were

1  
2 occurring in the Defendant's private residence. It is also  
3 undisputed that none of the parties who were being recorded,  
4 Ricky, Lyuda, Irena or the minor child, knew of the recording  
5 device or consented to be recorded. It is also evident that  
6 private conversations between Lyuda, her Husband Ricky, and  
7 Lyuda's daughter, Irena, in which the minor child was not a party  
8 to the conversation, were also recorded.  
9

10 Plaintiff is relying upon the "vicarious consent doctrine"  
11 in maintaining that the interception of the Plaintiff's private  
12 conversations that occurred in her private residence without the  
13 actual consent of any party being recorded, was in fact legal.

14 In the case entitled Pollock v. T. Pollock, 154 F.3rd 601  
15 (1998) cited by Plaintiff, the Court addressed the issue of  
16 "vicarious consent".

17 In Pollock, the Plaintiffs were Husband and Wife. The  
18 Plaintiffs alleged violations of the Federal Wiretapping Statute  
19 18 USC Sec.2510-2521 ("Title III") when the Husband's ex-wife  
20 tape recorded conversations between the daughter and both  
21 Plaintiffs. The issues framed by the Court were as follows:

22 1. Whether the statutory consent exception contained in U.S.C.  
23 sec. 2511(2)(d) of the Federal wiretapping statute permits a  
24 parent to "vicariously consent" to recording a telephone  
25 conversation on behalf of a minor child in that parent's custody,  
26 without the actual consent of the child; and (2) if vicarious  
27

1  
2 consent does qualify for the consent exception, whether questions  
3 of material fact precluding summary judgment exist as to whether  
4 Defendant's recording of her minor child's phone conversations  
5 with the child's father and step-mother was motivated by a  
6 concern for the child's best interest.

7  
8 The Court cited numerous cases that upheld the doctrine and  
9 others that had rejected it. Ultimately the Court upheld the  
10 underlying District Court decision and stated as follows:

11 "We agree with the district Court's adoption of the doctrine,  
12 provided that a clear emphasis is put on the need for the  
13 "consenting parent" to demonstrate a good faith, objectively  
14 reasonable basis for believing such consent was necessary for the  
15 welfare of the child. Accordingly we adopt the standard set forth  
16 by the district Court in Thompson and hold that as long as the  
17 guardian has a good faith, objectively reasonable basis for  
18 believing that it is necessary and in the best interest of the  
19 child to consent on behalf of his or her minor child to the  
20 taping of telephone conversations, the guardian may vicariously  
21 consent on behalf of the minor child to the recording".

22  
23 2. NEVADA IS A TWO PARTY CONSENT STATE; THEREFORE THE DOCTRINE  
24 DOES NOT APPLY

25 The Nevada Supreme Court, in Lane vs. Allstate Ins. Co., 114  
26 Nev. 1176, 969 P.2d 938 (1998) interpreted NRS 200.620 as  
27 requiring the consent of both parties to an intercepted telephone  
28 conversation.

In a subsequent opinion, Mclellan vs. State, 124 Nev. 263  
267, 182 P.3rd 106, 109 (2008) the Supreme Court held as follows:  
"We must now determine whether evidence lawfully seized by California law enforcement  
under California law is admissible in a Nevada court, when such an interception would be  
unlawful in Nevada and therefore inadmissible. Mclellan argues that the tape of the  
intercepted phone call was inadmissible because NRS 200.620 dictates that all parties to a  
communication must consent to the interception of wire or oral communication for it to be



1  
2 lawful, and therefore admissible at trial. ...." (Emphasis added).  
3

4 "Under Nevada law, there are two methods by which a communication may be lawfully  
5 intercepted, and thus, admissible. First, both parties to the communication can consent to the  
6 interception. Second, one party to the communication can consent to the interception if an  
7 emergency situation exists such that it is impractical to obtain a court order and judicial  
8 ratification is sought within 72 hours. California law does not require the consent of both  
9 parties to the communication to constitute a lawful interception, but rather requires consent by  
10 only one party."  
11

12 Thus, the Court made no distinction between intercepted wire  
13 or oral communications, and held specifically that for a  
14 "communication" to be lawfully intercepted, both parties must  
15 consent. Accordingly, the implied consent doctrine does not  
16 apply.  
17

18 **3. THE DECISIONS OF THE FEDERAL CIRCUITS ADOPTING THE DOCTRINE**  
19 **ARE NOT BINDING UPON THIS COURT AND THIS COURT SHOULD**  
20 **REJECT THE DOCTRINE AND SUPPRESS THE TAPE**  
21

22 The Pollock case was based upon the Federal wiretapping  
23 statute. In order for the tape recoding to be admitted into  
24 evidence in this case, the Court must specifically rule that  
25 the doctrine applies in the State of Nevada and to the  
26 specific State Statute cited above. There have been no  
27 decisions from the Nevada Supreme Court or in the 9<sup>th</sup> Circuit  
28 that have adopted this doctrine. Therefore this issue is one  
of first impression in the State of Nevada.

As stated in the Pollock case, not all Courts that have  
addressed this issue have adopted this rule.

In Williams vs. Williams, 229 Mich.App 318, 581 N.W. 2<sup>nd</sup>

1  
2 777 (1998) the, the Court of Appeals of the State of Michigan,  
3 rejected the doctrine as it applied to the applicable Michigan  
4 State Statute. Citing legislative intent, the Court stated as  
5 follows:  
6

7 "The facts of this case were set forth in detail in our prior opinion, *Williams v. Williams*, 229  
8 Mich.App. 318, 581 N.W.2d 777 (1998), and will not be reiterated here. The issue that  
9 plaintiff presented on appeal was an issue of first impression for this Court: whether a  
10 custodial parent of a minor child may consent on behalf of the child to the interception of  
11 conversations between the child and another party and thereby avoid liability under the  
12 Michigan eavesdropping statute and the federal wiretapping act. We analyzed the question  
13 under each statute and found no indication that either the Michigan Legislature or Congress  
14 intended to create an exception for a custodial parent of a minor child to consent on the child's  
15 behalf to interceptions of conversations between the child and a third party. Accordingly, we  
16 declined to create judicially a vicarious consent exception to the Michigan eavesdropping  
17 statute or to construe so broadly the existing consent exception to the federal wiretapping act  
18 as to include such an exception. Since the release of our prior opinion, the Sixth Circuit Court  
19 of Appeals in *Pollock*, supra at 610, adopted the analysis of the federal district court in  
20 *Thompson v. Dulaney*, 838 F.Supp. 1535, 1544 (D.Utah, 1993), holding that as long as the  
21 guardian has a good faith, objectively reasonable basis for believing that it is necessary and in  
22 the best interest of the child to consent on behalf of his or her minor child to the taping of  
23 telephone conversations, the guardian may vicariously consent on behalf of the child to the  
24 recording. This Court considered the reasoning in *Thompson* in our previous opinion and  
25 rejected it, finding no authority to follow the lead of *Thompson* and like-minded courts.  
26 However, because the Sixth Circuit Court of Appeals has now spoken concerning the issue  
27 and no conflict among the federal courts exists, we are bound to follow the *Pollock* holding  
28 with respect to the federal question in this case. See *Young v. Young*, 211 Mich.App. 446,  
450, 536 N.W.2d 254 (1995). The trial court referred to the holding in *Thompson*, but it did  
not specifically decide whether defendants had a good-faith, objectively reasonable basis for  
believing that it was necessary and in the best interest of the minor child to consent on behalf  
of the child to the tape-recording of the telephone conversations with plaintiff. Rather, the  
trial court held merely that "a legal guardian under the present circumstances, has the right to  
give vicarious consent." Defendants here claimed that they recorded the conversations to  
find out whether plaintiff was violating a court order that prohibited her from portraying the  
minor child's father in a negative light. However, plaintiff stated in her deposition testimony  
that defendants had also tape-recorded conversations between the minor child and plaintiff's  
husband and between the minor child and the daughter of plaintiff's husband. Consequently,  
we again reverse but remand to the trial court to make this necessary inquiry and decide  
whether there exists a genuine issue of material fact warranting trial. In contrast, this Court is  
not compelled to follow federal precedent or guidelines in interpreting the Michigan  
eavesdropping statute. See *Continental Motors Corp. v. Muskegon Twp.*, 365 Mich. 191,

1  
2 194, 112 N.W.2d 429 (1961). We remain convinced by the statutory analysis in our prior  
3 opinion that if the Legislature had intended the result argued by defendants, then it could have  
4 included such an exception in M.C.L. § 750.539g; MSA 28.807(7). Moreover, we remain  
5 convinced that the delicate question posed in this case and the effect that its resolution may  
6 have both on how family law is practiced and the relationship between the child and each of  
7 the parents, is more appropriately commended to the legislative branch. Accordingly, we  
8 again reverse with respect to that part of the trial court's order granting summary disposition  
9 for the defendants with respect to the count brought pursuant to the Michigan eavesdropping  
10 statute and denying summary disposition for the plaintiff with respect to that count."  
11 Williams, 581 N.W.2d 777, 781.

12 In Bishop vs. State, 241 Ga. App. 517, 526 S.E.2d  
13 917(1997), decided after the Pollock decision, the Georgia  
14 Court of Appeals refused to apply the doctrine. The Court  
15 reasoned that Georgia law as it existed at the time precluded  
16 the application of the vicarious consent exception. In  
17 addition the Court declared that "it is solely the task of the  
18 legislature to amend Georgia's Wiretapping statute to allow  
19 admission into evidence of tape recordings such as those that  
20 are at issue here, i.e. tapes made by parents with a good  
21 faith, objectively reasonable basis for concern regarding the  
22 safety of thier children as victims of criminal conduct of  
23 another."

24 In response to the Bishop decision, the Georgia  
25 legislature amended the Georgia wiretap statute and  
26 specifically provided the for the exception. See Ga. Code Ann  
27 Sec 16-11-666(a) (2005).

28 Defendant agrees with the reasoning of the Michigan Court  
in Williams and the Appeals Court in Bishop. If the Nevada

1 legislature intended for there to be a "vicarious consent"  
2 exception to the consent requirement in family law cases, it  
3 would have included such an exception in the statute, just as  
4 the Georgia legislature did. To date, despite the existence of  
5 several prior cases in many jurisdictions dealing with this  
6 issue, the Nevada Legislature has adopted no such exception.  
7

8 Case law in Nevada is well settled that when interpreting  
9 a statute, legislative intent "is the controlling factor".  
10 Robert E. Vs. Justice Court, 99 Nev. 443, 445, 664 P.2nd 957,  
11 959 (1983). The starting point for determining legislative  
12 intent is the statute's plain meaning; when a statute "is  
13 clear on its face, a court can not go beyond the statute in  
14 determining legislative intent." Id.; see also Catanio, 120  
15 Nev. 1033, 102 P.3rd at 590 ("we must attribute the plain  
16 meaning to a statute that is not ambiguous). But when the  
17 statutory language lends itself to two or more reasonable  
18 interpretations," the statute is ambiguous, and we may look  
19 beyond the statute in determining legislative intent. Catanio,  
20 120 Nev, 1033, 102 P.3rd at 590.  
21

22 In the instant case the applicable statute (NRS.200.650)  
23 is not ambiguous. The statute makes unlawful the unauthorized,  
24 surreptitious intrusion of privacy by a listening device,  
25 "unless authorized to do so by one of the persons engaging in  
26 the conversation." (Emphasis added). And according to the  
27  
28

1  
2 Supreme Court in McLellan, Id., the consent of both parties  
3 engaging in the conversation is required.

4 The statute could not be more clear on its face. For the  
5 consent exception to apply, consent must be given by "one of  
6 the persons engaging in the conversation". (In this regard,  
7 the Nevada Statute differs from the Federal Wiretap statute  
8 (18 USC sec. 2511(2)(d)(2000), which contains no such  
9 language).

10 Therefore, based upon the plain language of the Nevada  
11 Statute, as the Statute is not ambiguous, this Court cannot go  
12 beyond its plain meaning and impose a "vicarious consent"  
13 exception to the Statute. As such, the placement of the  
14 listening device was unlawful, and all remedies that are  
15 available to Defendant for the unlawful recoding of private  
16 conversations in her home, including the absolute suppression  
17 of the tape for any purpose, the striking of Plaintiff's  
18 entire Opposition and Countermotion, and including the  
19 imposition of sanctions, should be considered by the Court.

20  
21 4. IF THE COURT ADOPTS THE DOCTRINE IT DOES NOT APPLY TO THE  
22 FACTS OF THIS CASE

23 Pursuant to the Pollock decision, for the "vicarious  
24 consent doctrine" to apply, the parent or guardian must  
25 demonstrate a "good faith, objectively reasonable basis for  
26 believing that it is necessary and in the best interest of the  
27 child to consent on behalf of his or her minor child to the

1  
2 the taping of telephone conversations".

3 Sean's motives in placing the device are questionable at  
4 best.

5 Sean makes general statements as to why he felt it  
6 necessary to place the recording device. Since he has nothing  
7 else upon which to base his unsupported Motion to Change  
8 Custody or for the unlawful placement of a listening device,  
9 he again relies on parental alienation as his excuse. First,  
10 Plaintiff selectively edits the Child Custody Evaluation  
11 performed by Dr. Paglini more than one year ago, and includes  
12 portions of the report that indicate that Lyuda has made some  
13 inappropriate statements in the past. But he excludes those  
14 portions of the Report that found specifically that Lyuda's  
15 actions did not rise to the level of parental alienation.  
16

17 Page 50 of the Report, Paragraph 3:

18 "This evaluator opines that Lyudmyla is not a threat towards  
19 Sean or Angie. Lyudmyla has no history of aggressive behavior.  
20 Lyudmyla has occasionally become extremely emotional and she  
21 has interpersonal dynamics that she needs to work on. She has  
22 no history of prior criminal offenses pertaining to aggression  
23 and psychological testing is within normal limits. Lyudmyla  
24 admitted to making inappropriate comments towards Iryna and  
25 Sasha when frustrated. This needs to stop. Please note, the  
26 above is a concern, yet does not reach the level of parental  
27 alienation."

28 Second, Plaintiff states that he had concerns "because of  
things Sasha had been telling me". Nothing specific is  
provided in the Motion as to what specifically Sasha was  
saying that would justify such a drastic step of placing a

1  
2 listening device in Lyuda's home. And, there were no  
3 allegations that the child had been experiencing psychological  
4 or emotional problems, that he was having problems in school,  
5 that the child was expressing negative feelings towards him,  
6 or some other manifestation of problems that are commonly  
7 associated with parental alienation.  
8

9 Lyuda submits that the placement of the device was  
10 nothing less than a fishing expedition. That the device was  
11 planted not out of any real concern about Sasha, but instead  
12 Sean was trying to find out if Ricky was engaged in criminal  
13 activity. And he no doubt hoped that Lyuda might say something  
14 that may be construed as inappropriate.

15 The timing of the placement of the device is also  
16 instructive. If Sean had concerns about parental alienation  
17 based upon Dr. Paglini's report, why did he wait until one  
18 year later to place the device. The timing of the placement of  
19 the device, three (3) weeks after Lyuda filed her instant  
20 Motion, is not a coincidence.

21 Before this Court accepts the alleged tape recording as  
22 evidence in this case, (assuming it adopts the "vicarious  
23 consent doctrine") it must make a factual determination that  
24 Sean had a good faith, objectively reasonable basis for  
25 believing that it was necessary and in the best interest of  
26 the child to consent on behalf of his child to the placement  
27  
28

1  
2 of the device.

3 Lyuda submits that after evidence is taken on this issue  
4 the Court will find that Sean was not acting in good faith.  
5 That rather, he was acting out of pure spite and hatred of  
6 Lyuda, out of his feeling of superiority as a parent, and out  
7 of his continued hatred and mistrust of Lyuda's Husband Ricky.  
8

9  
10 5. THE VICARIOUS CONSENT DOCTRINE DOES NOT APPLY AS THE  
11 RECORDING DEVICE PICKED UP COMMUNICATIONS BETWEEN PERSONS  
12 OTHER THAN THE MINOR CHILD; THE RECODING CONSTITUTES A  
13 VIOLATION OF BOTH THE FEDERAL AND STATE WIRETAP STATUTES  
14 AND THE CONTENTS THEREOF MUST BE SUPPRESSED

15 Based upon a review of Sean's Declaration, it is  
16 indicated that conversations in Lyuda's home were recorded  
17 for a "few days".

18 Further, Sean makes statements about Ricky's proposed  
19 business venture with Lyuda's brother-in-law in the Ukraine.

20 As is admitted by Sean, he placed the recording device in  
21 the minor child's backpack. According to Lyuda, this backpack  
22 was usually placed in a common area of the home. As such, the  
23 device no doubt recorded conversations that the minor child  
24 was not a party to, conversations that occurred when the child  
25 was asleep. Conversations between Lyuda and Ricky,  
26 conversations between Lyuda and her mother via Skype,  
27 conversations between Lyuda and her daughter Iryna, and  
28 conversations between Ricky and Iryna.



1  
2 Further, Lyuda indicts that the only way Sean could know  
3 about Ricky's pending business venture was if he intercepted a  
4 private conversation that Ricky was having with her to which  
5 the minor child was not a party.  
6

7 In Lewton vs. Divingnzzo, the United States District  
8 Court for the District of Nebraska, 8:09-cv-0002-FG3 (2011) a  
9 mother was convicted of violating the Federal Wiretap Act  
10 after she concealed an audio recording device in her minor  
11 child's teddy bear for the purpose of gathering evidence to  
12 use in her custody case.

13 In Lewton, the District Court rejected the application of  
14 the "vicarious consent doctrine" to the case. The court held  
15 that:

16 "Nor does the "consent exception" included 18 U.S.C. § 2511(2)(d) absolve the defendants of  
17 liability under the circumstances presented here. Section 2511(2)(d) provides: It shall not be  
18 unlawful under this chapter for a person not acting under color of law to intercept a wire, oral,  
19 or electronic communication where such person is a party to the communication or where one  
20 of the parties to the communication has given prior consent to such interception unless such  
21 communication is intercepted for the purpose of committing any criminal or tortious act in  
22 violation of the Constitution or laws of the United States or of any State. Even assuming  
23 (without deciding) that Dianna Divingnzzo could legally give "vicarious consent" on  
24 Ellenna's behalf, the uncontroverted evidence shows that the bugging of Little Bear  
25 accomplished much more than simply recording oral communications to which Ellenna was a  
26 party. Rather, the device was intentionally designed to record absolutely everything that  
27 transpired in the presence of the toy, at any location where it might be placed by anybody. The  
28 evidence demonstrates conclusively that the device recorded many oral communications made  
by each of the plaintiffs, to which Ellenna was not a party."

25 The facts of Lewton with regard to the placement of the  
26 device are in essence identical to the facts of the instant  
27 case. There is can be no dispute that the listening device was

1  
2 placed in the child's backpack which was placed in a common  
3 area of Lyuda's home and that it recorded not only  
4 conversations between Lyuda and the minor child, but other  
5 conversations and activities to which the minor child was not  
6 a party.

7 As such, as in Lewton, the "vicarious consent doctrine"  
8 does not apply and the placement of the device was unlawful  
9 pursuant to both the Federal Wiretap Statute and the Nevada  
10 Statute.

11 The Federal Wiretap statute also specifically provides  
12 that Lyuda may Petition this Court to suppress the tape.  
13

14 18 U.S.C. § 2518(10)(a), provides:

15 Any aggrieved person in any trial, hearing, or proceeding in or before any court, department,  
16 officer, agency, regulatory body, or other authority of the United States, a State, or a political  
17 subdivision thereof, may move to suppress the contents of any wire or oral communication  
18 intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that- (i)  
19 the communication was unlawfully intercepted[.] \* \* \*.... The judge, upon the filing of such  
20 motion by the aggrieved person, may in his discretion make available to the aggrieved person  
21 or his counsel for inspection such portions of the intercepted communication or evidence  
22 derived therefrom as the judge determines to be in the interests of justice. See McQuade v.  
23 Michael Gassner Mech. & Elec. Contractors, Inc. 487 F. Supp. at 1189 n.12.

24 6. THE CHANGE IN CUSTODY MOTION MUST BE DENIED

25 Sean's Motion to change custody is based solely upon the  
26 contents of a recording that was obtained in violation of  
27 State and Federal law.

28 In Rooney v. Rooney, 109 Nev. 540, 853 P.2d 123 (1993)  
the Supreme Court held that a district court has the

1  
2 discretion to deny a motion to modify custody without holding  
3 a hearing unless the moving party demonstrates adequate cause  
4 for holding a hearing.

5 With no factual basis alleged that would support a  
6 radical change in custody in this case, Lyudmyla respectfully  
7 submits that Sean has not demonstrated "adequate cause" for a  
8 hearing and his Motion to Change Custody and to relocate  
9 should be summarily denied.

10 **7. ATTORNEY FEES AND SANCTIONS**

11 A District Court can award attorney fees in a post-  
12 judgment proceeding in a divorce case. Love vs. Love, 114 Nev.  
13 572 (1998) (applying NRS 18.010(2), prevailing party) and NRS  
14 125.150(3) (divorce fees), as the basis to award fees in a  
15 motion. See Also Halbrook vs. Halbrook, 114 Nev. 1455 (1998).

16 As a potential prevailing party in this litigation,  
17 Lyudmyla requests payment of her attorney fees incurred in this  
18 matter.

19 With regard to sanctions, the Court in Lane vs. Allstate  
20 Ins Co., Id., upheld the District's Court's suppression of the  
21 illegally obtained wire intercepts that were in issue in that  
22 case. The Court further stated as follows:

23 "Courts have inherent equitable powers to dismiss actions for abusive litigation practices."  
24 Citing Young v. Johnny Ribeiro Building, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990).

25 In the instant case, Plaintiff obtained alleged evidence  
26  
27  
28

1  
2 via a process (the unlawful placement of a listening device)  
3 that constitutes a Category D Felony pursuant to NRS 200.690.  
4 He then submitted that evidence to this Court in support of  
5 his Opposition and Countermotion. This should be construed by  
6 the Court as "abusive litigation practices".  
7

8 As Plaintiff's Opposition and Countermotion and  
9 associated Declarations all make reference to the contents of  
10 the illegally obtained tape, all of the documents must be  
11 stricken from the record. In striking the Opposition and  
12 Countermotion, this Court should then construe Defendant's  
13 Motion as being unopposed and grant the relief requested by  
14 Defendant.

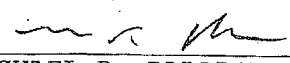
15 By seeking to have the tape suppressed, Lyuda is in no  
16 way making an admission that the contents of the alleged tape  
17 recordings, whatever they may be, constitute parental  
18 alienation warranting a change in custody. Lyuda reserves her  
19 right to contest that issue if or when the alleged tape  
20 recordings are actually authenticated and admitted into  
21 evidence in this case.

22 CONCLUSION

23 Based upon the foregoing facts, Memorandum of Law and  
24 Legal Argument, Lyudmyla respectfully requests that the relief  
25 requested by Plaintiff be denied, that she be awarded the  
26 relief requested herein and for such other and further relief  
27  
28

1  
2 that the Court may deem appropriate.

3 DATED this 13th day of March, 2015.

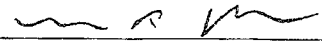
4  
5   
6 MICHAEL R. BALABON, ESQ.  
7 5765 So. Rainbow, #109  
8 Las Vegas, NV 89118  
9 702-450-3196  
10 Attorney for Defendant

11  
12 CERTIFICATE OF SERVICE OF DEFENDANT'S OPPOSITION

13 I, Michael R. Balabon, Esq., hereby certify that on the  
14 13th day of March, 2015, a true and correct copy of the  
15 foregoing Opposition was served to the Law Offices of JOHN D  
16 JONES, ESQ., via electronic service pursuant to Eighth  
17 Judicial District Court, Clark County, Nevada Administrative  
18 Order 14.2, to jjones@blacklobellolaw.com, and by  
19 depositing a copy thereof in a sealed envelope, first class  
20 postage prepaid, in the United States Mail, to the following:

21 John D. Jones, Esq.  
22 Black & Lobello  
23 10777 W. Twain Ave., #300  
24 Las Vegas, NV 89135  
25 Attorneys for Plaintiff

26 DATED this 13<sup>th</sup> day of March, 2015

27  
28   
MICHAEL R. BALABON, ESQ.

0001 Michael R. Balabon, Esq.  
Name  
Address 5765 So. Rainbow Blvd., #109  
City/State/Zip Las Vegas, NV 89118  
Telephone (702) 450-3196

DISTRICT COURT

CLARK COUNTY, NEVADA

Plaintiff(s) Sean R. Abid

Plaintiff(s),

-vs-

Defendant(s) Lyudmyla A. Abid

Defendant(s).

CASE NO. D-10-424830-Z

DEPT. NO. B

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

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

MOTION FOR OPPOSITION TO Name

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 13 of March, 2015.

Michael R. Balabon, Esq.

Printed Name of Preparer

Signature of Preparer

Motion-Opposition Fee.doc/1/30/05

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

LYUDMYLA ABID,

Appellant,

v.

SEAN ABID,

Respondent.

Supreme Court No. 69995

District Court Case No. D-10-424830-Z

Appeal from the Eighth Judicial District Court

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**APPELLANT'S APPENDIX**

**VOLUME 3**

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RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
RADFORD J. SMITH, CHARTERED  
2470 Saint Rose Parkway, Suite 206  
Henderson, Nevada 89074  
Attorneys for Appellant

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09-09-15

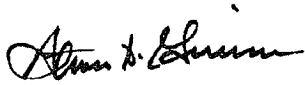
11-18-15

11-19-15

01-11-16

01-25-16

1507-1526

  
CLERK OF THE COURT

DECL  
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Attorneys for Plaintiff,  
SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: B

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

**DECLARATION OF PLAINTIFF, SEAN R. ABID, IN RESPONSE TO DEFENDANT'S  
OPPOSITION TO PLAINTIFF'S MOTION TO CHANGE CUSTODY AND  
COUNTERMOTION TO STRIKE PLAINTIFF'S OPPOSITION AND TO SUPPRESS  
THE ALLEGED CONTENTS OF THE UNLAWFULLY OBTAINED RECORDING AND  
FOR SANCTIONS AND ATTORNEY FEES**

SEAN ABID, being first duly sworn, deposes and says:

1. That I am the Plaintiff in this action and I offer this declaration of my own personal knowledge and in response to Defendant's Opposition To Plaintiff's Motion To Change Custody And Countermotion To Strike Plaintiff's Opposition And To Suppress The Alleged Contents Of The Unlawfully Obtained Recording And For Sanctions And Attorney Fees.

2. Sadly, Lyudmyla did not take this opportunity to acknowledge her actions or have contrition for the emotional abuse that she is perpetrating on our son. Since she chose to tear apart my character for the better part of ten pages, I find it necessary to describe to the Court who

1 I REALLY am. I am a 20-year educator. I have been a father figure to countless children  
2 throughout my educational career. (See Exhibit "1") I was chosen as National Counselor of the  
3 Year in 2012. My career has been devoted to advocating for all children, but particularly children  
4 who may have been experiencing some form of neglect in their lives. I am a husband and a father  
5 to 3 beautiful boys. I am a devoted son to my elderly mother. I have never been convicted of a  
6 crime. I have never harassed anyone. It doesn't take much to extrapolate the kind of energy and  
7 passion I have to provide the best life for children, especially my own children.

8 3. A few prevailing themes are glaringly obvious in Lyudmyla's response to our  
9 countermotion: assignment of blame for everything that happens in her life to something outside  
10 of herself, excessive paranoia, and absence of responsibility for her own actions. I am sure there  
11 is some type of formal diagnosis for these symptoms. According to Lyuda, everything bad that  
12 happens in her life is my fault! Her house gets robbed? Must be my fault, or my teenager's fault.  
13 She gets junk mail with a typo on it? Phone solicitors? Must be my fault. Amazingly, based on  
14 her own words, her ex-husband is as disgusted by her choice in her current husband as I was and  
15 has cut her off ... also my fault. Her neighbors aren't comfortable with her choice in husband?  
16 My fault.

17 4. It is not my fault that she married a violent felon. Tragically, it's clear that she  
18 believes it's also my fault that she chooses to emotionally abuse her son. There is not one shred  
19 of evidence that she has any remorse or concern about the negative remarks she has made to her  
20 child. There is not the slightest bit of insight on her part that this behavior is hurtful to Sasha's  
21 emotional well-being. She seems incapable of ever understanding that making detrimental  
22 remarks to the child about the other parent IS child abuse. She can't understand that it doesn't  
23 matter if she truly believes what she is saying is factual and accurate. It is still child abuse! Sasha  
24 is being harmed emotionally in ways that are all too similar to the emotional effects of physical  
25 abuse. Unequivocally, she is engaging in the intentional infliction of harm, which is abuse.

26 5. The mental health community is absolutely clear about the damage that such  
27 disparaging comments have on children. Children who are placed in the middle of on-going  
28 parental conflict exhibit psychological symptoms similar to those who have been physically

1 abused. Lyuda constantly makes negative comments about me TO Sasha and also within the  
2 presence of Sasha. She is not only diminishing me in his eyes, but actively seeking to destroy my  
3 relationship with him. She is also teaching him that half of him is not worthy of being loved, and  
4 that half is worthless. By doing so, her actions are tantamount to punching Sasha in the mouth  
5 over and over again. These actions, which she has been doing for five years, was recorded  
6 doing, and continues to do, are both wrong, hurtful and child abuse.

7 6. Please review the attached emails where I have pleaded with Lyuda to stop  
8 badmouthing me to our son. (See Exhibit "2") You can see from one of her replies that she  
9 admits she uses my name as a punishment in her house. Not once in her reply did she admit that  
10 the things she said to Sasha in the recordings were wrong or hurtful to our son. Her words are  
11 not only hurtful, but they are diabolical, and a clear example of an ongoing pervasive pattern of  
12 child abuse. Those recordings, sadly, were not surprising to me. As horrible as they were to listen  
13 to and transcribe, they only confirmed what I have suspected has been occurring for the past five  
14 years. The fact is, Lyudmyla has actively tried to destroy my relationship with my son since he  
15 was born. The only thing that is off-setting the emotional damage that his mother is inflicting is  
16 the amount of time that I see Sasha. I have video evidence from 3 years ago that was included in  
17 our custody evaluation, and I have evidence from as little as one week ago (which Lyudmyla  
18 conveniently left out of her exhibit of her doctor visit) (see Exhibit "3") that it is still occurring  
19 even after the filing of our counter motion. You will see in **Exhibit "3"** that there was a second  
20 page to the doctor's notes from March 9, 2015. In these notes, the doctor wrote: "Please see  
21 photos on her phone (mothers)," "Mother upset with ex" and "Mother has cream for  
22 application." So not only did Lyudmyla take Sasha to the emergency room at 8:30 pm on a  
23 school night for an erroneous reason, she needed the doctor to diagnose the rash from photos on  
24 her phone because there was no rash. According to the doctor's notes, she was continuing to  
25 badmouth me to the physician in front of Sasha. She even left the urgent care without  
26 medication, telling the doctor she had her own, making it evident that her purpose for the  
27 doctor's visit was not to get treatment, but to create this ridiculous and faulty theory that I  
28 neglect my son. I sent her a text on March 10, after Sasha told me he went to the doctor, asking

1 She responded with information about a check that she owed me. She did not inform me of  
2 anything regarding Sasha's health.

3 7. Because Lyuda sees nothing wrong with the way she's talking to Sasha in her  
4 recordings, she believes that I recorded her to gain information about her husband. My only  
5 purpose in making those two recordings was to hopefully spare my son the abuse at the hands of  
6 a perpetrator who is unrepentant and completely unconcerned about the heinous damage she is  
7 doing to her son by badmouthing his father. Specifically, she is unable to reflect on the damage  
8 she is doing to her son by telling him that half of him is an idiot, half of him is a piece of shit,  
9 and that half of him should not be loved, that he should only love his mother. In the introductory  
10 paragraph of her response she claims that we have lied, but recordings don't lie. The recording  
11 was necessary so that the Court can hear plainly the emotional abuse that my ex-wife subjects  
12 our son to every day that he's with her.

13 8. When you listen to the recordings from Sasha's time with his mother, you will  
14 hear a boy who is constantly crying and feeling it necessary to defend his father from attack. No  
15 6 year old should be in this position at the hands of his mother. Lyuda complains about the  
16 limited time she has with Sasha, but doesn't take advantage of the time when he is with her.  
17 Instead of using the time that she has Sasha to bond with him and form a loving relationship with  
18 him, she chooses to use all of the time that she actually does speak with him berating his father.  
19 Sasha is bonded to me because of the time that I spend with him on a daily basis. I don't throw  
20 him in front of a television or video games like his mother does. I actually spend time with him,  
21 playing baseball and doing activities. I NEVER speak badly about Sasha's mother to him  
22 because I understand that he is half of her and half of me, and I don't want my son to feel that  
23 stress. I never subject him to interrogation as his mother does. Sasha is being exposed to the  
24 worst type of emotional abuse and it has been going on for at least 5 years. He will need therapy  
25 to deal with what he has already experienced.

26 9. In her response, she makes many allegations, including that I neglect my son and  
27 that she suspects the student whom I've taken in, an all-star volleyball athlete seeking college  
28 scholarships who is highly regarded and respected by his teachers and our school community,



1 robbed her home! This is a cogent example of the paranoia she lives with every day. This fuels  
2 her narrative that I am the source of every bit of pain and anguish in her life, and that her own  
3 poor decisions are not the cause of certain negative circumstances in her life. It is utterly pathetic  
4 that she would accuse this child of robbing her home, especially since in late August of 2014, he  
5 met Lyuda's daughter, Iryna, at our high school during the summer to help prepare her for her  
6 high school volleyball tryout that she had missed because of her late return from Ukraine. Not  
7 only that, but he rode his bicycle to school, nearly 10 miles away, to help out someone who he  
8 didn't know on my behalf. Quite honestly, he doesn't understand how someone that he selflessly  
9 gave his time to, out of sheer kindness, would turn around and accuse him of robbing their home.  
10 Perhaps Lyudmyla is again blaming someone else for her dire circumstances because her  
11 daughter did not make the team.

12 10. It's widely accepted in the mental health community that those who have been  
13 incarcerated for a long period of time, 10 years or more, leave prison highly paranoid. Ricky  
14 Marquez paired with Lyuda, who has paranoid features that were highlighted by Dr. Paglini,  
15 make a dangerous combination. Her words in her own response indicate that she is someone who  
16 is ruled by paranoia. In spite of how Lyudmyla wants to characterize Dr. Paglini's  
17 admonishments in his evaluation, what is on those recordings and transcribed is unequivocally  
18 parental alienation. Dr. Paglini told Lyudmyla that she must stop badmouthing me, but she's  
19 only ramped up her efforts.

20 11. Lyuda continually uses the word "harassment" in her writing. Is any  
21 communication regarding the well-being of my son considered harassment? How have I harassed  
22 Ricky Marquez? As concisely and succinctly as I can state this, I do not in any way harass Ricky  
23 Marquez. I have nothing to do with anything being mailed to Mr. Marquez. I have not  
24 disseminated any literature to the neighborhood where they live. If anything, she is showing in  
25 her writing that her neighbors have the same concerns that I did about Ricky Marquez. Also, just  
26 because there was a Court settlement in December doesn't mean that Ricky is not a concern.  
27 Bear in mind that federal law enforcement has been communicating with me, so naturally I hear  
28 information that continues to alarm me. I've given up on pursuing that issue, but that doesn't

1 mean I have to like it. In my view, her new choice in husband just elucidates the continued trend  
2 of not putting her son's best interests as a priority in her life. Rather, it illuminates that her  
3 children are a very low priority when it comes to placing their well-being above her own.

4 12. I absolutely DID send an email to her first husband in Ukraine, as we had a prior  
5 relationship when I was Iryna's step-father. I felt I had a duty to warn him of who Lyuda had  
6 chosen as Iryna's new step-father, but also because I wanted him to be afforded the right that I  
7 wasn't given to know who is in our children's lives. Part of what Lyudmyla perceives as  
8 harassment of Ricky Marquez's probation officer was my disgust at the failure on her part to  
9 warn me of who was in my son's life. In particular, in the first conversation that I had with  
10 Ricky's probation officer, he told me that Ricky was "human garbage" and that I should seek full  
11 custody. What parent wouldn't be alarmed by this? What parent wouldn't want more answers,  
12 especially when Lyudmyla wouldn't provide those answers to me? Obviously, Lyudmyla's first  
13 husband was just as alarmed as I was about Ricky's past, or there wouldn't be strained  
14 communication between them now. I stand by my decision to warn him. I did so because, to this  
15 day, I love my former step-daughter.

16 13. Lyudmyla claims that we made a verbal agreement that she could pick up Sasha at  
17 3 on her days. Why on earth would I vacate the most important part of our settlement, after going  
18 through the stress of the custody evaluation and hearing? And if I had agreed to this, I certainly  
19 wouldn't have made her wait outside to get him. Obviously, this was an agreement that never  
20 happened. The order of 5:30 is in place because we cannot negotiate pickups. Every day, I pick  
21 him up from the bus stop; I feed him, read his assigned school books, complete school work, and  
22 do structured sports activities. Sasha is now doing quite well with his reading and is performing  
23 extremely well on his baseball team because of this time we share together. I'm trying to teach  
24 him consistency and routine. I made it clear to his mother that I would return Sasha when we  
25 finish with the daily routine, which she had no respect for as you can tell from the text exchanges  
26 she included in her exhibits. When Sasha stays with me, we continue the nightly routine of bath  
27 time with his brother, brushing teeth together, and then reading stories before bed. "Call of  
28 Duty," "Grand Theft Auto," and hours in front of the television are not included in any part of

1 our routine together, as they are at his mom's house.

2 14. Not only do I think that Lyudmyla should not get her time back, I think that she  
3 should have time removed in the form of me having full custody until she can show that she is  
4 going to STOP abusing our son. Without supervised visitation and Court-mandated therapy, how  
5 will Sasha ever be able to begin the healing process from this damage?

6 15. On page 4, Lyuda says the reason she sent a rude text was because she was so  
7 "emotionally destroyed." She admits that her emotions control her, not rational thinking. Notice  
8 from Lyudmyla's exhibits that we have only spoken once on the phone. How does that constitute  
9 harassment? Clearly, we are two people who do not get along. It's difficult to respect someone  
10 who has been on a five-year campaign to destroy my relationship with my son without the  
11 slightest bit of concern about the damage she is doing and has done to him. I don't know if he  
12 will ever completely recover from her quest to diminish me in his eyes. However, despite my  
13 feelings about Lyudmyla and her poor choices, I do not harass her. All of these old emails and  
14 texts that she is revisiting only further highlight two people who do not get along and are  
15 expected to co-parent. I do the best I can, but it is not easy to return Sasha to a home with a  
16 mother who makes his emotional well-being the lowest priority in her life.

17 16. On February 2nd, my infant son was rushed to the emergency room because he  
18 was having difficulty breathing. The reason that Lyuda couldn't pick Sasha up from my house  
19 until 5:30 was because he was with me at the hospital. I returned Sasha to the house around 5,  
20 picked up some clothes for my wife, and returned to the hospital. The babysitter was there to  
21 watch my one-year old, so she was there when Lyuda picked up Sasha. This was an isolated  
22 incident and was met with hostility from Lyuda, not understanding. I didn't have time to go into  
23 details with her over text, and shouldn't have had to if she were communicating reasonably with  
24 me.

25 17. On February 27th I did ask Lyuda to pick up Sasha from my house. There is  
26 nothing written in the agreement that says I need to bring Sasha to her every day, but for the  
27 most part, I do. If we are indeed to work reasonably with each other, wouldn't her picking him  
28 up once in a while fall into that category? If Lyuda were in fact being reasonable, she would still

1 allow me the time with Sasha after school because she is unable to pick him up until 3:45 p.m.  
2 That is an hour and a half on her days that he would spend at Safekey instead of with his father.  
3 This is yet another example of how she hates me more than she loves her son. To punish me, she  
4 would make her son sit in Safekey instead of spending that time with his father.

5 18. Lyuda continues to lie to the Court in her own writing. For example, in our  
6 countermotion we brought up that Lyuda is in fact the one who told us to do what we want with  
7 Sasha on our days. In her Exhibit H, she actually included the text where she told us to do  
8 baseball on our days, and she would do Jiu Jitsu on her days. Also, In Lyuda's motion, she  
9 claims that I have been pulling papers out of Sasha's backpack, thus precluding her from being  
10 involved in his education. Yet, on page 5 of her response to our countermotion, she claims that  
11 she reviews the papers that I leave for her in the backpack each night. This is an example of why  
12 we clearly can't trust the veracity of anything that she's written in her response.

13 19. As Lyudmyla breaks down "False Statement on Sean Abid Behalf," I feel the  
14 need to address a few statements. #5. Lyudmyla failed to inform me of out-of state travel on two  
15 separate occasions, which was documented in our initial motion to change custody. This is a  
16 direct violation of our divorce decree. Also, all texts that Lyudmyla has produced were written  
17 prior to our last settlement and were addressed in Court in December 2013. Since that time, I  
18 have been civil to Lyuda. As you can see, she had to dig up old texts from 1-2 years ago because  
19 there is nothing recent to use. #7. In regards to the fighting school, no, I don't agree with Sasha  
20 being in the class, and I've given Lyudmyla my reasons. Just as a parent might have concerns  
21 about their son playing football and getting concussions, I have great fears about my son getting  
22 involved in fighting and MMA. Since then, she has not enrolled him in anything. Had she done  
23 that and provided me with a schedule, I would take him. In her text exhibit, she says that she  
24 would take Sasha to baseball ONLY if I agree to take him to fighting school. How does that  
25 benefit Sasha and all the work he's been doing in baseball? This is yet another example of her  
26 desire to exact revenge on me rather than do what is best for Sasha.

27 20. On page 7, all of those texts are prior to our agreement in December, which were  
28 already addressed in Court, but one that needs to be addressed is letter C. After my wife, Angela,

1 met with Lyudmyla, we both realized and agreed that nothing productive comes from meeting  
2 with her. Lyudmyla spent 2.5 hours bashing me to my wife, just as she does to my son. She did  
3 the same thing on two prior meetings with my wife. She couldn't be redirected to talk about  
4 Sasha and his welfare.

5 21. On page 8, she details all the times she's done "favors" for me and given me extra  
6 time. Don't let her fool you; Lyudmyla has always been happy to give up her time with Sasha.  
7 She says that "not one favor was given to her." She has never asked me for extra time on my  
8 days to be denied. Also, does her giving me extra time to take my son to a football game give her  
9 the right or the excuse to abuse her son? Not one of her arguments addressed the issue, which is  
10 the emotional abuse of her son. She tries to deflect attention from the fact that she is harming our  
11 son.

12 22. If you were to interview our six-year old son, it would be clear to the Court the  
13 abuse that he endures from his mother. Sasha is a very open and honest boy, and clearly is  
14 tormented by the things his mother says to him about me. I am fearful that her behavior will  
15 change my boy's sweet nature and cause him to be distrustful and closed off emotionally. As a  
16 counselor, I see the effects that situations like these can have on children, and I do everything in  
17 my power to shield Sasha from this ugliness. I do not involve him in adult disputes. Any angry  
18 texts I may have sent to Lyuda in the past should have remained between adults, not read to a  
19 six-year old boy, as was evidenced in one of the recordings submitted. Regarding Iowa—we  
20 wanted to move to Iowa to give our kids a stable life, away from drama. After taking a close look  
21 at what a move would do to our financial situation (including years vested in retirement through  
22 CCSD), we realized that it wouldn't be a wise move financially and we recanted our position.

23 23. All the allegations of neglect are ridiculous. If my parenting were so concerning  
24 to her, why wasn't it brought up earlier? Why only now when she is at risk of losing custody?  
25 She had every opportunity, especially in the custody evaluation, to bring up her supposed  
26 concerns. We could produce the same number of receipts for purchase of clothing and school  
27 supplies as she can. She also receives child support which is meant for Sasha's care and well-  
28 being at her house. I give the best to my son, whether it's teaching him to read, to count, teaching

1 him sports, feeding him, etc. It's spurious logic that I would fight to protect my son and his best  
2 interests but then would neglect him in other vital areas of his life. I am committed to his best  
3 interests 100%. Exhibit C is a salient example of how fictional these neglect allegations are, as  
4 she tried to conjure up an ailment for the specific reason that we were approaching our Court  
5 date. Also, regarding his clothing to school, his teacher is an eye-witness to the absolute  
6 falsehood that I would send my son to school with holes in his pants. Lyudmyla insists to me (in  
7 many texts that I can produce) that Sasha be returned to her in clothes that she has purchased, so  
8 I send him back to her in the clothes she has purchased, not always what he wore to school that  
9 day. Therefore, clearly, the clothes that have the holes in them are actually hers.

10 24. True neglect is that rather than spending true time with your son, you allow him to  
11 play violent and inappropriate video games and watch movies for the entirety of his visit. Sasha  
12 will freely tell any evaluator any of these things. I am the only one who reads to him. I am the  
13 only one who plays with him. My time with Sasha is spent engaged and in-tune with him.  
14 Therefore, the possibility of neglect is non-existent. It is this vigilance to his well-being that  
15 made it imperative for me to make a decisive act that would stop the bad-mouthing and  
16 alienation.

17 25. Lyudmyla has freely admitted in her closing argument that she does not want to  
18 participate in communication any longer regarding our son, which isn't in congruence with NRS  
19 125.480. Lyuda may try to say that I only want primary custody so that we will get child  
20 support. In fact, I will be happy to take FULL custody and she won't have to pay me anything. I  
21 believe I should be granted full custody with only supervised visitation for his mother. If she can  
22 do this amount of damage on record in two days, what could she do with unfettered access to  
23 him in 6 weeks? There are no safeguards for Sasha as this custody currently stands, particularly  
24 in a foreign country.

25 26. Lyudmyla is not just unwell; she is sick. The things that she said to that child in  
26 those recordings should never be said in a lifetime. The fact that it occurred in only two  
27 recordings makes it all the more disgusting. Sasha was five years old when this occurred and this  
28 has been going on for his whole life. This is particularly troubling because badmouthing and

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1 parental alienation take ground with younger children so much easier than with older kids.  
2 Younger kids don't have the same conception of reality. Developmentally they are not ready yet.  
3 Sasha still believes in Santa and the tooth fairy. He will believe anything a parent tells him.

4 27. Distorting reality for a child this young is depriving them of the other parent's  
5 love; making them question the validity of this love is devastating and is going to have long-  
6 lasting effects. It is cruel. However, parents like Lyuda with this attitude do not solve problems  
7 by being rational. They have no internal conflict. It doesn't bother them that they are hurting  
8 their child, tearing them into a thousand pieces, causing them a lifetime of damage. As you can  
9 tell from her opposition, it's always someone else's fault. She took no responsibility for her  
10 actions. There is no protocol to fix a badmouthing parent like Lyuda because you cannot reason  
11 with them, and they find absolutely no fault in denigrating the other parent or destroying their  
12 child's self-esteem. This Court needs to act swiftly and take decisive action that will put Sasha  
13 on a path to recovery, to be spared.

14 Dated this 16 day of March, 2015.

15   
16 SEAN R. ABID  
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CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of March, 2015 I served a copy of the  
DECLARATION OF SEAN ABID IN RESPONSE TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S  
MOTION TO CHANGE CUSTODY AND COUNTERMOTION TO STRIKE PLAINTIFF'S OPPOSITION  
AND TO SUPPRESS THE ALLEGED CONTENTS OF THE UNLAWFULLY OBTAINED RECORDING  
AND FOR SANCTIONS AND ATTORNEY FEES upon each of the parties by electronic service  
through Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to  
N.E.F.C.R. 9; and by depositing a true and correct copy of the same in a sealed envelope in the  
First Class United States Mail, Postage Pre-Paid, addressed as follows:


Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: mbalabon@hotmail.com  
*Attorney for Defendant*  
*Lyudmyla Abid*

Cherry Berdall  
an Employee of BLACK & LOBELLO



# Exhibit 1

# Exhibit 1

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## NOSCA: National Office for School Counselor Advocacy

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### Awards

Each year, NOSCA recognizes exemplary service and advocacy efforts of individual school counseling professionals. These individuals are applauded for their outstanding contributions to the advancement of college and career readiness for all students.

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**Jill Zitt**  
 Partnerships and collaboration  
 K-8 School Counselor, Amberlea Elementary School  
 Pendergast School District, Phoenix, AZ

Jill Zitt is a true believer in the Kids at Hope concept that "All children are capable of success, no exceptions." That belief and passion inspires her to ensure that all students she comes into contact with, at whatever age level, understand the importance of college and career readiness. This belief is exemplified in the program and partnerships Jill has developed. For example, as the founder of "Amberlea is College Bound", Jill worked to ensure that the college-bound philosophy permeated the school. In the initial planning stages she involved all stakeholders to ensure school-wide buy-in.

In 2009 "Amberlea is College Bound" was introduced to the school community through parent assemblies. Parents who never considered the possibility of their children attending college were now filled with hope of a brighter future for their children. Data on parent/family surveys show an 87% increase in college knowledge. To mobilize these "College Bound" initiatives, Mrs. Zitt created partnerships with Educational Management Corporation who provided t-shirts for all the children that say "Amberlea is College Bound" and she garnered support from many colleges and universities. For example, the mascot and members of the women's basketball team from Arizona State University visited Amberlea and met with students, and in 2009 Clemson University sports home page featured a photo of the 4th grade class that "adopted" Clemson University. A total of thirty colleges and universities have been "adopted" by Amberlea.

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3/16/2015

Since 2004 she has been a K-8 counselor in the Pendergast School District where she currently serves the students and families at Amberlea Elementary School, a Title One School in Phoenix, Arizona. A school counselor for nine years in the Waupun Area School District in Wisconsin, Mrs. Zilt moved to Arizona in 2003 and became the school counselor at Crossroads School, an alternative school in the Deer Valley Unified School District. She earned her BS from the University of Wisconsin - Stout and her MS Ed in School Counseling from the University of Wisconsin - Oshkosh. She is a National Certified Counselor and a National Certified School Counselor. In addition, she is an adjunct professor in the School Guidance Counseling Program at Ottawa University.

Mrs. Zilt is an active participant in district level activities, including a past member of the district's Strategic Plan Design team, developing the school district's 5-year plan, mission, vision, and goals. A district trainer for the Boys Town Education Model and the Kids at Hope concept, she works with all district employees. In 2007, she was a member of the district counseling team that earned the "Superintendent's Award," the school district's highest honor. Mrs. Zilt and the Amberlea School College Bound initiative received the 2011 "Pathway to Postsecondary Education Award" given by the Arizona Commission for Postsecondary Education.

Mrs. Zilt is also an active member of the Arizona School Counselor Association, serving five years as the Middle School Vice President. In 2012 she represented Arizona school counselors on the Arizona Business and Education Coalition (ABEC) and is a member of the Arizona College Access Network (AzCAN). Her passion for seeing that all students have access and success in post-secondary education led her to serve as a mentor in the Friendly House Scholars Program which awards scholarships and support to Hispanic youth attending one of the ten Maricopa County Community College District schools. The current Director of AzCAN describes Jill Zilt as an exemplary leader and "staunch advocate for creating higher expectations for students and a belief that all students are capable of the highest levels of achievement. As a counselor in an urban school, Jill has advocated for her campus to incorporate a college focused philosophy that truly brings relevance, focus and desire to every student."

Married to Art Zilt, a retired school administrator, she is the mother of two grown sons and grandmother to three young boys. She is an avid college sports fan and can often be found cheering on the Wisconsin Badgers or other teams in the Big Ten conference!



### **Kim Graham-Lawless**

Increasing equity in college and career readiness

Student Services Chair, Student Services and College Counseling Department  
KIPP, Washington, DC

Kim Graham-Lawless has dedicated her career to promoting equity in education, closing the achievement gap and helping all students reach their potential. She is committed to making college access and readiness a reality for every student.

After graduating with her Master's degree in School Counseling from the University of Maryland in 2009, Kim was hired to found and lead the Student Services and College Counseling Department at KIPP OC College Preparatory (KCP).

KCP is KIPP DC's founding high school located in the underserved Anacostia community in Washington, D.C. At KCP, 86% of students qualify for free and reduced meals and 86% of the students will be the first in their families to go to college. Kim works tirelessly to create and implement programs that ensure all students and families have access to the resources and preparation necessary to successfully apply to college. This work includes facilitating community partnerships, assisting students in finding and applying for internships, creating community service opportunities, supporting parents through the college application and financial aid process, organizing SAT/ACT prep for all students, and helping students and parents navigate the college application process. In addition, she fostered the growth of more than seventy extra-curricular and summer programs, leading to 100% student participation in each area. Kim assisted in securing over two million dollars in scholarships and grants for students, organized large-scale college tours, and helped establish the school's Honors College program. Kim's contributions have played a significant role in ensuring that 100% of KCP's current seniors, the school's founding class, successfully applied to and were accepted into college.

Kim's work at KIPP DC builds on a career focused on being a results-focused advocate for students and families. She began her work as a founding teacher in St. Petersburg, Florida at a charter school aimed at helping poor-performing, middle school students achieve success. As a teacher, she received praise for creating innovative experiential and classroom-based learning opportunities for students with alternative education needs. As the Director of Youth Ministries at Pasadena Community Church she continued her work in service. While in the position, she led numerous national and international mission trips, raised nearly \$100,000 for student and community activities and created unique leadership development opportunities for youths in the community.



### **Sean Abid**

Increasing equity in college and career readiness

Chairperson for school Counseling

Desert Oasis High School, Las Vegas, NV

Sean Abid is the Department Chairperson for School Counseling at Desert Oasis High School in Las Vegas, NV, a high needs urban high school in the Las Vegas East Valley. Mr. Abid began at Desert Oasis in 2007 as a staff school counselor and Volleyball coach. His enthusiasm for volleyball and love for his student athletes was rewarded as he won Coach of the Year in 2008 for the division in which he competed (Northeast Sunrise Division - Las Vegas, NV). Now in addition to serving as department chair and coach he is the Clark County School District's NCAA Eligibility Liaison.

Throughout his career Sean has worked successfully with traditionally underserved populations students. Because of his genuine dedication to helping students in need Sean has built lasting relationships with students who relied upon him daily for counseling and guidance. He works tirelessly to guide students both academically and emotionally as they navigate

barriers and obstacles in order to achieve their goals. Because of his extensive expertise in both counseling and athletics, and eligibility requirements, he has motivated many athletes to perform well academically in order to earn both academic and athletic scholarships for college.

But his efforts have not only been at Desert Oasis. While at Desert Pines High School he worked with seniors committed to ensuring they graduated and significantly increased the college going rate. In one year he and colleagues increased the college acceptance rate to University of Nevada at Reno from three to fifty with twelve eventually enrolling. His former colleagues said he worked tirelessly to work with students so that they could expand their life opportunities and "dream about a bigger future".

Sean was recently recognized in the Las Vegas Review Journal for a tremendous achievement involving one of the students he mentored at Desert Pines High School who went on to play football at the University of Utah. The time Sean spent working with students from challenging backgrounds has honed his skills as a school counselor and helped him to establish genuine relationships that focus on mutual respect and communication that empowers students to grow and aspire. As a result, Mr. Abid has become a positive role model to many.

Mr. Abid worked at the middle school level as well before transitioning to Rancho High School in 2002, a challenging urban location, in North Las Vegas. There Sean discovered a true passion for mentoring and guiding student athletes and underprivileged kids. It was at Rancho where he began to mentor groups of students striving to become college athletes. Sean guided many of these students through the tedious process of transferring to four year universities from community and junior colleges. The extensive time and dedication he provided has helped a number of students become the first people in their families to earn college degrees. From that time forward, a passion was ignited that propelled him to guide young men and women into better circumstances than they envisioned or believed possible.

Mr. Abid lives by the mantra first stated by Theodore Roosevelt: "No one cares how much you know until they know how much you care." This quote is brought to life by the words of a colleague who stated: Sean Abid personifies all that is right about an individual that is caring, compassionate and connected to the community in which he works. He is a wise counselor and a standard bearer of integrity and civility.

Mr. Abid grew up in Santa Barbara, California, and graduated from the University of California at Santa Barbara with honors in Sociology. He then obtained his Masters in Clinical Psychology at Antioch University. After his college experiences, he moved to Las Vegas to begin his career. He particularly enjoys watching former athletes compete in NCAA competitions. He is married with a four year old son named Sasha, and he and his wife are expecting another child.

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### COUNSELOR INSPIRES DESERT PINES GRADUATE POUTASI



<http://m.reviewjournal.com/ron-kantowski/counselor-inspires-desert-pines-graduate-poutasi> 3/16/2015

He was speaking from an office 425 miles away, but you could hear the anxiety in Jeremiah Poutasi's voice.

Poutasi is the starting right offensive tackle at Utah. Tonight, against mighty Southern California on national TV, he will be matched against a guy named Morgan Breslin. Breslin is the left defensive end for USC, which was ranked No. 1 at the start of the season. Breslin already has 9½ tackles for loss and 5½ sacks.

Breslin is a transfer from Diablo Valley (Calif.) Junior College. He stands 6 feet 2 inches tall, weighs 250 pounds. He looks mean in his photo. He can grow facial hair if he chooses. He does not speak to the media. Lane Kiffin, the USC coach, says the only words he has ever heard Breslin speak are "Fight On." Those are the first two words of the USC fight song.

Poutasi is a true freshman from Desert Pines High School. True, he stands 6-5, weighs 322 pounds. More or less. But some of that is baby fat. Last year at this time, Poutasi was getting ready to block the defensive ends from Valley High School. Not the same as blocking Morgan Breslin. That is why you could hear the anxiety in his voice.

This was Friday, a full six days before the Trojans would get off the bus at Rice-Eccles Stadium looking mean, because the last time they got off a bus, at Stanford on Sept. 15, they did not look so mean, and they lost, 21-14. So now, instead of No. 1, they are No. 13.

But then Poutasi said that Coach Abid was going to be there, that Coach Abid was always there for him. And then he forgot about trying to block Morgan Breslin, No. 91 on the Trojans. At least for a little while.

Poutasi told me the story about what Coach Abid - Sean Abid, his guidance counselor at Desert Pines, who is a volleyball coach, not a football coach - has meant to him.

Two days earlier, Abid told me the story about what Jeremiah Poutasi's progress in the classroom and on the football field - but mostly in the classroom - has meant to him.

The stories were identical.

When Poutasi transferred from Eldorado to Desert Pines, his grade-point average was slightly better than John Blutarsky's in "Animal House," which was 0.0. But only slightly.

It's not that Poutasi wasn't bright enough to do the work, it was that he chose mostly not to do it, because going to college was not in his future. Neither, for that matter, was

football. Despite his size, he just wasn't interested in blocking defensive ends who look mean and can grow facial hair.

But Coach Abid, the volleyball coach, saw how Poutasi moved his feet on Friday night. For a big kid, he sure could dance.

Big kids who can dance like that are offered scholarships to places such as Washington and Arizona State and Oregon and Utah and to all of those other Pac-12 schools, with the exception of USC, which Poutasi was.

But first, his academic record had to be "completely rebuilt." And so it was rebuilt, and that got Abid sideways with his supervisors, the ones with the patches on the elbows of their jackets, because they thought the big kid who could dance on the football field should be taking specialized classes, instead of core classes like basic English and math that would keep him eligible to play football, keep him eligible for a college scholarship.

So now, Sean Abid is the lead guidance counselor and boys volleyball coach at Desert Oasis High School.

I find this remarkable. Not that academic types and those who look after athletic-types would clash, because this happens a lot. But that guidance counselors actually counsel kids these days.

(When I was in high school, guidance counselors mostly were successful coaches who had gotten old, and when they got old, they would get cranky. And then when you sought them out for guidance, they would take one look at all those C-minuses on your transcript - and the D-plus in algebra - and suggest you forget college and get a job pouring slag at the steel mill like your old man.)

Before Jeremiah Poutasi received a scholarship to play football at Utah, he wrote an essay for an English course called "The Person I'll Never Forget." That person was his guidance counselor, Sean Abid.

"The only reason I am in class today is because of him," he wrote. "Mr. Abid is constantly on my case, always telling me to get to class, and as a person, I am tired of him telling me to get to class, so I might as well save both of us the trouble and get my butt to class."

Maybe it wasn't Hemingway, but it came from the heart. And that is where Abid holds it, thanks to the English teacher who thought he should have Jeremiah's essay.

The big kid who can dance in pass protection went on to write that Coach Abid was always there for him, just like he will be there for him tonight, when he's trying to block Morgan Breslin, No. 91 on the Trojans, who already has 9½ tackles for loss and 5½

sacks and looks mean and doesn't speak to the media. Not even the Los Angeles Times.

Las Vegas Review-Journal sports columnist Ron Kantowski can be reached at [rkantowski@reviewjournal.com](mailto:rkantowski@reviewjournal.com) or 702-383-0325. Follow him on Twitter: [@ronkantowski](https://twitter.com/ronkantowski).

Mountain West pulls...

Empty month gets boost



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<http://m.reviewjournal.com/ron-kantowski/counselor-inspires-desert-pines-graduate-poutasi> 3/16/2015



## The Salt Lake Tribune

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# Utah football: Jeremiah Poutasi — almost a Duck — has become a force for the Utes

BY MATTHEW PIPER

THE SALT LAKE TRIBUNE

PUBLISHED: NOVEMBER 6, 2014 02:24PM

UPDATED: FEBRUARY 18, 2015 07:39PM

One way or another, Jeremiah Poutasi would've been readying for a balance-tipping game at Rice-Eccles Stadium, but he might have been doing so in Eugene.

Utah's left tackle has started 30 games, and he's allowed just three sacks in 564 snaps this season. He's one of Utah's leading all-conference candidates.

And he was nearly a Duck.

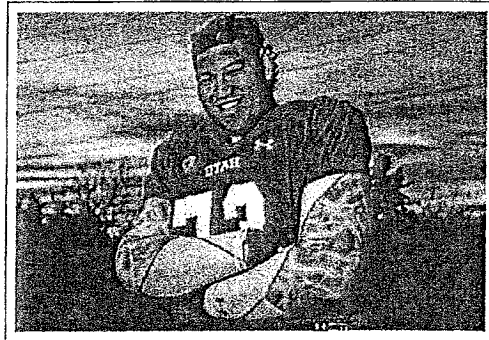
But before it ever came to that, before Pac-12 suitors tripped over each other for his allegiance, he was also nearly an academic nonqualifier.

For guidance counselor Sean Abid, the story begins on a Thursday night at Desert Pines High, when he first watched the 6-foot-6 sophomore play not offensive line, but defensive line, in garbage time.

Abid was awed by the big kid's quick feet.

After the game, he said to the football coach, a friend of his, "Do you realize what you have here? That guy's a dancing bear. He looks like Fred Flinstone."

Abid oversaw counseling for athletes at the Las Vegas school and discovered that Poutasi — dancing bear or no — was unlikely to ever play Division I football. His transcript was in ruin.



Chris Detrick | The Salt Lake Tribune  
Utah left tackle Jeremiah Poutasi poses for a portrait after a practice at the Eccles Football Center Tuesday November 4, 2014.

So, with the support of Poutasi's parents, Abid set about "rebuilding" his transcript, opting for NCAA core classes instead of specialized classes preferred by the school district, and enrolling Poutasi in summer classes.

Poutasi would come over to Abid's house on fall Saturdays and watch college football between sections of the practice ACT, or they'd go to a sports restaurant with coaches and discuss his eligibility.

"There were times when I had to really get on him, but once we started working together, he did everything I asked him to do," Abid said.

Not just in the classroom — where Abid said Poutasi raised his GPA in NCAA core classes from 1.2 to 2.8 — but also in the weight room.

Abid lifts, and he'd compete with Poutasi. As a sophomore, Poutasi struggled to bench 185, and by his junior year, he was hitting 15 reps at 225 without breaking a sweat.

Others began to see it. Poutasi was rated a four-star prospect by Rivals.com. Offers poured in.

Abid emphasized schools' academic support and recalled a positive experience with former area safety Deshawn Richard at the U. He asked Poutasi which recruiter he felt most comfortable with. Poutasi told him it was then-Utah assistant Jay Hill.

But he was also enamored of the BCS runners-up: Chip Kelly's Ducks.

"I'm not going to lie, Oregon was a school that I always wanted to go to," Poutasi said.

In fall of Poutasi's senior year, Oregon persuaded him to schedule a trip the weekend of the ACT — against Abid's wishes — and then canceled on Poutasi the day prior.

They opted to bring in another lineman instead, Abid said. He was furious. Oregon gave Abid what he calls a "BS excuse" that Poutasi's transcript didn't cut it.

"I said, 'This is baloney. This kid's a hard-luck qualifier, and you just made it so he can't take this test.'"

Abid was born in Oregon and owned a Ducks helmet, but he was so fed up that he gave it to a student.

Oregon later re-entered the picture shortly before signing day. Poutasi visited Eugene, after all. Abid said the Ducks told him then that Poutasi's transcript — essentially no different from what they had seen in fall — was now up to snuff.

It was too little, too late, though.

"It wasn't the same as Utah," Poutasi said. "The family atmosphere, the coaches, the players — everybody's just one big family [here]."

So Poutasi stuck by Utah, and Utah, like Abid, stuck by him.

In July of Poutasi's senior year, Hill called Abid to say Poutasi had qualified. Abid considers it one of his fondest memories.

"He played a big role in my life," Poutasi said. "I think he's the reason why I'm here today."

He started at right tackle as a freshman, and then on the left side as a sophomore, when he was the target of criticism while trying to contain the likes of this year's No. 9 overall NFL draft pick Anthony Barr.

Abid said Poutasi was playing through multiple injuries, though he'd never talk about it, and offensive line coach Jim Harding feels Poutasi is probably more of a natural guard who happens to also be their best left tackle.

After dropping more than 30 pounds in the offseason, he's looked more at home on the outside.

"His footwork is amazing, he's a lot faster than he was last year, and he's just a powerhouse," said sophomore left guard Isaac Asiata. "Amazing strength."

Harding said that against ASU, Poutasi was beat for the first time this season on a speed rush. It happened once, and not again.

Poutasi still talks to Abid to calm his nerves before big games. Facing the No. 5 Ducks this Saturday, Poutasi admits, is about as big as it gets for him.

But Abid tells him he has nothing to worry about.

"You've won," he says, "because you're here."

mpiper@sltrib.com Twitter: @matthew\_piper

—

Jeremiah Poutasi file

O Measurables • 6-foot-6, 330 pounds

Hometown • Las Vegas

In high school • Late bloomer became Desert Pines High team captain and was named the top offensive lineman at the 2012 Offense-Defense All-America Game in Dallas.

At Utah • Started at right tackle as a true freshman and was named honorable mention All-Pac-12.

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## 2015 Draft Interview: Jeremiah Poutasi, OL, Utah

Scott Porter

February 10, 2015

[2015 Scouting Reports](#), [Archives](#), [Articles](#), [Features](#), [Interviews](#), [NCAA](#), [NFL Draft](#)



Scott Porter: What do you feel are your greatest strengths?

Jeremiah Poutasi: My power and my footwork. I have quick feet and I am athletic for a big body guy.

Scott Porter: What factors led you to your decision to declare for the NFL draft?

Jeremiah Poutasi: It was just a decision I came upon. I had a great year and I had a chance to go early. I didn't think much about it during the season but after the season I started to think about it and got good feedback. It was a family decision. My family supported me and my fiancé supported me.

Scott Porter: What is the most satisfying aspect of football for you?

Jeremiah Poutasi: I'm not one of those people who it is all about me. The most satisfying aspect for me is being with my team and the team bonding. The waking up at 6 AM working our butts off together as a team, running, working hard, working to get better. Then we look at each other worn out and then we see the results on the field. It is great to see the hard work we do together pay off. It is a family like bond.

Scott Porter: What hobbies do you have off the field?

Jeremiah Poutasi: I like playing madden and bowling. I also like to shoot hoops.

Scott Porter: What type of person is an NFL team getting in Jeremiah Poutasi?

Jeremiah Poutasi: They are getting a person who is willing to work hard and never give up no matter what the score is. I am good at putting the negative aspect aside and going out there and doing my job and

<http://www.newerascouting.com/2015/02/10/2015-draft-interview-jeremiah-poutasi-ol-utah/> 3/16/2015

helping my team work hard. I am positive and take everything in a positive manner to be successful. They are getting a guy who will represent his team in a positive way and stay humble.

Scott Porter: What goals do you have for yourself in the NFL?

Jeremiah Poutasi: My first goal is to make a team. If I make a team I want to be one of the bet OG's in the NFL. I want people to know my name as one of the elite OL in the NFL. I want people to remember me for being that guy who excelled at football. My most important goal is to be a good role model for those who look up to me like I did to others growing up playing the game.

Scott Porter: When did you realize you might have the potential to play in the NFL?

Jeremiah Poutasi: It has always been a dream of mine but I didn't know if I'd ever have an NFL future. Coming off my sophomore season I didn't feel that I played that well and I started thinking about what else I might like to do after I finished college. My junior year I had a much different mindset and the game became easier. I got much more comfortable and people started telling me I had a shot. I started believing in myself and my hard work was showing.

Scott Porter: Who has been your biggest influence throughout your career?

Jeremiah Poutasi: A few people. First my parents they have always pushed me and didn't want to see me fail. They have always been there for me and supported me through good and bad. There was a lot of tough love from them. My fiancé, she has been there for me through ups and downs and has been a huge support to me. It really falls back on my loving family. I do this for my family. Then there is my high school counselor. Sean Abid. He was basically the first person to believe in me. He pushed me to go to college when I had no intentions to go to college. He helped me a lot in high school and without him I would never be here.

Scott Porter: What is something about you that not a lot of people know?

Jeremiah Poutasi: I like to dance.

#### Quick Hits

Favorite Food: Chinese

Favorite Movie: Lion King

Favorite Fast Food: Jack in the Box

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## Exhibit 2

## Exhibit 2

The only time when I mention you if Sasha doesn't eat at my home I am telling him that he will go to your house. Your name is a punishment for Sasha in my house.

**Lyudmyla Abid**

Business Analyst

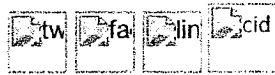
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**From:** Sean R. Abid [mailto:[abidsr@interact.ccsd.net](mailto:abidsr@interact.ccsd.net)]

**Sent:** Friday, January 11, 2013 9:27 AM

**To:** Lyuda Abid

**Subject:** Sasha

**I am very hurt by the things that are being said to Sasha in your home. He has repeated many things that you have said to him about me and he is very confused by what is being said to him about his father. When you degrade his father you are telling him that 50% of him is bad and you are doing damage to his self-esteem and self-concept. I have never told Sasha a bad word about his mother or any member of his family. I only tell him that his mother and sister love him. If you continue to degrade me before Sasha's eyes then your hate for me is stronger than your love for your son and you will hurt him in ways that will damage him for a lifetime. I am pleading with to please do your best to raise Sasha to be a loving and kind boy who is proud of 100% of himself. I am his father. You cannot change that. He deserves to know that his father is a person worthy of respect and I do not deserve to be torn down in his eyes. You need to be aware that I will do everything in my power to save my son from what you are doing to him. I am**



John Jones

---

From: Sean R. Abid <abidsr@interact.ccsd.net>  
Sent: Sunday, March 15, 2015 8:58 AM  
To: John Jones  
Subject: Fwd: Disturbing Comments(exibit A part 3)

**Sean Abid MA NCC NCSC  
CCSD NCAA Eligibility Liaison  
Lead Guidance Counselor  
Last Names A-C  
Desert Oasis HS  
702-799-6881 Ext. 4301**

----- Original Message -----

**In the past two weeks that Sasha has been with us, he has repeated some very disturbing things that he's heard from you. I have implored you in the past, for the sake of Sasha, to STOP bad-mouthing me to him, and yet it seems you are still doing it. You are putting Sasha in a horrible situation and damaging an innocent boy. A few things we've heard: "Momma says that you are a waste of life." "Momma says that you are stealing all of her money and that you are a bad guy." "Daddy, mommy cries a lot. She says it's because you are mean at her." How can you be so selfish to put a 4 year old boy in this situation? He deserves better. <http://www.alllaw.com/articles/family/divorce/article20.asp>**

**Sean Abid MA NCC NCSC  
CCSD NCAA Eligibility Liaison  
Lead Guidance Counselor  
Last Names A-C  
Desert Oasis HS  
702-799-6881 Ext. 4301**

**"Better to fight on your feet than live on your knees!"**

## **Exhibit 3**

## **Exhibit 3**

PHYSICAL EXAM: 2 Systems: Level IV (Established) or Level III (New) or Level IV (New)

**GENERAL:**  
☒ G-Nut ☒ Non-Toxic ☐ Comfortable  
☒ Easily consoled ☒ Engages well  
☒ No Tears ☒ Well-nourished

Distress: Mild / Mod / Severe    Lethargic  
Inconsolable  
Poor skin turgor

1. John Adams

☐ Españolista Plan  
☒ YES  
☐ OPERA  
☐ P.E.N.  
☐ Conjunctions Clear  
☐ Conjunctions Clear Brief  
☐ Funds Normal



Hematomas: Step-off: Battle's Sign  
Fontanelles: Bulging / Depressed  
Acuity: OD \_\_\_\_\_ OS \_\_\_\_\_ Hypermetropia \_\_\_\_\_  
Unequal \_\_\_\_\_  
Nystagmus: Dysconjugate Gaze \_\_\_\_\_  
Injected: Chemosis: Icteric: DIC \_\_\_\_\_  
Abrasion: FB: Dendritic: Ulceration \_\_\_\_\_  
Papilledema: Retinal Hemorrhage \_\_\_\_\_

- ☒ External Auditory Canals Clear
- ☒ Ears Normal
- ☒ Nares Normal
- ☒ Mucous Membranes Normal
- ☒ Posterior Oropharynx Normal
- ☒ Tonsillar Pillars Well Demarcated

Cerumen D/C Inflammation \_\_\_\_\_  
 Erythema Bulging Effusion Purulence \_\_\_\_\_  
 Excess Septal Hemorrhage D/C \_\_\_\_\_  
 Tacky Dry Vessels Painful Prepuce \_\_\_\_\_  
 Exudates Erythema Tonsillar Enlargement \_\_\_\_\_  
 \_\_\_\_\_ TITERS

- ☒ Normal Voice / Cry
- ☒ Single Full ROM
- ☒ No Lymphadenopathy
- ☒ No Malignant Tenderness

Muffling Hoarse Voice \_\_\_\_\_  
Meningismus Thyromegaly \_\_\_\_\_  
Cervical LAN: Anterior Posterior \_\_\_\_\_  
Tender Paracervical Trapezius \_\_\_\_\_

☒ Regular Rate: 10.00  
☒ No Minors / RUOS  
☒ Basic Car Seat: 0.00

Irregular Tachycardic Bradycardic  
Murmur \_\_\_\_\_ MI sys/diast S3 S4  
Femoral Pulses 2+ Symm

RESPIRATOR  
 ✓ Clear & Easy SS  
 ✓ Easy & Non-Laborer  
 ✓ Clear Wall Airstrat / Non-tender

Wheezes Rales Rhonchi  
Accessory Muscles \_\_\_\_\_ Sndor \_\_\_\_\_  
Tender to Palpation \_\_\_\_\_

DIAGNOSTICS / INTERPRETATION:

X-RAY: ☒ Normal ☐ CHF ☐ Effusion ☐ CXR ☐ COPD ☐ Masses  
☐ Infiltrate

Phylog. \_\_\_\_\_ Race \_\_\_\_\_ Assn. ☒ Normal ☐ AD ☐ RAD  
 DRS ☒ Normal ☐ 1925 ☐ 1928 \_\_\_\_\_ AVE OTS ☒ Normal ☐ Prolonged

ST Segments: Normal \_\_\_\_\_  
 OVERALL INTERPRETATION: Normal ☒ Unchanged from Prior ☐ Non-Specific Change ☐  
 Acute Injury Pattern / Ischemia \_\_\_\_\_

<input type="checkbox"/> CBC	<input type="checkbox"/> Chem. Panel	<input type="checkbox"/> U/A	<input type="checkbox"/> HCG.
<input type="checkbox"/> WBC	<input type="checkbox"/> Na.	<input type="checkbox"/> Sp. Grav.	
<input type="checkbox"/> Hgb.	<input type="checkbox"/> K.	<input type="checkbox"/> Ketones	<input type="checkbox"/> Acou.
<input type="checkbox"/> Hct	<input type="checkbox"/> Cl.	<input type="checkbox"/> Urobili.	
<input type="checkbox"/> Pts.	<input type="checkbox"/> CO <sub>2</sub>	<input type="checkbox"/> Protein	<input type="checkbox"/> Mono.
<input type="checkbox"/> RFTs	<input type="checkbox"/> BUN.	<input type="checkbox"/> Glucose.	
<input type="checkbox"/> Bands	<input type="checkbox"/> Creat.	<input type="checkbox"/> Blood	<input type="checkbox"/> Strep.
<input type="checkbox"/> Leuk.	<input type="checkbox"/> Gluc.	<input type="checkbox"/> Hemes.	
		<input type="checkbox"/> Leuk. Est.	<input type="checkbox"/> RSV.

**PATIENT EDUCATION/COUNSELING:**

Cessation of: ☐ Tobacco Use    ☐ Alcohol Use    ☐ Drug Use

☐ Preventative Health    ☐ Seatbelt Use    ☐ Safe Sex    ☐ Weight Loss

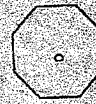
☐ Balanced Diet & Exercise    ☐ Medication Compliance

☐ Coordination of Care                  Reviewed: ☐ Lab Studies    ☐ X-Rays    ☐ Records

Face-to-Face Time \_\_\_\_\_ Minutes: \_\_\_\_ %50% Counseling / Coordinating Care.

GASTROINTESTINE

- ☒ Abdomen Non-Tender
- ☒ No Hepatosplenomegaly
- ☒ Normoactive BS
- ☒ Non-distended
- ☒ Stool Heme Neg.



Rebound Guarding Murphy's Sign  
Hernia Mass \_\_\_\_\_  
↑ / ↓ BS Penstator Rashes  
Distended \_\_\_\_\_

- ☐ No CVA Tenderness
- ☐ No Inguinal Lymphadenopathy
- ☐ Normal External Genitalia
- ☐ Normal Testes ☐ + Cremasteric Reflex
- ☐ Normal Cervix, no DIC, no CMT
- ☐ No Adrenal Masses or Tenderness

☐ Chaperone present at bedside during exam

☒ Warm and Dry, Normal Color

Diaphoretic, Pale Cyanotic, Jaundice  
Bulimic, Ecchymoses, Uricemia

**MUSCLES/NERVES**

- ☐ Extrem. Well Perfused; Cap. Refill < 2 sec
- ☐ Full ROM Without Tenderness
- ☐ No Edema
- ☐ FOP, FDS, EDC Intact \_\_\_\_\_ Hand
- ☐ Compartments Soft, Without Tension

Edema	Tender
Hand	Hand

- ☐ Alert ☐ Active ☐ Age-appropriate
- ☐ GHI - XII Intact
- ☐ Normal Tone ☐ Strong Suck ☐ + b
- ☒ Normal Sensation ☐ 2+ DTRs Symm
- ☐ 5/5 Strength x 4 Extremities
- ☐ Baseline strength / behavior per family
- ☐ Patient consents to safety of self/other

Lethargic Hypotonic Delirium

□ - Root

\* Is history and/or described MOI consistent with physical exam findings?  
☐ Yes ☐ No — CPS contacted? ☐ Yes ☐ No

☐ Yes ☐ No — CPS contacted? ☐ Yes ☐ No

Colones Can. Q. R.  
Meth. rep. res.  
with 24.  
Meth. res. res.  
for applicants

- ☐ Patient verbalizes understanding of discharge instructions and agrees with plan
- ☐ R/B/A discussed with patient re. medications, informed consent given.

Discharge Condition: ☐ Improved ☐ Good ☐ Unchanged ☐ Stable  
☐ Transferred to Hospital: \_\_\_\_\_

9/1/17 (1810)

FILED IN OPEN COURT

3/18/15

STEVEN D. GRIERSON  
CLERK OF THE COURT

DISTRICT COURT  
CLARK COUNTY, NEVADA

HELEN F. GREEN  
DEPUTY

CMO

In the Matter of the Joint Petition for  
Divorce of:  
Sean R Abid and Lyudmyla A  
Abid, Petitioners.

Case No.: D-10-424830-Z  
Department B

**CASE AND TRIAL MANAGEMENT ORDER**

This matter having come on for a hearing on 3/18/2015 in the Family Division, Department B, of the Eighth Judicial District Court, County of Clark. This Case and Trial Management Order sets forth significant dates and times for future proceedings in this case. It is the responsibility of the attorneys, or the litigants (when appearing in proper person), to comply with the following deadlines and to appear for the following required proceedings:

**Trial Date: August 14, 2015 at 9:00 AM**

**Pre-Trial Memorandum/Brief due date: August 07, 2015**

**Discovery Due Date: July 15, 2015**

**Other deadlines are contained herein.**

Plaintiff, , was ☐ present in Proper Person ☐ not present ☒ present and represented by John D. Jones; ~~Michael R Balabon, Esq.,~~ and Defendant, , was ☐ present in Proper Person ☐ not present ☒ present and represented by ~~John D. Jones;~~ Michael R Balabon, Esq., and the Court being fully advised in the premises, both as to subject matter as well as the parties thereto, and that jurisdiction is proper in Nevada, and good cause appearing, the court makes the following findings:

LINDA MARQUIS  
DISTRICT JUDGE  
FAMILY DIVISION, DEPT. B  
LAS VEGAS, NV 89101-3408

1           The nature of this action is a Joint Petition for Summary Decree of Divorce. In the  
2 above stated action all claims for relief and all defenses asserted are contained within the  
3 Complaint, filed and the Answer and Counterclaim, filed which are incorporated herein by  
4 reference.  
5

6                                   **Discovery Plan:**

7           The parties shall participate in the discovery process in good faith and may utilize all  
8 discovery methods, consistent with NRCP 16.2.

9           Within 60 days of this Order, the parties shall submit a list of names of individuals  
10 who are likely to possess discoverable information regarding this action, consistent with NRCP  
11 16.2(a)(2)(A), and a list of all documents provided at or as a result of the Case Management  
12 Conference consistent with NRCP 16.2(a)(2)(B).  
13

14           Each party may designate witnesses as long as the other party receives sufficient  
15 notice of this designation to allow discovery relating to the witness. All witnesses must be  
16 designated by June 30, 2015.

17           The deadline for the parties in this case to file a motion to amend the pleadings or  
18 add parties is June 30, 2015. The deadline for the parties to disclose the identity of any expert  
19 witnesses who will testify at trial is May 15, 2015. If a party designates an expert witness, the  
20 other party may designate an expert within fourteen (14) days of the initial disclosure. The  
21 deadline for the parties to file dispositive motions and motions in limine is July 15, 2015.  
22

23           Discovery will close on July 15, 2015.

24           Counsel or proper person litigants are to provide the following to opposing  
25 counsel/proper person litigant: witness lists, exhibit lists, and any other discover items sought  
26 to be introduced at Trial. Failure to provide the foregoing may result in such exhibits or  
27 evidence being excluded or other appropriate court-imposed sanctions.  
28


1           Each party's Pre-Trial Memorandum shall be filed on or before August 07, 2015,  
2 and a copy of the same is to be hand-delivered to the Judge's chambers and served on opposing  
3 counsel the same day. The Pre-Trial memorandum shall substantially comply with the form  
4 attached hereto including the Marital Balance Sheet. **Failure to submit the Pre-Trial**  
5 **Memorandum on or before this date, absent the Court's approval, may result in the trial**  
6 **date being vacated and the matter rescheduled in ordinary course and/or sanctions.**

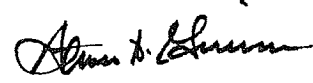
7  
8           Any and all Exhibits and Witness Lists must be delivered to chambers at least one  
9 (1) judicial day prior to trial for marking.

10           **Trial is set for August 14, 2015 at 9:00 AM.** Absent stipulation of the parties (and  
11 good cause appearing therefore), no continuances will be granted to either party unless written  
12 application is made to the Court, served upon opposing counsel, and a hearing held prior to  
13 trial. If this matter settles, please advise the Court as soon as possible.

14  
15           IT IS HEREBY ORDERED that the above-stated findings are hereby adopted and  
16 confirmed as an order of this Court.

17           DATED this 18th day of March, 2015.

18   
19 LINDA MARQUIS  
20 District Judge  
21 Department B  
22  
23  
24  
25  
26  
27  
28

  
CLERK OF THE COURT

PTAT  
BLACK & LOBELLO  
John D. Jones  
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Attorneys for Plaintiff,  
SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,  
  
Plaintiff,

CASE NO.: D424830  
DEPT. NO.: B

vs.

LYUDMYLA A. ABID  
  
Defendant.

**POINTS AND AUTHORITIES REGARDING  
DR. HOLLAND RECEIVING RECORDINGS**

COMES NOW, Plaintiff, SEAN R. ABID ("Sean"), by and through his attorneys of record, John D. Jones and the law firm of BLACK & LOBELLO, and hereby submits his POINTS AND AUTHORITIES REGARDING DR. HOLLAND RECEIVING RECORDINGS.

**I. POINTS AND AUTHORITIES**

The issue of whether or not an expert can rely on potentially inadmissible information is really quite a simple one. Far more simple than Defendant is making it out to be.

NRS 50.285 states as follows:

N.R.S. 50.285

50.285. Opinions: Experts

1. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing.

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2. If of a type reasonably relied upon by experts in forming opinions or inferences upon the subject, the facts or data need not be admissible in evidence.

(emphasis added)

Whereas, Sean is confident that this Court will admit the recordings into evidence, for the purposes of the forensic child interview, Dr. Holland should absolutely have the recordings so that she can craft the nature of the interview. Defendant's desperate attempt to hide the truth from the Court should have nothing to do with Dr. Holland being fully informed before interviewing Sasha.

## II. CONCLUSION

Based upon the foregoing the Court should enter the following orders:

1. Dr. Holland is allowed to review the recordings.
2. Any other relief that this Court deems just and proper.

DATED this 19 day of March, 2015.

BLACK & LOBELLO

John D. Jones, Esq.

Nevada Bar No. 006699

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

(702) 869-8801

Attorneys for Plaintiff,

SEAN R. ABID



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CERTIFICATE OF MAILING

I hereby certify that on the 19<sup>th</sup> day of March, 2015 a true and correct copy of the POINTS AND AUTHORITIES REGARDING DR. HOLLAND RECEIVING RECORDINGS upon each of the parties by **electronic service** through Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to N.E.F.C.R. 9; and by depositing a copy of the same in a sealed envelope in the United States Mail, Postage Pre-Paid, addressed as follows:


Michael Balabon, Esq.  
Balabon Law Office  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: [mbalabon@hotmail.com](mailto:mbalabon@hotmail.com)  
*Attorney for Defendant,*  
*Lyudmila A. Abid*

  
an Employee of BLACK & LOBELLO



adduced at the time of hearing of this cause.

DATED this 23rd day of March, 2015.

  
MICHAEL R. BALABON, ESQ.  
5765 So. Rainbow, #109  
Las Vegas, NV 89118  
702-450-3196  
Attorney for Defendant

**POINTS AND AUTHORITIES**

I

1. At the hearing held on March 18, 2015, this Court designated Dr. Holland to conduct a child interview.

2. At issue in this case, and sole basis of Plaintiff's Motion to Change custody, is a tape recording surreptitiously obtained by Plaintiff when he placed a recording device in the minor child's backpack and recorded private conversations in Defendant's home.

3. Defendant has objected to admission of the tape in this proceeding based upon alleged violations of both State and Federal Law. Both State and Federal Law require absolute exclusion of any recording and contents thereof if the Court finds there was a violation of the relevant wiretapping statutes.

4. This Court ruled that the issue of the admissibility of the tape recording will be determined at the evidentiary hearing.

5. To date, no valid transcript of the tape has been provided by the Plaintiff. Nor has Plaintiff provided the tape to

1  
2 Defendant for examination. The tape has not been authenticated.  
3 Defendant is entitled to be provided with the tape and have it  
4 forensically examined to determine its authenticity and to  
5 determine if the contents have been altered or doctored.  
6 Defendant is entitled to examine the tape to determine if  
7 conversations that occurred in her home to which the child was  
8 not a party were recorded by the device. If this is the case, the  
9 tape absolutely would constitute violation of both State and  
10 Federal anti wiretapping Statutes and the "vicarious consent  
11 doctrine" will not apply thereby requiring the exclusion of the  
12 tape. The only evidence of the contents of the tape are  
13 statements of the Plaintiff allegedly detailing what was on the  
14 tape. It is obvious based upon a review of Plaintiff's recitation  
15 of the tape contents, that Plaintiff selectively edited the tape  
16 and only chose to reveal those portions of the recoding that he  
17 believed supported his case.  
18

19 6. Under these facts, it would be patently unfair and  
20 equitable to provide Plaintiff's pleading to the evaluator that  
21 allegedly details what was on the tape when the alleged contents  
22 have not been authenticated and subject to forensic examination.

23 7. The issue of providing the contents of an illegally  
24 obtained evidence to custody evaluators or other experts  
25 appointed by the Court was dealt with extensively in a scholarly  
26 article entitled "War of the Wiretaps: Serving the Best Interests  
27  
28

1  
2 of the Children?", published in the *Family Law Quarterly*, Vol.  
3 47, No. 3 (Fall 2013). (See attached).

4 This article addresses all the valid reasons why this Court  
5 should not allow Dr. Holland to be provided with the alleged  
6 contents of the illegally obtained tape recording and Defendant  
7 encourages the Court to carefully review it.

8 CONCLUSION

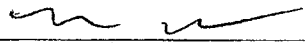
9  
10 The tape recording in this case has not been properly  
11 authenticated, has not been forensically examined, and is  
12 unreliable. We certainly cannot rely on what Plaintiff indicates  
13 is on the tape. Nor has the Court made a ruling on its  
14 admissibility.

15 The child interviewer appointed by the Court is an expert,  
16 trained to identify the signs of parental alienation or other  
17 emotional or psychological issues that may be affecting the  
18 child. Defendant seeks an initial, independent, unbiased  
19 examination of her son by this Doctor so this Court can make an  
20 informed decision as to what is in the best interests of Sasha.  
21 Plaintiff is adamant that the Doctor review the recordings  
22 because he knows Sasha is a happy, well adjusted child who loves  
23 both parents and his whole case rests on his unfounded parental  
24 alienation allegations. If there were indicated emotional or  
25 other problems with Sasha, certainly those issues would have been  
26 detailed with specificity in the extensive pleadings filed in  
27

1  
2 this case. Plaintiff wants to prejudice Dr. Holland before the  
3 interview with the hope that the tape predisposes the Doctor to  
4 find parental alienation. Certainly, if the parental alienation  
5 is as pervasive and outrageous as Plaintiff alleges, it should be  
6 readily identifiable by this expert.

7  
8 For the reasons stated herein and in the Article attached  
9 hereto, Defendant specifically objects to Dr. Holland being  
10 provided with the tape prior to her interview with Sasha.

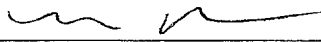
11 DATED this 13th day of March, 2015.

12   
13 MICHAEL R. BALABON, ESQ.  
14 5765 So. Rainbow, #109  
15 Las Vegas, NV 89118  
16 702-450-3196  
17 Attorney for Defendant

18  
19 CERTIFICATE OF SERVICE

20  
21 I, Michael R. Balabon, Esq., hereby certify that on the 23rd  
22 day of March, 2015, a true and correct copy of the foregoing  
23 POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S OBJECTION TO  
24 PROVIDING CONTENTS OF ALLEGED TAPE RECORDING TO CHILD INTERVIEWER  
25 was served to the Law Offices of JOHN D JONES, ESQ., via  
26 electronic service pursuant to Eighth Judicial District Court,  
27 Clark County, Nevada Administrative Order 14.2, to  
28 jjones@blacklobellolaw.com.

DATED this 23rd<sup>d</sup> day of March, 2015

27   
28 MICHAEL R. BALABON, ESQ.

## War of the Wiretaps: Serving the Best Interests of the Children?

ALLISON B. ADAMS\*

### I. Introduction

Technological advancements not only contribute greatly to society, but also enable the significant erosion of individuals' privacy. Both courts and lawmakers frequently wrestle with issues regarding what types of protections the legal system should provide in order to safeguard privacy.<sup>1</sup>

The enactment of the Wiretap Act of 1968 represents a critical congressional response to the need to protect individuals' privacy in the face of rapidly advancing technology.<sup>2</sup> The Wiretap Act protects against "interceptions of oral and wire communications,"<sup>3</sup> such as covertly recorded telephone conversations. Today, all states except for Vermont, have also enacted their own wiretap statutes, many of which are more restrictive than the federal statute.<sup>4</sup>

In order to effectuate their purpose of protecting privacy, the Wiretap Act and its state counterparts contain a harsh exclusionary rule, in addition to criminal and civil penalties, for their violation.<sup>5</sup> The exclusionary rule bars recordings obtained in violation of the wiretap statutes from being admitted as substantive evidence in any legal proceeding.<sup>6</sup>

\* Third-place winner, 2013 Schwab Essay Contest, and third-year student at Chicago-Kent College of Law. Currently is an associate at Schiller, DuCanto & Fleck LLP in Chicago.

1. See *Kyllo v. United States*, 533 U.S. 27, 34 (2001) (stating that "the question we confront today is what limits there are upon this power of technology to shrink the realm of guaranteed privacy").

2. See *Gelbard v. United States*, 408 U.S. 41, 48 (1972) (citing the Senate committee report that accompanied Title III).

3. *United States v. Giordano*, 416 U.S. 505, 515 (1974).

4. *Electronic Surveillance Laws*, NATIONAL CONFERENCE OF STATE LEGISLATURES (2012), available at <http://www.ncsl.org/issues-research/telecom/electronic-surveillance-laws.aspx#VT>.

5. See S. REP. NO. 1097 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2156.

6. 18 U.S.C. § 2515 (2012). Most state statutes also contain such an exclusionary rule.

Despite the importance of the exclusionary rule for enforcing state and federal wiretap statutes, parties to child custody cases have found a loophole that enables illegally obtained wiretap evidence to be considered in child custody determinations. Some judges have permitted guardians *ad litem* (GALs) to review and rely on illegally obtained wiretap evidence in making child custody recommendations to the court.<sup>7</sup> GALs serve as the court's witness with an expertise in child custody.<sup>8</sup> Permitting GALs to review and rely on illegally obtained wiretap evidence, however, effectively creates a loophole that allows the court to rely on otherwise inadmissible evidence through the recommendation of its expert witness.

In *In re Marriage of Karonis*,<sup>9</sup> a highly contentious custody battle, the trial court appointed two GALs to help determine the custody arrangement for the parties' three children, which would serve their best interests.<sup>10</sup> Prior to trial, the father sought to bar the use of recordings the mother made of telephone conversations between the father and the parties' children because they were obtained in violation of the Illinois eavesdropping statute.<sup>11</sup> The trial court barred all information on the tapes from being used as evidence at trial, but permitted the GALs to listen to the tapes.<sup>12</sup> Ultimately, the trial court awarded the mother sole custody of the parties' three children.<sup>13</sup>

On appeal, the father alleged that, while the recordings were barred from being used as evidence at trial, he suffered prejudice because the trial court improperly permitted the GALs to rely on the tapes in making their child custody recommendations.<sup>14</sup> The appellate court affirmed the trial court's custody determination, reasoning that GALs must be permitted to consider even inadmissible evidence, including the recordings at issue, in order to determine the children's best interests.<sup>15</sup>

7. Compare *In re Marriage of Karonis*, 693 N.E.2d 1282 (Ill. App. Ct. 1998), with *Lewton v. Divingnzo*, 772 F. Supp. 2d 1046, 1051 (D. Neb. 2011) (court excluding recordings from custody case where the mother covertly recorded the father by using a recording device in the child's teddy bear). The father then sued under state and federal wiretap statutes, and the court stated that the mother had no justifiable reason for distributing recordings to the GAL and other child experts in the child custody case before the judge ruled on the admissibility of such recordings. *Id.* at 1058. Accordingly, the court held the defendants liable for violating the Federal Wiretap Act. *Id.* at 1059.

8. See, e.g., *In re Marriage of Wycoff*, 639 N.E.2d 897, 904 (Ill. App. Ct. 1994) (holding that the "GAL is the 'eyes and ears' of the court"); *Clark v. Alexander*, 953 P.2d 145, 152 (Wyo. 1998); *Collins v. Tabet*, 806 P.2d 40, 44 (N.M. 1991).

9. 693 N.E.2d 1282 (Ill. App. Ct. 1998).

10. *Id.* at 1284.

11. *Id.* at 1285.

12. *Id.*

13. *Id.* at 1283-84.

14. *Id.* at 1285.

15. *Id.* at 1286.



The court noted that it is the GAL's duty to make child custody recommendations to the court based on what the GAL determines to be in the children's best interests.<sup>16</sup> Permitting GALs to rely on illegally obtained wiretap evidence, however, creates a perverse incentive for parents in vicious custody battles to violate the statutes. New technology, such as smartphones, now enables a parent to easily obtain recordings of the other parent in order to gain an advantage in child custody litigation. Yet, this incentive to violate the statutes is precisely what the statutes' harsh exclusionary rules were designed to prevent. Permitting GALs to review and rely on such illegally obtained recordings essentially allows inadmissible evidence in through the back door. Ultimately, this practice raises the question of whether the final child custody determination truly serves the children's best interests.

This article argues that GALs should not be permitted to review and rely on recordings obtained in violation of either state or federal wiretap statutes. Part II provides an overview of federal and state wiretap statutes as a backdrop to this discussion. Part III discusses the role of GALs in child custody proceedings. Part IV advances the following three reasons why GALs should not be permitted to rely on evidence that violates state or federal wiretap statutes in making child custody recommendations to the court: (1) limits on expert witness's ability to rely on inadmissible evidence should bar GALs, as the court's expert witness, from relying on illegally obtained wiretap evidence; (2) permitting GALs to rely on inadmissible wiretap evidence exacerbates the concerns with conflicts in the GAL's role; and (3) permitting GALs to rely on inadmissible wiretap evidence frustrates the purpose of the wiretap statutes.

## **II. Overview of Federal and State Wiretap Statutes**

In order to understand the implications involved when courts allow GALs to rely on covertly recorded communications, it is important to first understand the structure of the federal and state wiretap statutes which regulate such communications. While there is a circuit split as to whether the federal Wiretap Act applies in domestic cases, such as child custody cases,<sup>17</sup> "nearly 80% of reported wiretapping matters involve wiretaps within the family context."<sup>18</sup>

16. *Id.* at 1284.

17. Daniel R. Dinger, *Should Parents Be Allowed to Record a Child's Telephone Conversations When They Believe the Child Is in Danger?: An Examination of the Federal Wiretap Statute and the Doctrine of Vicarious Consent in the Context of a Criminal Prosecution*, 28 SEATTLE U. L. REV. 955, 964 n. 55 (2005).

18. Allan H. Zerman & Cary J. Mogerma, *Wiretapping and Divorce: A Survey and Analysis of the Federal and State Laws Relating to Electronic Eavesdropping and Their*

A. *The Federal Wiretap Act*

The federal statute regulating electronic surveillance of communications, commonly referred to as the "Wiretap Act," is found in Title I of the Electronic Communications Privacy Act (ECPA) of 1986.<sup>19</sup> The ECPA of 1986 amended the original Wiretap Act found in Title III of the Omnibus Crime Control and Safe Street Acts of 1968.

## 1. THE HISTORY OF THE WIRETAP ACT

The Wiretap Act of 1968 was Congress's response to changing conceptions of privacy in the face of advancing technology.<sup>20</sup> In 1934, Congress enacted the Federal Communications Act (FCA) as a response to the United States Supreme Court's decision in *Olmstead v. United States*.<sup>21</sup> In *Olmstead*, the Court upheld the constitutionality of a government wiretap under the Fourth Amendment to the United States Constitution.<sup>22</sup> The FCA protected individuals' privacy by prohibiting interceptions of communications, such as the government wiretap in *Olmstead*.<sup>23</sup> In 1967, with its seminal decision in *Katz v. United States*,<sup>24</sup> the Court expanded its notion of privacy under the Fourth Amendment to protect individuals' reasonable privacy expectations where new technology in the form of an eavesdropping device threatened to erode that privacy interest.<sup>25</sup>

The expansive notion of privacy, together with the limitations of the FCA, led Congress to enact the Wiretap Act of 1968.<sup>26</sup> The purpose of the Wiretap Act was "to prohibit, on the pain of criminal and civil penalties, all interceptions of oral and wire communications, except those specifically provided for in the Act."<sup>27</sup> Congress amended the Wiretap Act in 1986 to account for the rapid technological advancements that had occurred since passage of the original Wiretap Act in 1968.<sup>28</sup>

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*Application in Matrimonial Cases*, 12 J. AM. ACAD. MATRIMONIAL LAW. 227, 228 (1994) (citing NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE, ELECTRONIC SURVEILLANCE 160 (1976)).

19. 18 U.S.C. §§ 2510–2522 (2012).

20. *Gelbard v. United States*, 408 U.S. 41, 48 (1972) (citing the Senate committee report that accompanied Title III).

21. 277 U.S. 438 (1928); Richard C. Turkington, *Protection for Invasions of Conversational and Communication Privacy by Electronic Surveillance in Family, Marriage, and Domestic Disputes Under Federal and State Wiretap and Stored Communications Acts and the Common Law Privacy Intrusion Tort*, 82 NEB. L. REV. 693, 701 (2004).

22. 277 U.S. at 469.

23. Turkington, *supra* note 21, at 701.

24. *Katz v. United States*, 389 U.S. 347 (1967).

25. *Id.*

26. Turkington, *supra* note 21, at 701–02.

27. *United States v. Giordano*, 416 U.S. 505, 515 (1974).

28. Turkington, *supra* note 21, at 703.

2. COMMUNICATIONS REGULATED BY THE WIRETAP ACT

The Wiretap Act regulates interceptions of “wire, oral, or electronic communication.”<sup>29</sup> Primarily, the Wiretap Act only regulates “interceptions” of communications, defined as “the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.”<sup>30</sup> Accordingly, the Wiretap Act only applies to audio recordings captured while the communication is being transmitted. For example, the Wiretap Act applies when a person records a telephone conversation.<sup>31</sup> It likewise applies when a person captures a conversation on video that includes audio, as opposed to video recordings that solely record images without audio, such as closed-circuit video cameras.<sup>32</sup>

Additionally, the Wiretap Act only applies when the audio recording is captured while the communication is being transmitted. Once the transmission is complete, the recording is governed by the Stored Communications Act.<sup>33</sup> Hence, covertly obtaining copies of e-mails, once stored, is regulated by the Stored Communications Act, not the Wiretap Act.<sup>34</sup>

The Wiretap Act only regulates interceptions of “wire, oral, or electronic communication.”<sup>35</sup> The Wiretap Act defines “oral communication” as “any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation.”<sup>36</sup>

Finally, the Wiretap Act’s reach is limited to the regulation of “intentional” interceptions.<sup>37</sup> A person who acts negligently does not violate the Wiretap Act. Courts have found that the requirement that the act be “intentional” is satisfied when a person intercepts a communication “without justifiable excuse[,] stubbornly, obstinately, perversely . . . without ground for believing it was lawful . . . [or with] careless disregard whether or not one [had] the right to act.”<sup>38</sup>

29. 18 U.S.C. § 2511(1)(a) (2012).

30. *Id.* § 2510(4).

31. Turkington, *supra* note 21, at 705.

32. See, e.g., *United States v. Falls*, 34 F.3d 674, 679–80 (8th Cir. 1994); *United States v. Torres*, 751 F.2d 875, 885–86 (7th Cir. 1984); *State v. O’Brien*, 774 A.2d 89, 96–97 (R.I. 2001).

33. 18 U.S.C. §§ 2701–11.

34. See *Konop v. Hawaiian Airlines, Inc.*, 236 F.3d 1035 (9th Cir. 2001), *withdrawn by* 262 F.3d 972 (9th Cir. 2001); *Steve Jackson Games, Inc. v. U.S. Secret Serv.*, 36 F.3d 457 (5th Cir. 1994).

35. 18 U.S.C. § 2511(1)(a).

36. *Id.* § 2510(2).

37. *Id.* § 2511(1).

38. *Citron v. Citron*, 722 F.2d 14, 16 (2d Cir. 1983) (internal citations omitted); see *Heggy v. Heggy*, 944 F.2d 1537, 1542 (10th Cir. 1991); *Kratz v. Kratz*, 477 F. Supp. 463, 478–79 (E.D. Pa. 1979).

As technology continues to advance, the application of the Wiretap Act to new forms of communication will need to be examined. For example, new technology relevant to child custody litigation includes real-time video chats, such as the FaceTime<sup>39</sup> application for iPads and iPhones, Skype video calls,<sup>40</sup> and Google Voice.<sup>41</sup> Visitation between children and their parents more frequently includes virtual visitation, which “refers to the use of e-mail, instant messaging, webcams, and other Internet tools to provide regular contact between a noncustodial parent and his or her child.”<sup>42</sup> By increasing access to and use of communication tools within the family context, this new technology increases the likelihood that parties to a vicious custody battle will covertly record such conversations to use as ammunition against the other party in court. Real-time recordings of the audio portions of video chats while they are in progress, as opposed to a copy of the video stored on a computer, are regulated under the Wiretap Act. Consequently, courts are likely to deal with issues regarding the admissibility of such recordings on an increasingly frequent basis.

### 3. PENALTIES FOR VIOLATING THE WIRETAP ACT

A person, whether or not a government actor, may violate the Wiretap Act through a number of different actions. This section discusses only those actions pertinent to the present subject and does not represent an exclusive list of actions that violate the Wiretap Act.

Primarily, a person violates the Wiretap Act by intercepting communications governed by the Act.<sup>43</sup> Even if individuals do not intercept communications themselves, they still violate the Wiretap Act by intentionally disclosing such interceptions to others or using the contents of an interception when they “kn[ew] or ha[d] reason to know” that such interception violated the Wiretap Act.<sup>44</sup> Accordingly, individuals who attempt to submit recordings into evidence in court that were obtained in violation of the Wiretap Act still violate the Act regardless of whether they intercepted the communications themselves or engaged others to act on their behalf. A party cannot evade the reach of the Wiretap Act by engaging another person, such as a private investigator, to covertly intercept communications on that party’s behalf.

A person escapes liability under the Wiretap Act, however, where one

39. APPLE, IPHONE, <http://www.apple.com/iphone/features/> (last visited Apr. 6, 2013).

40. SKYPE, <http://www.skype.com/en/features/video-chat/> (last visited Apr. 6, 2013).

41. GOOGLE VOICE, <http://www.google.com/googlevoice/about.html> (last visited Apr. 6, 2013).

42. Elisabeth Bach-Van Horn, *Virtual Visitation: Are Webcams Being Used as an Excuse to Allow Relocation?*, 21 J. AM. ACAD. MATRIMONIAL LAW 171, 172 (2008).

43. 18 U.S.C. § 2511(1)(a) (2012).

44. *Id.* § 2511(1)(c), (d).

party to the communication consented to the interception.<sup>45</sup> The federal Wiretap Act is a one-party consent statute. As long as the person intercepting the communication is a party to the communication, the consent requirement is met and the person is not liable under the Wiretap Act.<sup>46</sup>

The Wiretap Act imposes criminal, civil, and evidentiary penalties. Subject to exceptions, "whoever violates subsection (1) . . . shall be fined under this title or imprisoned not more than five years, or both."<sup>47</sup> Specifically, the Wiretap Act provides for civil remedies, which include compensatory damages, punitive damages, equitable or declaratory relief, and reasonable attorney's fees and litigation costs.<sup>48</sup>

Critically, the Wiretap Act also includes an expansive exclusionary rule. The rule prohibits the introduction into evidence of interceptions obtained in violation of the Wiretap Act in any proceeding, whether criminal or civil.<sup>49</sup> The Act's exclusionary rule states as follows:

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.<sup>50</sup>

The vast penalties imposed for the violation of the Wiretap Act reflect the importance Congress placed on protecting individuals' privacy in the face of rapidly advancing technology.<sup>51</sup> Accordingly, the many penalties, including the exclusionary rule, are intended to be strictly enforced to give effect to the purpose of the Wiretap Act.

#### *B. State Wiretap Statutes*

In addition to the federal Wiretap Act, all states, except for Vermont, have enacted their own wiretap statutes.<sup>52</sup> While some state statutes mirror the federal Wiretap Act, other states' statutes are more restrictive. No state statute is less restrictive than the federal Wiretap Act.<sup>53</sup>

45. *Id.* § 2511(2)(d).

46. *Id.*

47. *Id.* § 2511(4)(a).

48. 18 U.S.C. § 2520(b).

49. 18 U.S.C. § 2515.

50. *Id.*

51. See S. REP. NO. 1097 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2156 (stating that "[c]riminal penalties have their part to play. But other remedies must be afforded the victim of an unlawful invasion of privacy. Provision must be made for civil recourse for dangers. The perpetrator must be denied the fruits of his unlawful action in civil and criminal proceedings").

52. NATIONAL CONFERENCE OF STATE LEGISLATURES, *supra* note 4.

53. "Generally speaking . . . states are free to superimpose more rigorous requirements upon

Two-party consent statutes represent the most impactful way in which many state wiretap statutes are more restrictive than the federal Wiretap Act. Eleven states' statutes include a two-party consent requirement.<sup>54</sup> Additionally, the Nevada Supreme Court held that its statute requires two-party consent.<sup>55</sup>

Two-party consent statutes require the consent of all parties to a communication to avoid liability under the statute. Therefore, while a person who intercepts a communication does not violate the federal Wiretap Act, if that person is a party to the communication, that person still violates a state statute in a two-party consent state if the other parties to the communication do not consent. Alternatively, where a person's actions run afoul of the federal Wiretap Act, they will violate a state statute as well.

### *C. Evidentiary Issues Implicated by Federal and State Wiretap Statutes*

The above is an overview of the reach of the federal and state wiretap statutes and the exclusionary rules imposed as a penalty for their violation. Given the above, there are a number of evidentiary issues that arise in the context of child custody litigation.

#### 1. TWO-PARTY CONSENT STATUTES

In two-party consent states, covert interceptions of communications violate the state statute. The majority of statutes in two-party consent states contain exclusionary rules like that in the federal Wiretap Act.<sup>56</sup> Therefore, if a party to child custody litigation in a two-party consent state covertly records the telephone conversation of his or her spouse, such a recording is not admissible as substantive evidence in the child custody proceeding. Video recordings with audio would likewise be inadmissible.

Recent advancements in technology make covert video recording easier to obtain. Smartphones, such as iPhones, are now owned by 45% of adults in the United States<sup>57</sup> and contain the ability to record video with

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those mandated by the Congress, but not to water down federally-devised safeguards." *United States v. Mora*, 821 F.2d 860, 863 n. 3 (1st Cir. 1987) (internal citations omitted).

54. CAL. PENAL CODE § 632 (West 2013); CONN. GEN. STAT. § 53a-189 (West 2013); FLA. STAT. ANN. § 934.03 (West 2013); 720 ILL. COMP. STAT. 5/14-2 (West 2013); MD. CODE ANN., CTS. & JUD. PROC. § 10-402 (West 2013); MASS. GEN. LAWS ch. 272, § 99(c)(1) (West 2013); MICH. COMP. LAWS § 750.539c (West 2013); MONT. CODE ANN. § 45-8-213 (West 2013); N.H. REV. STAT. ANN. § 570-A:2 (West 2013); 18 PA. CONS. STAT. ANN. § 5703 (West 2013); WASIL REV. CODE § 9.73.030 (West 2013).

55. See generally *Lane v. Allstate Ins. Co.*, 969 P.2d 938 (Nev. 1998).

56. CAL. PENAL CODE § 632(p) (West 2013); FLA. STAT. ANN. § 934.06 (West 2013); 720 ILL. COMP. STAT. § 5/14-5 (West 2013); MD. CODE ANN., CTS. & JUD. PROC. § 10-405 (West 2013); MASS. GEN. LAWS ch. 272, § 99 (West 2013); N.H. REV. STAT. ANN. § 570-A:6 (West 2013); 18 PA. CONS. STAT. ANN. § 5721.1 (West 2013); WASIL REV. CODE § 9.73.050 (West 2013).

57. Lee Rainie, *Two-Thirds of Young Adults and Those with Higher Income Are*

one touch of the screen.<sup>58</sup> Hence, parents seeking an advantage in child custody proceedings may use their smartphones to record video that captures the other party in a negative light. While such covert recordings may seem like a tempting way to gain an advantage in court, parties in two-party consent states cannot use such recordings to bolster their cases even where they are a party to the communication. Where the recording contains audio, it violates the state wiretap statute. As a result, the recording is subject to the exclusionary rule, rendering it inadmissible in court. Further, the party who covertly recorded the communication could be held criminally or civilly liable under the state wiretap statute.

## 2. ONE-PARTY CONSENT STATUTES AND THE VICARIOUS CONSENT DOCTRINE

Even under one-party consent statutes, including the federal Wiretap Act and the majority of state wiretap statutes, a party's covert recording of a telephone conversation between his or her spouse and a third party would be inadmissible in the child custody proceeding where no party to the conversation consented to its recording. By contrast, if the person recording the communication is a party to the telephone conversation, this recording does not violate one-party consent statutes. Therefore, the applicable state or federal wiretap statute would not serve to exclude such a recording from being admitted into evidence at trial.

In one-party consent states, however, the vicarious consent doctrine may enable a person to admit a recording into evidence even where the person intercepting the communication is not a party to the communication. In the context of wiretap statutes, vicarious consent refers to the ability of parents to consent on behalf of their children to interceptions of communications.<sup>59</sup> The requirement to obtain the consent of one party to the communication is satisfied since the parent can consent on behalf of the child. Consequently, as one legal scholar summarized, "[t]he basic premise of the doctrine of vicarious consent is that a parent can avoid liability for violations of the federal wiretap statute or its state law counterparts that might otherwise attach when he or she surreptitiously records a minor child's telephone conversations with a third party without gaining prior consent from the child or the third party."<sup>60</sup>

For example, in a one-party consent state, the vicarious consent doctrine allows a parent to record a telephone conversation between his or her

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*Smartphone Owners*, PEW RESEARCH CENTER'S INTERNET & AMERICAN LIFE PROJECT 2 (2012), available at [http://pewinternet.org/~media/Files/Reports/2012/PIP\\_Smartphones\\_Sept12%209%2010%2012.pdf](http://pewinternet.org/~media/Files/Reports/2012/PIP_Smartphones_Sept12%209%2010%2012.pdf).

58. IPHONE, BUILT-IN APPS, <http://www.apple.com/iphone/built-in-apps/> (last visited Apr. 6, 2013).

59. See *Thompson v. Dulaney*, 838 F. Supp. 1535, 1544 (D. Utah 1993).

60. Dinger, *supra* note 17, at 968.

child and the child's other parent without violating the state or federal wiretap statutes. Likewise, the vicarious consent doctrine would allow a parent to use current technology to video tape a video chat between the other parent and their child in real time without violating the wiretap statutes. Because the recordings would not violate the wiretap statutes, the applicable exclusionary rule would not operate to exclude such a recording at trial. Hence, a parent could covertly record the telephone conversation between his or her child and spouse and then use it against the spouse in a child custody proceeding.

The doctrine of vicarious consent developed primarily through case law for the purpose of protecting the welfare of children. As such, the doctrine is only available in certain jurisdictions and as applied to specific fact scenarios that effectuate this purpose. In *Thompson v. Dulaney*, the United States District Court for the District of Utah held that "[a]s long as the guardian has a good faith basis that is objectively reasonable for believing that it is necessary to consent on behalf of her minor children to the tapping of the phone conversations, vicarious consent will be permissible in order for the guardian to fulfill her statutory mandate to act in the best interests of the children."<sup>61</sup> The court stressed that the parent's purpose in intercepting the communications was critical to the application of the vicarious consent doctrine and denied the mother's motion for summary judgment as there existed factual issues about her motivation.<sup>62</sup>

Additional courts have adopted the vicarious consent doctrine, in limited contexts, in order to protect the welfare of children.<sup>63</sup> Georgia codified the vicarious consent doctrine in its wiretap statute.<sup>64</sup> By contrast, some courts have rejected the doctrine of vicarious consent.<sup>65</sup> Other jurisdictions have yet to reach the issue. Consequently, the applicability of the vicarious consent doctrine to allow a parent to intercept communications between his or her child and a third party without violating the applicable federal or state wiretap statutes varies greatly by both the jurisdiction and the specific facts involved in each case.

Overall, there are many contexts in both two-party and one-party con-

61. 838 F. Supp. 1535, 1544 (D. Utah 1993).

62. *Id.*, at 1545, 1548.

63. See, e.g., *Pollock v. Pollock*, 154 F.3d 601, 610 (6th Cir. 1998) (adopting the vicarious consent doctrine determined in *Thompson* as applied to older children); *Silas v. Silas*, 680 So. 2d 368, 371-72 (Ala. Civ. App. 1996) (upholding a father's vicarious consent on behalf of his child to recording telephone conversations with the child's mother where he "had a good faith basis that was objectively reasonable for believing that the minor child was being abused, threatened, or intimidated by the mother").

64. GA. CODE ANN. § 16-11-66(d) (2012).

65. See *Williams v. Williams*, 581 N.W.2d 777 (Mich. Ct. App. 1998); *W. Va. Dep't of Health & Human Res. ex rel. Wright v. David L.*, 453 S.E.2d 646 (W. Va. 1994).



sent states in which evidentiary issues arise regarding the admissibility of evidence obtained in violation of state or federal wiretap statutes.

### III. The GAL's Role in Child Custody Proceedings

Given the contexts in which the exclusionary rule applies to evidence obtained in violation of state or federal wiretap statutes, issues arise in child custody proceedings regarding whether GALs should be allowed to review and rely on such evidence in making child custody recommendations to the court. It is first important to understand the role that GALs play in child custody proceedings.

#### A. The Development of the GAL's Role in Child Custody Proceedings

GALs represent the best interests of children in court proceedings, including child custody litigation. In the seminal case of *In re Gault*, the United States Supreme Court in 1967 first recognized the need for an attorney to represent children in court proceedings, independent from the representation of their parents' interests.<sup>66</sup> Shortly thereafter, Wisconsin became the first state to require GALs to represent children in child custody litigation.<sup>67</sup> This initiated a movement across the United States, which urged the appointment of attorneys, such as GALs, to represent children in all child custody proceedings.<sup>68</sup>

A significant number of attorneys, many in the capacity of GALs, are appointed to represent children each year in proceedings that deal with child custody issues.<sup>69</sup> While family law statutes differ from state to state, there are generally three types of attorneys who represent children in child custody proceedings: (1) an Attorney for the Child; (2) a GAL; and (3) a Child's Representative. Each type of attorney serves a different role with regard to the child's representation. Generally, the role of an Attorney for the Child is to advocate for the child's interests, just as any attorney advocates for a client's interests.<sup>70</sup> In contrast, the role of both the Child's

66. 387 U.S. 1 (1967); Richard Ducote, *Guardians ad Litem in Private Custody Litigation: The Case for Abolition*, 3 LOY. J. PUB. INT. L. 106, 109-10 (2002).

67. *Id.* at 110.

68. This movement is evidenced by the fact that in 1972 the American Bar Association Family Law Section proposed an amendment to the Uniform Marriage and Divorce Act, which required that all children in custody proceedings have an attorney. ABA, *Proposed Revision of the Uniform Marriage and Divorce Act*, 7 FAM. L.Q. 135 (1972).

69. Approximately 3.6% of the population gets divorced each year, representing more than one million people. CENTERS FOR DISEASE CONTROL AND PREVENTION, NATIONAL VITAL STATISTICS SYSTEM: NATIONAL MARRIAGE AND DIVORCE RATE TRENDS, available at [http://www.cdc.gov/nchs/nvss/marriage\\_divorce\\_tables.htm](http://www.cdc.gov/nchs/nvss/marriage_divorce_tables.htm). As many of these divorces include children, a significant number of child custody determinations are made each year in divorce cases.

70. See, e.g., 750 ILL. COMP. STAT. 5/506 (2013).

Representative and the GAL is to advocate for the best interests of the child, independent of the child's wishes.<sup>71</sup> One legal scholar described this network of differing roles as "falling on a continuum, with the lay guardian *ad litem* committed to protecting the children's interests at one end of the spectrum, the zealous attorney committed to advocating the children's wishes at the opposite end, and various hybrid models falling at different points in between."<sup>72</sup>

GALs are distinguished from both Attorneys for the Child and Child's Representatives because GALs serve as the court's witness, whereas Attorneys for the Child and Child's Representatives represent children independent of the court. The GAL is often referred to as "the arm of the court"<sup>73</sup> and "the eyes and ears of the court."<sup>74</sup> In this capacity, the GAL's role includes conducting an investigation to determine the children's best interests, serving as an expert witness, and advising the court.<sup>75</sup> GALs often conduct "interviews with parties and others knowledgeable about the child, review . . . relevant records, participat[e] in court proceedings and settlement discussions, and repor[t] findings and recommendations to the court."<sup>76</sup>

Furthermore, in Illinois, as in many states, the GAL "serves as a court-appointed quasi-expert."<sup>77</sup> Of the three types of attorneys who may represent children in custody proceedings, only the GAL can be called as a witness.<sup>78</sup> As such, GALs are generally also subject to cross-examination at trial regarding their recommendations to the court.<sup>79</sup>

#### *B. Scholarly Criticisms of the GAL's Role in Child Custody Proceedings*

The GAL's role as the court's witness has elicited significant criticism from legal scholars. First, "critics argue that courts give too much weight to recommendations by guardians *ad litem* and that reliance on the rec-

71. *Id.*

72. Barbara Ann Atwood, *Representing Children: The Ongoing Search for Clear and Workable Standards*, 19 J. AM. ACAD. MATRIMONIAL LAW. 183, 193 (2005) (citing Rayen C. Lindman & Betsy R. Hollingsworth, *The Guardian ad Litem in Child Custody Cases: The Contours of Our Legal System Stretched Beyond Recognition*, 6 GEO. MASON L. REV. 255 (1998)).

73. See, e.g., *Clark v. Alexander*, 953 P.2d 145, 152 (Wyo. 1998); *Collins v. Tabel*, 806 P.2d 40, 44 (N.M. 1991).

74. See *In re Marriage of Wycoff*, 639 N.E.2d 897, 904 (Ill. App. Ct. 1994).

75. *In re Marriage of Karonis*, 693 N.E.2d 1282, 1286 (Ill. App. Ct. 1998); Atwood, *supra* note 72, at 196 (citing Lindman & Hollingsworth, *supra* note 72).

76. Atwood, *supra* note 72, at 196 (internal citations omitted).

77. Carl W. Gilmore, *Understanding the Illinois Child's Representative Statute*, 89 ILL. B.J. 458, 460 (2001).

78. 750 ILL. COMP. STAT. 5/506(a) (2013).

79. Gilmore, *supra* note 77, at 460; see 750 ILL. COMP. STAT. 5/506(a) (2013).

ommendations amounts to an abdication of judicial responsibility.<sup>80</sup> Where judges simply defer to the GAL's recommendation, this deference means that, practically speaking, the GAL is making child custody determinations instead of the judge.

Second, "serious due process concerns are present when guardians' reports and recommendations have been considered by courts without an opportunity for cross-examination by the parties."<sup>81</sup> As such, many due process challenges have proven successful when a trial court judge relied on the GAL's recommendations without providing the adverse party the opportunity to cross-examine the GAL.<sup>82</sup>

Finally, given the vast disparity in roles for GALs and other types of attorneys who represent children, "commentators worry that the absence of clear standards for guardians *ad litem* permits them to act on the basis of subjective, unconstrained bias."<sup>83</sup> As the court's witness, GALs, like judges, are generally immune from civil liability.<sup>84</sup> Consequently, GALs lack accountability for their recommendations. This lack of accountability raises concerns that courts may rely on biased recommendations by GALs in making child custody determinations without any requirement for consistency or accountability.

#### IV. Why GALs Should Not Be Permitted to Rely on Evidence Obtained in Violation of State or Federal Wiretap Statutes

Based on the GAL's role in child custody litigation, there are three reasons why GALs should not be permitted to rely on evidence that violates state or federal wiretap statutes. First, limits on expert witnesses' abilities to rely on inadmissible evidence should bar GALs, as the court's expert witness, from relying on illegally obtained wiretap evidence. Second, permitting GALs to rely on inadmissible recordings exacerbates concerns with consistency and accountability surrounding the GAL's role in child custody proceedings. Third, relying on such evidence frustrates the purpose and policy of state and federal wiretap statutes.

80. Atwood, *supra* note 72, at 198.

81. *Id.*

82. See, e.g., *Ex parte R.D.N.*, 918 So. 2d 100 (Ala. 2005); *In re Marriage of Bates*, 819 N.E.2d 714 (Ill. 2004); *Pirayesh v. Pirayesh*, 596 S.E.2d 505 (S.C. Ct. App. 2004).

83. Atwood, *supra* note 72, at 198.

84. Ducote, *supra* note 66, at 148 (internal citations omitted); see, e.g., *Scheib v. Grant*, 22 F.3d 149, 157 (7th Cir. 1994) (holding that the guardian *ad litem* had absolute immunity from liability pursuant to Illinois's eavesdropping statute); *Paige H.B. by Peterson v. Molepske*, 580 N.W.2d 289, 296 (Wis. 1998) (holding that guardians *ad litem* are entitled to absolute quasi-judicial immunity).

*A. GALs Should Not Be Permitted to Rely on Inadmissible Evidence*

GALs should not be permitted to rely on evidence that would otherwise be inadmissible because it was obtained in violation of state or federal wiretap statutes. Both federal and state rules of evidence contain limitations on an expert witness's ability to rely on inadmissible evidence in forming an opinion and presenting it to the court. Such limitations should bar GALs, as expert witnesses, from relying on illegally obtained wiretap evidence. Even where such evidence is admissible, GALs, as the court's expert witness, should not be permitted to rely on such evidence in the same manner as a normal expert witness who is not controlled by the court.

Federal Rule of Evidence 703 permits experts to rely on inadmissible evidence in forming an opinion. However, the rule does not "function as an exception through which otherwise inadmissible evidence could be admitted."<sup>85</sup> Rule 703 states as follows:

An expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject, they need not be admissible for the opinion to be admitted. But if the facts or data would otherwise be inadmissible, the proponent of the opinion may disclose them to the jury only if their probative value in helping the jury evaluate the opinion substantially outweighs their prejudicial effect.<sup>86</sup>

Rule 703 contains the following two limitations: first, in order for an expert to rely on inadmissible evidence, it must be of the type of evidence reasonably relied upon by experts in that particular field.<sup>87</sup> Second, it is impermissible for an expert to testify regarding an opinion that is based on inadmissible evidence if such evidence is unfairly prejudicial.<sup>88</sup> While Rule 703 makes specific reference to the jury, not the judge, as fact finder, Federal Rule of Evidence 403 provides for the exclusion of evidence in all circumstances where it is unfairly prejudicial.<sup>89</sup> As such, this exclusion for unfair prejudice also applies to the issue at hand where it has the potential to prejudice the GAL and the judge against one party to the child custody proceeding. The majority of states have rules of evidence similar to the federal rules of evidence with regard to the limitations on the ability of expert witnesses to rely on inadmissible evidence.<sup>90</sup>

85. Ian Volek, Note, *Federal Rule of Evidence 703: The Back Door and the Confrontation Clause, Ten Years Later*, 80 *FORDHAM L. REV.* 959, 963 (2011) (citing *FED. R. EVID.* 703 advisory committee's note on 2000 amendment).

86. *FED. R. EVID.* 703.

87. *Id.*; see Volek, *supra* note 85, at 982–83.

88. *FED. R. EVID.* 703; see Volek, *supra* note 85, at 982–83.

89. *FED. R. EVID.* 403, 703.

90. *ALASKA R. EVID.* 703; *ARK. R. EVID.* 703; *ARIZ. R. EVID.* 703; *CAL. EVID. CODE* §

1. AN EXPERT CAN RELY ON INADMISSIBLE EVIDENCE IF IT IS THE TYPE OF EVIDENCE REASONABLY RELIED UPON BY EXPERTS IN THE FIELD

First, an expert witness may only rely on inadmissible evidence to the extent that it is of the type of information reasonably relied upon by experts in the particular field at issue. The justification for this rule is that allowing experts to rely on such evidence promotes judicial efficiency and mirrors the expert's practice in his or her profession.<sup>91</sup> Furthermore, the expert's own testimony validates the evidence the expert relies on.<sup>92</sup> Where these justifications are not served, the court should bar the expert from relying on the inadmissible evidence.

Reasonable reliance by the expert's field requires that the reliance is "both customary in [the expert's] field and reasonable."<sup>93</sup> The requirement that inadmissible evidence pass this test prevents any party from circumventing the exclusion of evidence by finding an expert to rely on that evidence in presenting an opinion to the court.<sup>94</sup> In determining what is reasonable, the Illinois Supreme Court noted that it is important to examine the reason the evidence relied upon is inadmissible for its substantive value.<sup>95</sup> The court held that "if another rule of law applicable to the case excludes the information sought to be relied upon by the expert, the information may not be permitted to come before the jury under the guise of a basis for the opinion of the expert."<sup>96</sup>

In the context of wiretap evidence, such evidence is not merely inadmissible evidence, it was also obtained illegally. Regardless of whether a GAL or other child expert would customarily rely on such evidence, its illegal nature should render it unreasonable.

Furthermore, illegally obtained wiretap evidence is unreasonable for an expert to rely on because such reliance frustrates the purpose of the rules

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801(B) (West 2013); COLO. R. EVID. 703; CONN. CODE EVID. § 7-4; DEL. R. EVID. 703; FLA. STAT. § 90.704 (West 2013); HAW. REV. STAT. § 626-1 (West 2013); IDAHO R. EVID. 703; ILL. R. EVID. 703; IND. R. EVID. 703; IOWA R. 5.703; KY. R. EVID. 703; LA. CODE EVID. ART. 703; ME. R. EVID. 703; MD. RULE 5-703; MISS. R. EVID. 703; MO. ANN. STAT. 490.065 (West 2013); MONT. R. EVID. 703; NEB. REV. STAT. § 27-703; NEV. REV. STAT. 50.285 (West 2012); N.H. R. EVID., 703; N.J. R. EVID. 703; N.M. R. EVID. 11-703; N.Y.C.P.L.R. 4515 (McKinney 2013); N.C. R. EVID., G.S. § 8c-1, RULE 703; N.D. R. EVID. 703; 12 OKLA. STAT. ANN. tit. 12 § 2703 (West 2013); OR. REV. STAT. ANN. § 40.415 (West 2013) (RULE 703); PA. R. EVID. 703; R.I. R. EVID. 703; S.C. R. EVID. 703; S.D. CODIFIED LAWS § 19-5-3 (West 2013); TENN. R. EVID. 703; TEX. R. EVID. 703; UTAH R. EVID. 703; VT. R. EVID. 703; VA. CODE ANN. § 8.01-401.1 (West 2013); WASH. R. EVID. 703; W.VA. R. EVID. 703; WIS. STAT. ANN. § 907.03 (West 2013); WYO. R. EVID. 703.

91. Volek, *supra* note 85, at 968.

92. *Id.*

93. Connelly v. Gen. Motors Corp., 540 N.E.2d 370, 378 (Ill. App. Ct. 1989).

94. *Id.*

95. City of Chicago v. Anthony, 554 N.E.2d 1381, 1389 (Ill. 1990).

96. *Id.*

of evidence. The purpose of the Federal Rules of Evidence, like those of the states, is "to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination."<sup>97</sup> Yet, permitting GALs to rely on illegally obtained wiretap evidence encourages illegal activity, thus undermining the fairness of child custody proceedings. Also, by relying on a communication obtained in violation of a wiretap statute, the GAL, save for a provision imposing immunity from liability, could also be held criminally or civilly liable under such statute.<sup>98</sup> Because of its illegal nature, wiretap evidence should not be deemed to be the type of evidence reasonably relied upon by experts in the field of child custody. Consequently, GALs, as experts, should not be permitted to rely on otherwise inadmissible wiretap evidence.

2. IT IS IMPERMISSIBLE FOR AN EXPERT TO TESTIFY REGARDING AN OPINION  
BASED ON INADMISSIBLE EVIDENCE THAT IS UNFAIRLY PREJUDICIAL

Where an expert witness's opinion relies on inadmissible evidence, the expert may only testify regarding that opinion if the inadmissible evidence relied on is not unfairly prejudicial.<sup>99</sup> Federal Rule of Evidence 403 provides that "[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."<sup>100</sup> "Rule 703 thus reverses the default presumption of disclosure under Rule 403 to create a presumption against disclosure even for the limited purpose of explaining the expert's opinion."<sup>101</sup>

In order to test the validity of a GAL's custody recommendation, it is important for the GAL to testify and be cross-examined regarding the basis for the recommendation. Where a GAL relies on illegally obtained wiretap evidence in making a custody recommendation, the GAL will necessarily need to testify regarding this otherwise inadmissible evidence, at least on cross-examination. The potential for this testimony to be unfairly prejudicial to the adverse party is high when GALs rely on illegally obtained wiretap evidence. This risk of unfair prejudice due to a GAL's inevitable testimony regarding the illegally obtained wiretap

97. FED. R. EVID. 102.

98. 18 U.S.C.A. § 2511(1)(d) (West 2012) (stating that a person is liable under the Wiretap Act who "intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection").

99. FED. R. EVID. 403, 703.

100. FED. R. EVID. 403.

101. Volek, *supra* note 85, at 963.

evidence should serve to bar GALs from relying on such evidence in making custody recommendations.

On balance, the risk of prejudice outweighs the probative value of the evidence. It is important for GALs to have broad investigatory powers to carry out their duty of making child custody recommendations to the court.<sup>102</sup> Recordings obtained in violation of state and federal wiretap statutes have the potential to prejudice the GAL against one parent from the outset in a way that could bias the GAL's recommendations. The recording could have been the result of any number of circumstances that do not accurately reflect the recorded party's normal temperament or relationship with the child. For example, one spouse may purposely incite the other spouse to obtain an advantage in a child custody proceeding by recording a communication that is severely out of character for the recorded spouse. Yet, it is well-established that listening to a recording or watching a video can have an immensely persuasive impact on an audience, the GAL in this case.<sup>103</sup> Hence, the adverse party will face an uphill battle trying to reverse the impact the illegally obtained wiretap evidence had on a GAL.

For this same reason, this risk of prejudice is not remedied by affording the adverse party the opportunity to cross-examine the GAL with regard to the GAL's reliance on the recording. In order to cross-examine the GAL in this regard, it would be critical to play the recording. While the recording would be reviewed solely to determine the credibility of the GAL's recommendation, it would likely be difficult for the judge, as the fact finder, to separate the substantive value of the recording from its purpose in determining the credibility of the GAL's recommendation. Inevitably, judges will rely on the evidence for its substantive value because "[i]n evaluating the expert's opinion, 'one cannot accept an opinion as true without implicitly accepting the facts upon which the expert based that opinion.'"<sup>104</sup> Again, because of the great impact that audio and video recordings have on an audience, in this case the judge, the adverse party's ability to cross-examine the GAL is just as likely to harm that party as it is to correct the risk of prejudice.

Further, the probative value of the recording is minimal in comparison

102. *In re Marriage of Karonis*, 693 N.E.2d 1282, 1286 (Ill. App. Ct. 1998).

103. See Sonja R. West, *The Monster in the Courtroom*, 2012 B.Y.U. L. REV. 1953, 1966 (2012) (analyzing how video has a greater impact on an audience than "any other form of presentation"); see also Bradley Parker, et al., *The Paperless Deposition*, UTAH BAR J. 36, 37 (Jan.-Feb. 2007) (stating that "[t]he impact of the video testimony in settlement discussions, hearings and trials is much greater than printed testimony").

104. Volek, *supra* note 85, at 974 (citing Paul R. Rice, *Inadmissible Evidence as a Basis for Expert Opinion Testimony: A Response to Professor Carlson*, 40 VAND. L. REV. 583, 585 (1987)).

to its prejudicial effect. For example, if one party to a child custody battle contends that the other party is harmful to the child, there will likely be other evidence and testimony to support this contention. This evidence could be introduced in court or relied on by the GAL in making a recommendation to the court without the need to also rely on an illegally obtained recording that could prejudice the GAL against one party. Since illegally obtained recordings are likely to be unfairly prejudicial, GALs, as expert witnesses, should not be permitted to rely on such inadmissible evidence.

3. BECAUSE OF THEIR DISTINCT ROLE AS THE COURT'S WITNESS, GALs SHOULD BE PROHIBITED FROM BASING THEIR OPINIONS ON INADMISSIBLE WIRETAP EVIDENCE EVEN IF A NORMAL INDEPENDENT EXPERT WITNESS IS NOT

The GAL, unlike a normal expert witness, serves as the court's witness. Even if evidence obtained in violation of state or federal wiretap statutes could be relied on by a normal expert witness in forming an opinion, GALs, as the court's expert witness, should nevertheless be barred from reviewing and relying on such evidence in making a child custody recommendation.

GALs are not expert witnesses independently hired by one party to testify regarding an expert opinion. Rather, GALs are appointed by the court to investigate and make a recommendation to the court regarding the custody arrangement that would serve the children's best interests. Since GALs are meant to serve as neutral parties, unlike normal expert witnesses retained by one party, the court heavily relies on the GAL's recommendation. By allowing GALs to rely on inadmissible and illegally obtained recordings, the court is essentially circumventing the wiretap statutes' exclusionary rules. Consequently, GALs, as the court's expert, should be treated differently than normal experts with regard to their reliance on inadmissible evidence. GALs should not be permitted to circumvent an exclusionary rule by relying on illegally obtained wiretap evidence.

*B. Permitting GALs to Rely on Inadmissible Wiretap Evidence  
Exacerbates the Concerns with Consistency and  
Accountability Regarding the GAL's Role*

The concerns raised by many legal scholars regarding conflicts with the GAL's role are exacerbated by allowing GALs to review and rely on recordings obtained in violation of state or federal wiretap statutes. The role of the GAL enables the court to rely on the GAL's recommendation without a clear mechanism in place to ensure consistency or accountability for child custody determinations. Yet, critics repeatedly express con-



cern that lack of regulation of GALs “permits them to act on the basis of subjective, unconstrained bias.”<sup>105</sup>

Given the great persuasive impact of audio and video recordings,<sup>106</sup> permitting GALs to rely on illegally obtained recordings increases the risk that a GAL’s subjective bias will enter into the GAL’s child custody recommendation. Because judges many times defer to the GAL’s recommendation for what is in the best interests of the children, this bias is also more likely to enter into the final custody determination. Permitting GALs to review inflammatory recordings potentially has the effect of enabling the court to rely on the GALs’ biases in making child custody determinations.

*C. Permitting GALs to Rely on Inadmissible Wiretap Evidence  
Frustrates the Purpose of the Wiretap Acts*

Permitting GALs to review and rely on illegally obtained wiretap evidence in making child custody recommendations to the court also frustrates the purpose of the wiretap statutes. The purpose of the Wiretap Act of 1968 was to protect individuals’ privacy in the face of advancing technology.<sup>107</sup> This protection was critical to encourage society’s interest in “the uninhibited exchange of ideas and information among private parties.”<sup>108</sup> Congress was concerned about the ability of new technology to jeopardize “privacy of communication” among all individuals.<sup>109</sup> This same purpose also generally applies to state wiretap statutes.<sup>110</sup>

Significantly, “nearly 80 percent of reported wiretapping matters involve wiretaps within the family context.”<sup>111</sup> The Wiretap Act protects against these violations of communication privacy by imposing harsh civil, criminal, and evidentiary penalties for its violation.<sup>112</sup>

105. Atwood, *supra* note 72, at 198.

106. See West, *supra* note 103, at 1966; see also Parker et al., *supra* note 103, at 37.

107. Gelbard v. United States, 408 U.S. 41, 48 (1972) (citing the Senate committee report that accompanied Title III).

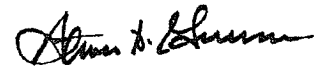
108. Dorothy Higdon Murphy, *United States v. Councilman and the Scope of the Wiretap Act: Do Old Laws Cover New Technologies?*, 6 N.C. J. L. & TECH. 437, 441 (2005) (citing *Barnicki v. Vopper*, 532 U.S. 514, 532 (2001) (quoting the Brief for the United States)).

109. S. REP. NO. 90-1097 (1968), reprinted in 1968 U.S.C.C.A.N. 2112, 2154 (noting that “widespread use and abuse of electronic surveillance techniques” can jeopardize “privacy of communication”); see 18 U.S.C.A. § 2511 (West 2012) (prohibiting interceptions of communications by “any person”).

110. See Travis S. Triano, *Who Watches the Watchmen? Big Brother’s Use of Wiretap Statutes to Place Civilians in Timeout*, 34 CARDOZO L. REV. 389, 416 (2012) (noting that the majority of states “tailor their statutes after the Federal Wiretap Act” and the other states’ statutes are more rigorous).

111. Zeiman & Mogelman, *supra* note 18, at 228 (citing NATIONAL COMMISSION FOR THE REVIEW OF FEDERAL AND STATE LAWS RELATING TO WIRETAPPING AND ELECTRONIC SURVEILLANCE, ELECTRONIC SURVEILLANCE 160 (1976)).

112. 18 U.S.C. §§ 2511(4)(a), 2515, 2520(b).

  
CLERK OF THE COURT

**MOT**  
**BLACK & LOBELLO**  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

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

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: B

**NOTICE: 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.**

**PLAINTIFF'S EMERGENCY MOTION**  
**REGARDING SUMMER VISITATION SCHEDULE**

Plaintiff, SEAN R. ABID ("Sean") by and through his attorneys of record, John D. Jones, Esq. of BLACK & LOBELLO, hereby submits his Emergency Motion Regarding Summer Visitation Schedule.

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///

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

1 This Motion is made and based upon the interim report of Dr. Stephanie Holland, the  
2 attached Points and Authorities, the Exhibits and evidence attached hereto, the papers and  
3 pleadings on file herein, and any oral argument and evidence to be adduced at the hearing in this  
4 matter.

5 DATED this 10 day of June, 2015.

6 Respectfully submitted:

7 BLACK & LOBELLO

8  
9  
10 John D. Jones, Esq.

11 Nevada Bar No. 006699

12 10777 West Twain Avenue, Suite 300

13 Las Vegas, Nevada 89135

14 (702) 869-8801

15 Attorneys for Plaintiff

16 SEAN R. ABID

17 **NOTICE OF MOTION**

18 TO: ALL INTERESTED PARTIES:

19 PLEASE TAKE NOTICE that the undersigned will bring the foregoing **EMERGENCY**  
20 **MOTION REGARDING SUMMER VISITATION SCHEDULE** on for hearing before the above-entitled  
21 Court on the 14 day of July, 2015 at the hour of 9:00 o'clock A.m., of said  
22 date, in Dept. B.

23 DATED this 10 day of June, 2015.

24 BLACK & LOBELLO

25  
26 John D. Jones, Esq.

27 Nevada Bar No. 006699

28 10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

(702) 869-8801

Attorneys for Plaintiff,

SEAN R. ABID

I.

INTRODUCTION

Based upon Sean's Motion to Change Custody, this Court found adequate cause for an evidentiary hearing and referred the matter to Dr. Stephanie Holland to conduct a child interview of Sasha. Dr. Holland has not completed her report. Based upon her interviews of Sasha and the parties, Dr. Holland did submit a letter to the Court specifically directed at the summer timeshare arrangements. The parties have an unorthodox summer schedule which this year gives Lyudmyla the first 6 weeks of summer with no contact at all between Sasha and Sean. Dr. Holland has specifically identified a pervasive pattern of programming and alienation which establish that extended periods of time with no contact between Sean and Sasha are not in Sasha's best interests. Specifically, Dr. Holland stated that "It is strongly recommended that the Court consider whether allowing Ms. Abid to have custody of Sasha for six weeks this summer is in Sasha's best interests." Because the preliminary findings of Dr. Holland are exactly what Sean has been concerned about and the primary basis of his Motion, this Emergency Motion follows Dr. Holland's recommendations.

II.

LEGAL ANALYSIS

Under Truax, a joint custody order may be modified or terminated by the Court on the petition of one or both of the parents or on the Court's own Motion, "if it is shown that the best interest of the child requires the modification or termination." Clearly, the disturbing findings of Dr. Holland require that this Court change custody on a temporary basis pending the evidentiary hearing. Basically, any doubts about Sean's Motion that this Court had, have been removed by Dr. Holland's letter. It is even more likely that the final report will confirm more disturbing facts. This Court is well aware that one of the only ways to combat alienation and programming is to remove the child from the alienating parent and place the child with the alienated parent.

Under NRS 125.480, there are several considerations for this Court in determining the best interest of the child. NRS 125.480(4) states as follows:

1 4. In determining the best interest of the child, the court shall consider and set  
2 forth its specific findings concerning, among other things:

3 (a) The wishes of the child if the child is of sufficient age and capacity to form  
4 an intelligent preference as to his or her custody.

5 (b) Any nomination by a parent or a guardian for the child.

6 (c) Which parent is more likely to allow the child to have frequent  
7 associations and a continuing relationship with the noncustodial parent.

8 (d) The level of conflict between the parents.

9 (e) The ability of the parents to cooperate to meet the needs of the child.

10 (f) The mental and physical health of the parents.

11 (g) The physical, developmental and emotional needs of the child.

12 (h) The nature of the relationship of the child with each parent.

13 (i) The ability of the child to maintain a relationship with any sibling.

14 (j) Any history of parental abuse or neglect of the child or a sibling of the  
15 child.

16 (k) Whether either parent or any other person seeking custody has engaged in  
17 an act of domestic violence against the child, a parent of the child or any other  
18 person residing with the child.

19 (l) Whether either parent or any other person seeking custody has committed  
20 any act of abduction against the child or any other child.  
21 (emphasis added)

22 Obviously, only certain of these considerations apply to this case. The following is an  
23 analysis of the most applicable factors:

24 Subsection (c) which parent is more likely to allow the child to have frequent associations  
25 and a continuing relationship with the noncustodial parent, may be the most helpful subsection  
26 for this Court in making its decision. As set forth above, Lyudmyla will stop at nothing to  
27 destroy Sean and his relationship with Sasha. The contents of Dr. Holland's letter tells the Court  
28 all it needs to know about this factor.

Subsection (e): The ability of the parents to cooperate to meet the needs of the child.

Sean desperately tries to cooperate and coparent with Lyudmyla only to be faced with  
absolute disdain. Lyudmyla will not co-parent in any way.

Subsection (f) The mental and physical health of the parents.

The recordings and the confirmation of a pattern of alienation by Dr. Holland make it  
clear that Lyudmyla has some type of pathology that leads her to do and say the outrageous and  
irresponsible things she does.

///

///

///

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1 Subsection (g) The physical, developmental and emotional needs of the child.

2 Sasha is bonded to both parents, so this consideration deals with which parent supports  
3 the relationship between Sasha and the other parent. Lyudmyla can never meet Sasha's needs  
4 while she continues to denigrate Sean to Sasha.

5 **III.**

6 **CONCLUSION**

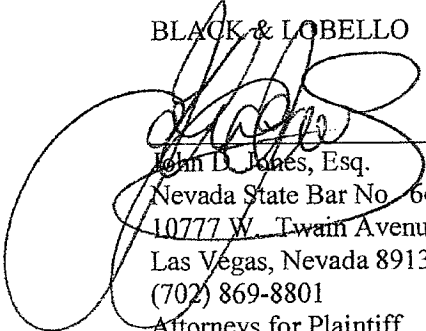
7 Based upon the foregoing, Sean respectfully requests that the Court enter the following  
8 orders:

- 9 1. Changing custody on an interim basis to Sean having primary physical custody.  
10 2. Awarding Lyudmyla visitation, pending the evidentiary hearing on an every other  
11 weekend basis.  
12 3. Confirming Sean's right to have Sasha for his 4 weeks of vacation.  
13 4. Awarding Sean his attorneys' fees.  
14 5. Any other relief this Court deems just and appropriate.

15 RESPECTFULLY SUBMITTED this 10 day of June, 2015.

16 Respectfully submitted:

17 BLACK & LOBELLO

18   
19 John D. Jones, Esq.  
20 Nevada State Bar No. 6699  
21 10777 W. Twain Avenue, Suite 300  
22 Las Vegas, Nevada 89135  
23 (702) 869-8801  
24 Attorneys for Plaintiff,  
25 SEAN R. ABID  
26  
27  
28

**DECLARATION OF SEAN R. ABID IN SUPPORT OF  
HIS MOTION REGARDING SUMMER VISITATION SCHEDULE**

Sean R. Abid, being first duly sworn, deposes and says:

That I am the Plaintiff in the above-entitled action. I have personal knowledge of the facts and circumstances set forth in this Declaration.

That I have read the foregoing EMERGENCY MOTION REGARDING SUMMER VISITATION SCHEDULE and know the contents thereof; that the same is true of my own knowledge except for those matters therein stated on information and belief and as to those matters, I believe them to be true. The allegations contained in the Motion are adopted as if fully set forth in this Declaration.

Signed under the pains and penalties of perjury this \_\_\_\_ day of June, 2015

  
SEAN R. ABID

MOFI

BLACK & LOBELLO

John D. Jones, Esq.

Nevada State Bar No. 6699

10777 West Twain Avenue, Suite 300

Las Vegas, Nevada 89135

Telephone No.: (702) 869-8801

Facsimile No.: (702) 869-2669

Email: [jjones@blacklobellolaw.com](mailto:jjones@blacklobellolaw.com)

Attorneys for Plaintiff,

SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

CASE NO. D424830

DEPT. NO. B

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

Party Filing Motion/Opposition: <input checked="" type="checkbox"/> Plaintiff/Petitioner <input type="checkbox"/> Defendant/Respondent	
<b>MOTION FOR/OPPOSITION TO:</b> Plaintiff's Emergency Motion Regarding Summer Visitation Schedule	
<b>Motions and Oppositions to</b> <b>Motions filed after entry of a</b> <b>final Order pursuant to NRS</b> <b>125, 125B or 125C are subject</b> <b>to the Re-open filing fee of</b> <b>\$25.00, unless specifically</b> <b>excluded. (NRS 19.0312)</b> <small>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.</small>	<b><u>Excluded Motions/Oppositions</u></b>  1. No Final Decree or Custody Order has been entered. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  2. This document is filed <u>solely to adjust the amount of support for a child.</u> No other request is made. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  3. This motion is made for <u>reconsideration</u> or a <u>new trial and is filed within 10 days of the Judge's Order.</u> If YES, provide file date of Order. YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>  If you answered YES to any of the questions above, you are <u>not</u> subject to the \$25 fee.
<input checked="" type="checkbox"/> Motion/Opposition IS subject to \$25.00 filing fee <input type="checkbox"/> Motion/Opposition IS NOT subject to filing fee	

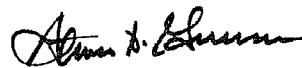
Date: June 10, 2015

Cheryl Berdahl

Print Name of Preparer

  
Signature of Preparer



  
CLERK OF THE COURT

EXPT  
BLACK & LOBELLO  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,  
  
Plaintiff,

CASE NO.: D424830  
DEPT. NO.: B

vs.

LYUDMYLA A. ABID  
  
Defendant.

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

**EX PARTE MOTION FOR ORDER SHORTENING TIME OF THE HEARING ON  
PLAINTIFF'S EMERGENCY MOTION REGARDING SUMMER VISITATION**

Plaintiff, SEAN R. ABID ("Sean") by and through his attorneys of record, John D. Jones, Esq. of BLACK & LOBELLO, hereby moves the Court for an Order Shortening Time on the hearing of his Emergency Motion to Regarding Summer Visitation.

Pursuant to EDCR 2.26:

Ex parte motions to shorten time may not be granted except upon an affidavit or certificate of counsel describing the circumstances claimed to constitute good cause and justify shortening of time. If a motion to shorten time is granted, it must be served upon all parties promptly. An order which shortens the notice of a hearing to less than 10 days may not be served by mail. In no event may the notice of the hearing of a motion be shortened to less than 1 full judicial day.

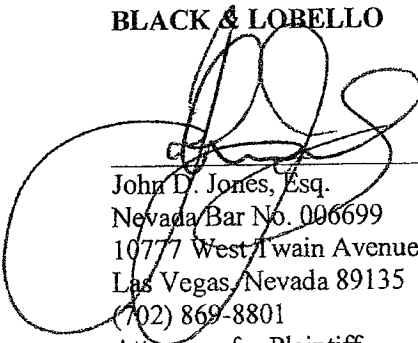
As set forth in the accompanying Affidavit, pursuant to EDCR 2.26, good cause justifies

**BLACK & LOBELLO**  
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Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

1 the shortening of time in this matter. Thus, Sean would respectfully request that the Court  
2 schedule a hearing on a shortened basis to address his Motion. Furthermore, the Court should  
3 issue the proposed Order Shortening Time which is attached hereto as **Exhibit "1."**

4 Dated this 10 day of June, 2015.

**BLACK & LOBELLO**

  
\_\_\_\_\_  
John D. Jones, Esq.  
Nevada Bar No. 006699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Attorneys for Plaintiff,  
SEAN R. ABID

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

AFFIDAVIT OF JOHN D. JONES

STATE OF NEVADA )  
 ) ss.  
COUNTY OF CLARK )

John D. Jones, being first duly sworn on oath, deposes and states as follows:

1. Affiant is an attorney licensed to practice in the State of Nevada. I represent the Plaintiff, Sean R. Abid, and in that capacity I filed a Motion on his behalf on June 9, 2015.

2. As the Court can see by reviewing the Motion with this Order Shortening Time, it is not in Sasha's best interests to be with Lyudmyla for an extended period of time.

3. The biggest emergency deals with the ongoing exposure to alienation as specifically cited in Dr. Holland's June 5, 2015 letter.

4. Sean's worst fears have been confirmed.

5. This Court has no choice but to step in and protect Sasha and his relationship with his father.

6. Pursuant to EDCR 2.26, good cause exists for the shortening of the time of the hearing on the Emergency Motion Regarding Summer Visitation Schedule.

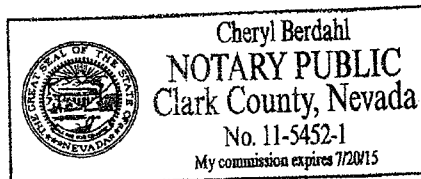
Further affiant sayeth naught.

Executed this 10 day of June, 2015.

JOHN D. JONES

Subscribed and sworn to before me  
this 10 day of June, 2015.

  
NOTARY PUBLIC, STATE OF NEVADA  
COUNTY OF CLARK



## **Exhibit 1**

## **Exhibit 1**

**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
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**OST**  
**BLACK & LOBELLO**  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

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

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: B

**ORDER SHORTENING TIME**

Based on the facts set forth in Plaintiff's Motion, and the Affidavit of Counsel attached hereto, it appearing to the satisfaction of the Court that good cause exists therefore,

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**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

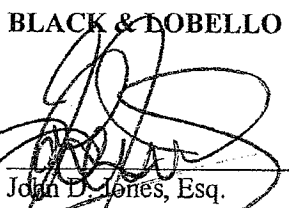
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IT IS HEREBY ORDERED that the time for hearing on Plaintiff's his Emergency Motion Regarding Summer Visitation, originally set for the \_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_m. shall be heard on the \_\_\_\_\_ day of \_\_\_\_\_, 2015 at \_\_\_\_\_m. before Judge Marquis, at the District Court, Family Division, Dept. B, located at the Eighth Judicial District Court – Family Division at 601 N. Pecos Road, Las Vegas, Nevada, 89101.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
DISTRICT COURT JUDGE

**BLACK & LOBELLO**

  
\_\_\_\_\_  
John D. Jones, Esq.  
Nevada Bar No. 006699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Attorneys for Plaintiff,  
SEAN R. ABID



*Alvin D. Shuman*  
CLERK OF THE COURT

OST  
BLACK & LOBELLO  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801  
Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

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

SEAN R. ABID,  
Plaintiff,

CASE NO.: D424830  
DEPT. NO.: B

vs.

LYUDMYLA A. ABID  
Defendant.

**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

**ORDER SHORTENING TIME**

Based on the facts set forth in Plaintiff's Motion, and the Affidavit of Counsel attached hereto, it appearing to the satisfaction of the Court that good cause exists therefore,

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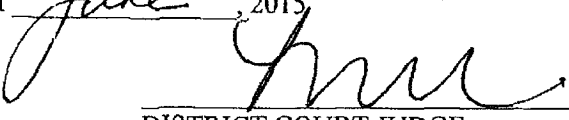
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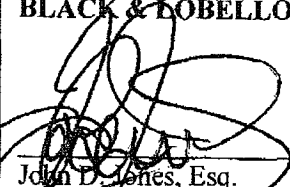
**RECEIVED**  
**JUN 10 2015**  
**DEPT. B**

1 IT IS HEREBY ORDERED that the time for hearing on Plaintiff's his Emergency  
2 Motion Regarding Summer Visitation, originally set for the 14<sup>th</sup> day of July, 2015 at  
3 9:00 .m. shall be heard on the 25<sup>th</sup> day of June, 2015 at 9:00 a .m.  
4 before Judge Marquis, at the District Court, Family Division, Dept. B, located at the Eighth  
5 Judicial District Court – Family Division at 601 N. Pecos Road, Las Vegas, Nevada, 89101.

6 DATED this 11<sup>th</sup> day of June, 2015

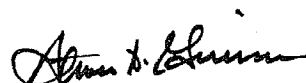
7  
8   
9 DISTRICT COURT JUDGE MC

10 **BLACK & LOBELLO**

11   
12  
13 John D. Jones, Esq.  
14 Nevada Bar No. 006699  
15 10777 West Twain Avenue, Suite 300  
16 Las Vegas, Nevada 89135  
17 (702) 869-8801  
18 Attorneys for Plaintiff,  
19 SEAN R. ABID  
20  
21  
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28

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Las Vegas, Nevada 89135  
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CLERK OF THE COURT

1 **NEOJ**  
2 **BLACK & LOBELLO**  
3 John D. Jones  
4 Nevada State Bar No. 6699  
5 10777 West Twain Avenue, Suite 300  
6 Las Vegas, Nevada 89135  
7 (702) 869-8801  
8 Fax: (702) 869-2669  
9 Email Address: jjones@blacklobellolaw.com  
10 Attorneys for Plaintiff,  
11 SEAN R. ABID

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

12 SEAN R. ABID,

CASE NO.: D424830

13 Plaintiff,

DEPT. NO.: B

14 vs.

**Date of Hearing: June 25, 2015**

15 LYUDMYLA A. ABID

**Time of Hearing: 9:00 a.m.**

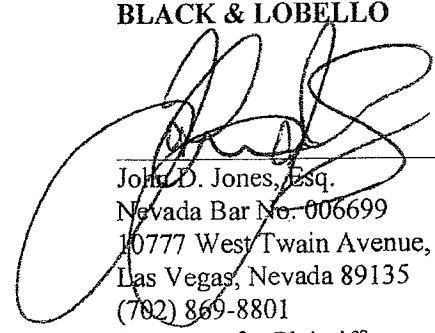
16 Defendant.

**NOTICE OF ENTRY OF ORDER SHORTENING TIME**

17 PLEASE TAKE NOTICE that an Order Shortening Time was entered in the above-  
18 entitled matter on the 11<sup>th</sup> day of June, 2015, a copy of which is attached hereto.

19 Dated this 15 day of June, 2015.

**BLACK & LOBELLO**

20  
21  
22  
23  
24   
25 John D. Jones, Esq.  
26 Nevada Bar No. 006699  
27 10777 West Twain Avenue, Suite 300  
28 Las Vegas, Nevada 89135  
(702) 869-8801  
Attorneys for Plaintiff,  
SEAN R. ABID

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of June, 2015 I served a copy of the NOTICE OF ENTRY OF ORDER SHORTENING TIME upon each of the parties by **electronic service** through Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to N.E.F.C.R. 9; and by depositing a true and correct copy of the same in a sealed envelope in the First Class United States Mail, Postage Pre-Paid, addressed as follows:

Michael R. Balabon, Esq.  
5765 S. Rainbow Blvd., #109  
Las Vegas, NV 89118  
Email for Service: [mbalabon@hotmail.com](mailto:mbalabon@hotmail.com)  
*Attorney for Defendant*  
*Lyudmyla Abid*

  
an Employee of BLACK & LOBELLO



*Alvin L. Shuman*

CLERK OF THE COURT

OST  
BLACK & LOBELLO  
John D. Jones  
Nevada State Bar No. 6699  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
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Fax: (702) 869-2669  
Email Address: jjones@blacklobellolaw.com  
Attorneys for Plaintiff,  
SEAN R. ABID

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID

Defendant.

CASE NO.: D424830

DEPT. NO.: B

BLACK & LOBELLO  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX: (702) 869-2669

ORDER SHORTENING TIME

Based on the facts set forth in Plaintiff's Motion, and the Affidavit of Counsel attached hereto, it appearing to the satisfaction of the Court that good cause exists therefore,

///

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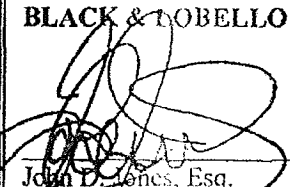
DEPT. B

1 IT IS HEREBY ORDERED that the time for hearing on Plaintiff's his Emergency  
2 Motion Regarding Summer Visitation, originally set for the 14<sup>th</sup> day of July, 2015 at  
3 9:00 a.m. shall be heard on the 25<sup>th</sup> day of June, 2015 at 9:00 a.m.  
4 before Judge Marquis, at the District Court, Family Division, Dept. B, located at the Eighth  
5 Judicial District Court - Family Division at 601 N. Pecos Road, Las Vegas, Nevada, 89101.

6 DATED this 11<sup>th</sup> day of June, 2015

7  
8   
9 DISTRICT COURT JUDGE MC

10 **BLACK & LOBELLO**

11   
12  
13 John D. Jones, Esq.  
14 Nevada Bar No. 006699  
15 10777 West Twain Avenue, Suite 300  
16 Las Vegas, Nevada 89135  
17 (702) 869-8801  
18 Attorneys for Plaintiff,  
19 SEAN R. AMID  
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**BLACK & LOBELLO**  
10777 West Twain Avenue, Suite 300  
Las Vegas, Nevada 89135  
(702) 869-8801 FAX (702) 869-2669

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

LYUDMYLA ABID,

Appellant,

v.

SEAN ABID,

Respondent.

Supreme Court No. 69995

District Court Case No. D-10-424830-Z

Appeal from the Eighth Judicial District Court

---

**APPELLANT'S APPENDIX**

**VOLUME 4**

---

RADFORD J. SMITH, ESQ.  
Nevada Bar No. 2791  
RADFORD J. SMITH, CHARTERED  
2470 Saint Rose Parkway, Suite 206  
Henderson, Nevada 89074  
Attorneys for Appellant

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09-09-15

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11-19-15

01-11-16

01-25-16

1507-1526

CLERK OF THE COURT

**NOPC**  
UNLV Division of Educational Outreach  
edoutreach@unlv.edu  
851 E. Tropicana  
Las Vegas, Nevada 89119  
(702) 895-3394  
(702) 895-4195 (fax)

DISTRICT COURT, FAMILY DIVISION  
CLARK COUNTY, NEVADA

SEAR R. ABID,

Petitioner,

and

LYUDMYLA A. ABID, NKA LYUDMYLA  
PYANKOVSKA ,  
Petitioner.

CASE NO.: D-10-424830-Z  
DEPT NO.: B

## NOTICE OF SEMINAR COMPLETION

### EDCR 5.07-FAMILY

COMES NOW, Petitioner, LYUDMYLA ABID, nka LYUDMYLA PYANKOVSKA, submits Exhibit "1" attached hereto attesting to their completion of the Cooperative Parenting Course offered by UNLV.

DATED this 13<sup>th</sup> day of June, 2015.

Margaret E. Pickard, Esq.  
UNLV Division of Educational Outreach  
edoutreach@unlv.edu  
851 E. Tropicana  
Las Vegas, Nevada 89119  
(702) 895-3394  
(702) 895-4195 (fax)



# CONTINUING EDUCATION

DIVISION OF EDUCATIONAL OUTREACH

June 13, 2015

Judge Linda Marquis  
Family Court Division, Department B  
Family Courthouse  
601 N. Pecos  
Las Vegas, Nevada 89155

Re: Lyudmyla Abid, nka Lyudmyla Pyankovska  
In the Matter of the Joint Petition for Divorce of Sean R. Abid and Lyudmyla  
Abid, Petitioners.  
Case No. D-10-424830-Z

Dear Judge Marquis,

This letter is to confirm that the following individual has completed the UNLV Cooperative Parenting Program, offered through the UNLV Division of Educational Outreach:

Lyudmyla Pyankovska

Please do not hesitate to contact me if you need additional information. Thank you for your referral to this program.

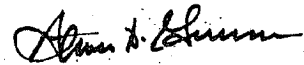
Sincerely,

A handwritten signature in cursive script, appearing to read "Margaret".

Margaret E. Pickard, J.D.  
Program Facilitator  
702.373.1566  
[margaretpickard@aol.com](mailto:margaretpickard@aol.com)

OPPS.  
MICHAEL R. BALABON, ESQUIRE  
Nevada Bar No. 4436  
5765 So. Rainbow, #109  
(702) 450-3196  
Las Vegas, NV 89118  
Attorney for Defendant

Electronically Filed  
06/23/2015 07:03:02 PM



CLERK OF THE COURT

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA :

SEAN R. ABID,

Plaintiff,

vs.

LYUDMYLA A. ABID,

Defendant.

CASE NO. D-10-424830-Z  
DEPT. NO. B

OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION REGARDING SUMMER  
VISITATION SCHEDULE AND COUNTERMOTION TO STRIKE PLAINTIFF'S  
PLEADINGS, TO SUPPRESS THE ALLEGED CONTENTS OF THE UNLAWFULLY  
OBTAINED RECORDING, TO STRIKE THE LETTER FROM DR. HOLLAND AND FOR  
SANCTIONS AND ATTORNEY FEES

COMES NOW, Defendant, LYUDMYLA A. ABID, by and through her  
attorney, MICHAEL R. BALABON, ESQ., and hereby moves this Court  
for an Order awarding her the following relief:

1. That Plaintiff's requests for relief relative to a  
modification of the summer visitation schedule, be denied.

2. That Plaintiff's entire Opposition and Countermotion be  
stricken and that Defendant's Motion be granted.


3. That this Court impose sanctions against Plaintiff for  
abusive litigation practices, including attorney fees.

1 4. That Dr. Holland's letter and contemplated subsequent  
2 report, be stricken.

3 5. That Plaintiff be ordered to provide the original  
4 audiotape to Defendant.

5 This Motion is based upon all papers and pleadings on file,  
6 the attached points and authorities, the attached exhibits, the  
7 Affidavit of Defendant, and oral argument to be adduced at the  
8 time of hearing of this cause.

9 DATED this 23 day of June, 2015.

10  
11   
12 MICHAEL R. BALABON, ESQ.  
13 5765 So. Rainbow, #109  
14 Las Vegas, NV 89118  
15 702-450-3196  
16 Attorney for Defendant

17 POINTS AND AUTHORITIES

18 I

19 STATEMENT OF THE CASE

20 1. This matter was last heard on March 18, 2015. At that  
21 hearing, and in pleadings filed in response to Plaintiff's Motion  
22 to change custody, Defendant sought specifically to strike  
23 Plaintiff's pleadings, to suppress the contents of the alleged  
24 audiotape, and for sanctions.

25 2. The Court held that the custody issue shall be deferred  
26 to the evidentiary hearing scheduled for August 14, 2015. The  
27 Court refused to modify the existing timeshare as requested by

1 Plaintiff.

2  
3 3. The Court appointed Dr. Holland to conduct a child  
4 interview (not a custody evaluation). At issue was whether or not  
5 Dr. Holland should be provided with the audiotape or a transcript  
6 thereof prior to the hearing.

7 4. The Court stated that counsel shall submit supplementary  
8 points and authorities it would like the Court to consider  
9 regarding the expert examining the audiotape by March 23, 2015.  
10 The Court set a return date on the issue for April 2, 2015.

11 5. Both parties filed Points and Authorities to the Court  
12 regarding this issue. However, Defendant e-filed her points and  
13 authorities on March 23, 2015, but the same was not entered into  
14 the record by the Clerk until the following day.

15 6. Prior to the Defendant's Points and Authorities being  
16 entered into the record by the Clerk, this Court entered a Minute  
17 Order, vacating the April 2, 2015 hearing date, and allowing Dr.  
18 Holland to review the tape (and any other relevant pleadings  
19 filed in this case).

20  
21 7. In Defendant's Points and authorities filed herein  
22 regarding the issue of allowing Dr. Holland to listen to the  
23 tape, Defendant expressed concerns about the tape. Defendant  
24 alleged as follows:

25 "To date, no valid transcript of the tape has been provided by  
26 the Plaintiff. Nor has Plaintiff provided the tape to Defendant  
27 for examination. The tape has not been authenticated. Defendant  
28 is entitled to be provided with the tape and have it forensically

1 examined to determine its authenticity and to determine if the  
2 contents have been altered or doctored. Defendant is entitled to  
3 examine the tape to determine if conversations that occurred in  
4 her home to which the child was not a party were recorded by the  
5 device. If this is the case, the tape absolutely would constitute  
6 violation of both State and Federal anti wiretapping Statutes and  
7 the "vicarious consent doctrine" will not apply thereby requiring  
8 the exclusion of the tape. The only evidence of the contents of  
9 the tape are statements of the Plaintiff allegedly detailing what  
10 was on the tape. It is obvious based upon a review of Plaintiff's  
11 recitation of the tape contents, that Plaintiff selectively  
12 edited the tape and only chose to reveal those portions of the  
13 recoding that he believed supported his case."

14 8. Subsequent to the March 18, 2015 hearing, counsel for  
15 Plaintiff provided Defendant's counsel with a zip drive which was  
16 purported to be a duplicate copy of the original audiotape.  
17 Presumably, the contents of the audiotape provided to Defendant  
18 were then also provided to Dr. Holland for review prior to her  
19 interview with the parties and the minor child.

20 9. A review of the zip drive provided by Plaintiff reveals  
21 that it contains only a fraction of what had to have been  
22 actually recorded in Plaintiff's home (or car) for 3 consecutive  
23 days. Based on 3 days of recording, there should have been  
24 approximately 30 hours of recordings. The combined running time  
25 of the tape that was provided by Plaintiff was 60 minutes on day  
26 one, 10 minutes on day two, and 22 minutes on Day three.

27 10. It is therefore clear that Plaintiff in fact altered the  
28 actual recording, and he has refused and continues to refuse to  
provide the original recording to Defendant. It is also clear  
that Plaintiff provided an altered recording to the evaluator Dr.



1  
2 Holland prior to the child interview.

3 11. Dr. Holland then proceeded with the interview process.  
4 Again, her role was to interview the child and not conduct a  
5 custody evaluation. Nor was Dr. Holland assigned to render an  
6 opinion about the summer vacation issue.

7 12. Dr. Holland then issued a "letter" to the Court  
8 suggesting that the Court consider whether allowing Lyuda to have  
9 6 weeks vacation is in the child's best interest. Included in the  
10 letter were direct quotes obtained from the altered audiotape.  
11 Based on that letter, Plaintiff proceeded to move the Court to  
12 restrict Lyuda's six week summer vacation with the child.

13 13. In late March, 2015, Lyuda informed Sean that she would  
14 commence her summer vacation with the child on June 8, 2015. June  
15 5, 2015, was a Friday and it was Lyuda's custodial weekend.  
16 On June 5, 2015, Sean indicted to Lyuda for the first time that  
17 he was commencing his summer vacation with the child that day and  
18 that he was refusing to allow Lyuda to have the child. In email  
19 exchanges with Sean's counsel, it was revealed that Dr. Holland  
20 would be issuing a letter to the Court regarding Lyuda's summer  
21 vacation. Therefore, Sean had advance knowledge of the contents  
22 of Dr. Holland's letter before the letter was even issued to the  
23 parties or to this Court.

24  
25 14. Ultimately, Sean relented, and he allowed Lyuda to pick  
26 up the child at 5:30 p.m. on Friday, June 5, 2015. Lyuda has  
27  
28

1 enjoyed her vacation with the child since that time.  
2

3 15. Lyuda has recognized that she is an imperfect human  
4 being and that she has made mistakes in the past with regard to  
5 Sasha. She understands that Sean can make her very upset and at  
6 isolated times she has reacted inappropriately. This fact was  
7 revealed in Dr. Paglini's report resulting from his extensive  
8 child custody evaluation.

9 Page 50 of the Report, Paragraph 3:

10 "This evaluator opines that Lyudmyla is not a threat towards Sean  
11 or Angie. Lyudmyla has no history of aggressive behavior.  
12 Lyudmyla has occasionally become extremely emotional and she has  
13 interpersonal dynamics that she needs to work on. She has no  
14 history of prior criminal offenses pertaining to aggression and  
15 psychological testing is within normal limits. Lyudmyla admitted  
16 to making inappropriate comments towards Iryna and Sasha when  
17 frustrated. This needs to stop. Please note, the above is a  
18 concern, yet does not reach the level of parental alienation."  
19

20 16. Lyuda also recognizes that Sean's contempt for her and  
21 her Husband Ricky will not go away, despite how many attempts she  
22 makes to co-parent and cooperate with Sean in a fair and  
23 reasonable manner. Accordingly, on her own volition, Lyuda  
24 enrolled in and completed the UNLV Cooperative Parenting Program.  
25 (See Certificate of Completion, Exhibit "A"). In that program,  
26 Lyuda learned how to deal with Sean and his continued animosity  
27  
28

1 towards her, and more importantly Lyuda has learned to completely  
2 shield Sasha from the adult issues that she has with Sean. The  
3 Court can be assured that Lyuda will continue to shield Sasha  
4 from the conflict that she has with Sean.  
5

6 II

7 LEGAL ARGUMENT

8  
9 **1. THE AUDIOTAPE MUST BE SUPPRESSED AND ASSOCIATED PLEADINGS**  
10 **MUST BE STRIKEN FROM THE RECORD**

11 Lyuda has previously filed a Motion with this Court to  
12 suppress the audiotape and to strike the associated pleadings that  
13 refer to the tape and/or incorporate alleged statements that are  
14 on the tape.

15 Defendant incorporates herein in its entirety the law and  
16 argument as stated in her initial motion to suppress the tapes.

17 In summary, the audiotape and all associated pleadings must  
18 be stricken and the tape suppressed because the tape was acquired  
19 by the Plaintiff in a manner that violates both State and Federal  
20 law.

21 The tape intercept violates the provisions of NRS 200.650.

22 The tape intercept violates 18 USC sec. 2511(2) (d) (2000).

23 The so-called "vicarious consent" doctrine does not apply  
24 for a number of reasons.

25 First, pursuant to McLellan vs. State, 124 Nev. 263 267,  
26 182 P.3rd 106, 109 (2008), the Nevada Supreme Court has held that  
27

1 Nevada is a two party consent State. In a two party consent state  
2 the vicarious consent doctrine cannot logically apply.  
3

4 The Court held as follows:

5 "Under Nevada law, there are two methods by which a communication may be lawfully  
6 intercepted, and thus, admissible. First, both parties to the communication can consent to the  
7 interception. Second, one party to the communication can consent to the interception if an  
8 emergency situation exists such that it is impractical to obtain a court order and judicial  
9 ratification is sought within 72 hours. California law does not require the consent of both parties  
10 to the communication to constitute a lawful interception, but rather requires consent by only one  
11 party."

12 Second, and pursuant to the Court decisions in other states  
13 that have adopted the doctrine, the "consenting parent" is  
14 required to demonstrate a good faith, objectively reasonable  
15 basis for believing such consent was necessary for the welfare of  
16 the child. See Pollock v. T. Pollock, 154 F.3rd 601 (1998). In  
17 this regard, Plaintiff has not filed a motion to admit the tape  
18 nor has Plaintiff submitted any evidence that demonstrates a  
19 good faith, objectively reasonable basis for believing that  
20 consent was necessary for the welfare of the child.

21 Third, the "vicarious consent doctrine" does not apply  
22 because of the manner in which Plaintiff placed the tape in  
23 Lyuda's home. Based upon a review of Sean's Declaration, it is  
24 indicated that conversations in Lyuda's home were recorded for  
25 a "few days".

26 Further, Sean makes statements about Ricky's proposed  
27 business venture with Lyuda's brother-in-law in the Ukraine.

28 As is admitted by Sean, he placed the recording device in

1 the minor child's backpack. According to Lyuda, this backpack was  
2 usually placed in a common area of the home. As such, the device  
3 recorded conversations that the minor child was not a party to,  
4 conversations that occurred when the child was asleep.  
5 Conversations between Lyuda and Ricky, conversations between  
6 Lyuda and her mother via Skype, conversations between Lyuda and  
7 her daughter Iryna, and conversations between Ricky and Iryna.

8  
9 Further, Lyuda indicates that the only way Sean could know  
10 about Ricky's pending business venture was if he intercepted a  
11 private conversation that Ricky was having with her to which the  
12 minor child was not a party.

13 In Lewton vs. Divingnzzo, the United States District Court  
14 for the District of Nebraska, 8:09-cv-0002-FG3 (2011) a mother  
15 was convicted of violating the Federal Wiretap Act after she  
16 concealed an audio recording device in her minor child's teddy  
17 bear for the purpose of gathering evidence to use in her custody  
18 case.

19  
20 In Lewton, the District Court rejected the application of  
21 the "vicarious consent doctrine" to the case. The court held  
22 that:

23 "Nor does the "consent exception" included 18 U.S.C. § 2511(2)(d) absolve the defendants of  
24 liability under the circumstances presented here. Section 2511(2)(d) provides: It shall not be  
25 unlawful under this chapter for a person not acting under color of law to intercept a wire, oral, or  
26 electronic communication where such person is a party to the communication or where one of the  
27 parties to the communication has given prior consent to such interception unless such  
28 communication is intercepted for the purpose of committing any criminal or tortious act in  
violation of the Constitution or laws of the United States or of any State. Even assuming (without

1  
2 deciding) that Dianna Divingnzzo could legally give "vicarious consent" on Ellenna's behalf, the  
3 uncontroverted evidence shows that the bugging of Little Bear accomplished much more than  
4 simply recording oral communications to which Ellenna was a party. Rather, the device was  
5 intentionally designed to record absolutely everything that transpired in the presence of the toy,  
6 at any location where it might be placed by anybody. The evidence demonstrates conclusively that  
7 the device recorded many oral communications made by each of the plaintiffs, to which Ellenna  
8 was not a party."

9 The facts of Lewton with regard to the placement of the  
10 device are in essence identical to the facts of the instant case.  
11 There is can be no dispute that the listening device was placed  
12 in the child's backpack which was placed in a common area of  
13 Lyuda's home and that it recorded not only conversations between  
14 Lyuda and the minor child, but other conversations and activities  
15 to which the minor child was not a party.

16 Next, for the tape to come in this Court must make an  
17 express finding that the "vicarious consent doctrine"  
18 specifically applies to the Nevada Statute. (NRS 200.650). As  
19 stated in our earlier brief regarding this issue, there have been  
20 no Court decisions in the State of Nevada or in the Ninth Circuit  
21 that have adopted this doctrine to the Nevada Statute. If the  
22 doctrine does not apply, the tapes are per se illegal, and  
23 subject to the sanctions as detailed below.

24 **2. THE REMEDY FOR THE WIRETAP VIOLATION IN THIS CASE**  
25 **REQUIRES SUPPRESSION OF THE TAPE, THE STRIKING OF PLAINTIFF'S**  
26 **PLEADINGS, AND THE REPORT(S) OF DR. HOLLAND MUST BE**  
27 **STRICKEN/SUPPRESSED**

28 The Nevada Supreme Court dealt with the issue of appropriate  
sanctions to be imposed when a party attempts to introduce into

1 pleadings evidence obtained in violation of the Nevada wiretap  
2 statute in the case entitled Lane vs. Allstate Ins. Co., 114 Nev.  
3 1176, 969 P.2d 938 (1998). Lane dealt with telephone intercepts  
4 alleged to be in violation of NRS 200.620.  
5

6 Lane sued Allstate for constructive discharge among other  
7 requests for relief. Allstate filed a motion to dismiss (or in  
8 the alternative for summary judgment) alleging that Lane  
9 illegally tape-recorded over 700 phone conversations with two of  
10 the individual defendants and at least 180 witnesses in violation  
11 of NRS 200.620.

12 The district court dismissed Lane's complaint. The Nevada  
13 Supreme Court reversed the dismissal, but in doing so it stated  
14 as follows:

15 "Thus the judgment of the district court is reversed and remanded  
16 with instructions that the claim proceed to trial, but that all  
17 of the evidence gathered via the intercepts be excluded and no  
18 reference by Lane to any statements made during the interceptions  
19 will be allowed."

20 In footnote 4, the Court went on:

21 "Lane may not, in any fashion, use or refer to the information  
22 gathered via the taped conversations. Further, if it appears he  
23 is relying on the tapes to elicit testimony from any witness, the  
24 defendants may apply to the district court for protective  
25 relief."

26 Applying Lane to the instant case makes clear that the  
27 remedy of suppression of the tape and the striking of Plaintiff's  
28 pleadings is the appropriate sanction to deal with the unlawful  
intercepts that occurred in this case.

1 And, as Plaintiff's entire motion to change custody is based  
2 upon the tapes, the Court should deny Plaintiff's motion and  
3 proceed to evidentiary hearing on Defendant's claims for relief  
4 only as asserted in her initial motion filed herein.  
5

6 Further, Dr. Holland has been provided the tapes and has  
7 incorporated alleged portions of the tape into her letter  
8 submitted to the Court to support her conclusions. Presumably,  
9 additional portions of the tape will be incorporated into her  
10 final report which has yet to be issued.

11 Under these circumstances, it cannot be reasonably argued  
12 that Plaintiff will not rely on the tapes to illicit testimony  
13 from Dr. Holland as the tapes obviously form a primary basis of  
14 Dr. Holland's report.

15 And, as Dr. Holland's letter contains direct alleged quotes  
16 from the illegal tape, any such letter or report must be stricken  
17 pursuant to the mandate of Lane that all evidence gathered via  
18 illegal intercepts be excluded and that no reference can be made  
19 at trial to any statements made during the interceptions.  
20

21 As such, Dr. Holland must be excluded as a witness and her  
22 report(s) suppressed.

23 **3. PLAINTIFF SHOULD BE COMPELLED BY ORDER OF THIS COURT TO**  
24 **PRODUCE THE ORIGINAL TAPE TO DEFENDANT FOR INSPECTION**

25 The Federal Wiretap statute, made applicable to State Courts  
26 by its express terms, specifically provides that in addition to  
27 suppression, the Court may compel production of the intercepted  
28



1 communication.

2  
3 18 U.S.C. § 2518(10)(a), provides:

4 Any aggrieved person in any trial, hearing, or proceeding in or before any court, department,  
5 officer, agency, regulatory body, or other authority of the United States, a State, or a political  
6 subdivision thereof, may move to suppress the contents of any wire or oral communication  
7 intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that- (i) the  
8 communication was unlawfully intercepted[.] \* \* \*.... The judge, upon the filing of such motion  
9 by the aggrieved person, may in his discretion make available to the aggrieved person or his  
10 counsel for inspection such portions of the intercepted communication or evidence derived  
11 therefrom as the judge determines to be in the interests of justice. See McQuade v. Michael  
12 Gassner Mech. & Elec. Contractors, Inc. 487 F. Supp. at 1189 n.12.

13 Plaintiff's counsel stated in open Court that he would produce  
14 the audiotape.

15 The tape produced by Plaintiff and provided to Defendant and  
16 to Dr. Holland was a selectively edited version of the original  
17 tape. Under these circumstances, the Plaintiff is entitled to an  
18 order from Court compelling Plaintiff to produce the original  
19 tape.

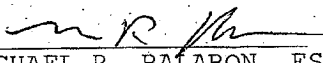
#### 20 4. THE SUMMER VACATION ISSUE

21 (See Lyuda's affidavit attached hereto, dealing with this  
22 issue).

#### 23 CONCLUSION

24 Based upon the foregoing facts, Memorandum of Law and Legal  
25 Argument, Lyudmyla respectfully requests that the relief  
26 requested by Plaintiff be denied, that she be awarded the relief  
27 requested herein and for such other and further relief that the  
28 Court may deem appropriate.

1  
2 DATED this 23rdth day of June, 2015.

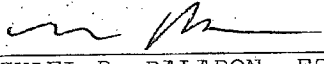
3  
4   
5 MICHAEL R. BALABON, ESQ.  
6 5765 So. Rainbow, #109  
7 Las Vegas, NV 89118  
8 702-450-3196  
9 Attorney for Defendant

10 CERTIFICATE OF SERVICE OF DEFENDANT'S OPPOSITION

11 I, Michael R. Balabon, Esq., hereby certify that on the 23<sup>rd</sup>  
12 day of June, 2015, a true and correct copy of the foregoing  
13 Opposition was served to the Law Offices of JOHN D JONES, ESQ.,  
14 via electronic service pursuant to Eighth  
15 Judicial District Court, Clark County, Nevada Administrative  
16 Order 14.2, to jjones@blacklobellolaw.com., and by  
17 depositing a copy thereof in a sealed envelope, first class  
18 postage prepaid, in the United States Mail, to the following:

19 John D. Jones, Esq.  
20 Black & Lobello  
21 10777 W. Twain Ave., #300  
22 Las Vegas, NV 89135  
23 Attorneys for Plaintiff

24 DATED this 23rd day of June, 2015

25   
26 MICHAEL R. BALABON, ESQ.

1  
2  
3 AFFIDAVIT OF LYUDMYLA A. ABID

4 STATE OF NEVADA )  
5 ) SS  
6 COUNTY OF CLARK )

7 LYUDMYLA A. ABID, being first duly sworn, deposes and says:

8 1. That I am the Defendant in the above-entitled action and  
9 I am competent to testify as to the matters set forth herein  
10 based on my own knowledge except to those matters stated upon  
11 information and belief and as to those matters I believe them to  
12 be true.

13 2. Sean has filed a motion to restrict my vacation time with  
14 my son Sasha. As of this writing I have had more than 2 weeks of  
15 my 6 week summer vacation. We recently returned from a trip to  
16 San Diego, and Sasha and our entire family had a great time.

17 3. In support of that motion is the letter written to the  
18 Court by Dr. Holland wherein she indicates they may be some  
19 parental alienation on my part that is having an effect on Sasha.

20 4. For the record, I strongly deny engaging in systematic  
21 parental alienation in my home against Sean.

22 5. In this regard, the Court should be aware of the  
23 following facts. I have enjoyed, at a minimum, joint physical  
24 custody of Sasha since the date of entry of our Decree back in  
25 2010.

26 6. In late 2013, Dr. Paglini conducted a full outsource  
27  
28

1 evaluation as ordered by Judge Harter. Dr. Paglini interviewed  
2 many individuals and considered all of the collateral material  
3 Sean submitted to him in support of his allegation of parental  
4 alienation. In Dr. Paglini's report, he revealed that when  
5 excited or under great stress, I admitted that I have said  
6 inappropriate things to Sasha regarding Sean, but he found  
7 specifically that my conduct did not amount to parental  
8 alienation. It is important to point out that Dr. Paglini found  
9 that Sean too had problems that needed to be addressed.  
10

11 7. My biggest problem is dealing with Sean is his continued  
12 hatred and contempt he bears for me and my Husband Ricky.

13 8. I have no intent or desire to manipulate Sasha into  
14 hating his father.

15 9. I strongly disagree with the letter written by Dr.  
16 Holland. I know that Sasha loves his Father and his Father's  
17 family and enjoys a close relationship with him and his family.  
18 I know that Sasha loves me and my family as well. Sasha is a  
19 happy, well adjusted child who performed well in his first year  
20 in school. (See Sasha's kindergarten report, Exhibit 2). Sasha  
21 gets along well with his peers and his teacher. There has never  
22 been a time when Sasha has refused to go to his father's home  
23 over the past 4 or more years. I have never denied Sean custody  
24 on his scheduled time nor have I petitioned the Court multiple  
25 times to try to restrict Sean's timeshare. Sasha has never told  
26  
27  
28

1  
2 me that he hates his dad or does not want to see him which may be  
3 expected if I was engaging in a concerted effort to destroy  
4 Sasha's relationship with Sean. Sean knows this and is using the  
5 parental alienation allegation because he has nothing else that  
6 can possibly justify a change in custody.

7 10. Unlike Sean, I believe that Sasha's best interest  
8 requires equal participation of both parents and their families.  
9 This is the second time Sean has petitioned the Court to try and  
10 change custody. Sean feels like he is the superior parent and he  
11 wants total control.

12 11. Since the last hearing in December, 2013, I can cite  
13 several examples where I have actively tried to effectively co-  
14 parent with Sean in a fair and reasonable manner. Despite my  
15 attempts, I continued to be met with open hostility.

16 12. I am sure that Sean has said bad things to Sasha about  
17 me and my Husband Ricky in his home. I have heard Sasha say that  
18 daddy says Ricky is a bad guy or criminal. I am sure that Sean  
19 has interrogated Sasha about what goes on in our home. I just  
20 don't have the benefit of a tape recording that was  
21 surreptitiously placed in his home because I would never think to  
22 go to such lengths. The placement of the recording device in  
23 Sasha's backpack is evidence of Sean's obsession to try to get  
24 primary custody.  
25

26 13. I recognize that I am not a perfect human being and that  
27  
28

1  
2 I have made mistakes. I recognize now that Sean can "push my  
3 buttons" challenging my parenting style and ability and I get  
4 angry and defensive and, in the past, I responded in a negative  
5 manner. But I can say with certainty that if Sean treated my  
6 family and I with dignity and respect, that there would be no  
7 such occurrences. I can also state with certainty that it never  
8 has been and never will be my intent to destroy Sasha's  
9 relationship with his father.


10 14. I recognize that Sean's and my relationship probably  
11 will never improve despite my sincere desire for improved co-  
12 parenting and communication. But effective co-parenting and  
13 communication is a 2-way street and requires mutual consideration  
14 and respect. I know Sean will never respect me or my Husband  
15 Ricky and I am concerned about how our strained relationship will  
16 negatively affect Sasha.

17 15. Accordingly, in order to become a better parent and to  
18 learn how to deal with the situation so as to minimize the impact  
19 on Sasha, I voluntarily enrolled in and completed the UNLV  
20 Cooperative Parenting Program. That Program was very helpful to  
21 me and I learned several techniques and strategies to manage my  
22 issues with Sean and to absolutely shield Sasha from any further  
23 conflict that I may have with Sean. Since my vacation began, we  
24 have enjoyed our family time together and Sean's name has never  
25 been mentioned. I can assure the Court that any mention of Sean  
26  
27  
28

1 in our home will be nothing but positive reinforcement and I ask  
2 the Court to allow me to finish my summer vacation with my son.  
3

4 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING  
5 STATEMENT IS TRUE AND CORRECT

6 DATED this 25 day of June, 2015.

7   
8 LYUDMYLA A. ABID  
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**EXHIBIT "A"**



# UNLV | CONTINUING EDUCATION

DIVISION OF EDUCATIONAL OUTREACH

June 13, 2015

Judge Linda Marquis  
Family Court Division, Department B  
Family Courthouse  
601 N. Pecos  
Las Vegas, Nevada 89155

Re: Lyudmyla Abid, nka Lyudmyla Pyankovska  
*In the Matter of the Joint Petition for Divorce of Sean R. Abid and Lyudmyla  
Abid, Petitioners.*  
Case No. D-10-424830-Z

Dear Judge Marquis,

This letter is to confirm that the following individual has completed the UNLV Cooperative Parenting Program, offered through the UNLV Division of Educational Outreach:

*Lyudmyla Pyankovska*

Please do not hesitate to contact me if you need additional information. Thank you for your referral to this program.

Sincerely,



Margaret E. Pickard, J.D.  
Program Facilitator  
702.373.1566  
[margaretpickard@aol.com](mailto:margaretpickard@aol.com)

EXHIBIT "B"

Mother

### Progress Report

Dear Parents,

Attached you will find the "Essential Skills" report. It has been update to include all areas. If your child did not receive a checkmark in an area, it is because they have not consistently demonstrated mastery in this area. For example, in handwriting, the student may still be struggling with letter size, proper formation, etc.

Thank you so much!

Mrs. Abacherli

## Essential Skills

Word							Numbers			
Capital Letters	Recognizes	Writes	Lowercase Letters	Recognizes	Knows Sounds	Writes	Numbers	Recognizes	Writes	Represents Quantity with Numeral
A	✓	✓	a	✓	✓	✓	0	✓	✓	✓
B	✓	✓	b	✓	✓	✓	1	✓	✓	✓
C	✓	✓	c	✓	✓	✓	2	✓	✓	✓
D	✓	✓	d	✓	✓	✓	3	✓	✓	✓
E	✓	✓	e	✓	✓	✓	4	✓	✓	✓
F	✓	✓	f	✓	✓	✓	5	✓	✓	✓
G	✓	✓	g	✓	✓	✓	6	✓	✓	✓
H	✓	✓	h	✓	✓	✓	7	✓	✓	✓
I	✓	✓	i	✓	✓	✓	8	✓	✓	✓
J	✓	✓	j	✓	✓	✓	9	✓	✓	✓
K	✓	✓	k	✓	✓	✓	10	✓	✓	✓
L	✓	✓	l	✓	✓	✓	11	✓	✓	✓
M	✓	✓	m	✓	✓	✓	12	✓	✓	✓
N	✓	✓	n	✓	✓	✓	13	✓	✓	✓
O	✓	✓	o	✓	✓	✓	14	✓	✓	✓
P	✓	✓	p	✓	✓	✓	15	✓	✓	✓
Q	✓	✓	q	✓	✓	✓	16	✓	✓	✓
R	✓	✓	r	✓	✓	✓	17	✓	✓	✓
S	✓	✓	s	✓	✓	✓	18	✓	✓	✓
T	✓	✓	t	✓	✓	✓	19	✓	✓	✓
U	✓	✓	u	✓	✓	✓	20	✓	✓	✓
V	✓	✓	v	✓	✓	✓	Counting			
W	✓	✓	w	✓	✓	✓	0-100	By Ones	By Tens	
X	✓	✓	x	✓	✓	✓		✓	✓	
Y	✓	✓	y	✓	✓	✓				
Z	✓	✓	z	✓	✓	✓				
Phonological Awareness										
Rhyme			✓							
Isolation			✓							
Blending			✓							
Segmentation			✓							

Phonological Awareness is the ability to hear, identify, and work with the sounds in spoken words

Rhyme is identifying words with identical or similar sounds, especially with respect to the last syllable  
Example Do these words rhyme? hat, mat What words rhyme with bed?

Isolation is recognizing individual sounds in words  
Example What is the first sound you hear in the word bed? What is the last sound you hear in hat?

Blending is putting sounds together to make words  
Example What word am I saying /s/ /h/ /n/?

Segmentation is breaking words into their separate sounds  
Example How many sounds do you hear in the word bat? Say each sound you hear in the word late

Learner  
Progress  
Scales

Essential Skills

✓ - Proficient in skill

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Sean R. Abid

Plaintiff/Petitioner

-vs-

Zyudmyla A. Abid

Defendant/Respondent

CASE NO.

D-10-424830-D

DEPT.

B

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

Party Filing Motion/Opposition:

☐ Plaintiff/Petitioner

☒ Defendant/Respondent

MOTION FOR/OPPOSITION TO \_\_\_\_\_

Notice

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

Excluded Motions/Oppositions



Motions filed before final Divorce/Custody Decree entered  
(Divorce/Custody Decree NOT final)



Child Support Modification ONLY



Motion/Opposition For Reconsideration (Within 10 days of Decree)  
Date of Last Order \_\_\_\_\_



Request for New Trial (Within 10 days of Decree)  
Date of Last Order \_\_\_\_\_



Other Excluded Motion \_\_\_\_\_  
(Must be prepared to defend exclusion to Judge)

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

☐ Motion/Opp IS subject to \$25.00 filing fee

☒ Motion/Opp IS NOT subject to filing fee

Date: 6-23, 20 15

Michael Balaban

Printed Name of Preparer

[Signature]

Signature of Preparer