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1 Have you had any repercussions that would  
2 affect, like, impulse control, your temper, anger  
3 issues, anything like that?  
4 A. No.  
5 Q. No?  
6 A. I'm not going to go from sitting down  
7 like this to an outburst and start acting  
8 irrational, no. If that's the question that you're  
9 asking, I don't go from a calm situation to complete  
10 outbursts of an individual.  
11 Q. Has the concussion resulted in any change  
12 in your ability to control your emotions or your  
13 temper?  
14 MS. WILSON: Objection. Compound.  
15 THE WITNESS: This is something that I've  
16 adopted into my lifestyle whether I've experienced  
17 some severe symptoms right after a concussion or  
18 some mild symptoms that I have dealt with.  
19 But I think, again, during this time of  
20 this report, I mean, emotions were very, very high,  
21 very high. Whether I had a concussion or I didn't  
22 have a concussion, emotions, confusion was very,  
23 very high.  
24 BY MR. ROY:  
25 Q. Okay. So do you remember -- I mean, to

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1 answer the question, did that concussion ever  
2 affect -- or have any of your concussions ever  
3 affected your ability to control your temper or  
4 anger issues?  
5 MS. WILSON: Objection. Relevance.  
6 Objection. Vague. Objection. Compound.  
7 THE WITNESS: I can't recall an incident  
8 that -- no.  
9 BY MR. ROY:  
10 Q. Your answer is no?  
11 A. My answer is I cannot recall -- I can't  
12 recall a specific incident that made my emotions go  
13 from mild manner to very aggressive if we're talking  
14 about not being in the scope of playing in a hockey  
15 game.  
16 Q. Do you ever feel like you have acted --  
17 have you ever acted on emotion or lost your temper  
18 and then regretted it?  
19 MS. WILSON: Objection. Relevance.  
20 THE WITNESS: Yes.  
21 BY MR. ROY:  
22 Q. Okay. Tell me about that.  
23 A. I will at times -- in the past have I  
24 acted on impulse and regret and feel bad? Yeah, of  
25 course.

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1 Q. Can you give me some examples?  
2 A. I don't know. In what capacity, with my  
3 brother, hockey, family?  
4 Q. Family.  
5 A. Life?  
6 Q. Let's bring it down to family.  
7 A. Okay. I'll use my twin brother for an  
8 example. If he's pushing my buttons and I act on  
9 impulse and, you know, say something really bad to  
10 him and, you know, two minutes sorry, you know, I'm  
11 just having a bad day, you know, thinking about  
12 this, thinking about that. I didn't mean to say  
13 something like that to you.  
14 Q. Do you and your brother ever get into it  
15 physically?  
16 A. I mean, we kicked the crap out of each  
17 other when we were younger.  
18 Q. How about in the past few years?  
19 A. Past few years?  
20 Q. H'm-h'm.  
21 MS. WILSON: Objection. Vague.  
22 THE WITNESS: No.  
23 BY MR. ROY:  
24 Q. No. Okay.  
25 A. That's something that we did when we were

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1 kids.  
2 Q. Has there been -- have you taken any  
3 actions where you lost your temper that you regret  
4 with regard to Sandra or the children, any parties  
5 to this case?  
6 MS. WILSON: Objection. Relevance.  
7 Again, McMonigle objection.  
8 THE WITNESS: Please rephrase the  
9 question.  
10 BY MR. ROY:  
11 Q. Have you ever taken any -- excuse me, let  
12 me rephrase.  
13 Have you ever lost your temper and acted  
14 in an inappropriate way towards Sandra?  
15 MS. WILSON: Same objections and vague.  
16 THE WITNESS: I think through the history  
17 of our relationship we both are guilty of saying,  
18 doing, acting certain ways that were not healthy for  
19 our relationship.  
20 BY MR. ROY:  
21 Q. Can you give me an example of a way in  
22 which you have acted or you felt like you acted  
23 inappropriately towards Sandra?  
24 MS. WILSON: Same objections.  
25 THE WITNESS: Our relationship wasn't the

1 healthiest one out there, so there was a lot of back  
2 and forth that was said. It was unfortunate because  
3 Desmond and Kayla were around. It just wasn't the  
4 healthiest of the relationships. So I can't think  
5 of anything specific that --  
6 **BY MR. ROY:**  
7 Q. Has there ever been a time when you lost  
8 your temper and were in any way, shape, or form  
9 physical towards Sandra in a way that she did not  
10 approve of?  
11 **MS. WILSON:** Objection. Relevance.  
12 McMonigle. Compound. Vague. Assumes facts. Calls  
13 for speculation.  
14 **THE WITNESS:** Please repeat.  
15 **MR. ROY:** Come on, that's not enough  
16 objections. That's never going to cut it.  
17 **MS. WILSON:** Sorry.  
18 **BY MR. ROY:**  
19 Q. Have you ever been physical with Sandra  
20 in a way that she didn't approve of?  
21 **MS. WILSON:** Same objections.  
22 **THE WITNESS:** No.  
23 **BY MR. ROY:**  
24 Q. Okay. Have you ever been physical with  
25 your child Evan or Sandra's other two children in a

1 way that they wouldn't have approved of?  
2 **MS. WILSON:** Objections. Relevance.  
3 McMonigle. Compound. Calls for speculation.  
4 **THE WITNESS:** Sandra would encourage me  
5 to use a belt on them, I refused to because they  
6 were not my child and they were children and they  
7 were not my responsibility to discipline them in  
8 that fashion. With respect to Evan, have I spanked  
9 him on the butt from time to time? Very, very  
10 minimal. Have I grabbed him by the hand, Evan, and  
11 removed him if he was acting inappropriately or had  
12 bad behavior, I would take him to the side.  
13 I'm not a big -- we spoke earlier into  
14 punishment. I give him the opportunity to correct  
15 his punishment, but I have to say I'm very blessed  
16 with Evan because there is not much to complain  
17 about. He is a very, for the most part, very  
18 well-behaved young boy and at times pushes your  
19 buttons and tests your standards and your patience  
20 and that's when a little reprimanding comes into  
21 play. But it is very minimal.  
22 **BY MR. ROY:**  
23 Q. Okay. Now, who is Ms. Lorraine Ciuffo?  
24 **A. Who?**  
25 Q. Lorraine Ciuffo, C-i-u-f-f-o.

1 **A. I think she is a female that lives in the**  
2 **neighborhood, I don't know, three or four houses up**  
3 **from where I live.**  
4 Q. Okay.  
5 **MS. WILSON:** Objection. Relevance and  
6 McMonigle.  
7 **BY MR. ROY:**  
8 Q. Do you have any reason to believe that  
9 Ms. Ciuffo -- if I'm pronouncing that right -- had  
10 any motive to not like you or any reason to not like  
11 you?  
12 **MS. WILSON:** Same objections. Calls for  
13 speculation.  
14 **THE WITNESS:** Yes.  
15 **BY MR. ROY:**  
16 Q. Tell me about that.  
17 **A. Because she's good friends with Sandra.**  
18 **Simple as that.**  
19 Q. Okay. And what types of things -- if  
20 Lorraine were to make any disparaging comments --  
21 excuse me, not disparaging. But if Lorraine was to  
22 say anything bad about you, what might she say?  
23 **A. I think she --**  
24 **MS. WILSON:** Objection. Relevance.  
25 Relevance pursuant to McMonigle. Hearsay and calls

1 for speculation. Incomplete hypothetical.  
2 **THE WITNESS:** I think she would say, do  
3 anything it took to put me in a bad light.  
4 **BY MR. ROY:**  
5 Q. And why is that?  
6 **A. Because she's friends with Sandra, and**  
7 **she was involved in Sandra's move from New York back**  
8 **to Las Vegas during court proceeding that started in**  
9 **New York, jurisdiction came back to Las Vegas.**  
10 Q. If Lorraine made a statement that you had  
11 thrown a brick or a rock into a car windshield,  
12 would you say she's telling the truth or would you  
13 say that she's lying?  
14 **MS. WILSON:** Objection. Relevance  
15 pursuant to McMonigle.  
16 **THE WITNESS:** I did not throw a brick or  
17 a rock through the window.  
18 **BY MR. ROY:**  
19 Q. Okay. What happened?  
20 **MS. WILSON:** Same objections.  
21 **THE WITNESS:** It was an incident in the  
22 evening time. I was at dinner with my brother Joey,  
23 God rest his soul, during that time. And I received  
24 a phone call from my mother that Sandra was leaving  
25 and driving my father's car that he loaned to Sandra

1 while she was residing in New York.  
2 She was threatening to leave once again  
3 with Evan and Desmond and Kayla. And she was  
4 driving my dad's Jeep from New York to Las Vegas and  
5 threatening to leave which was a very common thing  
6 that Sandra would threaten throughout her stay in  
7 New York. I asked my dad how he wanted me -- my dad  
8 called me and said you should just break the  
9 windshield so she's incapable of driving my car.

10 So as per my dad's discussion -- or  
11 instruction, I took a rock and just simply cracked  
12 the side of the windshield. I didn't throw a  
13 boulder through the windshield to make the car  
14 incapable of driving because in theory, she's  
15 stealing my dad's car.

16 **BY MR. ROY:**

17 Q. When you say you struck the windshield  
18 with a rock --

19 A. Yes.

20 Q. -- would you say that you smashed the  
21 windshield or you simply put one crack in the  
22 windshield?

23 A. You know what, I don't -- I didn't do it  
24 in a vicious manner. I just did it to have the car  
25 not be able to drive.

1 Q. Okay. So after you had smashed the  
2 windshield, I assume it was then that you -- it was  
3 smashed to the extent that you would not be able to  
4 drive it is what you're saying?

5 A. I can't recall the amount of damage that  
6 was in the windshield, but, yeah, it needed to be  
7 repaired.

8 Q. Okay. Did any of the glass break through  
9 into the inside of the vehicle?

10 A. No.

11 Q. Okay. Where were your -- where were  
12 Sandra's children at the time you broke -- you  
13 smashed the windshield with the rock?

14 A. Last I knew, they were at Lorraine's  
15 house. Desmond is very good friends with the oldest  
16 son. They're partners. They're two female partners  
17 with kids from different relationships. There's an  
18 older son. I don't know, I think there's a daughter  
19 and another -- I don't know how many kids. I can't  
20 recall. But they were -- last that I knew, they  
21 were at Lorraine's house have -- at Lorraine's  
22 house.

23 Q. So when you smashed the windshield of the  
24 vehicle, the children -- all three of Sandra's  
25 children were at Lorraine's house?

1 A. The last time I knew they were there.  
2 The only one I saw during this incident was Desmond  
3 standing by the side of the car. And my assumption  
4 was that the rest of the kids were at Lorraine's  
5 house.

6 Q. Do you have any reason to believe the  
7 children, including your son, were inside the  
8 vehicle at the time you smashed the windshield?

9 A. No.

10 **MS. WILSON:** Sorry, it's a little bit  
11 late of an objection, but to the last question,  
12 vague.

13 **BY MR. ROY:**

14 Q. I'm going to read you a statement from  
15 Dr. Paglini's report, and I want you to tell me  
16 whether Mr. Paglini -- Dr. Paglini made an accurate  
17 statement or an inaccurate statement.

18 Dr. Paglini states, "Mr. Ferraro reported  
19 he picked up a rock and smashed the front windshield  
20 whereby glass fell in the front part of the car.  
21 Kayla was traumatized and crying as was Evan.  
22 Mr. Ferraro claimed he had no knowledge that the  
23 children were in the car, otherwise he would not  
24 have done it."

25 Do you believe that to be an incorrect

1 statement of the facts or a correct statement of the  
2 facts on the part of Paglini?

3 **MS. WILSON:** Objection. Relevance.  
4 McMonigle. Hearsay. Assumes facts.  
5 Go ahead.

6 **THE WITNESS:** I think there's parts of  
7 that that are correct. I did not see Evan and Kayla  
8 in the car. I did smash the windshield. To the  
9 extent that glass fell inside, I don't recall.

10 But, again, the disappointing part of  
11 this whole incident is why are the kids involved in  
12 the conflict between us? If you have plans to  
13 leave, pack the car with your belongings and then go  
14 pick the kids up away and go on your merry way if  
15 that's what you decide to do. Why have the kids  
16 front and center involved in this type of conflict?  
17 That's a disappointing part on my behalf.

18 So, yes, that was an incident that  
19 occurred. My dad instructed me, it was his car, to  
20 break the windshield. I did not see the kids in the  
21 car. Desmond was standing outside the car with his  
22 friend.

23 **BY MR. ROY:**

24 Q. When Dr. Paglini goes on to state that  
25 Mr. Ferraro should have taken much more caution

1 regarding knowing whether or not the children were  
2 in the car.  
3 Do you agree with his statement?  
4 **MS. WILSON:** Objection. Relevance.  
5 McMonigle. Hearsay.  
6 **THE WITNESS:** It was dark out. I was  
7 thrown off guard, once again, from Sandra just  
8 getting a phone call that Sandra's leaving, but  
9 she's stealing my dad's car. A lot of moving,  
10 unfortunate circumstances that occur at one  
11 particular place at one particular time in a very  
12 unhealthy relationship between me and Sandra, and  
13 unfortunately young children that are involved in  
14 all of this.  
15 **BY MR. ROY:**  
16 Q. Have you ever pulled or yanked at  
17 Ms. Nance's hair?  
18 A. No. Can you be specific? No.  
19 **MS. WILSON:** Again, objection.  
20 Relevance. McMonigle.  
21 **BY MR. ROY:**  
22 Q. Do you want more specific or do you  
23 want --  
24 A. Yeah.  
25 Q. Has there ever been a time that you have

1 house, there's major obstruction. There's a house  
2 in front with all trees. There's no sight line  
3 between my house and her house.  
4 **BY MR. ROY:**  
5 Q. So your opinion, so I understand, is that  
6 that is an incorrect statement by Ms. Ciuffo?  
7 A. Yes. It's not an opinion -- sorry.  
8 **MS. WILSON:** Same objections.  
9 **THE WITNESS:** It's not an opinion, it's a  
10 fact. There is no sight line from her house to my  
11 house. There actually might be now because the new  
12 neighbor across the street cut down all the trees,  
13 but I would be happy to take pictures. But at this  
14 particular time, there was no sight line. It's not  
15 a neighbor. She lives up and around, there's no  
16 sight line. So as I mentioned before, I think she  
17 will say and do anything to put me in a bad light.  
18 Q. Has there ever been a time when you've  
19 been -- I believe you answered no to this, but I  
20 just want to confirm that there's never been a time  
21 when you have been physically -- you have used  
22 physical force on Sandra in a way that was not to  
23 her liking?  
24 **MS. WILSON:** Objection. Relevance,  
25 specifically with respect to McMonigle, and calls

1 against Ms. Nance's wishes either grabbed or pulled  
2 her by her hair or yanked her by her hair or any way  
3 used her hair in a way that was not to her liking?  
4 **MS. WILSON:** Same objections. Calls for  
5 speculation.  
6 **THE WITNESS:** I don't know what that  
7 means. I don't know what the context of the  
8 question means. I don't know what you're referring  
9 to.  
10 **BY MR. ROY:**  
11 Q. Have you ever physically abused Ms. Nance  
12 by grabbing her inappropriately by her hair without  
13 her authority for you to do so?  
14 **MS. WILSON:** Same objection.  
15 **THE WITNESS:** No.  
16 **BY MR. ROY:**  
17 Q. Are you aware that Ms. Ciuffo, your  
18 neighbor, reported that she heard screaming early in  
19 the morning, looked through her window and saw the  
20 commotion in the car and seen Mr. Ferraro yank at  
21 Ms. Nance's hair?  
22 **MS. WILSON:** Same objection. Hearsay.  
23 **THE WITNESS:** That's interesting, she  
24 must have amazing eyesight if she looked out her  
25 window and saw that because from her house to my

1 for speculation.  
2 **THE WITNESS:** No.  
3 **BY MR. ROY:**  
4 Q. No. Okay.  
5 So you've never choked her?  
6 A. No.  
7 Q. You've never hit her?  
8 A. No.  
9 Q. No?  
10 A. No.  
11 Q. You've never pulled her hair?  
12 A. No.  
13 Q. Is that a yes or a no?  
14 A. No.  
15 Q. You've never pushed her?  
16 **MS. WILSON:** Same objection through all  
17 of these questions.  
18 **THE WITNESS:** No.  
19 **BY MR. ROY:**  
20 Q. And you've never kicked her?  
21 **MS. WILSON:** Same objection.  
22 **THE WITNESS:** No. I will remind you that  
23 I have never been arrested. I can't say the same  
24 for Sandra in a past relationship with Steve  
25 Filipozi (Phonetic), she was arrested. I remind you

1 of that.

2 **BY MR. ROY:**

3 Q. I'm going to read to you from page 56 of  
4 Paglini's report, Dr. Paglini's report.

5 He states, "Mr. Ferraro reported there  
6 was pushing and shoving and he was just trying to  
7 control Ms. Nance."

8 Do you think that you reported that or do  
9 you think that Dr. Paglini's statement is  
10 inaccurate?

11 **MS. WILSON:** Objection. Relevance.  
12 McMonigle. Hearsay.

13 Go ahead.

14 **THE WITNESS:** Can you please read that  
15 again, please?

16 **BY MR. ROY:**

17 Q. Dr. Paglini writes, "Mr. Ferraro reported  
18 there was pushing and shoving and he was just trying  
19 to control Ms. Nance."

20 **MS. WILSON:** Same objection.

21 **THE WITNESS:** When, where, how, what  
22 incident is he referring to?

23 **BY MR. ROY:**

24 Q. Has there been multiple incidents of  
25 pushing and shoving?

1 this Venue 56 place in New York the last month of  
2 her stay in New York, month, two months. She  
3 decided to get a job in that industry, which wasn't  
4 a surprise. I had to travel to Rhode Island that  
5 day in the morning. On my way back, she had asked  
6 me to -- Rhode Island which is five hours away, she  
7 had asked me to join her at her job. So I drove all  
8 the way to Rhode Island, all the way back to Long  
9 Island, visited her at work. I arrived around 9:30,  
10 10:00, her shift was over.

11 I had my car -- excuse me, Sandra was  
12 driving my car, I was driving another family car,  
13 and I come out of the bathroom and Sandra is taking  
14 shots with the bartender and pretty much acting like  
15 a college student. I didn't approve. I didn't like  
16 it, especially when we have kids at home that are  
17 with my sister, my twin brother, and my mother. So  
18 I made a decision to leave, say I don't want to be a  
19 part of this.

20 So as she's heavily intoxicated, she  
21 is -- I go home. I'm there for about an hour,  
22 Sandra arrives, beeping, trying to smash my car on  
23 the telephone pole in my front yard. Music  
24 blasting, waking up the neighborhood. I shouldn't  
25 say waking up he neighborhood, but the music was

1 **A. I don't know --**

2 **MS. WILSON:** Same objections.

3 **THE WITNESS:** Can you be more specific?

4 **BY MR. ROY:**

5 Q. Between you and Sandra and the duration  
6 that you guys have known each other, how many  
7 incidents of pushing and shoving have there been --

8 **MS. WILSON:** Same objection.

9 **BY MR. ROY:**

10 Q. -- between the two of you?

11 **A. I don't know how to answer that question  
12 because I don't know specifically where he has that  
13 finding in there.**

14 Q. Well, I'm not asking about where his  
15 finding is, I'm just asking about has there ever  
16 been pushing and shoving between you and Sandra and  
17 how many times it's occurred, if so?

18 **MS. WILSON:** Same objections.

19 **THE WITNESS:** There was an incident, if  
20 I'm thinking along the lines of what he could be  
21 referring to, where Sandra was -- came home very  
22 late, I don't know, three, four in the morning from  
23 a restaurant/lounge. I guess after hour turned into  
24 nightclub type of scene with a DJ playing.

25 There was an incident where she worked at

1 very, very loud.

2 So I obviously went to the car, I removed  
3 my keys, took my keys away from her so she could not  
4 drive the car because I was worried about her safety  
5 because she was heavily intoxicated and other people  
6 out there if she got in the car and drove. At the  
7 same time, I was getting punched in the face  
8 probably about 10 to 15 times leading up to our  
9 front door. I opened the door and we took our  
10 differences inside.

11 So if he's referring to that, the pushing  
12 and the pulling, there was -- with the pushing and  
13 the pulling, especially the punching, was definitely  
14 directed toward me because she was unhappy that I  
15 took the keys from her possession.

16 **BY MR. ROY:**

17 Q. Was there any pushing on your part or was  
18 it all Sandra?

19 **A. I was refraining myself from being hit.  
20 I will remind you that I've never been arrested and  
21 been in these type of relationships before.**

22 Q. Just to make sure I understand you  
23 clearly, Sandra did all of the hitting and pushing,  
24 but you did not hit or push Sandra?

25 **A. I'm sure I grabbed her by the hand, took**

1 her away from the car and there was a lot of -- it  
2 was late. She was intoxicated and the conflict was  
3 moved into the house.

4 Q. Now, earlier I believe you said that you  
5 have never -- you never make any negative comments  
6 towards the Nance family while in Evan's presence.

7 Is that an accurate reflection of your  
8 prior statement?

9 A. You asked me if I say anything negative  
10 towards Sandra.

11 Q. In front of your child.

12 A. Yes.

13 Q. And your answer to that was a yes or no?

14 A. I don't speak of Sandra around Evan.

15 Q. Okay.

16 A. He does not deserve to be involved what's  
17 going on here. He should be removed and away from  
18 it all.

19 Q. And you understand in Dr. Paglini's  
20 report he reaches some conclusion. When I say "he,"  
21 Dr. Paglini reaches some conclusions based on DVDs  
22 he's viewed.

23 Specifically, Dr. Paglini states, "During  
24 this DVD, after Evan has calmed down, Mr. Chris  
25 Ferraro talks to his brother and talks about the

1 McMonigle. Misstates testimony.

2 THE WITNESS: I would like to understand  
3 that particular situation right there a little more  
4 because I want to know when, where, and what did  
5 I -- can you rephrase what I said about the Nance  
6 family?

7 BY MR. ROY:

8 Q. Yes.

9 A. Please.

10 Q. And I'll read the whole paragraph just so  
11 you have more context.

12 A. Okay.

13 Q. "Numerous DVDs were provided to this  
14 evaluator. In some DVDs" --

15 A. Can I stop you?

16 Q. H'm-h'm.

17 A. Are the DVDs DVDs that were taken during  
18 the interview between myself and Dr. Paglini, is  
19 that what those DVDs reflect? Do they record -- do  
20 they record the interviews and then put them on a  
21 DVD?

22 Q. I cannot tell you the answer to that  
23 question.

24 A. That's the only thing I can think of is  
25 that if we are having a face-to-face interview and

1 negative aspect of the Nance family. To illustrate,  
2 the Nance family home is in foreclosure and a  
3 variety of other negative events regarding the Nance  
4 family. This is said in the presence of Evan, which  
5 is inappropriate."

6 Do you believe that statement by Mr. --  
7 Dr. Paglini, excuse me, is accurate or do you  
8 believe Dr. Paglini is making an inaccurate  
9 statement?

10 MS. WILSON: Objection. Relevance  
11 pursuant to McMonigle. Hearsay.

12 THE WITNESS: When did I make that  
13 comment, where did I make that comment, and why was  
14 Evan in my presence during that time? Was that  
15 during an interview that Evan was sitting there and  
16 I was being asked a question and I made a comment  
17 because I was asked a question in front of Evan?  
18 That I don't think that he would know at four years  
19 old what the word foreclosure means. And if he  
20 does, he's pretty bright.

21 BY MR. ROY:

22 Q. So based on what you're saying, is it  
23 your opinion that Dr. Paglini incorrectly states the  
24 facts when he states that conclusion?

25 MS. WILSON: Objection. Relevance.

1 it's being recorded, then it's put on a DVD.

2 I was asked to have Evan be there at one  
3 of the occasions of -- so Evan could be interviewed.  
4 Now, obviously, if I'm forced to state which are  
5 true facts, it's not like the Nance family lives in  
6 a \$5 million home and they're millionaires. They  
7 live in foreclosed homes and have been. That is not  
8 a false off the beaten track statement.

9 Q. Okay.

10 A. And I don't think that's a bad negative  
11 comment directed at the Nance family. That is, in  
12 fact, in the lines of a very true statement.

13 Q. Now, just to be clear, these are not --  
14 I'm sorry, these are not DVDs that Dr. Paglini  
15 recorded. These are DVDs that were provided to  
16 Dr. Paglini from Sandra Nance. So I just want to  
17 read the paragraph and then I want you to comment on  
18 the truth or lack of truth of the statement.

19 A. Okay.

20 Q. "Numerous DVDs were provided to this  
21 evaluator. In some DVDs, Evan is seen in the car  
22 with his father and his father's brother. Evan is  
23 crying because he does not want to return to Las  
24 Vegas, Nevada, and be with his mother. On numerous  
25 occasion, Evan cites how he hates Las Vegas. And on

1 other occasions, he states how he hates his mother.  
2 "During this DVD, after Evan is calmed  
3 down, Mr. Christopher Ferraro talks to his brother  
4 and talks about the negative aspects of the Nance  
5 family. To illustrate, the Nance family's home is  
6 in foreclosure and a variety of other negative  
7 events regarding the Nance family. This is said in  
8 the presence of Evan, which is inappropriate."

9 Do you believe the statements by  
10 Dr. Paglini here are true or false?

11 **MS. WILSON:** Same objection as previously  
12 stated.

13 **THE WITNESS:** I can't recall making  
14 negative statements towards Sandra and the Nance  
15 family. My focus and my concern, hearing you read  
16 that, is the way Evan would respond and react to  
17 going back to Sandra and her family and the  
18 difficulties he's had. Hearing you read that, that  
19 is and was my focus. How upset and why is he so  
20 upset.

21 I'm concerned as a father that he is  
22 carrying on in excruciating pain that he's going  
23 back to Sandra and that household. That was a major  
24 concern for me. So I don't know what type of  
25 comments those DVDs reveal, and I don't know what

1 they reflect. I do not recall as my focus was on my  
2 child and the pain and discomfort he was in.

3 **BY MR. ROY:**

4 Q. Okay. So just to make sure I'm  
5 understanding you, it's your -- you do not recall  
6 ever making any statements -- excuse me. You don't  
7 recall nor do you think you ever did make any  
8 statements to your brother that were negative about  
9 the Nance family in front of Evan?

10 **MS. WILSON:** Objection. Relevance.  
11 McMonigle. Misstates prior testimony.

12 **BY MR. ROY:**

13 Q. Is that a fair statement?

14 A. No. You put words in my mouth in the  
15 sense where you say that I did not say those things.  
16 I don't know if I did or did not say those things.  
17 I don't recall.

18 Q. Okay. So can I restate it and you can  
19 tell me if I'm saying it accurately?

20 A. Sure.

21 Q. With regard to Dr. Paglini's statement  
22 that you, Mr. Ferraro, talked to your brother  
23 negatively about the Nance family as an example when  
24 you talked about the Nances' family home being in  
25 foreclosure and a variety of other negative events

1 regarding the Nance family.

2 You do not agree that you made that  
3 statement nor do you disagree, you simply do not  
4 know if you've ever made a statement like that?

5 A. Based on this particular incident,  
6 driving my son in a car during a time share exchange  
7 back to the Nance family, I do not recall having any  
8 conversation -- this is very long ago -- of Sandra,  
9 foreclosures, her family, any of that. My primary  
10 focus is the pain and discomfort that my child is  
11 in. That was the most disturbing hurtful thing that  
12 I was experiencing during those times and during  
13 that error of --

14 **MS. WILSON:** Go back and please assert  
15 the same objections that I had previously to  
16 Mr. Roy's last question.

17 **BY MR. ROY:**

18 Q. If you had to tell me why you think Evan  
19 would cry and say that he hates his mother, he hates  
20 Las Vegas, why would that be?

21 **MS. WILSON:** Objection. Relevance.  
22 Vague. McMonigle. Calls for speculation.

23 Go ahead.

24 **THE WITNESS:** I think we covered that  
25 earlier today, didn't we?

1 **BY MR. ROY:**

2 Q. Will you remind me?

3 A. A long list of reasons why.

4 Q. All right. So you're saying it's a  
5 reaction to -- a proper reaction of Evan based on  
6 the conduct of his mother, is that what you're  
7 saying?

8 **MS. WILSON:** Objection. Misstates prior  
9 testimony.

10 Go ahead. And asked and answered.

11 **THE WITNESS:** Are we moving on to the  
12 next question?

13 **BY MR. ROY:**

14 Q. I need to know the answer to that.

15 A. You need to know the answer to that?

16 Q. Yeah. I guess what I want to know, I  
17 want to know whether Evan's statements when he says  
18 that he hates his mom and he hates Las Vegas, I want  
19 to know if you think he makes those statements based  
20 on his interactions with his mother or it's more  
21 likely that he makes those statements based on what  
22 he hears and overhears while he's at your house in  
23 New York or with your family.

24 **MS. WILSON:** Objections. Vague,  
25 including pursuant -- sorry. Irrelevant, including

1 pursuant to McMonigle. Vague as to time. Asked and  
2 answered.  
3 Go ahead.  
4 **THE WITNESS:** I think that it is based on  
5 our earlier discussion, that I am physically  
6 involved in his life on many levels, extracurricular  
7 activities. My schedule allows me to be with him in  
8 the morning all the way until he goes to bed. He  
9 wakes up with me, goes to bed. We spend the whole  
10 entire day together.  
11 If I go to work, he's with me during my  
12 time share. I have him involved in as many  
13 extracurricular activities in the time frame that I  
14 have him as I can. I exhaust myself, I put my son  
15 in every environment. I want the best for him. I  
16 take the time to put him in play dates. He's got  
17 many, many friends, and I put him in those  
18 environments.  
19 Swimming lessons. He learned how to swim  
20 from me, to ride a bike, the things we mentioned  
21 earlier. Tying his shoe, he learned all these  
22 things from me. Extracurricular activities, as you  
23 know. Modeling, I bring him to sporting events. I  
24 bring him to fun places like Disney World, three  
25 times.

1 So these are all things that I take  
2 proactive. So I think just a simple case where he's  
3 clearly not getting that same fulfillment with  
4 Sandra and her family.  
5 **BY MR. ROY:**  
6 Q. Okay.  
7 **A. And not to mention me, my whole entire**  
8 **family, the involvement and dedication and**  
9 **commitment levels that my family members have with**  
10 **Evan. My brother, my sister, my brother-in-law, my**  
11 **mother, my father, and the list goes on.**  
12 Q. Okay. Going to read you another  
13 statement by Dr. Paglini where he states, "Ms. Nance  
14 provided a video dated January 9th, 2012. Evan is  
15 seen playing with a sword in the house and his  
16 mother is filming him and she asks, 'Tell mommy, are  
17 you scared of me?' And Evan says yes. Evan  
18 continues to play with his plastic sword. She then  
19 asks," meaning Sandra asks, "'Are you scared of me?'  
20 She then asks, 'Who told you that,' to Evan. And  
21 Evan replies 'Daddy.'" Quote/unquote.  
22 Do you believe that -- do you have any  
23 reason to know why your son would say something like  
24 that?  
25 **A. That he's scared --**

1 **MS. WILSON:** Objection. Relevance.  
2 McMonigle. Hearsay.  
3 Go ahead.  
4 **THE WITNESS:** Why Sandra -- excuse me,  
5 why Evan would say that he's scared of his mother?  
6 **BY MR. ROY:**  
7 Q. And additionally why he would say that it  
8 was his father that told him he can say that.  
9 **MS. WILSON:** Same objections. Compound.  
10 Calls for speculation.  
11 **THE WITNESS:** That Evan could say that  
12 he's scared of his mother?  
13 **BY MR. ROY:**  
14 Q. Yeah. I'll read it one more time.  
15 "Ms. Nance provided a video dated January 9th, 2012.  
16 Evan is playing with a sword in a house and his  
17 mother is filming him and she asks, 'Tell mommy, are  
18 you scared of me?' And he says yes. Evan continues  
19 to play with his plastic sword. She then asks, 'Are  
20 you scared of me?' Then she asks, 'Who told you  
21 that?' And Evan says 'Daddy.'"  
22 Do you have any reason to believe or any  
23 reason to understand why your son would say that his  
24 daddy told him he could say that?  
25 **MS. WILSON:** Same objection as previous

1 listed.  
2 **THE WITNESS:** So from my understanding,  
3 this is a homemade video in the Nance household  
4 that -- why would you be videotaping a child just  
5 playing around? What is your motive? Let a kid be  
6 a kid. Let him play with a sword, let him use his  
7 own imagination. What are you -- it's a homemade  
8 video. What validates that that has any value  
9 behind it? If it was a neutral video in a neutral  
10 environment that -- that's a homemade video.  
11 **BY MR. ROY:**  
12 Q. When you say it's a homemade video, are  
13 you --  
14 **A. You just said that Ms. Nance took a video**  
15 **from her home.**  
16 Q. Right.  
17 **A. That's a homemade video. I can do the**  
18 **same thing with Evan and put him on the spot and**  
19 **come up with a video and submit it and get**  
20 **someone's --**  
21 Q. When you reference it as being a homemade  
22 video, are you implying or inferring that Sandra or  
23 the Nance family coerced your son into making that  
24 statement where he otherwise wouldn't have?  
25 **MS. WILSON:** Objection. Relevance.

1 McMonigle.

2 **THE WITNESS:** I'm not suggesting that.  
3 I'm just asking what validates a homemade video in  
4 the Nance family as something that adds value to  
5 this. I'm not -- I think that is obviously putting  
6 me in a bad light in a situation where it's a video  
7 that's clearly being filmed in Sandra's household to  
8 try to use as -- to put me in a bad light.

9 **BY MR. ROY:**

10 Q. Have you ever made any type of statement  
11 either to your son or in front of your son to  
12 suggest that he can say he is or that he should be  
13 scared of his mother?

14 **MS. WILSON:** Objection. Relevance.  
15 McMonigle.

16 Go ahead.

17 **THE WITNESS:** Rephrase the question,  
18 please.

19 **BY MR. ROY:**

20 Q. Have you ever made a statement either  
21 directly to Evan or in Evan's presence where you  
22 indicate that it's appropriate for Evan to say that  
23 he's afraid of his mother or to make Evan actually  
24 be afraid of his mother?

25 **A. Actually be afraid of his mother?**

1 this occurs on the Ferraro part as at times I have  
2 seen it, such as what has occurred at the hockey  
3 rink as well as on the DVD where Mr. Ferraro's  
4 talking negatively about the Nance family."

5 Do you agree with Dr. Paglini or disagree  
6 with Dr. Paglini when he says that he knows that  
7 this occurs on the Ferraro's part?

8 **MS. WILSON:** Objection. Relevance.  
9 McMonigle. Hearsay. Assumes facts. Compound.  
10 Go ahead.

11 **THE WITNESS:** I think that's extremely  
12 out of context. He has two videos that he sees.  
13 One was provoked while I was at a hockey rink on my  
14 time share with my child where a grown woman,  
15 Rebecca Nance, Sandra's mother, participates while  
16 Sandra orchestrates, because she doesn't want to be  
17 present, a plan for Desmond and his two if you like  
18 to call them thug friends get out as backup and  
19 stick a phone in my face and my brother's face  
20 during my time share with my child involving my son  
21 in conflict. So that's one DVD and that has  
22 validity to say that the Ferraro family speaks badly  
23 about the Nance family? I think that's out of  
24 context.

25 And the next video that you're referring

1 Q. H'm-h'm.

2 **A. Again, this goes back to why would I want  
3 more conflict for my child to be involved in? He  
4 does not deserve any conflict or any problems in his  
5 life. He's a young boy. He needs to be away from  
6 all of this. I would never instruct or advise --  
7 not instruct. I would never advise my child to have  
8 more conflict in his life.**

9 **Has Evan in the past said that he's  
10 scared of his mother? Yes. Do I recall saying  
11 anything along the lines, Well, if you're scared of  
12 your mother you should tell her that you're scared  
13 of her. Ask her, you know, reasons why. I don't  
14 recall anything along those lines, and I don't  
15 know -- and I think I know the reasons why you're  
16 asking me because it looks like I'm -- I don't know.**

17 Q. Okay. So the answer is no to that  
18 question or yes?

19 **A. I don't recall anything along those  
20 lines. I recall my son -- I do recall my son  
21 mentioning when he was younger that he was scared of  
22 his mommy, yes.**

23 Q. Dr. Paglini states, "It is this  
24 evaluator's hypothesis that Evan is being exposed to  
25 negative comments about the other family. I know

1 to is a video where I don't recall making comments  
2 about Sandra and the Nance family, but my child is  
3 in excruciating pain because he's going back to  
4 Sandra and Sandra's family in the household.

5 So if Dr. Paglini can make a -- and I  
6 don't want to put his work down because he's an  
7 expert in the field. I don't think that validates  
8 that the Ferraro family speaks of the Nance or the  
9 Nance family all the time. My family is too busy to  
10 talk to each other. They're in the sporting goods  
11 business for almost 50 years, the last thing on  
12 their mind is Sandra and Sandra's family. And I've  
13 made that clear in the past. They work seven days a  
14 week running their own business, the last thing on  
15 their mind is Sandra and Sandra's family.

16 **BY MR. ROY:**

17 Q. Do you believe the conflict between you  
18 and Sandra is similar to what it was back in 2012 or  
19 is better or worse now than it was at that period of  
20 time?

21 **A. There's limited contact between us. So  
22 limited contact, there's no opportunity for conflict  
23 to be high or low.**

24 Q. Would you say that the coparenting  
25 between you and Sandra has improved or digressed

1 from where it was in 2012?

2 **A. I think on my behalf, I think I've**  
3 **been -- I've made significant strides. Last year,**  
4 **if we're going on the last year, two years, as you**  
5 **are aware, from January all the way through the**  
6 **summer, she is -- I have a list of e-mails from**  
7 **Margaret Pickard.**

8 **I received a phone call today from --**  
9 **again during my time share, I received a phone call.**  
10 **All these pending issues, school attendance, false**  
11 **allegations about Evan with a mark on his face that**  
12 **we discussed yesterday, which was completely false,**  
13 **but that's during my time share. So now I have to**  
14 **take time away from my son to answer an e-mail and**  
15 **defend myself during my time share because Sandra is**  
16 **making false allegations during my time share.**

17 **There was an incident in January of last**  
18 **year where Evan went to Disney World where she -- I**  
19 **can't recall specifically, but she went off the deep**  
20 **end and I had to spend hours defending myself on an**  
21 **e-mail back and forth to Margaret Pickard.**

22 **There was other instances of -- there's a**  
23 **list of five or six e-mails that that's -- that's**  
24 **interfering with my time share with my child,**  
25 **interrupting my time share, taking me away from my**

1 afraid of his mother?

2 **MS. WILSON: Objection. Calls for**  
3 **speculation.**

4 **THE WITNESS: I don't know what their**  
5 **relationship is like, so it's very difficult for me**  
6 **to make judgment on that.**

7 **BY MR. ROY:**

8 **Q. Okay.**

9 **A. I don't know much about their**  
10 **relationship. When Evan is with me, he does not**  
11 **speak of his mother or the Nance family often at**  
12 **all.**

13 **Q. Okay. Has there ever been any statements**  
14 **made by anybody in your family or anybody in**  
15 **Sandra's family to Evan wherein one of the family**  
16 **members or more than one of the family members**  
17 **states that Evan misses your home in New York,**  
18 **misses your home in Nevada? To your knowledge, have**  
19 **any of those types of statements ever been made?**

20 **MS. WILSON: Objection. Hearsay.**  
21 **Objection. Calls for speculation. I withdraw the**  
22 **speculation objection.**

23 **MR. ROY: Thank you.**

24 **MS. WILSON: It's getting late.**

25 **THE WITNESS: I'm sorry?**

1 **son during my time share attempting to separate the**  
2 **bond, the strong bond that I share with my child.**

3 **So I don't feel as though that's been --**  
4 **that's coparenting properly. When Evan is with his**  
5 **mother, Margaret doesn't receive phone calls. She**  
6 **doesn't receive e-mails. Evan is with his mother.**  
7 **On the other end, it's quite different.**

8 **May I please use the restroom?**

9 **MR. ROY: Absolutely.**

10 **(A recess was taken.)**

11 **BY MR. ROY:**

12 **Q. Mr. Ferraro, in your opinion, does**  
13 **Evan -- is Evan afraid of his mother?**

14 **MS. WILSON: Objection. Calls for**  
15 **speculation.**

16 **THE WITNESS: He has made mention in the**  
17 **past, I don't recall the latest time, that he is**  
18 **scared of his mother.**

19 **BY MR. ROY:**

20 **Q. Okay. Do you have any idea why he has**  
21 **made those statements?**

22 **A. I didn't push the issue. I didn't expand**  
23 **on the issue.**

24 **Q. Okay. Thus, in your opinion, do you**  
25 **think overall Evan is afraid of his mother or is not**

1 **BY MR. ROY:**

2 **Q. Do you want me to repeat it?**

3 **A. Please.**

4 **Q. To your knowledge, have either you or**  
5 **Sandra's family or you or Sandra yourselves ever**  
6 **commented to Evan that, you know, Las Vegas is your**  
7 **home, Evan, or New York is your home, Evan?**

8 **A. I can't say what Sandra or her family has**  
9 **said. I think just Evan understands that he has a**  
10 **home in New York, has a home here in Las Vegas. I**  
11 **don't know if anything goes beyond that. I don't**  
12 **know.**

13 **Q. To your knowledge, has your family ever**  
14 **made any statements that New York is Evan's home to**  
15 **Evan?**

16 **A. His only home?**

17 **Q. Yeah, that it's his home as opposed to**  
18 **this is your other home?**

19 **A. I'm not aware of any of that. I just --**  
20 **from what I understand and experience is that this**  
21 **is your home here in New York. It doesn't mean he**  
22 **doesn't have a home in Las Vegas. No one's**  
23 **oblivious to that. It's quite clear he's been**  
24 **traveling back and forth for six years, more than**  
25 **that.**

1 Q. I'm going to read to you from  
2 Dr. Paglini's report, page 61, where he states,  
3 "Hence" -- Dr. Paglini states, "Hence, this  
4 evaluator would make a strong recommendation that  
5 the Ferraro family stop saying that New York is  
6 Evan's home, but reenforce that Evan has two homes."

7 Are you aware that Dr. Paglini made  
8 that -- do you remember him making that  
9 recommendation?

10 A. I apologize, I don't.

11 Q. Okay. Do you have any idea as to why  
12 Dr. Paglini made that recommendation?

13 A. I don't.

14 Q. Is there any facts or circumstances that  
15 have transpired that could potentially lead  
16 Dr. Paglini to reaching that conclusion?

17 A. I can't -- I will -- the only thing I  
18 could think of potentially is that the only time  
19 that we lived together as a family -- meaning Chris,  
20 Sandra, Evan, Desmond, Kayla -- was in New York for  
21 a period of almost six months. Prior to that, we  
22 never lived in Las Vegas together as a family. So  
23 maybe -- I don't know if Evan has that perception.  
24 I don't know why that's being mentioned, but that  
25 was the only time we have ever together lived in a

1 household together was in New York for a short  
2 period of time.

3 Q. Okay. Now, earlier I asked you about  
4 whether you thought coparenting had improved or  
5 declined since 2012. And I just want to make sure I  
6 have your answer to that. If you had to state it  
7 has improved or has declined since 2012, which of  
8 those two words would you use?

9 A. Improved on whose side?

10 Q. In total. Not one or the other, just in  
11 total.

12 A. It's a very broad question because I gave  
13 you examples of why I believe through experience and  
14 taking a focus on being more aware of coparenting.  
15 I think that I have been extremely good in the last  
16 year and a half I would say; whereas Sandra has, I  
17 don't believe, been very good at it.

18 There was a time where I didn't feel it  
19 was appropriate to enroll Evan into kindergarten.  
20 Sandra wanted Evan to go into kindergarten and she  
21 fought it and she fought it and she fought it. And  
22 at the end of the day, she -- I don't want to talk  
23 wins and losses because it's not about winning and  
24 losing, but Evan was held back because it was in the  
25 best interest of Evan. I received the support from

1 Margaret Pickard, parent coordinator, Judith Tolman,  
2 the counselor. So I don't think that was a good  
3 form of coparenting. I did all my due diligence.  
4 And is coparenting -- does this fall in the scope of  
5 what you're explaining?

6 Q. H'm-h'm.

7 A. I want to enroll Evan into Challenger  
8 School because it's a better curriculum, it's a more  
9 advanced curriculum. I get denied that because we  
10 have to coparent and we have to agree on things.  
11 She denies it because she doesn't want Evan to be  
12 around Asians and Jews. I'll pay full tuition, just  
13 get him there. She won't do it. You feel as though  
14 that's good coparenting or -- I don't think that's  
15 good coparenting because that's in the best interest  
16 of Evan.

17 Q. Would you say that Evan's behavior has  
18 improved or declined since 2012?

19 A. Behavior in what capacity? He's an  
20 amazing kid. When he's in my care, he's amazing.  
21 He's happy. He's fulfilled. He's active. He has  
22 play dates. He's doing sleepovers. He's  
23 accomplishing. He can't ride a bike, next day he  
24 can because I'm working with him. He can't swim,  
25 the next day he can. He can't skate, the next day

1 he can skate. One day he can't hit a basketball,  
2 the next day he can.

3 Q. Would you say his behavior, then, has  
4 improved, stayed the same, or declined since 2012?

5 MS. WILSON: Objection. Vague.

6 THE WITNESS: I don't know what you mean  
7 by behavior.

8 BY MR. ROY:

9 Q. Let me say --

10 A. You know --

11 Q. When I talk about behavior, I mean acting  
12 out. You know, there was some statements. You told  
13 me he made statements he hates his mom. So I guess  
14 his emotional well-being you can call his behavior.

15 In that regard, do you believe his  
16 behavior has improved, remained the same, or  
17 declined since 2012?

18 A. I think if I -- if I think I understand  
19 the way you're asking the question, I think Evan, as  
20 he has gotten older and more mature, I think that he  
21 has understood that his mom and dad are not together  
22 and he has -- if that's -- and he's not three years  
23 old again not understanding what's going on and he  
24 doesn't know the next time he's going to see his dad  
25 so he's setting off tantrums. I think it's just him

1 getting older and being more aware and being known  
2 to the situation that he's in, if that answers your  
3 question.

4 Q. It does.

5 Okay. I want to move on to one more  
6 topic, and we can call it a day. I want to talk  
7 about Sandra, and I want you to tell me all the -- I  
8 want you to tell me all the good ways that she  
9 coparents with you, if any.

10 A. The good ways?

11 Q. If there's none, there's none; but if  
12 there's any, I would like to hear what they are.

13 A. I don't really think there's a list.

14 We're under a stipulation agreement that pretty much  
15 forces us to stick to a plan and coparent to a  
16 certain level. And if there's any issues or  
17 concerns, then the parent coordinator steps in and  
18 tries to come up with a resolution. From time to  
19 time has she given me some extra days? Yes.

20 Q. Are there any other examples besides  
21 giving you extra days that would demonstrate her  
22 coparenting abilities with you?

23 A. On a positive side?

24 Q. Yes.

25 A. There's not much that we're actively

1 their relationship. You know, I can go on past  
2 history of the other children and, you know, it's a  
3 concern of mine that Desmond becomes of age and he's  
4 been frustrated his whole life so he runs away.  
5 Hasn't graduated high school because he's taking his  
6 time. Those are concerns of mine, major concerns of  
7 mine.

8 Q. Are there any positive statements you can  
9 make as to Sandra's parenting of her other two  
10 children?

11 A. Broad question. Don't know where to  
12 start. Desmond and I have had long conversations.  
13 "I hate my mother," blah, blah, blah. This is a  
14 concern of mine. He's in a very serious  
15 relationship from what I understand. Why? Because  
16 he wants to be out of the house. He wants affection  
17 and emotion and fulfillment elsewhere.

18 Unfortunately, was not involved in  
19 extracurricular activities. Unfortunately, doesn't  
20 have many skills. Hasn't graduated high school.  
21 Where does he go from here in his young years? Is  
22 he training in any area? No. Is he going to  
23 college? Probably not. I can just go based on  
24 that.

25 Q. Are there -- is there anything that you

1 engaging in together. What I mean by that is  
2 there's limited contact with one another. It's not  
3 like -- you know, I invite Sandra to Evan's baseball  
4 game last week on my time share, Sandra shows up. I  
5 invited her to show up to hockey the next day, she  
6 doesn't show up. Why doesn't she show up? Because  
7 she doesn't support hockey. But guess what? I do.

8 I support baseball, but I'm there  
9 supporting Evan and being there supporting his  
10 baseball. Was I there full time? No. So  
11 there's -- we don't -- it's not like, hey, he's  
12 playing hockey and you engage in it, I engage in it.  
13 It's not a team effort. You're doing your thing,  
14 I'm doing my thing, so it's very limited contact.

15 Q. Okay. I want to talk to you about her  
16 parenting of Evan. Is there -- and if there's  
17 nothing, that's fine. But if there are any positive  
18 aspects of her parenting of your child Evan, can you  
19 tell me what those are?

20 A. Positive?

21 Q. H'm-h'm.

22 A. Parenting?

23 Q. H'm-h'm.

24 A. Again, I'm not -- I don't know much about  
25 their relationship. Evan does not talk much about

1 can think of that would demonstrate Sandra's ability  
2 to facilitate a relationship between you and Evan?  
3 And if there's nothing, I understand. If there is  
4 anything, I would like to know what that is.

5 A. Is there anything that Sandra does for me  
6 and Evan to facilitate our relationship?

7 Q. Facilitate the relationship between you  
8 and Evan, is there any way that she promotes that  
9 relationship?

10 A. I think she does everything but that.  
11 You know -- any opportunity she gets to not allow  
12 Evan to be with me and my family for the right  
13 reasons. Has she given me extra time in the past?  
14 Yes, she has, but I don't think they were genuine.

15 The time we were getting along, there  
16 was -- I was giving something to her. I was taking  
17 care of Desmond. I got Desmond back to Sandra when  
18 he ran away because she asked me to intervene, and I  
19 did. "The only one that can get him back to me is  
20 you, Chris, because he loves and respects you and he  
21 looks up to you."

22 I intervened, I got Desmond back to his  
23 mother. They spent the holidays there. She had an  
24 outstanding bill of about \$7,000 with Margaret  
25 Pickard, I negotiated it down and I paid the bill

1 for her. Here you go, I'll pay that for you. So  
2 that's why she was very open and flexible for giving  
3 me time. As soon as our differences went a  
4 different way in September when Evan entered  
5 kindergarten, back to her old ways of finding every  
6 reason why Evan should not be with me and my family  
7 in New York.

8 He had an opportunity all of kindergarten  
9 to come to New York. I specifically spoke to the  
10 principal, he said it's not based on absences. Las  
11 Vegas is a transient city. This happens all the  
12 time. As long as Evan is keeping up with the  
13 curriculum, he can go back and forth to New York.  
14 Sandra didn't want that. Why?

15 When he went back to New York, he would  
16 have a stack of curriculum and he would do very well  
17 and he was progressing and staying up to speed with  
18 everybody in his class. Sandra didn't want it.  
19 Why? Would you rather Evan live in a hotel for ten  
20 days crammed in a hotel or would you rather him be  
21 at home in New York with a family that he's  
22 established, friends in an environment that he's  
23 comfortable with instead of living in a hotel with a  
24 bunch of tourists. What's in the best interest --  
25 it's just to spite and separate the bond and make

1 things more difficult.

2 And if she would -- and I'm just using  
3 that as one example. If she agreed to that, Evan  
4 had the ability all of last year and kindergarten to  
5 go back and forth every month and miss school. Am I  
6 in favor of that? I'm not in favor of missing all  
7 of those days of school. But I was in favor of Evan  
8 and his social development in New York and having  
9 that tie to New York. So I think I've rambled on  
10 enough and you get my point.

11 Q. Let's talk about cooperating for the  
12 benefit of your son, and if there's none, that's  
13 fine, but if there are any -- if you think that  
14 Sandra has done anything to cooperate you --  
15 cooperate with you, excuse me, in regard to the care  
16 and parenting of your son, will you tell me what  
17 that is?

18 A. With respect to what, extracurricular  
19 activities, medical?

20 Q. Anything.

21 A. Very broad. I don't know where you want  
22 me to go with this one.

23 Q. If there are any examples whatsoever, I  
24 would like to know what they are. If there's none,  
25 then there's none.

1 A. Sandra doing what?

2 Q. Cooperating with you for the benefit of  
3 your child.

4 A. I just gave you a specific example. One,  
5 why isn't he going to a private school? And  
6 unfortunately state of Nevada, the school systems  
7 are very weak, unfortunately. Why won't you agree  
8 to that? No solid reasons why. There's not a lot  
9 of cooperation.

10 Q. Okay. Last thing, I want to know any  
11 negative -- any attributes of yourself that you  
12 think reflect poorly upon your ability to parent  
13 Evan.

14 A. I think everything speaks for itself.  
15 The day Evan was born, I quit hockey to be with my  
16 child. And as you see, the majority of my finances  
17 monthly go towards facilitating my time share with  
18 my child. So I don't know that there's many parents  
19 that live 3000 miles, and I'm not patting myself on  
20 the back, that would take a committed role the way I  
21 have with my child.

22 So I know no one's perfect, so I'm not  
23 claiming I'm perfect, but I think that I've done  
24 everything in my power to be here for my child and  
25 maintain a strong relationship with him through all

1 the challenges.

2 Q. Do you think you have any weaknesses in  
3 regard to your ability to coparent with Sandra for  
4 the benefit of your son?

5 A. I think that I made it clear earlier that  
6 I had some challenges from the start, but I think  
7 that I have mastered this and I think I'm on a  
8 different level.

9 Q. Do you think that you have -- are there  
10 any weaknesses that you have with regard to your  
11 ability to cooperate with Sandra for the benefit of  
12 your son?

13 A. Yeah, we have our differences in  
14 opinions. Again, I'm not perfect and I'm not  
15 claiming to be perfect. We have different opinions  
16 and different upbringings and different attitudes --  
17 not attitude, but we have different outlooks. So,  
18 you know, I think that naturally we're going to  
19 probably disagree on a lot.

20 Q. Do you feel, though, that you overall  
21 make an effort to cooperate or do not make an effort  
22 to cooperate for the benefit of your child?

23 A. There's not a lot that she brings to me  
24 to cooperate with. I'm doing all the traveling.  
25 I'm doing all the enrollment. I'm doing all the

1 extracurricular activities. She wanted to enroll --  
2 she enrolled him into baseball, I participate in it.  
3 She enrolled him into CCD, I participate in it. She  
4 took the lead to baptize Evan. I was there for it.

5 Q. Okay. Tell me about your ability to  
6 facilitate a relationship between Evan and his  
7 mother. Do you think you have any weaknesses in  
8 that regard? And if so, what are they?

9 A. Evan, he's on his schedule calls. If  
10 there are times where Evan can't be available or  
11 he's sleeping or something, we reschedule calls and  
12 face times.

13 And when we comes back, he's with his  
14 mother. I'm not interfering with any of that. When  
15 he's with his mother, Sandra is not receiving phone  
16 calls, e-mails, texts from Margaret Pickard saying  
17 that I'm claiming this and I'm claiming that and I'm  
18 doing this and I'm doing that, I don't interfere  
19 with any of that.

20 Q. Okay. So overall, do you think that you  
21 tend to foster a close relationship between Evan and  
22 Sandra or you do not foster a close relationship  
23 between Evan and Sandra?

24 A. Evan deserves to have a relationship with  
25 his mother and his father, a loving relationship

1 with his mother and father. He should not have the  
2 unfortunate circumstance that Desmond and Kayla  
3 have. He should not be in that situation.

4 Q. Do you feel you do anything to impede the  
5 relationship between Evan and his mother?

6 A. You mean improve it?

7 Q. Impede. So do you do anything to inhibit  
8 or prevent a strong relationship between Evan and  
9 his mother?

10 A. No, there's nothing that -- again, why  
11 would I want my son to be in conflict or in pain.

12 Q. Your -- I want to talk to you about your  
13 temperament.

14 Do you feel that there are now or have  
15 been weaknesses in your temperament? Question mark?

16 A. Now?

17 Q. H'm-h'm.

18 A. Right now during this time or back when  
19 this all started?

20 Q. In this current climate, so yeah, this  
21 year, you know, generally now and additionally. The  
22 second part of that question is whether you feel  
23 like you have had temper control problems in the  
24 past.

25 MS. WILSON: Objection. Vague.

1 Compound.

2 THE WITNESS: As mentioned earlier in my  
3 testimony, we had our challenges in an unhealthy  
4 relationship. I think I have been able to figure  
5 out and manage that on a much better level as Sandra  
6 and I have limited contact with one another.

7 MR. ROY: We can call it a day.

8 MS. WILSON: I have just a couple follow  
9 ups. I would do more, but as long as you agree to  
10 let me do some follow up at trial, we'll be okay.

11 MR. ROY: Knock it out.

12 EXAMINATION

13 BY MS. WILSON:

14 Q. Chris, as a general proposition, do you  
15 believe it's generally a good idea to get to know a  
16 woman that you might be dating before you introduce  
17 her to Evan?

18 A. Do I think it's --

19 Q. A good idea to get to know someone you  
20 might be dating before you introduce her to Evan?

21 A. Sure. Yeah, I think it would be wise for  
22 me to know that person.

23 Q. I'm not asking you about a specific  
24 situation, I'm just asking you generally.

1 As a general proposition you begin to  
2 date somebody you've never met before, would you  
3 just immediately introduce that person to Evan?

4 A. I don't see the harm in that.

5 Q. A person you've never met in your life  
6 you're going to immediately introduce that person to  
7 your son?

8 A. I mean, if that person I'm dating should  
9 not be introduced to my son, I think it would be  
10 wise to know that person a little, yeah.

11 Q. Okay. Earlier today you were asked about  
12 your income, and you summarized your 2014 income as  
13 \$140,000 total, of that salary was \$125,000.

14 Do you sill have a salary of \$125,000  
15 today?

16 A. No.

17 Q. You also received medical benefit valued  
18 at approximately \$10,000, do you continue to receive  
19 that medical benefit today?

20 A. No.

21 Q. And you received an auto allowance of  
22 \$500 per month, do you have that auto allowance  
23 today?

24 A. No.

25 Q. When did those things go away?

1 A. September of 2015.  
2 Q. Why was that?  
3 A. The company I was working for filed for  
4 bankruptcy.

5 MS. WILSON: Thank you. That's all I'll  
6 do. I'm okay with doing follow up at trial, and we  
7 will save time today.

8 MR. ROY: Sounds good.  
9 (Thereupon, the taking of the deposition  
10 concluded at 5:03 p.m.)  
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1 the County of Clark, State of Nevada, this 3rd day  
2 of December, 2015.  
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JUALITTA STEWART, RPR, CCR No. 807

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1 REPORTER'S DECLARATION  
2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) SS  
4  
5 I, Jualitta Stewart, a duly commissioned  
6 Notary Public, Clark County, State of Nevada, do  
7 hereby certify:  
8 That I reported the taking of the  
9 deposition of the witness, CHRISTOPHER M. FERRARO,  
10 commencing on Tuesday, November 24, 2015, at the  
11 hour of 9:06 a.m.  
12 That prior to being examined, the witness  
13 was by me duly sworn to testify to the truth, the  
14 whole truth, and nothing but the truth.  
15 That I thereafter transcribed my said  
16 shorthand notes into typewriting and that the  
17 typewritten transcript of said deposition is a  
18 complete, true, and accurate transcription of said  
19 shorthand notes taken down at said time.  
20 I further certify that I am not a  
21 relative or employee of any party involved in said  
22 action, nor a person financially interested in the  
23 action.  
24 IN WITNESS WHEREOF, I have hereunto set  
25 my hand and affixed my official seal in my office in

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<b>Y</b>			<b>3</b>
<p><b>yank (1)</b> 198:20</p> <p><b>yanked (2)</b> 197:16;198:2</p> <p><b>Yankee (1)</b> 58:14</p> <p><b>yard (1)</b> 203:23</p> <p><b>year (34)</b> 7:1;17:7;18:20,21;30:16; 70:16;75:8;80:25;85:5;99:7; 101:25;102:6;108:8,8;109:20; 110:10,23;113:23;116:4; 124:14;125:19;147:12,21; 151:15;167:1;168:20;173:6; 174:18;221:3,4,18;226:16; 234:4;238:21</p> <p><b>year-round (1)</b> 99:9</p> <p><b>years (61)</b> 7:3,8;8:10,18,19,20;13:5; 23:19;31:22,23;37:6,9;40:23; 44:12;50:18;54:14;59:24; 65:2,19;68:8,9;72:7;76:22; 77:21;83:24;87:13;91:3,3;</p>	<p><b>Z</b></p> <p><b>zeroed (1)</b> 169:11</p> <p align="center" data-bbox="666 2356 1102 2413"><b>1</b></p> <p><b>1 (12)</b> 27:11,11,21,21;31:12,12; 35:8,8;36:8,9;45:13,13</p>	<p align="center" data-bbox="1124 2042 1561 2099"><b>2</b></p> <p><b>20 (4)</b> 22:24;23:19;95:7;164:6</p> <p><b>2000 (2)</b> 105:24;106:3</p> <p><b>2006 (1)</b> 130:1</p> <p><b>2007 (1)</b> 130:2</p> <p><b>2012 (11)</b> 12:4;178:13;214:14; 215:15;220:18;221:1;226:5,7;</p>	<p align="center" data-bbox="1583 1470 2031 1527"><b>4</b></p> <p><b>4 (2)</b> 141:19;163:23</p> <p><b>4:00 (1)</b> 100:1</p> <p><b>40 (1)</b> 124:12</p> <p><b>40,000 (1)</b> 106:24</p> <p><b>401 (1)</b> 104:22</p> <p><b>401k (9)</b> 104:19,21;105:4,19,21,21; 106:3,6,21</p> <p><b>42 (1)</b> 110:6</p> <p align="center" data-bbox="1583 2184 2031 2241"><b>5</b></p> <p><b>5 (6)</b> 29:5,11;31:17;36:13,15; 101:1</p> <p><b>5:03 (1)</b> 241:10</p> <p><b>50 (5)</b> 92:12;93:13;94:20;183:20;</p>

220:11 50/50 (2) 108:20,23 500 (1) 108:3 5400 (1) 51:16 56 (2) 201:3;203:1			
<b>6</b>			
6 (1) 76:10 6:00 (1) 32:19 60-year-old (1) 182:22 61 (1) 225:2 6500 (1) 46:4			
<b>7</b>			
75,000 (2) 90:11,21 750,000 (1) 95:2 7-Eleven (7) 93:20,21,22;94:3,8;96:9,12			
<b>8</b>			
8:30 (1) 48:25			
<b>9</b>			
9 (1) 101:1 9:06 (1) 4:2 9:30 (1) 203:9 90 (2) 75:24;119:3 99 (2) 56:15;105:24 9th (2) 214:14;215:15			

EXHIBIT "2"

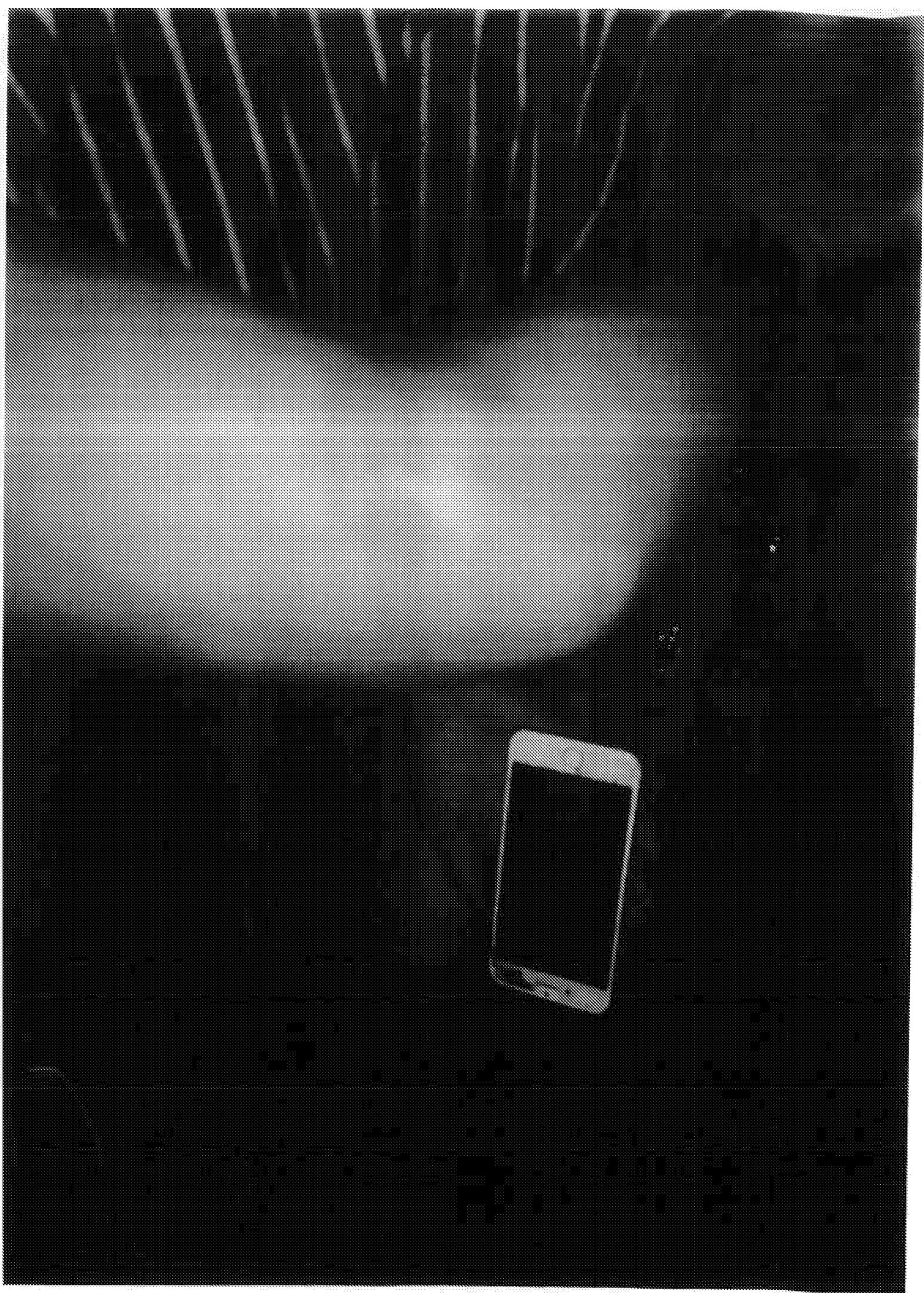




EXHIBIT "3"

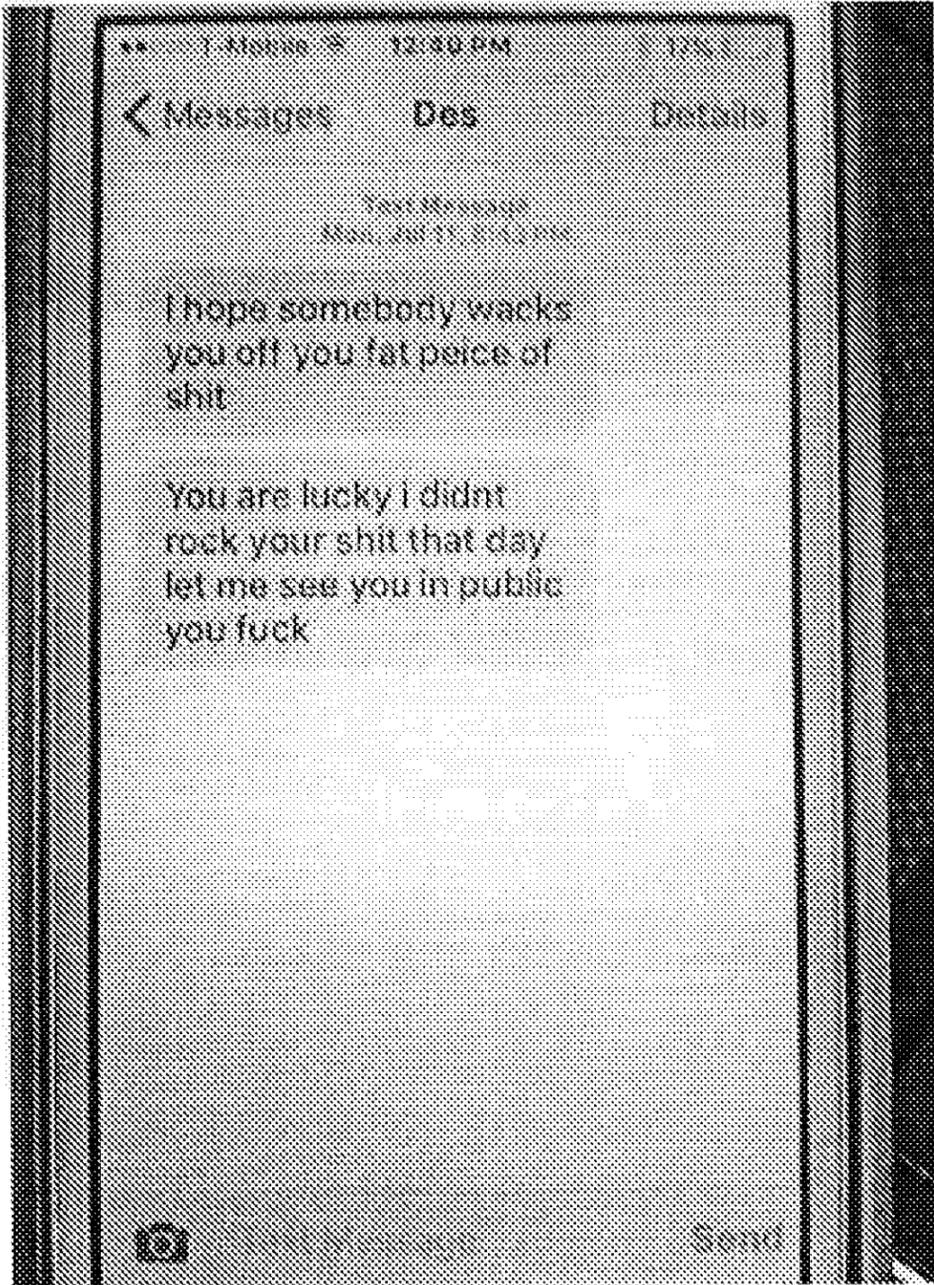


EXHIBIT "4"

Sun, Jun 18, 11:07 PM

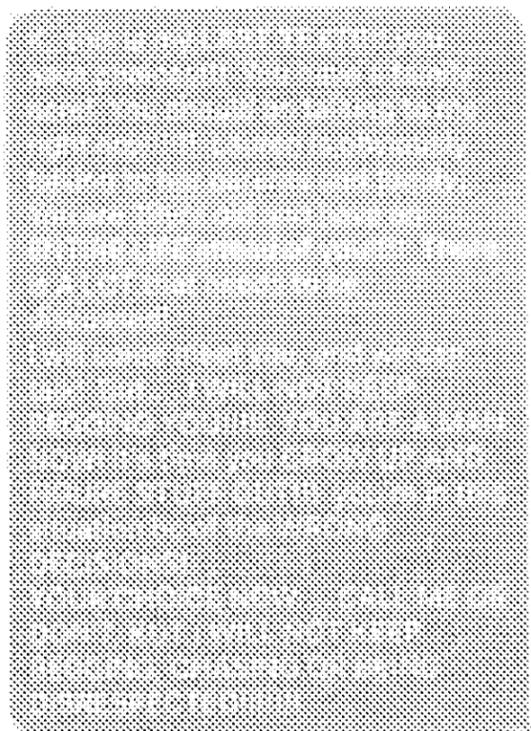
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]



Mon, Jan 20, 11:01 AM



I have nothing to say to you im not  
SO I dont need your help anymore  
thanks



Text Message

Send



Wed, Jul 11, 9:45 PM

Stop texting me from your fucking daughters phone you bitch just worry about fucking your lawyer hoe

Have a nice fucking life you cunt im texting your ex husband and going against all of your shit bye bitch

Mon, Jul 11, 2016

Here is the chris ferners



You think im a buli shitter bitch fuck

EXHIBIT "6"

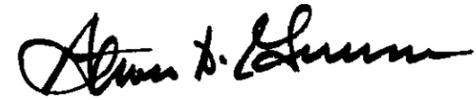
Helo is this chris ferraro



You think im a bull shitter bitch fuck you

Thu, Jul 16, 10:03 AM

Just wanted to let you know i will be meeting with sharnow wilson in the morning and thank you for doing everything to wreck my life she and everyone else will know about everything you put your kids through



CLERK OF THE COURT

1 **SUPP**  
2 JASON NAIMI, ESQ.  
3 Nevada Bar No. 9441  
4 [jason@standishnaimi.com](mailto:jason@standishnaimi.com)  
5 STANDISH NAIMI LAW GROUP  
6 1635 Village Center Circle, Suite 180  
7 Las Vegas, Nevada 89134  
8 Telephone: (702) 998-9344  
9 Facsimile: (702) 998-7460

6 SHELLY BOOTH COOLEY, ESQ.  
7 Nevada Bar No. 8992  
8 [scooley@cooleylawlv.com](mailto:scooley@cooleylawlv.com)  
9 THE COOLEY LAW FIRM  
10 10161 Park Run Drive, Suite 150  
11 Las Vegas, Nevada 89145  
12 Telephone: (702) 265-4505  
13 Facsimile: (702) 645-9924

*Attorneys for Plaintiff*

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

14 SANDRA L. NANCE,  
15 Plaintiff,

16 vs.

17 CHRISTOPHER M. FERRARO,  
18 Defendant.

Case No. D-10-426817-D  
Dept. No. F

Date of hearing: August 16, 2016  
Time of hearing: 3:30 p.m.

19 **SUPPLEMENT TO OPPOSITION TO DEFENDANT'S MOTION TO REOPEN TRIAL**  
20 **OR IN THE ALTERNATIVE FOR NEW TRIAL LIMITED TO HEAR**  
21 **TESTIMONY OF DESMOND NANCE**  
22 **AND COUNTERMOTION FOR ATTORNEY'S FEES AND OTHER RELATED RELIEF**

22 Plaintiff, Sandra L. Nance ("Mother"), by and through her attorneys of record, JASON  
23 NAIMI, ESQ., of STANDISH NAIMI LAW GROUP, and SHELLY BOOTH COOLEY, ESQ., of  
24 The Cooley Law Firm, and supplements her Opposition to Defendant's Motion to Reopen Trial or in  
25 the Alternative for New Trial Limited to Hear Testimony of Desmond Nance and Countermotion for  
26 Attorney's Fees, and respectfully requests the Court enter its order granting the following relief.

27 ///

28 ///

STANDISH NAIMI LAW GROUP  
1635 Village Center Circle, Suite 180 Las Vegas, NV 89134  
Telephone: (702) 998-9344 Fax: (702) 998-7460

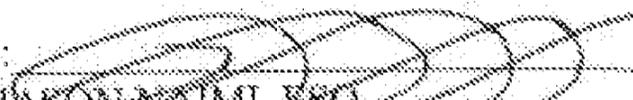
STANDISH NAIMI LAW GROUP  
1635 Village Center Circle, Suite 180 Las Vegas, NV 89134  
Telephone: (702) 998-9344 Fax: (702) 998-7460

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28

This Supplement is made and based upon the pleadings and papers on file herein, the Affidavits attached hereto, the exhibits attached, and the argument at the hearing hereon.

DATED this 12 day of August, 2016.

STANDISH NAIMI LAW GROUP

By:   
JASON NAIMI, ESQ.  
Nevada State Bar No. 9441  
1635 Village Center Circle, Suite 180  
Las Vegas, Nevada 89134

SHELLY BOOTH COOLEY, ESQ.  
THE COOLEY LAW FIRM  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145

*Attorneys for Plaintiff*

I.

POINTS AND AUTHORITIES

A. BACKGROUND.

By way of his pending Motion to Reopen Trial, Defendant, Christopher Michael Ferraro ("Father"), has requested that the Trial in this matter be reopened for the limited purpose of allowing Desmond Nance ("Desmond") to testify. Plaintiff, Sandra Nance ("Mother"), opposed Father's Motion and provided this Court with considerable evidence supporting her position that Father's Motion should be denied in it's entirety.

Since the filing of Mother's Opposition and Countermotion on August 10, 2016, Desmond's ex-girlfriend, Lauren, received a Temporary Restraining Order against Desmond in Case No. T-16-173676-T. Lauren's cell phone number is (702) 602-0534.

///  
///  
///

STANDISH NAIMI LAW GROUP  
1635 Village Center Circle, Suite 180 Las Vegas, NV 89134  
Telephone: (702) 998-9344 Fax: (702) 998-7460

1 Attached hereto as Exhibit "1" is a copy of a text sent to (702) 602-0534 on August 11, 2016,  
2 stating that Desmond is "sending everyone your nudes."<sup>1</sup>

3 Attached hereto as Exhibit "2" are copies of numerous text messages sent to (702) 602-0534  
4 on August 11, 2016, after the text message advising her that Desmond was sending nude pictures of  
5 her to "everyone."

6 Attached hereto as Exhibit "3" is a text message sent to (702) 602-0534 wherein someone is  
7 threatening,  
8

9 I'm going to kill you bitch . . . [w]atch your back bitch I'm coming with  
10 everything I have and whomever you are with can take it too . . . Yeah exactly you  
11 should be scared

12 Dated this 12<sup>th</sup> day of August, 2016.

13 STANDISH NAIMI LAW GROUP

14   
15 JASON NAIMI, ESQ.  
16 Nevada State Bar No. 9441  
1635 Village Center Circle, Suite 180  
Las Vegas, Nevada 89134

17 SHELLY BOOTH COOLEY, ESQ.  
18 THE COOLEY LAW FIRM  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145

19 *Attorneys for Plaintiff*

20  
21  
22  
23  
24  
25  
26  
27  
28 <sup>1</sup>The Court will recall that Lauren is a minor. Lauren has stated to undersigned counsel that she did not give Desmond any nude photographs of herself, or give him permission to photograph her nude. If Desmond is, in fact, disseminating "nude" photographs of Lauren, he is disseminating child pornography, which brings his character into further question.

DECLARATION OF JASON NAIMI, ESQ.

I, JASON NAIMI, ESQ., am an attorney licensed to practice in the State of Nevada and I am counsel for the Plaintiff, Sandra L. Nance ("Mother") in the above-referenced action; that by virtue of that fact, I have personal knowledge of the matters contained herein and I am competent to testify to the same. I have read the foregoing *SUPPLEMENT TO OPPOSITION TO DEFENDANT'S MOTION TO REOPEN TRIAL OR IN THE ALTERNATIVE FOR NEW TRIAL LIMITED TO HEAR TESTIMONY OF DESMOND NANCE AND COUNTERMOTION FOR ATTORNEY'S FEES AND OTHER RELATED RELIEF* and attest to the below referenced facts as being true and correct to the best of my knowledge.

1. Since the filing of Mother's Opposition and Countermotion on August 10, 2016, Desmond's ex-girlfriend, Lauren, received a Temporary Restraining Order against Desmond in Case No. T-16-173676-T.

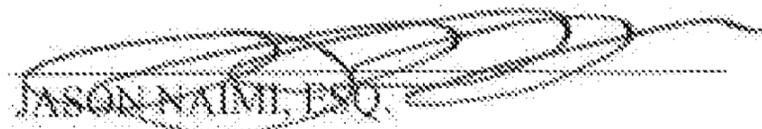
2. Upon information and belief, Lauren's cell phone number is (702) 602-0534.

4. Upon information and belief, attached hereto as Exhibit "1" is a copy of a text sent to (702) 602-0534 on August 11, 2016.

5. Upon information and belief, attached hereto as Exhibit "2" are copies of numerous text messages sent to (702) 602-0534 on August 11, 2016.

6. Upon information and belief, attached hereto as Exhibit "3" is a copy of a text message sent to (702) 602-0534 on August 11, 2016.

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

  
JASON NAIMI, ESQ.

# EXHIBIT “1”

Messages

(702) 637-2393

Details

Text Message  
Yesterday 4:55 PM

Desmond is sending everyone your nudes

Who is this

And send it to me then as proof

I'm not sending anything you deserve it for what you did to him

He said he was going to put you on this website with your number

I have 2 pictures of you fingering yourself



Text Message

Send

Messages

(754) 300-4155

Details

Text Message  
Yesterday 5:17 PM

Are you single

Hey are you down



*[Faint, illegible text]*

Send

Messages

(702) 723-6981

Details

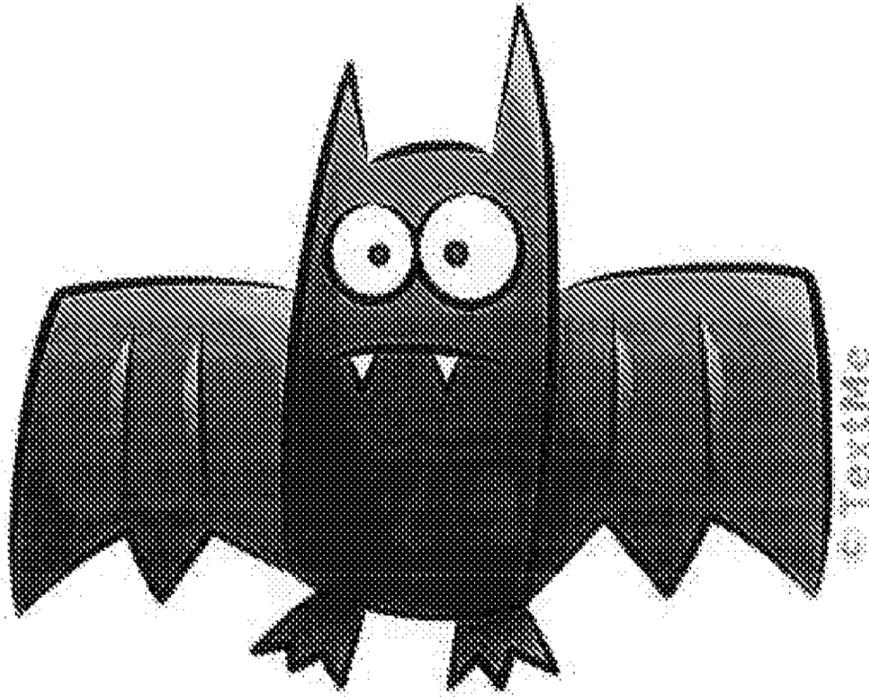
Text Message  
Yesterday 6:24 PM

Same thing happened to me fuck you  
bitch you are in the same category as  
my ex I see this all the time you  
deserved to be exposed ahahahaha



Message

Send



I just sent you a sticker:

[4k161v.xtm3.us/](http://4k161v.xtm3.us/)

I just sent you a sticker:

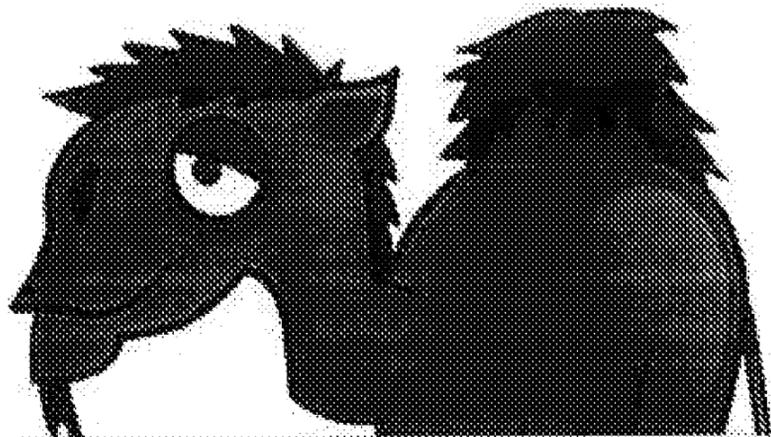
[o2j0mo.xtme.us/](http://o2j0mo.xtme.us/)

I just sent you a sticker:

[85a6aj.xtme.us/](http://85a6aj.xtme.us/)

I just sent you a sticker:

[nx9895.xtme.us/](http://nx9895.xtme.us/)



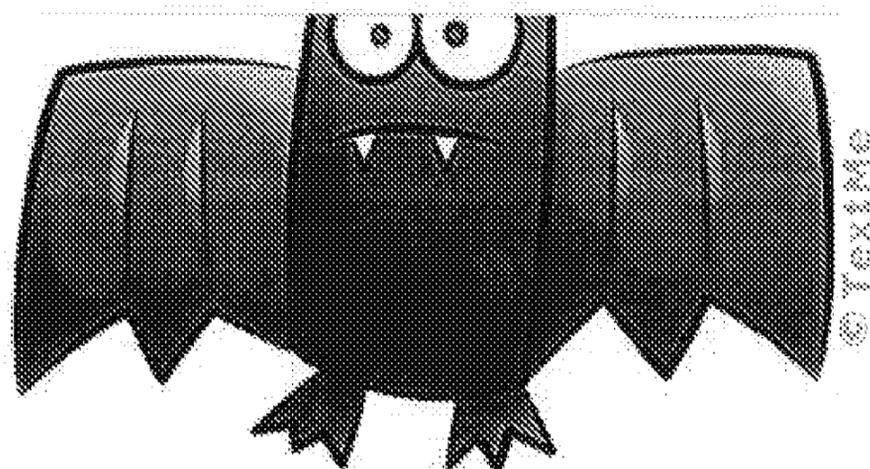
Text Message

Send

Messages

(917) 409-4777

Details



I just sent you a sticker:  
[60d63p.frtn.us/](https://60d63p.frtn.us/)

I just sent you a sticker:  
[vzim57.frtn.us/](https://vzim57.frtn.us/)

I just sent you a sticker:  
[97o6vw.frtn.us/](https://97o6vw.frtn.us/)

I just sent you a sticker:  
[4k16v5.frtn.us/](https://4k16v5.frtn.us/)

I just sent you a sticker:  
[2xp604.frtn.us/](https://2xp604.frtn.us/)



Take a message

Send

Messages

(917) 409-4777

Details

[85q60z.xtm3.us/](#)

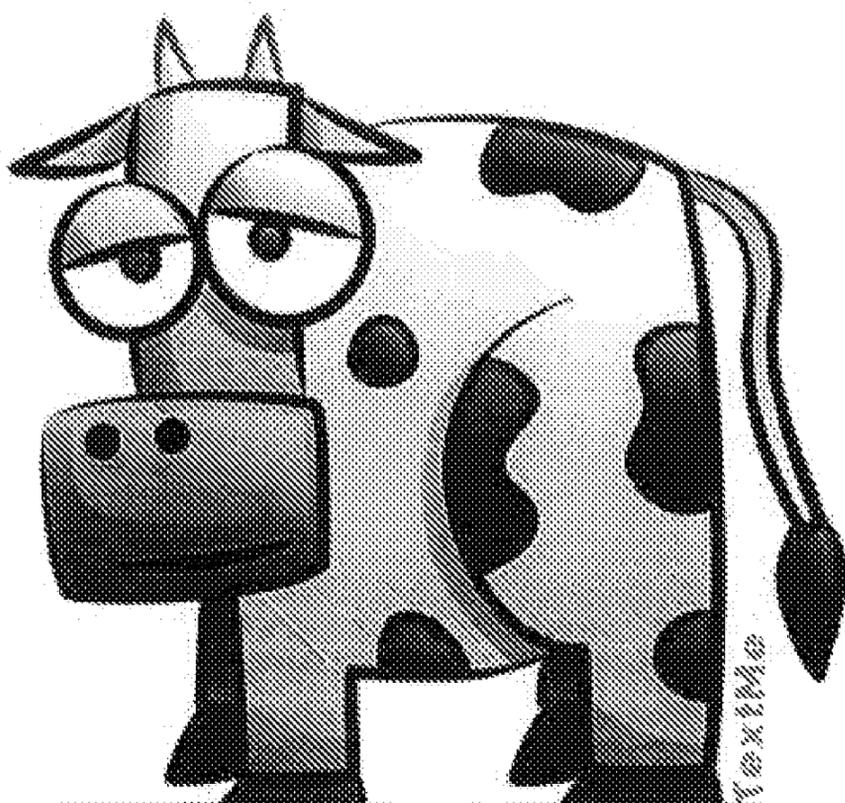


I just sent you a sticker:

[85q60z.xtm3.us/](#)

I just sent you a sticker:

[q8xp2o.frtn.us/](#)



Tap to take a picture

Send

Messages

(917) 409-4777

Details

I just sent you a sticker:  
[o2j0kj.frtn.us/](https://o2j0kj.frtn.us/)

I just sent you a sticker:  
[60d6k3.xtm3.us/](https://60d6k3.xtm3.us/)

I just sent you a sticker:  
[m4zkxq.frtn.us/](https://m4zkxq.frtn.us/)

I just sent you a sticker:  
[4k16x4.xtme.us/](https://4k16x4.xtme.us/)

I just sent you a sticker:  
[vzjmop.frtn.us/](https://vzjmop.frtn.us/)

I just sent you a sticker:  
[2xp6ok.frtn.us/](https://2xp6ok.frtn.us/)

I just sent you a sticker:  
[o2j00j.xtm3.us/](https://o2j00j.xtm3.us/)

I just sent you a sticker:  
[q8xpko.frtn.us/](https://q8xpko.frtn.us/)

I just sent you a sticker:  
[7wd669.xtme.us/](https://7wd669.xtme.us/)



Write a message

Send

Messages

(917) 409-4777

Details



I just sent you a sticker:

[w945m4.xtme.us/](http://w945m4.xtme.us/)

I just sent you a sticker:

[4k1689.xtm3.us/](http://4k1689.xtm3.us/)

I just sent you a sticker:

[2xp625.xtm3.us/](http://2xp625.xtm3.us/)

I just sent you a sticker:

[vzjm11.frtn.us/](http://vzjm11.frtn.us/)



I just sent you a sticker:

[w945w4.frtn.us/](http://w945w4.frtn.us/)

I just sent you a sticker:



App Store

Send

Messages

(917) 409-4777

Details

[7wd6e4.xtme.us/](https://7wd6e4.xtme.us/)

I just sent you a sticker:

[m4zkwx.xtm3.us/](https://m4zkwx.xtm3.us/)



Message in a Bottle

Send

mobile

(2)

mobile

Yesterday



+1 (917) 409-4777 (4)

New York, NY

Yesterday



+1 (775) 335-7081 (2)

Reno, NV

Yesterday



+1 (337) 899-8638

unknown

Yesterday



+1 (530) 145-7369

unknown

Yesterday



+1 (803) 235-6009

Lancaster, SC

Yesterday



+1 (361) 448-9343

George West, TX

Yesterday



+1 (853) 575-5066

unknown

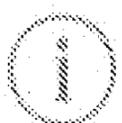
Yesterday



No Caller ID

unknown

Yesterday



No Caller ID

Messages

(702) 901-6752

Details

Text Message  
Yesterday 5:14 PM

Hey you are pretty hot you should  
hmu sometime ;



Message

Send

Messages

(702) 956-8460

Details

Text Message  
Yesterday 5:33 PM

Hey you stay in my area hmu  
sometime hottie



Send

Messages

(917) 409-4777

Details

Text Message  
Yesterday 6:49 PM

I just sent you a sticker:

[vzim94.frtn.us/](http://vzim94.frtn.us/)

I just sent you a sticker:

[97o6ox.frtn.us/](http://97o6ox.frtn.us/)

I just sent you a sticker:

[7wd6oq.frtn.us/](http://7wd6oq.frtn.us/)

I just sent you a sticker:

[w945ym.frtn.us/](http://w945ym.frtn.us/)

I just sent you a sticker:

[7wd6dq.frtn.us/](http://7wd6dq.frtn.us/)

I just sent you a sticker:

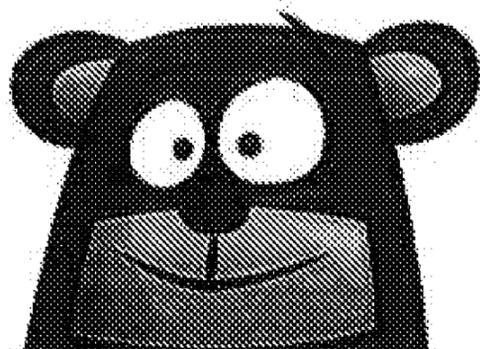
[w9454m.frtn.us/](http://w9454m.frtn.us/)

I just sent you a sticker:

[60d6om.xtm3.us/](http://60d6om.xtm3.us/)

I just sent you a sticker:

[q8xpe5.xtme.us/](http://q8xpe5.xtme.us/)



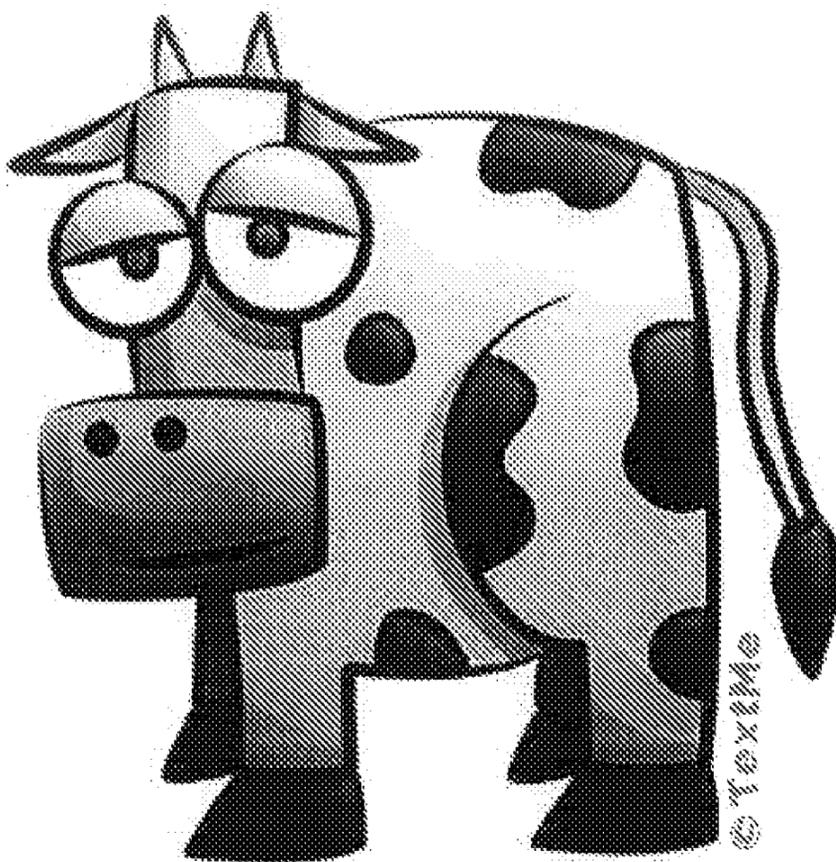
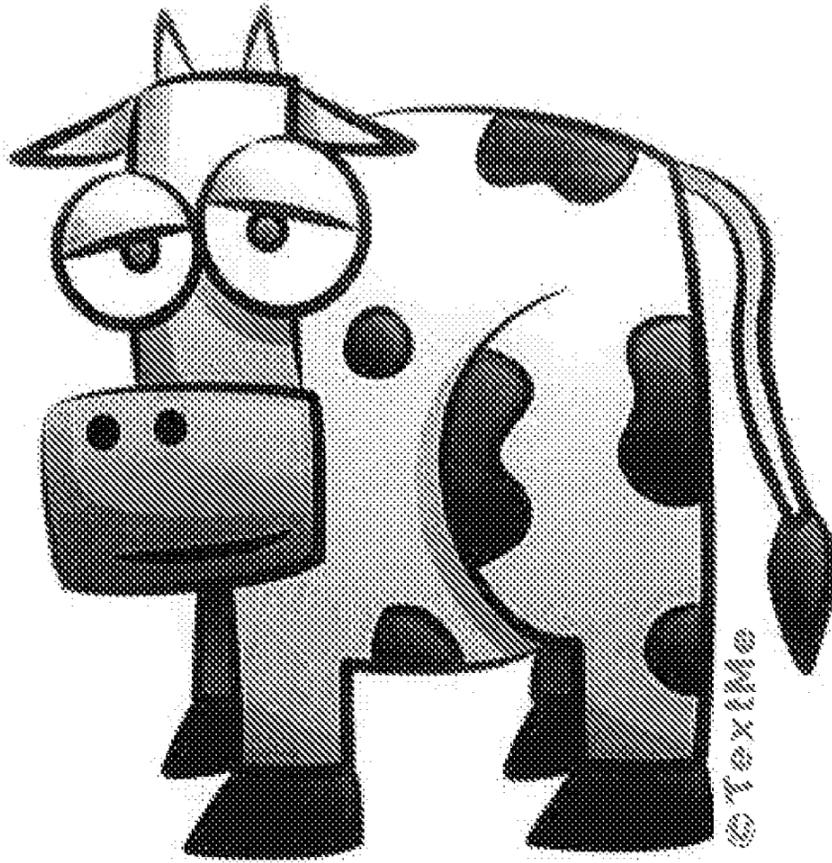
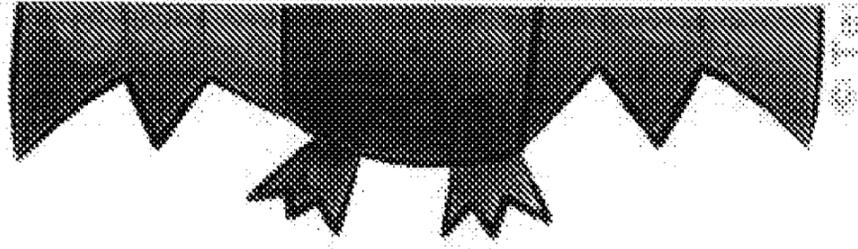
Text Message

Send

Messages

(917) 409-4777

Details



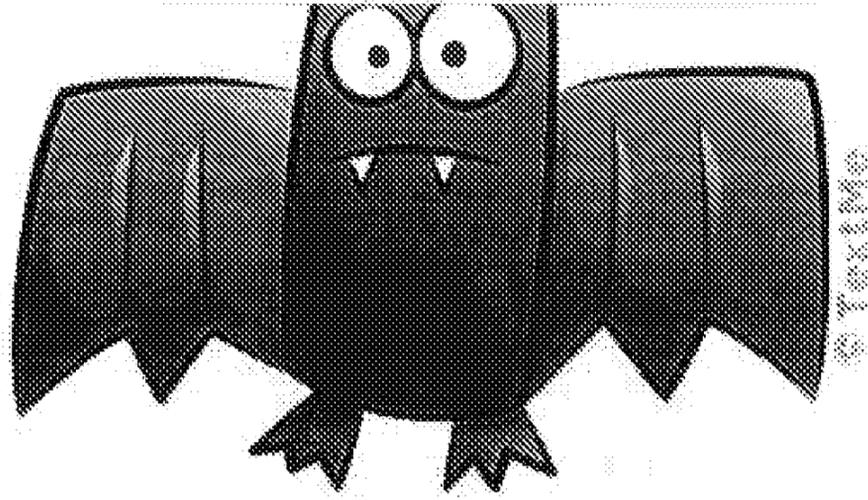
Message

Send

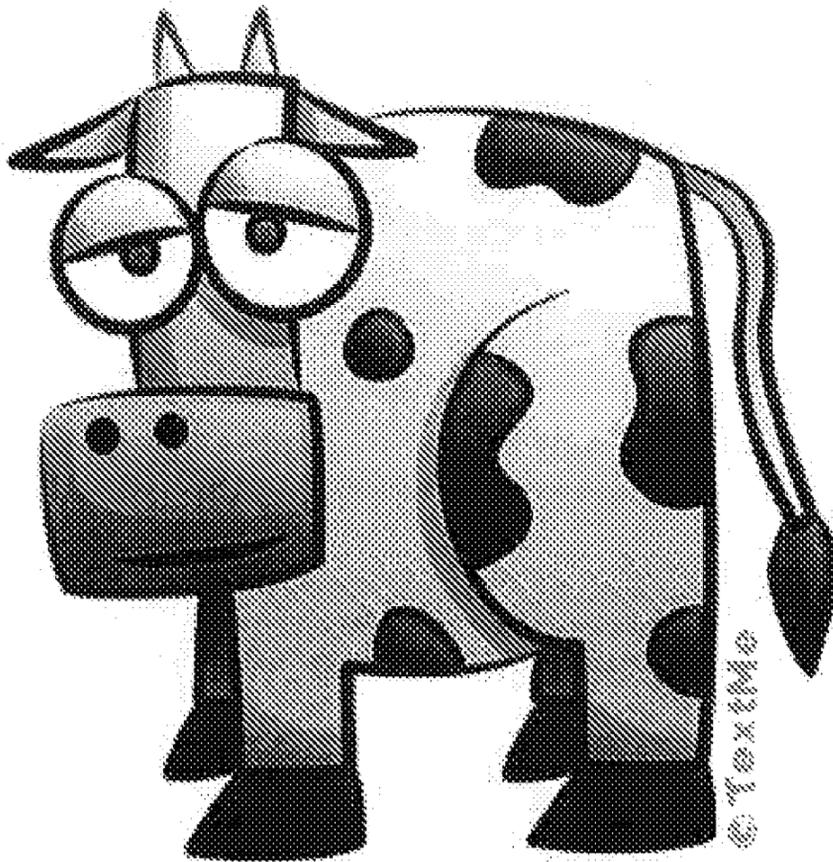
Messages

(917) 409-4777

Details



I just sent you a sticker:  
[97o6jp.frtn.us/](http://97o6jp.frtn.us/)



I just sent you a sticker:  
[m4zk1v.frtn.us/](http://m4zk1v.frtn.us/)

I just sent you a sticker:  
[4k16n4.xtm3.us/](http://4k16n4.xtm3.us/)

I just sent you a sticker:



Take a picture or video

Send

Messages

(917) 409-4777

Details



I just sent you a sticker:  
[nx988w.frtn.us/](https://nx988w.frtn.us/)

I just sent you a sticker:  
[nx98zq.xtm3.us/](https://nx98zq.xtm3.us/)

I just sent you a sticker:  
[m4zk71.xtm3.us/](https://m4zk71.xtm3.us/)

I just sent you a sticker:  
[60d663.frtn.us/](https://60d663.frtn.us/)

I just sent you a sticker:  
[60d6xz.xtme.us/](https://60d6xz.xtme.us/)

I just sent you a sticker:  
[4k1649.frtn.us/](https://4k1649.frtn.us/)

I just sent you a sticker:  
[2xp695.xtme.us/](https://2xp695.xtme.us/)

I just sent you a sticker:  
[85q68p.xtme.us/](https://85q68p.xtme.us/)

I just sent you a sticker:  
[2xp645.xtme.us/](https://2xp645.xtme.us/)

I just sent you a sticker:  
[nx98kq.frtn.us/](https://nx98kq.frtn.us/)



Take a picture or video

Send

Messages

(917) 409-4777

Details

I just sent you a sticker:  
[97o68d.xtm3.us/](https://97o68d.xtm3.us/)

I just sent you a sticker:  
[60d6wz.frtn.us/](https://60d6wz.frtn.us/)

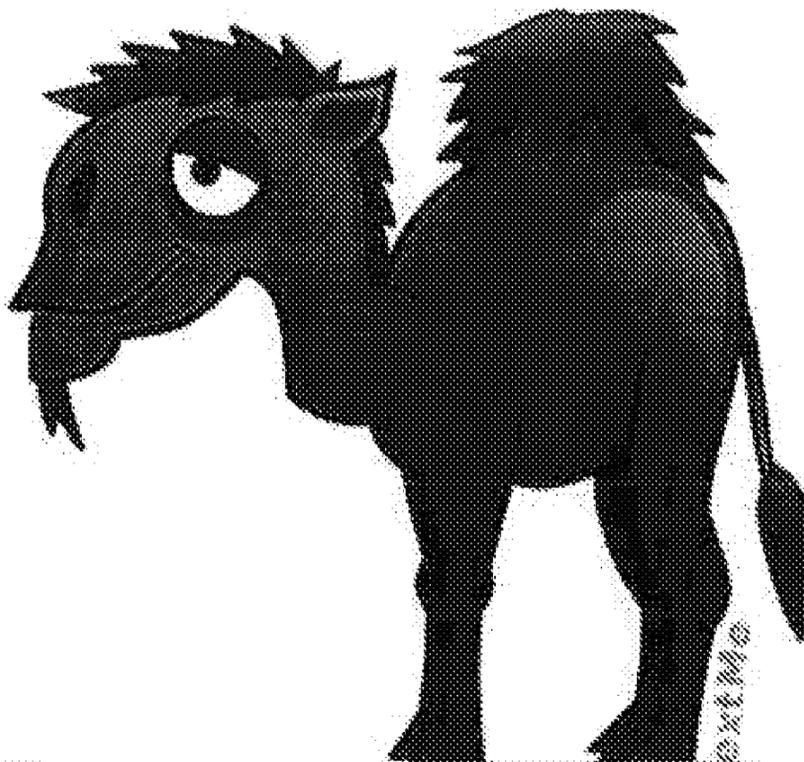
I just sent you a sticker:  
[nx987q.frtn.us/](https://nx987q.frtn.us/)

I just sent you a sticker:  
[m4zk51.xtme.us/](https://m4zk51.xtme.us/)

I just sent you a sticker:  
[2xp6kp.frtn.us/](https://2xp6kp.frtn.us/)

I just sent you a sticker:  
[97o63d.xtm3.us/](https://97o63d.xtm3.us/)

I just sent you a sticker:  
[97o6dm.frtn.us/](https://97o6dm.frtn.us/)



Message

Send

 Messages

(702) 602-0534

Details

Text Message  
Yesterday 7:33 PM

I'm going to kill you bitch

There has been been a lot of people  
dying in Vegas watch your back toots

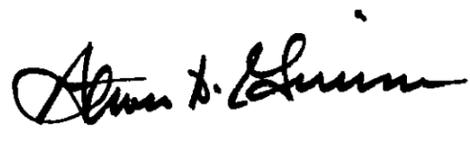
You were part of my friend Robert  
dying I'm coming for you

Watch your back bitch I'm coming  
with everything I have and whomever  
you are with can take it too

Yeah exactly you should be scared



Send



CLERK OF THE COURT

1 **RPLY**  
Shannon R. Wilson (9933)  
2 Todd L. Moody (5430)  
HUTCHISON & STEFFEN, LLC  
3 Peccole Professional Park  
10080 West Alta Drive, Suite 200  
4 Las Vegas, NV 89145  
Tel: (702) 385-2500  
5 Fax: (702) 385-2086  
[swilson@hutchlegal.com](mailto:swilson@hutchlegal.com)

6 Attorneys for *Defendant Christopher Michael Ferraro*

8 **DISTRICT COURT- FAMILY DIVISION**

9 **CLARK COUNTY, NEVADA**

10 SANDRA LYNN NANCE )

11 Plaintiff(s), )

12 v. )

13 CHRISTOPHER MICHAEL FERRARO )

14 Defendant(s). )

CASE NO. D-10-426817-D  
DEPT NO. F

**DEFENDANT'S REPLY TO  
MOTION TO REOPEN TRIAL OR  
IN THE ALTERNATIVE FOR NEW  
TRIAL LIMITED TO HEAR  
TESTIMONY OF DESMOND  
NANCE AND OPPOSITION TO  
PLAINTIFF'S COUNTERMOTION  
FOR ATTORNEY'S FEES**

Date of Hearing: August 16, 2016  
Time of Hearing: 3:30 p.m.  
Oral Argument:

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20 Defendant Christopher Ferraro, by and through his attorneys of record of Hutchison &  
21 Steffen, submits his Reply to Plaintiff's Opposition to Defendant's Motion to Reopen Trial or  
22 in the Alternative for New Trial Limited to Hear Testimony of Desmond Nance and Opposition  
23 to Plaintiff's Countermotion for Attorney's Fees. Defendant respectfully requests the Court  
24 GRANT his Motion to reopen trial for the limited purpose of taking evidence from Desmond  
25 Nance as it relates to the post-trial statements he made via text message to Chris and Sandra.  
26 Further, Defendant respectfully requests: (1) the Court strike Exhibit 1 to Plaintiff's  
27 Opposition; and (2) deny Plaintiff's Countermotion for Attorney's Fees because NRS  
28 18.010(2)(b) cannot support an award of attorneys' fees in this matter.

**HUTCHISON & STEFFEN**

A PROFESSIONAL LLC  
PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NV 89145

1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **1. INTRODUCTION**

3 Defendant Christopher Ferraro submits his reply in support of his motion to reopen trial  
4 for the limited purpose of taking testimony from Desmond Nance and his Opposition to  
5 Plaintiff's Counter-motion for attorney's fees. Mr. Ferraro respectfully requests that the Court:  
6 (1) STRIKE Exhibit 1 attached to Plaintiff Sandra Nance's opposition, which is Defendant's  
7 entire deposition transcript because the majority of it is irrelevant to the issues in his motion  
8 and is mostly concerned with matters that were excluded by this Court's Order Granting  
9 Defendant's Motion in Limine No. 2; (2) grant his motion because, the narrow issues set forth  
10 in Defendant's Motion were brought to the court's attention for the limited purpose of  
11 establishing what transpires in Sandra's household not what has transpired between Desmond  
12 and his ex-girlfriend, which is the main topic of Ms. Nance's opposition; and (3) deny  
13 Plaintiff's Countermotion for Attorney fees's under NRS 18.010(2)(b) because an award of  
14 attorneys' fees cannot be supported by the facts of this motion.

15 **2. FACTS**

16 This Court is familiar with the facts of this Case. In summary, this is a post-divorce,  
17 child custody action arising from Defendant Christopher Ferraro's motion to relocate the  
18 parties' son, Evan Ferraro, from Las Vegas to New York. (Mot. filed Jun. 19, 2015.) Plaintiff  
19 Sandra Nance opposed the relocation request. (Oppn. filed Aug. 4, 2015.) Discovery was open  
20 from August 12, 2015 to January 4, 2016. (See Ord. re Hg. of Aug. 12, 2015 & Case Mgmt.  
21 Ord. filed Oct. 13, 2015; see also Stip. & Ord. filed Dec. 23, 2015.) Trial was held on June 27,  
22 June 28, and June 29, 2016. Defendant rested his case in chief on June 27, 2016. Plaintiff  
23 rested her case in chief on June 29, 2016.

24 After trial, on July 11, 2016, Mr. Ferraro received a text message and phone call from  
25 Ms. Nance's adult son, Desmond Nance, who turned nineteen (19) on May 10, 2016 and who is  
26 Evan's half brother, stating: "I have every reason to say why Evan should not be in that house,"  
27 and a few days later an email from Ms. Nance with a copy of a text from Desmond to his  
28

1 mother, saying: “everyone else will know about everything you put your kids through.” On  
2 their face, these statements appear directly relevant for the Court’s consideration of Evan’s best  
3 interest.

4 **3. LAW & ARGUMENT**

5 **A. Defendant requests that the Court STRIKE Plaintiff’s Exhibit 1, which is Mr.**  
6 **Ferraro’s entire deposition transcript because the majority of it is irrelevant to the**  
7 **issues before the Court and mostly contains matters that were excluded by this**  
8 **Court’s order granting Defendant’s Motion in Limine No. 2.**

9 NRS 48.025 states that only relevant evidence is admissible and evidence which is not  
10 relevant is not admissible. NRS 48.025. Relevant evidence is defined as “evidence having any  
11 tendency to make the existence of any fact that is of consequence to the determination of the  
12 action more or less probable that it would without the evidence.” NRS 48.015. Previously, this  
13 Court GRANTED Defendant’s Motion in Limine No. 2 which excluded facts and  
14 circumstances pre-dating the last custody order.

15 Here, the majority of Mr. Ferraro’s deposition is irrelevant to the limited issue in his  
16 motion, i.e., whether Desmond’s post-trial allegations regarding what transpires in Ms. Nance’s  
17 household affect the best interests of Evan. However, during Mr. Ferraro’s deposition Ms.  
18 Nance’s prior counsel spent the majority of the deposition inquiring about matters that pre-  
19 dated the last custody order entered in November 2012, and which were excluded by this  
20 Court’s order in limine entered on March 9, 2016. Allowing Mr. Ferraro’s deposition in its  
21 entirety runs afoul of this Court’s order. Incidentally, Mr. Ferraro’s deposition transcript was  
22 not published or otherwise admitted at the time of trial. For each of these reasons, Exhibit 1  
23 should be struck from Ms. Nance’s opposition.

24 In the event that there are relevant and admissible portions of the transcript, those  
25 should be identified and produced in excerpt by Ms. Nance.

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1 **B. Defendant's motion was brought to establish those things that Desmond alleges**  
2 **transpire in Sandra's household and are contrary to Evan's best interest, not what**  
3 **has transpired between Desmond and his girlfriend.**

4 Plaintiff's opposition appears designed to establish that Desmond is an unstable young  
5 adult and impugn his credibility by improperly and irrelevantly focusing on the relationship  
6 between Desmond and his ex-girlfriend. The premise of Defendant's motion was very simple –  
7 Desmond claims there is evidence relevant to Evan's living environment. Regardless of  
8 Desmond's problems, the information he has as to what transpires in his mother's household is  
9 relevant to Evan's best interest which is a material element of the case pending before the  
10 Court. *See e.g.*, NRS 125C.007; *see also, Ellis v. Carucci*, 123 Nev. 145, 153, 161 P.3d 239,  
11 244 (2007).

12 Defendant understands that Desmond is going through a hard time in his life and has  
13 problems with the entire Nance family. What appears to be transpiring with his exgirlfriend is  
14 tragic and deplorable. However, this does not mean that there is no relevant information that  
15 may assist the Court in determining whether Ms. Nance's household and living environment is  
16 in Evan's best interest. If anything, it further begs the question. After the relevant information  
17 has been provided, the Court may weigh the credibility of the witness as it sees fit.

18 Ms. Nance accuses Mr. Ferraro of contributing to Desmond's current circumstances and  
19 failing to co-parent Desmond with her. Let us not forget, Desmond is not Mr. Ferraro's child,  
20 and Mr. Ferraro's attempts to co-parent the child they do share (Evan) are consistently rebuffed  
21 by Ms. Nance. Nevertheless, whenever asked by Ms. Nance, Mr. Ferraro provided for  
22 Desmond in many ways and looked out for Desmond's best interest, including but not limited  
23 to inviting him into his home, engaging him in sports, and even offering to provide both of Ms.  
24 Nance's children with educational opportunities if she decided to relocate to New York. The  
25 relationship was not always perfect, but these downturns always coincided with Ms. Nance's  
26 own decision to have nothing to do with Mr. Ferraro, and it was not in Mr. Ferraro's power to  
27 maintain the relationship whereas Ms. Nance would not allow it. Mr. Ferraro has no desire to  
28 use Desmond as a "pawn," that is what Ms. Nance has always done. Mr. Ferraro  
communicated to Ms. Nance that if he heard from Desmond again, then he would encourage

1 Desmond in healthy directions, but he has not heard from Desmond again. Of course none of  
2 this really has anything to do with the key point which is, does Desmond have information that  
3 is relevant to Evan's best interest? And, if he does have such information, is it necessary to the  
4 Court's decision?

5 Since completing the closing arguments and oppositions to the same, Mr. Ferraro  
6 believes the Court has everything that it needs to rule in his favor and relocate Evan to New  
7 York without any testimony from Desmond. It is only if the Court is inclined to deny Mr.  
8 Ferraro's motion for relocation that the Court needs to hear from Desmond as to what he had in  
9 mind when he said, "I have every reason to say why Evan should not be in that house," and  
10 "everyone else will know about everything you put your kids through."

11 **C. Opposition for Countermotion for Attorney's Fees.**

12 Plaintiff's Opposition to Defendant's Motion in Limine includes a Countermotion  
13 which seeks an award of attorneys' fees to Plaintiff. The request for attorneys' fees is without  
14 merit and should be denied because this Motion has not been brought without reasonable  
15 grounds or to harass the prevailing party.

16 Plaintiff suggests that she is entitled to attorneys' fees under NRS 18.010(2)(b).  
17 However, the statute applies only in favor of a *prevailing party* and may only be brought  
18 against a party who brings or maintains a claim or defense *without reasonable ground or to*  
19 *harass* the prevailing party. (NRS 18.010(2)(b); *see also Bergmann v. Boyce*, 109 Nev. 670,  
20 675, 856 P.2d 560, 563 (1993) ("In assessing a motion for attorney's fees under NRS  
21 18.010(2)(b), the trial court must determine whether the plaintiff had reasonable ground for its  
22 claims".) Plaintiff argues that this motion is simply an attempt by Defendant to deprive  
23 Plaintiff of her relationship with Evan and to increase her attorney's fees and costs in the  
24 matter. Here, there still is no determination of which party is the "prevailing party." Moreover,  
25 Defendant has pursued motion practice where he believed it necessary to preserve or enforce  
26 his legal rights. Defendant has not deprived Plaintiff of her relationship with Evan and has  
27 been very open and willing to Sandra's future interaction with Evan. Accordingly, NRS  
28 18.010(2)(b) cannot support an award of attorneys' fees.

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**4. CONCLUSION**

Based on the foregoing, Defendant Christopher Ferraro respectfully requests the Court reopen trial for the limited purpose of taking evidence from Desmond Nance as it relates to post-trial statements made via text message to Mr. Ferraro and Ms. Nance if it will aid the Court in making a determination of Evan's best interest. Further, Defendant requests that Plaintiff's countermotion for attorney fees be denied as this motion was not brought without reasonable grounds or to harass Ms. Nance, even assuming she is the prevailing party.

DATED this 15<sup>th</sup> day of August, 2016.

HUTCHISON & STEFFEN, LLC

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Attorneys for *Defendant Christopher Michael Ferraro*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 15<sup>th</sup> day of August, 2016, I caused the above and foregoing document entitled **DEFENDANT’S REPLY TO MOTION TO REOPEN TRIAL OR IN THE ALTERNATIVE FOR NEW TRIAL LIMITED TO HEAR TESTIMONY OF DESMOND NANCE AND OPPOSITION TO PLAINTIFF’S COUNTERMOTION FOR ATTORNEY’S FEES** to be served as follows:

- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent **via facsimile**; and/or
- pursuant to EDCR 8.05, sent electronically via the Court’s electronic service system; the date and time of this electronic service is in place of the date and in place of deposit in the mail.
- to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

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*Co-counsel for Plaintiff Sandra Lynn Nance*

  
An employee of Hutchison & Steffen, LLC

CLERK OF THE COURT

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DISTRICT COURT  
CLARK COUNTY, NEVADA

SANDRA LYNN NANCE,  
Plaintiff,

v.

CHRISTOPHER MICHAEL FERRARO,  
Defendant.

CASE NO. D-10-426817-D  
DEPT NO. F

NOTICE OF ENTRY OF FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

Please take notice that FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER have been entered in the above-entitled matter, a copy of which is attached hereto. I hereby certify that on the above file stamped date, I caused a copy of this Notice of Entry of Findings of Fact, Conclusions of Law and Order to be:

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

Jason Naimi, Esq.  
Attorney for Plaintiff

Shelly Booth Cooley, Esq.  
Attorney for Plaintiff

Shannon Wilson, Esq.  
Attorney for Defendant

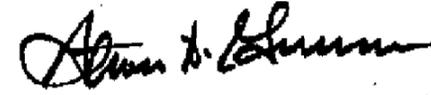
E-Served pursuant to NEFCR 9 on, or mailed postage prepaid addressed to, the following litigants in Proper Person:

/s/ Belinda Miller  
Belinda Miller  
Judicial Executive Assistant  
Department F

1 **ORDR**

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



4 **CLERK OF THE COURT**

5 **SANDRA LYNN NANCE**

**CASE NO. D-10-426817-D  
DEPT NO. F**

6 Plaintiff(s),

7 v.

8 **CHRISTOPHER MICHAEL FERRARO**

Dates of Trial:  
June 27, 2016, 9:00 a.m. & 1:30 p.m.  
June 28, 2016, 1:30 p.m.  
June 29, 2016, 1:30 p.m.

9 Defendant(s).

12 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

13 NRCP 1 and EDCR 1.10 state the procedure in district courts shall be  
14 administered to secure efficient, speedy, and inexpensive determinations in every  
15 action.

16 This matter having come on for Trial upon Defendant Christopher Ferraro's  
17 Motion to Modify Custody, for Relocation of Minor Child and Other Related Relief and  
18 Plaintiff Sandra Nance's Opposition and Countermotion, Defendant being present and  
19 represented by his attorneys, Shannon R. Wilson and Todd L. Moody, and Plaintiff  
20 being present and represented by her attorneys, Jason Naimi and Shelley Booth  
21 Cooley, the Court having considered the papers on file herein, the transcript of the  
22 record, the evidence presented at trial, which consists of Plaintiff's Exhibits 2-6, 16-18,  
23 20-24, 30, 46-48, 55, 57, 61-65, 68, 69, 73, 74, 80, 81, Defendant's Exhibits A1, A2,  
24 B1, B2, B3, F2, G1, I, J, K1, K2, L1, M, N1, N2, N3, N4, N5, N7, P, testimony of  
25 witnesses presented by both parties, Closing Briefs, Objections to Closing Briefs,  
26 Motions to Strike, and Motions regarding Post-trial evidence relating to Desmond  
27 Nance, and good cause appearing therefore, **FINDS AS FOLLOWS:**

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|--|---|
| <u>Non-Trial Dispositions:</u>                             |   |
| <input type="checkbox"/> Other                             | <u>Settled/Withdrawn:</u>                                     |
| <input type="checkbox"/> Dismissed - Want of Prosecution   | <input type="checkbox"/> Without Judicial Conf/Hrg            |
| <input type="checkbox"/> Involuntary (Statutory) Dismissal | <input type="checkbox"/> With Judicial Conf/Hrg               |
| <input type="checkbox"/> Default Judgment                  | <input type="checkbox"/> By ADR                               |
| <input type="checkbox"/> Transferred                       |   |
| <u>Trial Dispositions:</u>                                 |   |
| <input type="checkbox"/> Disposed After Trial Start        | <input checked="" type="checkbox"/> Judgment Reached by Trial |

**RECEIVED**

**JAN 24 2017**

**DEPARTMENT F**

1 This Court hereby GRANTS the Defendant's Motion for Primary Custody and  
2 for Relocation to New York; after careful consideration of the evidence, this Court  
3 FINDS it appropriate to enter Defendant's FINDINGS OF FACT, CONCLUSIONS OF  
4 LAW, AND ORDER, subject to the modifications, additional findings, and deletions set  
5 forth in its minute order of January 5, 2017. The Court also considered, the Objections  
6 to Closing Briefs, and Motions to Strike, and will set forth herein below, the rulings on  
7 each party's requests.

8 In regards to Plaintiff's Objections to Defendant's Closing Brief, the COURT ORDERS  
9 AS FOLLOWS:

10 For purposes of this decision the Court will number the objections as set forth in  
11 the table of objections provided:

- 12 1. Objection - sustained
- 13 2. Objection - sustained
- 14 3. Objection - sustained
- 15 4. Objection - sustained
- 16 5. Objection - sustained as to the representation of multiple schools but the

17 Court notes there was resistance by mother to Plaintiff's request to send the child to  
18 private school, at least twice.

- 19 6. Objection - sustained
- 20 7. Overruled

21 In regards to Defendant's Objections to Plaintiff's Closing Brief, the COURT  
22 ORDERS AS FOLLOWS: Overruled.

23 In regards to Plaintiff's Motion to Strike Portions of Defendant's Objections, the  
24 COURT ORDERS AS FOLLOWS: GRANTED as set forth in Plaintiff's Exhibit to  
25 Motion to Strike; the Court having considered the Plaintiff's request for attorney's fees  
26 for having to file the Motion to Strike, and to appear at the hearing on the matter, and  
27 the Court having considered the factors set forth in *Brunzell v. Golden Gate National*  
28 *Bank*, 85 Nev. 345 (1969) and *Miller v. Wilfong*, 121 Nev. 619 (2005), FINDS the

1 following attorney's fees award is reasonable and was necessary to address said  
2 issue with the Court. The Court hereby awards the sum of \$2,500 to Plaintiff's counsel  
3 for having to file the Motion to Strike Portions of Defendant's Objections.

4 In regards to the Motion to Reopen Trial or in Alternative to Hear Limited  
5 Testimony of Desmond Nance and Opposition thereto with Request for Attorney's  
6 fees, this Court having considered the Plaintiff's request for attorney's fees for having  
7 to file the Motion to Strike, and to appear at the hearing on the matter, and having  
8 considered the factors set forth in *Brunzell v. Golden State*, and *Miller v. Wilfong*,  
9 FINDS the following attorney's fees award is reasonable and was necessary to  
10 address said issue with the Court. The Court hereby awards the sum of \$2,500 to  
11 Plaintiff for having to respond to the original motion, and to file the Motion to Strike the  
12 Notice as it pertained to Desmond Nance. Although this Court did not grant the  
13 Motion to Strike, this Court FINDS that the entire issue was precipitated by the request  
14 to reopen filed by Defendant and the representations made to this Court that the  
15 information was pertinent to the outcome of this case, to such an extent that he sought  
16 for the court to reopen the trial to allow for additional evidence. Based upon said  
17 representations of Defendant, this Court permitted him to proceed with obtaining said  
18 evidence which unnecessarily multiplied the proceedings, only to result in no evidence  
19 offered at the end of the investigation. In this regard, the Court hereby awards the  
20 sum of \$2,500 to Plaintiff's counsel.

21 Said \$5,000 is hereby reduced to judgment, and collectible by any lawful  
22 means. Collection is hereby stayed for a period of 120 days, to allow Defendant the  
23 opportunity to pay the amount in full before said date, or establish an acceptable  
24 payment plan with Plaintiff's counsel.

#### 25 FINDINGS OF FACT

26 1. For six months prior to Defendant filing his motion for relocation on June  
27 19, 2015, the minor child Evan Daniel Ferraro, born September 30, 2008 (now 7  
28 years, 10 months) was a resident of the State of Nevada.

1           2.       Defendant is a resident of Sound Beach, New York. V1:22:12-13. He  
2 has lived there, in the same home where he grew up, for forty-three years with the  
3 exception of times that he lived in other communities to attend school and play  
4 hockey. V1:22, 27. Defendant attended university for about 1 ½ years, but left to play  
5 hockey for the 1994 US Olympic hockey team and then professionally in the National  
6 Hockey League. V1:22, 27. He has no plans to move from his current residence.  
7 V1:22. He lives with his mother and twin brother. The residence is owned by  
8 Defendant's mother. It is a 3,000 square foot ranch house with four bedrooms, three  
9 bathrooms, on two acres of land with a fenced yard and in-ground pool. If his son is  
10 relocated, then Defendant plans to install a sport court in the backyard. Evan has his  
11 own bedroom. The neighborhood consists entirely of single family homes. V1:22-23.

12           3.       Based on Defendant's testimony and Defendant's Exhibit G2 (flight  
13 records), Evan has spent significant time at the Ferraro family home in New York.  
14 From 2012 through 2014, he was there for Defendant's timeshare every month or  
15 nearly every month, and he continued to visit routinely in 2015 and 2016. V1:23-26,  
16 Ex. G2 at DEFT0358-0368. Defendant testified that while in New York, and in addition  
17 to Evan's uncle and grandmother with whom Defendant resides, Evan routinely sees  
18 his aunt and her husband, another uncle, Evan's own friends and other extended  
19 family. V1:26, 44. Most of the family live and/or work within about five miles of  
20 Defendant's home. V1:44-45. Evan sees his grandfather, aunt, uncle and cousins  
21 several times per week, and some of them daily. V1:45-47. The Ferraros get together  
22 for dinner, family functions, for Evan's extracurricular activities, birthdays and  
23 barbeques. V1:47.

24           4.       Defendant testified that Evan is bright, talented, special, gifted, "he is  
25 my life." V1:48. During this testimony the Court observed the Defendant become  
26 extremely emotional and have a hard time holding back tears. Defendant testified that  
27 Evan is a straight A student, that he has a great personality, he is gifted with other  
28 children, he is popular, a leader, children migrate to him and he is a great little athlete.

1 V1:48.

2 5. Defendant testified that Evan has a lot of friends from hockey and some  
3 very good friends in New York, in particular Tommy and Neil Doyle, who Evan has  
4 known since he was a baby, and Leila Pannacculli who Evan has known for three  
5 years. V1:49. Over the recent break, Defendant put together a hockey tournament in  
6 Connecticut with fifteen other children, and in July they will go to a hockey camp in  
7 Minnesota, where the Doyle boys will be too. Id. When in New York, the kids all play  
8 hockey together as well as have play dates, swimming, visiting the beach and going to  
9 movies.

10 6. Defendant testified that Evan's time with him is very structured, and he  
11 creates additional math, reading, writing and drawing assignments for Evan, even  
12 when not in school, then there are a variety of extracurricular activities and sports to fill  
13 out his day, including baseball, soccer, rollerblading, swimming, running, and mixed  
14 martial arts training. V1:50-51. Defendant testified that on a typical school day, they  
15 will go to the park before school if time allows; Defendant takes Evan to school and  
16 Evan rides his scooter up to the school; Defendant returns at lunch time to volunteer  
17 in the lunchroom and at recess; and after school, homework generally comes first and  
18 then they do extracurricular activities. V1:74-75.

19 7. Defendant's exhibit J was admitted. V1:79-80. Defendant testified that  
20 these are weekly progress reports from the last school year. V1:79. Two of three  
21 progress reports were from a week that Evan was with Plaintiff, and those reports  
22 show that during Defendant's timeshare, Evan stayed on task and followed direction,  
23 whereas he did not do those things during Plaintiff's timeshare, and the teacher  
24 commented during Defendant's timeshare that Evan was "much better this week with  
25 talking/giggling." Ex. J.

26 8. Defendant's exhibit B was admitted. V1:80-82. Exhibit B1 and 2 are  
27 photos of Evan during his Dad's timeshare and B3 is a video of Evan practicing  
28 baseball and enjoying the level of activity in which he is engaged with his Dad.

1           9.       Defendant's exhibit G was admitted. V1:83-85. Mr. Ferraro testified that  
2 he created spreadsheets of his timeshare with Evan from 2013 to 2015 from his  
3 personal calendars and flight records; however, he testified that the day-count on the  
4 spreadsheet does not include every day of the timeshare, and if it did, then one day  
5 would be added to each timeshare (twelve days to each year), giving him 155 days in  
6 2013, 166 days in 2014 and 150 days in 2015. V1:83-87; *see also* Ex. G1. Defendant  
7 testified that during timeshares commencing when Evan was in school, pick up was  
8 from school at 3:21 p.m. and return was to school in the morning. When school is not  
9 in session, he typically picks Evan up in the morning when his timeshare begins and  
10 returns him in the after or evening that his timeshare ends. *See e.g.*, Ex. A at  
11 DEFT0211.

12           10.       Defendant testified that if relocated to New York, then Evan would attend  
13 the Rocky Point School District and all of the schools of that district are within two to  
14 five miles of his home. V1:54-55. Defendant testified that he would personally take  
15 Evan to and from school. V1:55. Defendant researched the school system to satisfy  
16 himself that this was a good place for his son to go to school, he personally spoke to  
17 the school principal and obtained a variety of information from her and he did internet  
18 research on web sites for the New York State System of Education and the Annie E.  
19 Casey Foundation. V1:55-59. The Court admitted Defendant's Exhibit F2 (V1:58-  
20 61), the New York State Education records, which state very low turn over rates for  
21 teachers, that more than 80% of teachers in the elementary and middle schools have  
22 master's degrees or doctorates, and average class sizes are 23-24 students.  
23 Highschool graduation rates for male students in 2014 was 97%. Defendant's  
24 statements regarding widespread knowledge of the deficiencies of Nevada schools  
25 were objected to, but the unfortunate reality is that this is true and widely known in the  
26 community and the Court can take judicial notice of the fact. The evidence supports  
27 that Evan would be enrolling in a high-quality school district in New York.

28           11.       Defendant testified as to the reasons he wants to relocate Evan to New

1 York, he said, "It's my home. It's my community. It's where I live. It's his friends. The  
2 community relationships that I have as a hockey player and my family business for  
3 almost 50 years and these community connections I will pass on to Evan. The school  
4 systems, financial resources, to save on financial resources for my travels back and  
5 forth to Las Vegas. I'd like to dedicate those resources solely to Evan and his future."  
6 V1:64.

7 12. Defendant testified that relocation would improve Evan's life for mostly  
8 the same reasons, it is the Defendant's home, and Evan "has tremendous  
9 relationships there, friendships, he's got a stable home there in New York, he's got  
10 stable friends, the school systems. My availability to Evan, I have a very flexible  
11 schedule that I am with Evan virtually at all times, and community relationships that I  
12 will pass along to Evan for his overall benefit and development." V1:69.

13 13. Defendant testified the relocation would benefit him personally by  
14 allowing him to get back to work right away, earn a salary, and be able to dedicate  
15 resources directly for Evan's benefit. Also Defendant's own parents are aging, and he  
16 would like to be able to share his own life and Evan's with them. Defendant testified  
17 his own mother is 70 and has some health issues. His father is 68 and healthy.  
18 V1:70. Defendant testified that Ferraro Brothers Hockey is based in New York and  
19 that is where the client base is, and he does not have the same kinds of relationships  
20 in Las Vegas as he does in New York. V1:70.

21 14. Defendant testified that Plaintiff denies Evan opportunities to participate  
22 in extracurricular activities and private school. V1:67. Defendant testified that he has  
23 offered to pay for private school and a variety of extracurricular activities for Evan,  
24 including hockey, soccer, and MMA, but that Plaintiff will not participate in these with  
25 Evan during her own timeshare, which upsets Evan. V1:67. Defendant testified that  
26 extracurricular activities are important because one learns "life skills," including:  
27 "respect, preparation, dedication, commitment, working with others, taking instruction  
28 from coaches, highs, lows, failures, rewards, successes, all of these are critical to life

1 and career. In fact, athletes are proven better students . . . and they are more prone  
2 to stay away from drugs and alcohol and live a more focused, dedicated life." V1:67-  
3 68.

4 15. Defendant proposed a visitation schedule whereby they would alternate  
5 and split the winter break, alternate Thanksgiving and the February, April and  
6 Memorial day breaks, but in Defendant's years to have Evan during February and  
7 April, he would invite Plaintiff to attend any sport camps or tournaments in which Evan  
8 was participating. Plaintiff would also have Columbus weekend, every year and if no  
9 interference with school or extracurricular activities, on the Memorial Day and  
10 Columbus weekends, Evan could leave New York on Thursday and return on Tuesday  
11 to create a full four day weekend with Plaintiff. Finally Defendant proposed that  
12 summer be divided into three, three week intervals with Plaintiff having the first and  
13 last intervals and Defendant having the middle interval. Defendant explained the  
14 reason for the split being to allow Evan to participate in hockey camps, clinics and like  
15 sports activities. Additionally, at Plaintiff's option, Defendant would help facilitate an  
16 additional visits each month to be held in New York. Defendant would pay all airfare  
17 for the Plaintiff's Christmas, February, April, Memorial Day, Summer, Columbus, and  
18 Thanksgiving visits. Plaintiff would be responsible to pay costs of any additional visits,  
19 but Defendant will waive child support to help her be able to do this. V1:71-74.

20 16. On co-parenting, Defendant testified that the parties had 'many  
21 challenges from the start, but believes they were helped by parenting coordinator,  
22 Margaret Pickard, and their current, respective counsel. Defendant testified that he  
23 sees a pattern whereby he proposes something for Evan, Plaintiff says 'no,' he  
24 attempts to persuade her by enumerating the benefits for Evan, and Plaintiff asks  
25 Defendant to stop harassing her. V1:68. The emails produced and admitted in  
26 Defendant's Exhibit A, tend to support Defendant's testimony. See e.g, Ex. A at  
27 DEFT0138-42. 173-74, 198.

28 17. A co-parenting dispute arose when Evan was first eligible to start

1 kindergarten. V1:88-94. Evan's birthday falls on the kindergarten enrollment cut-off  
2 date, which made him eligible to start kindergarten when he was four. Defendant  
3 wanted to hold Evan back to the following year; Plaintiff did not want to hold him back.  
4 V1:92-93. Defendant testified that he consulted teachers in Las Vegas and New York,  
5 Margaret Pickard, who apparently had a son in a similar situation, and Judith Tolman,  
6 and his conclusion was that Evan would benefit from another year of development,  
7 maturity wise. V1:90. Defendant's Exhibit K, was admitted. V1:88, 93-94. It is a text  
8 message from Judith Tolman to Defendant with a link to an article explaining that  
9 studies have shown delayed kindergarten enrollment dramatically reduced ADHD in  
10 children. V1:88-89.

11 18. Plaintiff testified that Nevada is Evan's home, but it is clear to the Court  
12 that Evan has two homes.

13 19. With respect to his employment, Defendant testified that the partnership  
14 group in which he was a 7.5% minority owner and for which he was working, filed  
15 bankruptcy in September 2015. He was not responsible for financial management of  
16 the partnership nor did he set his own salary. V1:28-29. He has not worked since the  
17 bankruptcy was filed, but plans to reestablish Ferraro Brothers Hockey, an academy  
18 that trains players from age six to NHL-level players. V1:28, 30. Defendant's brother  
19 testified that Ferraro Brother's Hockey was in existence for eight years before they  
20 began working with the bankrupt partnership. V1:232-233. Defendant and his brother  
21 primarily work with players age 5 or 6 to 12. V1:30, 233. Historically, Ferraro Brothers  
22 Hockey trains thousands of players annually and has a database of between 4,000  
23 and 5,000 players. V1:31, 233.

24 20. During his unemployment, Defendant has relied on income from the NHL  
25 Emergency Fund (\$2,500 per month); a family real estate investment (\$2,500 per  
26 month); and repayment of a family loan (\$2,500) per month. V1:31-33. Defendant is  
27 uncertain what his future income with Ferraro Brother's Hockey will be; he thinks it  
28 unlikely that he will earn as much as he did with Twin Rinks, but he also as the

1 opportunity to do as few or as many alumni events with the New York Rangers as he  
2 chooses to earn additional income. He will also continue to receive payments from his  
3 real estate investment from repayment of the family loan. V1:33-34. Defendant's  
4 brother confirmed he would afford him such flexibility.

5 21. Defendant testified that he can create a work schedule around Evan  
6 because he runs Ferraro Brothers Hockey with his twin brother who will run programs  
7 while Defendant is attending to Evan. V1:34.

8 22. Defendant testified – consistent with his Financial Disclosure Form filed  
9 January 11, 2016 – that his average monthly expenses to exercise his timeshare with  
10 Evan are \$6,233.33. (V1:35, 36, 43.) Defendant covers the deficit between his  
11 income and expenses from money earned from Twin Rinks and those funds are being  
12 depleted. V1:43-44.

13 23. Defendant testified that Evan missed two days of school during the first  
14 grade during his timeshare, one-half day for an eye appointment set by Plaintiff, one-  
15 half day to travel to Los Angeles for his uncle's birthday party, and one full day to  
16 travel to New York for his cousin's sweet 16 party. Defendant testified that Plaintiff  
17 was aware that Evan was missing school on these days for these reasons. V1:29.

18 24. Daniel Hungerford testified in Defendant's case in chief. V1:95-28. Mr.  
19 Hungerford was Evan's school principal for kindergarten and first grade, and he  
20 testified that Evan has never had any behavioral issues, has never been referred to  
21 the school counselor or his office, and that Evan is "a good guy," "he behaves well at  
22 school and attends in class," "behaviorally, academically, he's a model student."  
23 V1:99-101. Principal Hungerford testified that he sees the children in his school daily  
24 coming to and from school, in the hallways and in the classrooms; and before his  
25 deposition, he also talked to a number of individuals at the school about Evan,  
26 including Evan's teacher and the school counselor, and he reviewed Evan's school  
27 records; there were no concerns about Evan, socially, academically, and in fact he  
28 was doing very well with both. V1:98,111-14. Principal Hungerford could not recall

1 either parent coming to him with concerns about Evan's behavior or academic  
2 performance at school, only the situation with the parents and the living situation.  
3 V1:101-102. Principal Hungerford testified that he never had any concerns about  
4 Evan advancing to the first grade, he never saw Evan engage in any unusual behavior  
5 or chew his clothing, but he commented that that is not uncommon for elementary  
6 school kids to chew things. V1:103. Principal Hungerford testified that he sees Mr.  
7 Ferraro volunteering at the school "much more frequently than Ms. Nance." V1:125.

8       25. Peter Pannacciulli testified in Defendant's case in chief. V1:203-218.  
9 Mr. Pannacciulli lives in New York; his nine year old daughter, Lila, was coached by  
10 Defendant beginning in or about the Spring of 2014; around that time frame, Lila and  
11 Evan met 'on the ice;' thereafter, Mr. Pannacciulli and the Defendant became friends.  
12 Mr. Pannacciulli testified that Defendant is an excellent youth hockey coach, that the  
13 kids connect with him, they react to what he says, whether good or bad, without  
14 prejudice. Mr. Pannacciulli testified that he sees Defendant and Evan outside of  
15 hockey every time Evan is in New York, usually multiple times, that they have play  
16 dates and go to each other's houses. Mr. Pannacciulli described Evan's behavior as  
17 "normal," and elaborated that he is respectful, he listens, he is a polite, well-mannered  
18 kid. Mr. Pannacciulli testified that in addition to his own daughter, he spends time  
19 around his sisters' children, there are five of them from ages 4 to 18, and he has not  
20 observed Evan to be any more or less argumentative than these children; he has  
21 never observed Evan to blame others for his behavior or refuse to do things he is  
22 asked; he has never seen Evan bite his nails or chew his clothing. Mr. Pannacciulli  
23 testified that Defendant does not talk about the Plaintiff nor has he seen Defendant do  
24 anything to impede Evan's relationship with Plaintiff, on the contrary, he has observed  
25 Defendant making sure that Evan contacts his mother.

26       26. Laura Bell-Doyle testified in Defendant's case in chief. V1:219-230. She  
27 testified that she lives in New York, that she and her fiancée have two boys together –  
28 Thomas age 10 and Neil age 6 – and their family are friends with Defendant and

1 Evan. The Doyles met Defendant about six years ago when Thomas started doing  
2 hockey clinics with Defendant, and they met Evan when he was just about three or  
3 four years old. When Evan is in New York, the families see each other almost daily,  
4 doing a variety of activities, and both of her boys are friends with Evan; her youngest  
5 calls Evan his "best friend." She testified that Thomas coached with Defendant for  
6 about six years; during that time, she has had the opportunity to observe him as a  
7 coach and her impression is that "he is all about the kids" and he, "Teaches my son  
8 everything about hockey and respect and treats the kids as adults on the ice." She  
9 testified that Evan is a very fun, loving child, respectful to all of her family members  
10 and is outgoing. In addition to her own children, she sees others kids at their hockey  
11 practices and at school functions, and in comparison to those other children, Ms.  
12 Doyle does not find Evan to be any more or less distracted than other children, he  
13 does not blame other people for his behavior or defy requests and he listens to her  
14 very well; she has never seen him bite his nails or chew his clothing. If Defendant  
15 resumes coaching in New York, her boys will resume coaching with him.

16 27. Peter Ferraro testified in Defendant's case in chief. V1:231-251. Mr.  
17 Ferraro is Defendant's twin brother, and their careers followed very similar trajectories.  
18 V1:232, 243. Mr. Ferraro also played on the 1994 U.S. Olympic Hockey Team and  
19 then went on to play professional hockey. V1:232. Mr. Ferraro testified that Ferraro  
20 Brothers Hockey was in existence for about eight years before they joined the  
21 complex that filed bankruptcy last year, and they train thousands of players annually,  
22 aged 5 to 65, but their primary players are age 6 to 12. V1:232-233. Mr. Ferraro  
23 testified that he is around for about 95% of Defendant's timeshare with Evan, and  
24 describes himself as a "very committed uncle." V1:234. He describes Evan as "a very  
25 charismatic, special boy. He has got a big heart, very confident, filled with a lot of  
26 leadership. He just impresses me every day." V1:234. Mr. Ferraro testified that Evan  
27 is not argumentative, he does not get annoyed, irritated, or blame others for his  
28 misbehavior, which he says is "very minimal." V1:234-35. Mr. Ferraro's testimony

1 regarding family discipline of Evan tracked closely with Defendant's, and he testified it  
2 is the same way they were raised. V1:236-37. Mr. Ferraro described the last  
3 occasion during which he spent any substantial time with the Plaintiff, it was in New  
4 York in 2014, Defendant had invited Sandra to visit with her other two children as well;  
5 Mr. Ferraro said she was welcomed by the family and everyone was quite happy.  
6 V1:237-38. Mr. Ferraro described another occasion when Plaintiff's older son visited  
7 New York with Evan, and that he was "extremely happy, extremely confident, loves  
8 New York . . . He seems like he is one of us when he is there with us. We get along  
9 with him great." Mr. Ferraro testified that he saw Desmond just a few months before  
10 the trial at Evan's school, he described that Desmond approached him with a big smile  
11 and asked him how he was doing. V1:283. Desmond was actually wearing a Ferraro  
12 Brother's t-shirt and they had a 'great' conversation. V1:238. Mr. Ferraro described  
13 Defendant as an "all hands on" dad, great, committed, loving. V1:241. Mr. Ferraro's  
14 testimony affirmed that Defendant has a great deal of flexibility in his schedule to be  
15 present for Evan, and that the whole family supports him in that. V1:241.

16 28. Plaintiff, Sandra Nance testified. V2:94-156; V3:8-67. She is a resident  
17 of Las Vegas. V2:92-93.

18 a. Plaintiff testified there were problems with the visitation schedule,  
19 namely that when he started kindergarten he was not to travel to New York with  
20 Defendant, but she said he traveled most of the school year. V2:97-98. Emails  
21 between the parties and their parenting coordinator admitted with Defendant's exhibit  
22 A, at DEFT0001-47, show that Defendant was trying to balance the competing  
23 interests between Evan's home, family and activities in New York with Kindergarten,  
24 and that he was taking measures to ensure that Evan would not fall behind in school  
25 and in fact Evan never did fall behind in school and the principal had no concerns with  
26 Evan's absences during Kindergarten.

27 b. Plaintiff said Defendant does not always tell her where he is traveling,  
28 but emails produced in Defendant's Exhibit A, suggest he typically does. V2:101-02.

1 c. Plaintiff testified her concern about Evan's possible relocation is that she  
2 will not have the same relationship she has now with him, and he will not have a  
3 relationship with his maternal grandparents or siblings. V2:102 Evan has a brother  
4 who is moving and a sister who is about to turn 14. V2:102; V:145.

5 d. Plaintiff believes that she does things to foster Evan's relationship with  
6 Defendant but that it is not reciprocated. She feels that Defendant is always "one-  
7 upping" her. By way of example she said that Evan returns with shoes or games or  
8 sports gear from his timeshare with Chris. V2:108. However, there is a provision in  
9 the parenting plan (1.12) that says the parents will allow Evan to take his belongings  
10 freely between households. It is not entirely clear, but it appears that Plaintiff tells  
11 Evan to "Keep them in a bag until you go back with your dad." V2:108. The Court can  
12 see how this could cause a problem, but it does not appear to be created by the  
13 Defendant. Another example Plaintiff gave was that of the "Tooth Fairy." V2:108-09.  
14 On cross-examination, it came out that Plaintiff had complained to the parenting  
15 coordinator about this situation and received an email explanation that the "Tooth  
16 Fairy" gave Evan \$115; Evan was allowed to keep \$15, but had to give the \$100 bill to  
17 his grandmother for his college fund. V3:29-31. The Court understands Plaintiff's  
18 frustration, but Plaintiff did not acknowledge in her testimony that the specific  
19 circumstances were already explained to her, that Evan was not *actually* getting the  
20 large sums of money. The fact that Mrs. Ferraro is saving for her grandson's college  
21 education is a laudable goal to be supported. There is no evidence to suggest the  
22 tooth fairy gifts of any amounts Defendant provides to Evan are done with malicious  
23 intent toward Plaintiff or to "one up" Plaintiff. Court FINDS that Plaintiff seems to allow  
24 the differences in the parties' financial means to cloud her ability to co-parent and do  
25 what is best for Evan. This Court cautions this is not a competition, and often one  
26 parent is able to provide more money or financial means than the other, but that  
27 should not be taken personally by the other parent, nor should it allow those gestures  
28 to cloud their judgment while co-parenting.

1 e. Plaintiff testified that she gets her FaceTime visits with Evan but says  
2 they are shorter duration than Defendant's. There was testimony from Defendant's  
3 witness that he is diligent about making sure that Evan FaceTimes his mother, but it  
4 will be critical that Defendant make sure Evan is in a quite and private place, without  
5 distractions for FaceTime sessions of quality duration, not less than fifteen minutes,  
6 ideally thirty or more so that Evan can FaceTime with his sister and grandparents too.

7 f. Plaintiff testified to co-parenting difficulties with Defendant, which she  
8 attributed to feeling that she is co-parenting with his whole family and that it is "Chris's  
9 way or no way" and that "He just does whatever he wants to do." V2:115-17. The  
10 Court disagrees with Plaintiff's assertion that Defendant does what he wants to do.  
11 This Court FINDS that each parent does what he or she wants to do while the child is  
12 in his/her care, because the parents have been unable to communicate productively  
13 and/or agree on what is best for Evan. However, the emails produced as Defendant's  
14 Exhibit A, which are much more comprehensive than the limited emails produced by  
15 Plaintiff, tell a different story. There are no emails from anyone other than Defendant,  
16 and Plaintiff denies most everything Defendant requests. Defendant testified that he  
17 thinks there is pattern: he asks, Plaintiff says "no," he gives benefits of the request,  
18 Plaintiff says "no," and he lets it drop.

19 g. Plaintiff testified to injuries that Defendant sustained during his  
20 professional hockey career. V2:120-25. However, Defendant stopped playing  
21 professional hockey at or about the time that Evan was born; therefore, there was no  
22 current testimony regarding these past injuries. She testified to another incident  
23 when Defendant went to the emergency room, but was released and she did not say  
24 when that was. V2:125-28. The Court is not concerned that either party has a health  
25 condition that interfere's with their ability to parent Evan

26 h. Plaintiff testified to a couple of injuries that Evan has sustained in his  
27 father's care (V2:131-132), but they seem like ordinary, childhood injuries and  
28 mishaps, not the result of abuse or neglect.

1 i. Plaintiff testified that she lives with her parents because it allows her to  
2 be a full-time mom, but also because, she "fears for her life" because, she said, "of  
3 on-going threats, harassments, and problems that are going on with Chris." V2:155-  
4 156. However, on cross-examination, she admitted that during her deposition when  
5 she talked about living with her parents, she only indicated that she does not intend to  
6 live with her parents forever and she intends to purchase her own home when she has  
7 the resources to do so; she further admitted that she has not sought a protective order  
8 against Defendant since 2010. V3:27-28. The Court does not find Plaintiff's  
9 testimony, that she fears for her life, credible.

10 j. Plaintiff has an older son, Desmond who is nineteen. V3:13-14. Plaintiff  
11 allowed him to transfer from traditional high school to an on-line home school program  
12 at some point in his junior year. V3:14. She allowed him to take the program "at his  
13 own pace," and he did not graduate on time. V3:14-15. During this time, Plaintiff  
14 gave Desmond an ownership interest in her business. V3:16-17. Plaintiff said that  
15 she allowed him to go at his own pace because of all he had been through, but she  
16 admitted she never enrolled him in therapy. V3:16.

17 k. She does not allow Evan to play hockey during her timeshare. V3:22.  
18 The Court appreciates that a parent can be concerned about their child playing certain  
19 sports. However, by all accounts, Evan loves the game of hockey; it sounds like he is  
20 already leading drills and assisting his dad and uncle on the ice. His father and his  
21 uncle are former *U.S. Olympians* in hockey; they played in the National Hockey League.  
22 Mr. Ferraro seems very clear that he does not want to his son to follow his path, but  
23 he does want his son to pursue his passions and give him every advantage and  
24 assistance in doing so. This Court FINDS that Evan can benefit from Defendant's  
25 expertise in the sport, can benefit from the team sport atmosphere, and intense  
26 involvement from his father, and that the benefit outweighs the potential burden. This  
27 Court FINDS that Defendant appears mindful of Plaintiff's concerns regarding the  
28 dangers of hockey and other sports, given his own injuries. Court FINDS Defendant

1 does not demonstrate behaviors or willingness to put his child in harm's way  
2 intentionally; but many team sports or any physical activity comes with the potential for  
3 injury. Defendant is CAUTIONED to be mindful of this and Plaintiff's concerns should  
4 be discussed openly and respectfully, as she is a joint legal custodian.

5       i. Defendant offered to pay for Evan to attend private school, specifically  
6 Challenger School, before Kindergarten, that they toured the school together, but  
7 Plaintiff refused to allow Defendant to enroll Evan, for the reason Plaintiff thought that  
8 the school was "too intense." V3:22-23. Plaintiff denied that Defendant renewed the  
9 offer for Evan to attend private school before first grade (V3:22); however, Exhibit A,  
10 DEFT0138 shows email correspondence in which Defendant renewed the offer and  
11 Plaintiff again refused.

12       m. In the seven years since Evan was born, Plaintiff has lived in four  
13 different residences. V3:23-24.

14       n. Plaintiff testified that she did not tell Defendant when Evan was missing  
15 school. V3:32. Plaintiff testified that she does not always tell Defendant that she is  
16 taking Evan to the doctor before she takes him. V3:32.

17       o. Court FINDS Plaintiff's admitted history of failure to communicate  
18 regarding legal custody issues, and Defendant's confirmation of such, to be  
19 disconcerting because it is important to be a respectful and open-minded co-parent on  
20 these very subjective issues. Further, if Plaintiff is obstructionist and makes  
21 co-parenting difficult, Court FINDS that is not in the child's best interests. Court further  
22 FINDS that Defendant does not appear to exhibit the same behavior toward Plaintiff.  
23 This Court FINDS that disagreement is different than obstructing efforts made to  
24 better the child's life.

25       p. Within the last four years, Plaintiff has worked as a dealer of blackjack  
26 and other casino games. V3:33. She denied that she ever asked a player who  
27 presented a player card for identification. V3:33-34. Also, Plaintiff could not identify  
28 any particular date that she allowed another person to use one of her own player's

1 cards. V3:36.

2 29. Defendant asked the Court to take judicial notice of Nevada Gaming  
3 Control Board Regulation 5A.110 which states that a person who is issued a card for  
4 interactive gaming must affirm that they will not allow another person to utilize their  
5 card. V3:35. Specifically, Regulation 5A.110(3)(c) provides, " Before registering an  
6 individual as an authorized player, the operator must have the individual affirm the  
7 following . . . That the individual has been informed and has acknowledged that, as an  
8 authorized player, they are prohibited from allowing any other person access to or use  
9 of their interactive gaming account." The Court takes judicial notice of this regulation.

10 a. Testimony was taken from persons most knowledgeable from several  
11 casinos (Casino PMKs). V1:131-202. The evidence showed that Plaintiff had player  
12 cards from at least five (5) different casinos; therefore, she had to make the  
13 affirmation required under Regulation 5A.110(3)(c) at least five times. Further, the  
14 Casino PMKs variously testified it is casino policy: (1) that a player must play on their  
15 own card (V1:146, 159, 175, 186, 197-98); (2) to request identification when players  
16 win jackpots (V1:174); and (3) to request identification of players at tables (V1:175-76;  
17 186). As between the Casino PMKs and Plaintiff who said as a dealer she "never"  
18 had to ask a player who presented a player card for identification and could not  
19 specify a single date on which someone else was allowed to use her card, the Court  
20 believes the Casino PMKs. Presumptively then, the play on Plaintiff's player cards, as  
21 reflected in the records admitted as Defendant's Exhibits N1 to N5 is Plaintiff's own  
22 play. As set forth in the summaries admitted as Defendant's Exhibit N7 (V3:40-41),  
23 since December 2012 through December 2015, Plaintiff logged over 1,231 hours on  
24 her player cards, which averages to 33 hours per month; and in 2013 Plaintiff had  
25 actual losses of \$10,333.42, in 2014 Plaintiff had actual losses of \$13,293.19, and in  
26 2015 Plaintiff had actual losses of \$10,664.64. (The Casino PMKs testified that  
27 adjusted win/loss records represent actual wins or losses; V1:146, 156, 165, 183,  
28 194.) Although it is not possible to say how much money Plaintiff actually wagered,

1 the coin in/coin out numbers are staggeringly high (2013 - \$237,500.50/\$196,627.10;  
2 2014 - \$209,949.72/\$176,238.55; 2015 - \$160,495.06/\$147,017.46). Finally, in  
3 Plaintiff's most recent FDF, filed on June 21, 2016, for the first time she included an  
4 average monthly gambling income of \$95.83, but she testified that she did not  
5 consider the amount of money that she had actually wagered to earn those winnings.  
6 V3:42-43. Her historical loss records do not support the claim that she actual earns  
7 money gambling.

8       b. All of that said, Nevada is a gaming state, and gaming is legal. It does  
9 not appear that Plaintiff can afford an average of \$10,000.00 or more per year in  
10 gaming losses, and Defendant argues that 33 hours a month could be spent in more  
11 constructive ways, particularly when one's child is in school, but the key point for this  
12 Court's consideration is whether Plaintiff's gaming activity affects the best interests of  
13 Evan. Here, "the nature of the relationship of the child with each parent" is implicated.  
14 Parents who work regularly set an example for their children. It is true that Defendant  
15 has not worked since the fall of 2015, but those circumstances were unforeseen, and  
16 it is clear that Defendant historically worked hard running a successful hockey  
17 coaching program, instructing thousands of children a year, which Evan, as a child,  
18 was and is in a unique position to watch his father do. Being a stay-at-home mother is  
19 noble and it is work, and Plaintiff is to be commended for the work she does as a  
20 mother; however, the Court is less convinced that this is a matter of choice than  
21 circumstance. As between a parent who seems to have time to work while her child  
22 is in school but does not, and a parent who spends his days and evenings coaching  
23 children with his own son participating and watching on, the Court finds the  
24 Defendant's choices and actions are more closely aligned with the best interests of the  
25 child.

26       30. Rebecca Nance testified in Plaintiff's case in chief. V3:68-85. Mrs.  
27 Nance is Plaintiff's mother. V3:68-69. She and her husband have lived with Plaintiff  
28 and Plaintiff's three children since 2010. V3:69. She said that Evan has a loving

1 relationship with his mother and he is a very good kid. V3:69. She described all the  
2 family relationships in the household and those with her other daughter and her  
3 children who live in town as "close." V3:70-73. The family go together to go  
4 swimming, to the park, to movies, and bowling. V3:70. She reported that Evan is  
5 presently infatuated with baseball. V3:71. She said, "he rarely brings up hockey at  
6 the house" and she could not say who Evan's favorite hockey team was. V3:83-84.  
7 She said that when Evan FaceTimes with Defendant he is in his room for an hour or  
8 an hour and half and apparently talking to all of the Ferraros. V3:75. She described  
9 the relationship between Plaintiff and Defendant as strained. V3:75. Asked for  
10 examples of what she meant by "strained," she instead talked about Plaintiff sending  
11 pictures of Evan to Defendant, or working on Father's day projects with Evan. V3:75-  
12 76. She testified that Sandra prepares the kids meals. V3:78. She testified that she  
13 gambles, "a little bit," on "senior days" and uses Sandra's card so they can get points  
14 to use the casino pool and comps for buffets. V3:79-80.

15 31. Judith Tolman testified in Plaintiff's case in chief. V3:86-149. She holds  
16 a bachelor's degree and master's degree in social work; she obtained her Bachelor's  
17 License of Social Work in 2009, her Master's License of Social Work in 2010 and her  
18 Clinical License in 2014. V3:87. Initially she said she has worked as a therapist for  
19 five years; however, on cross-examination she said it was more like 4 or 4 ½ years;  
20 she works with children, adolescents and adults utilizing cognitive behavioral therapy.  
21 V3:87-8; V3:126-27. Ms. Tolman did not testify as an expert witness.

22 a. Ms. Tolman began working with Evan in February 2013 when she was  
23 still an intern. V3:89. Evan did not attend therapy for a period of several months  
24 between 2013 and 2014 while the parties were getting along. V3:131; Ex. A at  
25 DEFT0004, #2. In or around the fall of 2014, Plaintiff placed Evan back into therapy.  
26 Ms. Tolman sees Evan every Wednesday except during Defendant's timeshare.  
27 V1:75; V3:9; V90. Ms. Tolman sees Plaintiff when she brings Evan to therapy, and  
28 Plaintiff sometimes participates in therapy. V3:89-90. It is rare that Plaintiff misses or

1 cancels a session, and when she does will generally ask for a make-up session.  
2 V3:132. Defendant occasionally calls her by phone, and she has seen Defendant  
3 only once or twice. V3:89-90. Ms. Tolman testified that she only reaches out to  
4 Defendant "on occasion" and has only initiated contact with the Defendant in the last  
5 year to conduct her annual reviews of Evan and to provide him literature regarding  
6 delayed enrollment of children in kindergarten. V3:144. The only people Ms. Tolman  
7 has ever talked to about Evan are Evan, the Plaintiff and the Defendant. V3:130.

8 b. Ms. Tolman testified that Oppositional Defiant Disorder (ODD) may  
9 present in situations where a child does not want to do something, they may push  
10 back or argue, they may yell, or throw themselves on the floor, and sometimes the  
11 target is adults or authority figures, or the child may be annoying, irritable, or insist  
12 upon getting their way. V3:102. Ms. Tolman testified that indicators of ADHD are not  
13 paying close attention to detail, making careless mistakes, difficulty sustaining  
14 attention, seeming not to listen, not following instructions, difficulty organizing tasks or  
15 materials. V3:134. Ms. Tollman testified that there are two main components of  
16 ADHD, there is an inattention component and a hyperactivity/impulsivity component.  
17 V3:134, She further testified, to make the diagnosis you need to find six or more  
18 criterion of each component *and* you need to find those in *two or more settings*.  
19 V3:135. Ms. Tollman conceded that everyone in the courtroom has multiple of the  
20 attributes that define ADHD, to greater and lesser degrees. V3:135. Ms. Tollman  
21 testified that the settings in which she identified Evan as having the requisite number  
22 of criterion in each component was by reports from the school, her own office, and  
23 Plaintiff's home. V3:135. However, when pressed, she admitted that she did not *talk*  
24 to anyone at the school, and she could not find the report on which she was relying in  
25 her records. V3:135-37.

26 c. She was unaware that Evan has never been sent to the school  
27 counselor. V3:138. She said that his behavior has been handled in the classroom,  
28 but it is unclear how she would know that given she has never talked to anyone at the

1 school. V:138. From memory, she said the school report noted needs for  
2 improvement in the areas of talking, distractibility, and staying in his seat, but admitted  
3 a number of first graders exhibit such behaviors and do not have a diagnosis of and  
4 would not be diagnosed with ADHD. V3:137-38. She admitted the treatment  
5 recommendations of the National Institutes of Health and American Academy of  
6 Pediatrics for children of Evan's age are medication and cognitive behavioral therapy  
7 (CBT), and she has not recommended medication for Evan, only CBT. V3:138. Ms.  
8 Tolman admitted that there is a CBT certification, but she does not have one. V3:141.  
9 She believes it is possible that a parent can teach their child the same things that she  
10 is teaching Evan. V3:145. This was Defendant's point, that he can and believes he  
11 does teach Evan many of the same things Ms. Tolman does, but in different ways,  
12 namely through having a structured, daily schedule and through extra-curricular  
13 activities, many of which Defendant is personally coaching his son, whether formally or  
14 informally.

15 d. Ms. Tolman thinks that it would benefit Evan to see her every week  
16 because she says, "Evan struggles with meeting the expectations of each parent.  
17 They have different expectations." V3:91. Ms. Tolman, was asked about the  
18 behavioral expectations in Sandra's home and she talked about "traditional family  
19 values" existing in Plaintiff's household. V3:91-92. However, she could not say what  
20 the behavioral expectations were in Defendant's household. V3:92,146. And, Ms.  
21 Tolman admitted that she does not have any direct knowledge of what goes on in Mr.  
22 Ferraro's household. Moreover, the parties' testimony did not reflect that they have  
23 different expectations of Evan or that Evan was not, in fact, meeting their  
24 expectations. Again the testimony from every witness, was that Evan was well-  
25 behaved, respectful, excelling in school, and no one testified to any serious problems,  
26 *except* Ms. Tolman. In deed, Plaintiff did not even say that Evan was behaving in a  
27 way that was consistent with the behaviors of ADHD/ODD.

28 e. Ms. Tolman was asked if she has made suggestions to both parents as

1 to how they can address symptoms of ADHD in the home, but she did not answer the  
2 question, she only talked about how she understands Plaintiff addresses Evan's  
3 behaviors in her home. V3:116.

4 f. Ms. Tolman testified that the behavior Evan was exhibiting when Evan  
5 began treatment with her was "chewing on a blanket, obviously it was a few years ago,  
6 a blanket or the neck of his shirt, his sleeve that kind of thing" and "he would kind of  
7 shut down sometimes because of anxiety." V3:100. However, several witnesses who  
8 have known Evan all or most of his life – Defendant, his brother, and Ms. Doyle – and  
9 witnesses who have known Evan since 2014 – Mr. Pannacciulli and Principal  
10 Hungerford – all testified that they never observed or did not recall Evan doing this  
11 kind of thing during Chris's timeshare or at school. And, no one testified that Evan  
12 was shutting down or that Evan was anything other than an engaged and engaging  
13 little boy; "outgoing" is how Ms. Doyle described him (she has known him since he was  
14 about 3 or 4 years old) and his uncle described him as a "leader." Ms. Tolman stated  
15 her recent evaluation put Evan's anxiety diagnosis in remission. V3:101.

16 g. Ms. Tolman testified that she has also diagnosed Evan with Oppositional  
17 Defiant Disorder (ODD) and Attention Deficit Hyperactivity Disorder (ADHD) combined  
18 presentation. V3:101. She testified that ODD cannot be "cured," that it is organic and  
19 is caused by personality traits and a reaction to situations the child is in, but it can  
20 improve with age. V3:101-02. She testified that ADHD presents in situations that  
21 cause the symptoms. V3:102. Ms. Tolman testified that Evan symptoms include  
22 getting angry, arguing, talking back, not doing what he is asked to and blaming others  
23 for his problems, making careless mistakes, sloppy homework or handwriting, not  
24 finishing chores or homework, not listening, trouble sustaining attention, or being  
25 hyperfocused on something the child is actually interested in. V3:103-05. Defendant  
26 testified that Evan does not exhibit these behaviors any more than the thousands of  
27 children of Evan's age that he has observed during his coaching career. V1:76-77.  
28 Similarly, Defendant's brother, Ms. Doyle, Mr. Pannacciulli, and Principal Hungerford

1 denied that these behaviors exist or that they exist in any greater degree than that of  
2 the general population of children who are Evan's age; and they all get opportunity to  
3 observe many children of Evan's age. Even Plaintiff's mother – Evan's maternal  
4 grandmother – testified Evan is a "very good kid." Plaintiff did not testify much about  
5 Evan's behavior.

6 h. Defendant testified that when Evan does misbehave, there is discussion,  
7 positive examples are given, there is negotiation, compromise and Evan is given  
8 opportunities for problem solving, V1:77-78. Defendant expressed his belief that it is  
9 his job as a parent to teach his son these skills, not a therapist and that he believes  
10 Plaintiff uses therapy as a substitute for parenting. V1:77.

11 i. Ms. Tolman's direct testimony was critical, perhaps even biased against,  
12 Defendant, yet on cross-examination she admitted that she has no direct observation  
13 or understanding from Mr. Ferraro of what happens or occurs in Mr. Ferraro's home.  
14 V3:143-44, 147. She has never had a discussion with Defendant about the means of  
15 discipline in his home. V3:149. She was not aware that Defendant uses a reward  
16 system with Evan. V3:144. She was not aware that Defendant's method of discipline  
17 is to discuss Evan's behaviors with him and give him choices. V3:144-45. Ms.  
18 Tolman was asked if she would be surprised to learn that the symptoms she described  
19 in Evan are not observed during Defendant's timeshare in a degree that is beyond that  
20 of hundreds of children that Defendant coaches every year. V3:145. To that question  
21 Ms. Tolman answered, "I don't know how he measures that so I can't judge it."  
22 V3:145. But just a few questions earlier she admitted that it is possible that a person  
23 who coaches thousands of children per year could develop an average measurement  
24 of children's behavior. V3:143-44. The Court agrees that such a person can and will  
25 develop such a measurement, and that Defendant and his brother can compare  
26 Evan's behavior to those of the other children they coach to conclude that Evan's  
27 behaviors are not out of the norm.

28 j. Ms. Tolman testified that Defendant did report to her that Evan exhibits

1 the symptoms of ODD (V3:103), but Ms. Tolman also testified that she is aware that  
2 Defendant does not think that Evan qualifies for a mental health diagnosis. V3:102-  
3 03. From his testimony it very clear that Defendant thinks the issue is one of degree  
4 and on balance all witnesses agree that Evan is a very well behaved and respectful  
5 child. Ms. Tolman speculated that there may be ADHD/ODD in the Ferraro household  
6 and this may account for their belief that Evan's behavior is 'normal;' however, she  
7 admitted that she is unaware as to whether any member of the Ferraro family has ever  
8 attended therapy and she has made no direct observations of the Ferraro home.  
9 V3:119, 143-44.

10 k. Ms. Tolman evaded giving any concrete benchmarks for the success or  
11 failure of her own treatment of Evan or how long he should continue to be in weekly  
12 therapy and said that a second opinion would usually only be sought if new behaviors  
13 cropped up. V3:139-141. Ms. Tolman testified that she would not second guess her  
14 own diagnosis even if the child's school principal had not identified any of the  
15 behaviors she described in Evan. V3:143. This concerns the Court. It seems to this  
16 Court that if a therapist thinks, as Ms. Tolman clearly does, that the buy-in and  
17 participation of both parents is a key to the successful treatment of a child and the  
18 therapist has been unable to accomplish that with one of the parents, then it would be  
19 in the best interest of her patient to recommend a second opinion from a therapist  
20 selected by both parents, but Ms. Tolman testified she has never recommended a  
21 neuropsychic exam for Evan or sought a second opinion, nor has she ever considered  
22 a differential diagnoses for Evan. V3:128, 133, 139-41.

### 23 CONCLUSIONS OF LAW

24 1. Nevada has subject matter jurisdiction over the minor child in  
25 accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, which is  
26 codified at Chapter 125A of the Nevada Revised Statutes, and the Court has personal  
27 jurisdiction over the parties.

28 2. The court may modify or vacate a child custody order at any time during

1 a child's minority as appears in the child's best interest. (NRS 125C.0045(1)(a-b).)  
2 When considering a motion to modify custody, the court must first determine the  
3 actual physical custody timeshare that is in effect, regardless of what was stated in the  
4 last child custody order. *Rivero v. Rivero*, 125 Nev. 410, 430, 215 P. 3d 213, 227  
5 (2009). Different tests apply to modify custody depending on the current custody  
6 arrangement. Joint physical custody may be modified or terminated if it is in the best  
7 interest of the child. (NRS 125C.0045(2); *see also*, *Truax v. Truax*, 110 Nev. 473, 874  
8 P.2d 10 (1994).) Primary physical custody may be modified only when "(1) there has  
9 been a substantial change in circumstances affecting the welfare of the child, and (2)  
10 the modification would serve the child's best interest." *Ellis v. Carucci*, 123 Nev. 145,  
11 153, 161 P.3d 239, 244 (2007). However, "the child's best interest must be the  
12 primary consideration for modifying custody and *Rivero's* 40-percent *guideline* shall  
13 serve as a tool in determining what custody arrangement is in the child's best interest."  
14 *Bluestein v. Bluestein*, \_\_ Nev. \_\_\_, 345 P.3d 1044, 1046 (2015) (emphasis added).  
15 Since *Rivero*, *Bluestein*, and the commencement of this case, the Nevada Legislature  
16 enacted NRS 125C.003(1)(a) which states in part that "An award of joint physical  
17 custody is presumed not to be in the best interest of the child if . . . The court  
18 determines by substantial evidence that a parent is unable to adequately care for a  
19 minor child for at least 146 days of the year." If this rule applies in this context, which  
20 the Court does not think it does, the Court does not think the issue has ever been that  
21 Defendant was unable to care for Evan 146 days per year.

22 3. Here, the parties' post-*Rivero* parenting plan stated they would share  
23 joint legal and joint physical custody of Evan ("Parenting Plan" at 2:4-5, 5:18-21.),  
24 which is evidence that the parties themselves believed joint physical custody was in  
25 Evan's interest and they did this even though the terms of the parenting plan,  
26 *arguably*, did not give Defendant 146 days of timeshare every year. However, the  
27 *Rivero* Court said, "In calculating the time during which a party has physical custody of  
28 the child, the district court should look at the number of days during which a party

1 provided supervision of the child, the child resided with the party, and during which the  
2 party made the day-to-day decisions regarding the child. The district court should not  
3 focus on, for example, the exact number of hours the child was in the care of the  
4 parent . . . ." *Rivero v. Rivero*, 125 Nev. at 225. Therefore, if as Defendant testified  
5 at trial, the Court counts every day that Defendant had the child in his care, and not  
6 just those days in which Defendant had the child overnight, then Defendant is well  
7 over the 40% threshold in every year. Therefore, the Court finds that the parties do, as  
8 a matter of law, exercise joint legal custody of Evan.

9 4. Nevertheless, and in an abundance of caution, the Court also finds that  
10 the Defendant meets the additional burden under *Ellis*. Changed circumstances  
11 affecting the welfare of the child are shown by: (a) Plaintiff maintaining Evan in weekly  
12 therapy when there is very little, if any, evidence that Evan suffers behavioral issues  
13 beyond those of an average, active and healthy first grader; (b) Evan is of an age  
14 where extracurricular activities and socialization with his peers is important and  
15 Plaintiff never fostered this until Defendant filed his motion (the first activity in which  
16 she enrolled him was baseball in 2015); she denies him any opportunity to play  
17 hockey during her timeshare, which is his father's sport and a sport that Evan loves;  
18 (c) now that Evan is in grade school, school quality is important and the specific  
19 school district that Evan will attend in New York is better than schools generally in Las  
20 Vegas; (d) since the last custody order was entered, Plaintiff has failed to ensure her  
21 oldest son graduated high school on time, allowing him to leave regular high school for  
22 an on-line home school program, allowing him to do it at 'his own pace', and failing to  
23 obtain resources to assist him when, by her own testimony, she believed he was  
24 struggling; instead, she gave him an ownership interest in her business before he was  
25 even done school; and (e) albeit of lesser importance than things effecting the  
26 circumstances of the child, Defendant's circumstances have changed in that since the  
27 parenting plan was entered, his second career has solidly established itself and his  
28 client base in New York.

1           5.       NRS 125C.007 sets forth the relocation factors to be weighed by court,  
2 which were previously found in *Schwartz v. Schwartz*, 107 Nev. 378, 812 P.2d 1268  
3 (1991); *Jones v. Jones*, 110 Nev. 1253, 885 P.2d 563 (1994); and *Potter v. Potter*,  
4 121 Nev. 613, 119 P.3d 1246 (2005). NRS 125C.007(1)(a-c) requires the relocating  
5 parent to demonstrate to the court that:

6           a.       There exists a sensible, good-faith reason for the move, and the move is  
7 not intended to deprive the non-relocating parent of his or her parenting time. Here,  
8 the sensible good faith reasons include: allowing Defendant to reestablish his  
9 business; reduce travel expenses to dedicate more financial resources to Evan; afford  
10 Evan better educational and more extra-curricular opportunities than exist in Nevada,  
11 whereas his mother resists sending Evan to better schools when presented the  
12 opportunity, resists enrolling Evan in more sport-related activity even when Defendant  
13 offers to pay, and she will not allow him to play hockey at all; and the network of  
14 connections that Defendant can provide for his son by raising him in New York is a  
15 unique and valuable in promoting Evan's long-term best interests..

16           b.       The best interests of the child are served by allowing the relocating  
17 parent to relocate with the child. Here, as set forth above, education, extra-curricular  
18 activities, the guidance of a parent who has some unique skills derived from his  
19 coaching career to augment his skills as a parent, and a fairly large and very close  
20 family to support father and son, all serve Evan's best interest. Then too, there are  
21 the best interest factors under NRS 125C.0035(4). Evan is not yet of sufficient age  
22 and capacity to form an intelligent preference as to his physical custody; therefore, this  
23 factor is inapplicable. There was not a lot of testimony as to which parent is more  
24 likely to allow the child to have frequent associations and a continuing relationship with  
25 the noncustodial parent; no one testified that they were deprived of their timeshare;  
26 concern was raised over the *duration* of FaceTime visits but the Court believes that if  
27 ordered, Defendant will comply. Although the Court wants to see more summer  
28 visitation between Plaintiff and Evan than Defendant initially proposed, the Court is

1 impressed that Defendant is willing to share some of his time with Plaintiff, and waive  
2 child support to help her potentially visit Evan in New York at still other times. This  
3 may be difficult while Plaintiff's daughter is still in school, but Plaintiff's daughter is with  
4 her father on weekends, and they do live with her grandparents; therefore, it seems  
5 that there could be opportunities for Plaintiff to visit Evan in New York, and even when  
6 her daughter graduates, Evan will still have six years of school remaining. The level of  
7 conflict between the parents has moderated in recent years, mostly they have found  
8 ways to avoid co-parenting, this is a neutral factor for the Court on relocation. The  
9 ability of the parents to cooperate to meet the needs of the child, at present there is  
10 just not much interaction, but cooperation is clearly difficult. If the parties were living in  
11 the same community, the Court would not impose a primary physical custodian, but it  
12 may not be a bad thing that it happens by default. Defendant very clearly wants to  
13 provide every opportunity for his son that he can, but Plaintiff resists and oftentimes  
14 denies those opportunities. Some testimony was given by Plaintiff on Defendant's  
15 health, but it was old and the Court is not concerned for the health of either parent  
16 being an issue in meeting Evan's best interests. As to the physical, developmental  
17 and emotional needs of the child, the Court finds that both parents have met them to  
18 this point, but questions Plaintiff's decision or perceived need to keep Evan in weekly  
19 therapy; the Court questions the therapist in not obtaining a second opinion or  
20 recommending a therapist with whom both parents felt they could work, and the Court  
21 thinks that Defendant's strong commitment to his son and experience coaching  
22 thousands of children over the years will serve Evan's needs very well. With respect  
23 to the nature of the relationship of the child with each parent, the Court does not doubt  
24 that there is a close bond between Evan and both of his parents, and both are  
25 committed in their different ways; Plaintiff appears very maternal, while Defendant  
26 appears to be both paternal and a mentor. Evan has two half siblings in Plaintiff's  
27 household; a brother who is now emancipated and reportedly moving, and a sister  
28 who will soon be fourteen and spends weekends with her father. These relationships

1 are important, and they can be maintained through Plaintiff's own visitation and  
2 FaceTime. Evan should be permitted to communicate with his sister. The Court  
3 understands that the parties made competing allegations of abuse or neglect dating  
4 back to 2010, but there was no testimony of abuse or neglect by either parent since  
5 the last custody order was entered. Nor has either parent committed any act of  
6 abduction against the child or any other child since the last custody order was entered.

7 c. The child and the relocating parent will benefit from an actual advantage  
8 as a result of the relocation. For the same reasons as set forth above, the Court finds  
9 that there will be an actual advantage to Evan and the Defendant in relocating to New  
10 York.

11 6. If a relocating parent demonstrates to the court the factors set forth in  
12 NRS 125C.007(1) are met, then pursuant to NRS 125C.007(2)(a-f), the court must  
13 weigh the following factors and the impact of each on the child, the relocating parent  
14 and the non-relocating parent, including, without limitation, the extent to which the  
15 compelling interests of the child, the relocating parent and the non-relocating parent  
16 are accommodated:

17 a. The extent to which the relocation is likely to improve the quality of life  
18 for the child and the relocating parent. The Court finds that the improvement for both  
19 Evan and Defendant will be quite significant. The improvement for Evan will be  
20 tempered by the decreased frequency of contact with his maternal family, but it will  
21 benefit him greatly to have a hands-on, available parent with the kind of routine that  
22 Defendant has practiced with Evan during his timeshares in Las Vegas, but on a  
23 weekly basis in New York.

24 b. Whether the motives of the relocating parent are honorable and not  
25 designed to frustrate or defeat any visitation rights accorded to the non-relocating  
26 parent. Defendant's motives are honorable, above all else, New York is and always  
27 has been his home, but there are still other motivations reflected elsewhere herein  
28 that are also honorable in Defendant's request for relocation.

1 c. Whether the relocating parent will comply with any substitute visitation  
2 orders issued by the court if permission to relocate is granted. There was some  
3 evidence that Defendant had violated the existing custody order by continuing to take  
4 Evan to New York when Evan started kindergarten; however, this was not a  
5 deprivation of Plaintiff's timeshare. The Court has no reason to believe that  
6 Defendant will not comply with the visitation order.

7 d. Whether the motives of the non-relocating parent are honorable in  
8 resisting the petition for permission to relocate or to what extent any opposition to the  
9 petition for permission to relocate is intended to secure a financial advantage in the  
10 form of ongoing support obligations or otherwise. The Court perceives that Plaintiff's  
11 motives in resisting the relocation are likewise honorable. Her identity is as a mother,  
12 and as she testified, she does not want that relationship to change.

13 e. Whether there will be a realistic opportunity for the non-relocating parent  
14 to maintain a visitation schedule that will adequately foster and preserve the parental  
15 relationship between the child and the non-relocating parent if permission to relocate  
16 is granted. Here, there is a reasonable alternative visitation schedule as set forth in  
17 the order below. The Court was pleased that, in closing argument, Defendant  
18 conceded that Plaintiff and Evan needed to have a continuous, uninterrupted period in  
19 the summer time. The Court understands Defendant's desire to enroll Evan in  
20 summer camps and programs, but because Defendant sought primary custody during  
21 the school year, all extracurricular activities cannot take a front seat to Evan's  
22 relationship with his mother. During Plaintiff's timeshare, unless Plaintiff agrees to  
23 putting Evan in said extracurricular activities, she is entitled to exercise the time in the  
24 manner in which she pleases. If Evan's extracurricular activities suffer from her  
25 choices to deny that involvement, that is a parenting decision she is entitled to make, if  
26 she believes it is better for Evan, or for their relationship.

27 3. The burden to prove that relocation is in the best interest of the child is on the  
28 parent seeking relocation. (NRS 125C.007(3).) As set forth above, Defendant met

1 that burden.

2 **ORDER**

3 IT IS HEREBY ORDERED that the Parties shall continue to share joint legal  
4 custody of Evan Daniel Ferraro, born September 30, 2008. Legal custody involves  
5 having basic legal responsibility for the child and making major decisions concerning  
6 the child such as their health, education, and religious upbringing. Legal custody  
7 includes but is not necessarily limited to those items enumerated in the legal custody  
8 provisions of the parties' Stipulation and Order Re: Parenting Plan filed November 30,  
9 2012.

10 IT IS FURTHER ORDERED that Defendant's request for primary physical  
11 custody of the minor child is GRANTED.

12 IT IS FURTHER ORDERED that Defendant's request to relocate to New York  
13 with the minor child is GRANTED.

14 IT IS FURTHER ORDERED that Plaintiff is granted specified visitation as  
15 follows:

16 **Winter Break:** In ODD years, Mom shall have Evan upon release from school  
17 prior to the break until December 30th (Evan returns to New York on 12/30 in ODD  
18 years). In EVEN years, Mom shall have Evan from December 26 to the day before  
19 school resumes.

20 **February Break:** This period will begin upon the release of school prior to the  
21 break and continue until the day before school resumes following the break. Mom  
22 shall have Evan in even years and Dad shall have Evan in odd years. In odd years  
23 when Evan is with Dad, if Evan is participating in a sports camp or tournament, Mom  
24 may attend at Mom's expense.

25 **April Break:** This period will begin upon the release of school prior to the  
26 break and continue until the day before school resumes following the break. Mom  
27 shall have Evan every year.

28 **Memorial Day Weekend:** This period will begin upon release of school prior to

1 the break and continue until the day before school resumes following the break. Mom  
2 shall have Evan in even years and Dad shall have Evan in odd years. However,  
3 during even years, if permission is granted from Evan's school and there is no  
4 substantial interference with school or extracurricular activities, then in order to  
5 facilitate additional visitation with Mom, Evan shall be permitted to miss the Friday  
6 before and the Tuesday after Memorial Day.

7 **Summer Break:** Mom shall have Evan from one week following Evan's  
8 release from school through one week prior to Evan's return to school.

9 **Columbus Day Weekend (October):** This period will begin upon the release  
10 of school prior to the break and continue until the day before school resumes following  
11 the break. Mom shall have Evan for Columbus Day Weekend every year. If  
12 permission is granted from Evan's school and there is no substantial interference with  
13 extracurricular activities, then in order to facilitate additional visitation, Evan shall be  
14 permitted to miss the Friday before and the Tuesday after Columbus Day.

15 **Thanksgiving:** This period will begin upon the release of school prior to the  
16 break and continue until the day before school resumes following the break. Mom  
17 shall have Evan in even years and Dad shall have Evan in odd years. If permission is  
18 granted from Evan's school and there is no substantial interference with  
19 extracurricular activities, then in order to facilitate additional visitation, Evan shall be  
20 permitted to miss school Monday, Tuesday or Wednesday before Thanksgiving.

21 IT IS FURTHER ORDERED that Defendant shall pay all costs of transportation  
22 for the foregoing visits. Plaintiff shall fly to New York to pick up Evan for her visits (but  
23 Defendant will pay Plaintiff's airfare); and Defendant shall fly to Las Vegas to retrieve  
24 Evan.

25 IT IS FURTHER ORDERED that Plaintiff may have additional visits with Evan in  
26 New York at Plaintiff's own expense provided that Plaintiff gives Defendant two weeks'  
27 advance notice and the visit does not interfere with any significant and/or important  
28 events (i.e., once in a lifetime events, pre-arranged and non-refundable trips). If said

1 visit cannot be conducted within the period noticed by Plaintiff, an alternate visitation  
2 shall take place on the next date chosen or designated by Plaintiff regardless of any  
3 significant events. During such visits, Plaintiff is responsible to get Evan to and from  
4 school and extracurricular activities. Such visits shall not be unreasonably denied due  
5 to "preplanned Ferraro-family events," as such events are likely to be conducted  
6 regularly.

7 IT IS FURTHER ORDERED that each Party shall have unlimited telephone,  
8 text, or FaceTime/Skype contact during their non-custodial time, with the  
9 understanding that contact shall not unduly intrude on the other party's custodial time.  
10 More specifically, the parents shall have communication with the child four days per  
11 week, on a schedule to be determined and set in writing each quarter or semester  
12 based on Evan's school and extra-curricular activity schedule. The parents will assure  
13 that Evan is in a private location, free of distractions. The scheduled calls will be  
14 planned for at least thirty minutes duration so that Evan can communicate with his  
15 extended family members as well.

16 IT IS FURTHER ORDERED, pursuant to Defendant's waiver of child support  
17 from Plaintiff, the relative income of the parents, and Defendant's resources being  
18 sufficient to meet the needs of the child, that Plaintiff shall pay no child support.

19 IT IS FURTHER ORDERED that Defendant shall provide health insurance for  
20 the minor child and Defendant shall pay 100% of the premium for such health  
21 insurance. The parties shall share all of out-of-pocket costs equally pursuant to the  
22 30/30 rule, i.e., any unreimbursed medical, dental, optical, orthodontic or other health  
23 related expense incurred for the benefit of the minor child is to be divided equally  
24 between the parties. Either party incurring an out of pocket medical expenses for the  
25 child shall provide a copy of the paid invoice/receipt to the other party within thirty days  
26 of incurring such expenses, if not tendered with the thirty day period, the Court may  
27 consider it as a waiver of reimbursement. The other party will then have thirty days  
28 from receipt within which to dispute the expense in writing or reimburse the incurring

1 party for one-half of the out of pocket expense, if not disputed or paid within the thirty  
2 day period the party may be subject to a finding of contempt and appropriate  
3 sanctions.

4 IT IS FURTHER ORDERED that each party shall bear their own attorney's fees  
5 and costs.

6 This Court FINDS that because of the manner in which this case proceeded  
7 and concluded on September 27, 2016 with post-trial motions, the child ended up  
8 commencing school in Las Vegas for the 2016-2017 school year. While this Court  
9 believes it is in the child's long term best interests to be in Defendant's primary care, it  
10 does not believe that the disruption to the child's school at this juncture is in his best  
11 interests. In this regard, the COURT ORDERS the parties should continue to follow  
12 their current schedule, and commence their custodial plan as of one week after school  
13 lets out, which means that Plaintiff will have the summer from one week after school  
14 lets out until one week before school begins in New York. Defendant will have to notify  
15 Plaintiff of the dates for when the child needs to be present in New York for his first  
16 day of attendance or orientation, as the case may be.

17 **NOTICE IS HEREBY GIVEN** that the parties shall be required to submit the  
18 information required to NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate  
19 form to the Court and to the Welfare Division of the Department of Human Resources  
20 within ten (10) days of entry of the decree and within ten (10) days of any change in  
21 the original form should any of that information change.

22 **NOTICE IS HEREBY GIVEN** of the following provision of NRS 125C.0045(6):

23 **PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,**  
24 **CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS**  
25 **ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED**  
26 **IN NRS 193.130. NRS 200.359 provides that every person having a limited**  
27 **right of custody to a child or any parent having no right of custody to the**  
28 **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.**

1                   **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention of  
2 October 25, 1980, adopted by the 14th Session of the Hague Conference on Private  
3 International Law apply if a parent abducts or wrongfully retains a child in a foreign  
4 country. The Parties are also put on notice of the following provisions in NRS  
5 125C.0045 (8):

6                   If a parent of the child lives in a foreign country or has significant  
7 commitments in a foreign country:

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

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

22                   **NOTICE IS HEREBY GIVEN** of the following provisions of NRS 125C.006 and  
23 NRS 125C.0065:

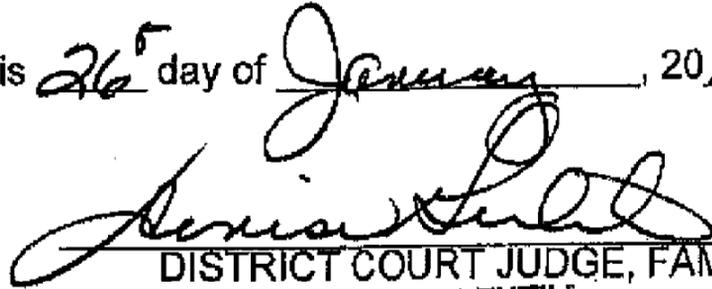
24                   The parties, and each of them, are hereby placed on notice that if primary  
25 physical custody has been established pursuant to an order, judgment or  
26 decree of a court or if joint physical custody has been established pursuant  
27 to an order, judgment or decree of a court and the primary custodian or a  
28 joint custodian intends to relocate his or her residence to a place outside  
of this State or to a place within this State that is at such a distance that  
would substantially impair the ability of the other parent to maintain a  
meaningful relationship with the child and desires to take the child with him  
or her, the relocating parent shall, before relocating: (a) attempt to obtain  
the written consent of the non-relocating parent to relocate with the child;  
and (b) if the non-relocating parent refuses to give that consent, petition the  
court for permission to relocate with the child. The court may award  
reasonable attorney's fees and costs to the relocating parent if the court  
finds that the non-relocating parent refused to consent to the relocation  
without having reasonable grounds for such refusal or for the purpose of  
harassing the relocating parent. A parent who relocates with a child  
pursuant to this section without the written consent of the other parent or  
the permission of the court is subject to the provisions of NRS 200.359.

**NOTICE IS HEREBY GIVEN** that the Parties are subject to the provisions of NRS  
31A.010 et seq. and NRS 125.450 regarding the collection of delinquent child support

1 payments by wage withholding and assignment.

2 **NOTICE IS HEREBY GIVEN** that either Party may request a review of child  
3 support pursuant to NRS 125B.145, presently every three years or upon changed  
4 circumstances.

5 IT IS SO ORDERED this 26<sup>th</sup> day of January, 2017.

6  
7 

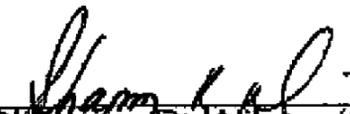
8 DISTRICT COURT JUDGE, FAMILY DIVISION  
9 DENISE L. GENTILE RW

9 Respectfully Submitted By

Approved as to Form & Content By

10 HUTCHISON & STEFFEN, LLC

STANDISH NAIMI LAW GROUP

11   
12 Shannon R. Wilson (9933)  
13 10080 W. Alta Dr., Ste. 200  
14 Las Vegas, NV 89145  
15 (702) 385-2500 tel  
(702) 385-2086 fax  
[swilson@hutchlegal.com](mailto:swilson@hutchlegal.com)

16 Jason Naimi (9441)  
17 1635 Village Center Circle, Ste. 180  
18 Las Vegas, NV 89134  
19 (702) 998-9344 tel  
20 (702) 998-7460 fax  
21 [jason@standishnaimi.com](mailto:jason@standishnaimi.com)

22 Attorney for *Christopher Ferraro*

23 Attorney for *Sandra Nance*

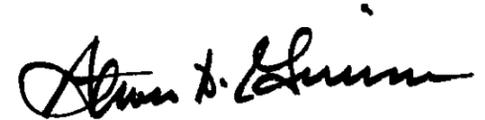
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CLERK OF THE COURT

1 **NOTC**  
Emily McFarling, Esq.  
2 Nevada Bar Number 8567  
**MCFARLING LAW GROUP**  
3 6230 W. Desert Inn Rd.  
Las Vegas, NV 89146  
4 (702) 565-4335 phone  
(702) 732-9385 fax  
5 eservice@mcfarlinglaw.com  
Attorney for Plaintiff  
6 Sandra Lynn Nance

7 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

8 **FAMILY DIVISION**

9 **CLARK COUNTY, NEVADA**

10 SANDRA LYNN NANCE,

11 Plaintiff,

12 vs.

13 CHRISTOPHER MICHAEL FERRARO,

14 Defendant.

) Case Number: D426817

) Dept. No: F

) **NOTICE OF APPEAL**

**MCFARLING LAW GROUP**  
6230 W. Desert Inn Rd., Las Vegas, NV 89146  
Phone: (702) 565-4335 Fax: (702) 732-9385  
eservice@mcfarlinglaw.com

15  
16 TO: Defendant, and to his Attorney of Record, Shannon R. Wilson, Esq.

17 Notice is hereby given that Nancy Lynn Nance, Plaintiff above named, hereby  
18 appeals to the Supreme Court of Nevada from the Findings of Fact, Conclusions of Law and  
19 Judgment entered on this action on January 27, 2017.

20 DATED this 15th day of February, 2017.

21 **MCFARLING LAW GROUP**

22  
23 By:           /s Emily McFarling            
24 Emily McFarling, Esq.  
25 6230 W. Desert Inn Rd.  
26 Las Vegas, NV 89146  
(702) 565-4335  
Attorney for Plaintiff  
Sandra Lynn Nance

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CERTIFICATE OF SERVICE

The undersigned, an employee of McFarling Law Group, hereby certifies that on the 15th day of February, 2017, I served a true and correct copy of Notice of Appeal, via mandatory electronic service by using the Eighth Judicial District Court's E-file and E-service System to the following:

<b>Hutchison &amp; Steffen, LLC</b>	
<b>Contact</b>	<b>Email</b>
Cindy Pittsenbarger	<a href="mailto:cpittsenbarger@hutchlegal.com">cpittsenbarger@hutchlegal.com</a>
Shannon R. Wilson	<a href="mailto:swilson@hutchlegal.com">swilson@hutchlegal.com</a>

By:           /s/Maria Rios Landin            
Maria Rios Landin

CLERK OF THE COURT

1 MLIM  
Shannon R. Wilson (9933)  
2 Todd L. Moody (5430)  
HUTCHISON & STEFFEN, LLC  
3 Peccole Professional Park  
10080 West Alta Drive, Suite 200  
4 Las Vegas, NV 89145  
Tel: (702) 385-2500  
5 Fax: (702) 385-2086  
swilson@hutchlegal.com

6 Attorneys for *Defendant Christopher Michael Ferraro*

8 **DISTRICT COURT- FAMILY DIVISION**

9 **CLARK COUNTY, NEVADA**

10 SANDRA LYNN NANCE

11 Plaintiff(s),

12 v.

13 CHRISTOPHER MICHAEL FERRARO

14 Defendant(s).

) CASE NO. D-10-426817-D  
) DEPT NO. F

) **DEFENDANT CHRISTOPHER  
) FERRARO'S MOTION IN LIMINE  
) #2**

) Date of Hearing: 3 / 15 / 16  
) Time of Hearing: 10 : 00 a.m  
) Oral Argument Requested: Yes

17 Defendant Christopher Ferraro, through his attorney of record, Shannon R. Wilson of  
18 Hutchison & Steffen, LLC, moves the Court for an order *in limine* before trial as follows:

19 That no evidence may be offered or received relative to the facts and circumstances  
20 existing between the parties prior to the last custody order filed November 30,  
21 2012, and that the Parties are precluded from using any pleading, testimony,  
22 remarks, questions or arguments relative to the facts and circumstances existing  
23 between the parties prior to the last custody order, on the ground that such evidence  
24 is *res judicata* and, as such, is not relevant or if the evidence is somehow found to  
25 be relevant, its probative value is substantially outweighed by the danger of unfair  
26 prejudice, confusion of the issues, misleading the trier of fact, considerations of  
27 undue delay, waste of time or needless presentation of cumulative evidence.

28 The allegations that Plaintiff apparently seeks to focus on and prove as suggested by her exhibits,

HUTCHISON & STEFFEN

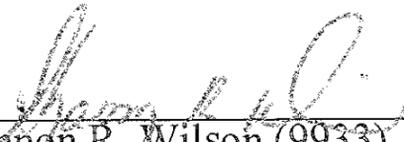
A PROFESSIONAL LLC  
PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NV 89145

1 discovery requests and deposition of the Defendant, are more than three years old and in some  
2 cases more than five years old. Such information, as it relates to the best interest of the child, is  
3 eclipsed by the most recent three years of facts and circumstances, which have transpired since the  
4 last custody order.

5 This motion is brought pursuant to Eighth Judicial District Court Rule 5.40. It is based  
6 on *inter alia* *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042 (2004), NRS 48.015 through  
7 48.035, all documents on file with the court in this matter, and the points and authorities that  
8 follow.

9 DATED this 11<sup>th</sup> day of January, 2016.

10 HUTCHISON & STEFFEN, LLC

11 By:   
12 Shannon R. Wilson (9933)  
13 Todd L. Moody (5430)  
14 Peccole Professional Park  
15 10080 West Alta Drive, Suite 200  
16 Las Vegas, NV 89145  
17 Tel: (702) 385-2500  
18 Fax: (702) 385-2086  
19 [swilson@hutchlegal.com](mailto:swilson@hutchlegal.com)

Attorneys for *Defendant Christopher Michael Ferraro*

20 NOTICE OF MOTION

21 NOTICE IS HEREBY GIVEN that the foregoing Defendant Christopher Ferraro's  
22 Motion in Limine #      has been set for hearing on the 15 day of March, 2016, at the  
23 hour of 10:00 a.m., in Department F, Courtroom 3 of the Family Courts and Services Center,  
24 601 N. Pecos Rd., Las Vegas, Nevada.  
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## POINTS &amp; AUTHORITIES

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## 2 1. FACTS

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This is a post-divorce motion for relocation of a minor child. Defendant Christopher Ferraro and Plaintiff Sandra Nance share a seven year old son, Evan. At the time of their original divorce in 2010 to 2012, custody was hotly contested, the allegations between the parties were ugly and co-parenting was non-existent. After several court-hearings, a custody evaluation, and the appointment of a parenting coordinator, the parties reached a stipulated parenting plan that gave the parties joint legal and joint physical custody. The parenting plan was filed November 30, 2012. Mr. Ferraro's motion seeks primary physical custody of Evan for the purpose of relocating to his home state of New York. Mr. Ferraro's motion focuses, as it should, on the events and circumstances transpiring since the last custody order. Ms. Nance seems to determined to re-litigate the past, and that is the subject of this motion in limine.

## 2. LEGAL ARGUMENT

Motions in limine have long been recognized as a vehicle by which a party may seek to resolve evidentiary issues prior to trial to avoid undue prejudice or, where appropriate, expedite the proceedings. In this case, evidence relative to the facts and circumstances existing between the parties prior to the last custody order entered on November 30, 2012, should be excluded pursuant to NRS 48.035(1) and NRS 48.035(2), and such evidence *must* be excluded pursuant to *Castle v. Simmons*, 120 Nev. 98, 86 P.3d 1042 (2004) and its predecessor cases, including but not necessarily limited to *McMonigle v. McMonigle*, 110 Nev. 1407, 887 P.2d 742 (1994). In deed, Plaintiff's counsel invoked *McMonigle* in the beginning of Plaintiff's deposition. Mr. Roy stated:

Ms. Wilson, I don't want to interrupt your flow, but I want to put a standing objection on the record to any testimony that precedes the May 2012 order per *McMonagle* [*sic*].

(Ex. A, Depn. Trans. of S. Nance dated Nov. 23, 2015 at 12:21-24.) What is good for the goose is also good for the gander. Plaintiff cannot use *McMonigle* as a shield and sword. Similarly, *McMonigle and Castle* objections were lodged by Plaintiff's counsel during Defendant's deposition.

1            *Castle* and its predecessors recognize that principals of *res judicata* operate in custody  
 2 cases to preclude parties from re-litigating events that took place before the last custody order  
 3 was entered. *Castle v. Simmons*, 120 Nev. at 104-05, 86 P3d. at 1046-47. The settled rule is as  
 4 follows:

5            Although the doctrine of *res judicata*, as applied through the  
 6 changed circumstances doctrine, promotes finality and therefore  
 7 stability in child custody cases, it should not be used to preclude  
 8 parties from introducing evidence of domestic violence *that was*  
 9 *unknown to a party* or to the court when the prior custody  
 10 determination was made.

11            *Castle v. Simmons*, 120 Nev. at 105, 86 P.3d at 1047 (emphasis added). Here, Plaintiff seeks to  
 12 revive *all* manner of old facts, circumstances and allegations against the Defendant *all of which*  
 13 *were known to the Plaintiff and the Court prior to the last child custody order*. Therefore, what  
 14 Plaintiff seeks to introduce does not come within the narrow exception articulated by *Castle*.

15            In addition to these allegations, it is clear from Plaintiff's discovery requests and  
 16 questions she posed to the Defendant throughout his deposition that she would like to re-visit  
 17 other facts and circumstances existing prior to 2012, including but not necessarily limited to:

- 18            1) Emails and text messages between the parties or their families prior to  
 19 November 30, 2012;
- 20            2) Facts, circumstances and allegations stated in Dr. Paglini's report dated March  
 21 26, 2012;
- 22            3) Allegations by Plaintiff to New York Department of Child Protective Services in  
 23 or about 2010, which were unsubstantiated;
- 24            4) Allegations by Defendant's New York neighbors of incident(s) they purportedly  
 25 observed between the parties in or about the winter of 2009-2010.

26            Each of these topics or things and any and all testimony or proposed exhibits related to  
 27 them should be excluded pursuant to *Castle*, because they were known to the parties and at  
 28 issue prior to the last custody order. Therefore, those issues cannot be re-litigated now.

          In addition to the case law, NRS 48.025 and NRS 48.035 operate to exclude evidence,  
 which although potentially relevant, may still be excluded if its probative value is substantially  
 outweighed by the danger of unfair prejudice, of confusion of the issues, misleading the trier of  
 fact, considerations of undue delay, waste of time or needless presentation of cumulative  
 evidence. Here, it cannot seriously be questioned that several of the things Plaintiff seeks to  
 introduce *were* relevant to the child's best interest, but the child's best interest now is

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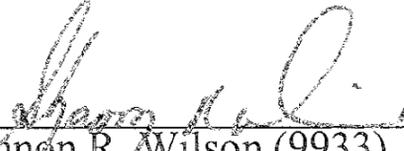
determined by present facts and circumstances; therefore, litigating things that transpired more than three years ago and at a time when the child was in a different developmental stage are not the place to focus attention or resources.

**3. CONCLUSION**

For the reasons set forth above, Defendant Christopher respectfully requests this Court for its order instructing both parties and their counsel, and all witnesses called on their behalf not to mention, refer to, interrogate about, or attempt to convey to the trier of fact in any manner, either directly or indirectly, information about the allegations facts or circumstances existing between the parties prior to November 30, 2012 at the trial of this matter.

DATED this 11<sup>th</sup> day of January, 2016.

HUTCHISON & STEFFEN, LLC

By:   
Shannon R. Wilson (9933)  
Todd L. Moody (5430)  
Peccole Professional Park  
10080 West Alta Drive, Suite 200  
Las Vegas, NV 89145  
Tel: (702) 385-2500  
Fax: (702) 385-2086  
[swilson@hutchlegal.com](mailto:swilson@hutchlegal.com)

*Attorneys for Defendant Christopher Michael Ferraro*

CERTIFICATE OF SERVICE

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Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 11 day of January, 2016, I caused the above and foregoing document entitled **DEFENDANT CHRISTOPHER FERRARO'S MOTION IN LIMINE #2** to be served as follows:

- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent via **facsimile**; and/or
- pursuant to EDCR 8.05, sent electronically via the Court's electronic service system; the date and time of this electronic service is in place of the date and in place of deposit in the mail.
- to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

Eric P. Roy, Esq.  
Mahogany Turfley, Esq.  
LAW OFFICES OF ERIC P. ROY  
818 E. Charleston Blvd.  
Las Vegas, NV 89104  
Email: [eric@ericroylawfirm.com](mailto:eric@ericroylawfirm.com)  
[mahogany@ericroylawfirm.com](mailto:mahogany@ericroylawfirm.com)

Attorney for *Plaintiff Sandra Lynn Nance*

  
An employee of Hutchison & Steffen, LLC

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
S. NV 89145

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EXHIBIT PAGE ONLY

HUTCHISON & STEFFEN

A PROFESSIONAL LLC

EXHIBIT A

DISTRICT COURT - FAMILY DIVISION

CLARK COUNTY, NEVADA

SANDRA LYNN NANCE,

Plaintiff,

vs.

CHRISTOPHER MICHAEL FERRARO,

Defendant.

)  
)  
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)  
) CASE NO.: D-10-426817-D  
) DEPT. NO.: F  
)  
)  
)  
)

VIDEOTAPED DEPOSITION OF SANDRA NANCE  
LAS VEGAS, NEVADA  
MONDAY, NOVEMBER 23, 2015

REPORTED BY: JACKIE JENNELLE, RPR, CCR #809  
JOB NUMBER: 277003

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EXHIBIT PAGE ONLY

**HUTCHISON & STEFFEN**  
A PROFESSIONAL LLC

**EXHIBIT A**

1 Q. Okay. Have you ever had a name change?

2 A. No.

3 Q. Has anyone in your family changed their  
4 name?

5 A. Yes.

6 Q. Who?

7 A. Well, starting with my father, his name was  
8 changed by my grandmother when he was at a young  
9 age. He had two name changes.

10 Do you need those name changes?

11 Q. What was his original name?

12 A. Shavonie (phonetic). Don't ask me how to  
13 spell it. I'm not sure.

14 And then it was changed to Lapka at one  
15 point, and then to Nance, my stepfather's name.

16 Q. Were you born Sandra Nance?

17 A. I don't recall. I may have been born  
18 Sandra Lapka. I don't recall.

19 The birth certificate I have says Sandra  
20 Nance. That's all I know.

21 MR. ROY: Ms. Wilson, I don't want to  
22 interrupt your flow, but I want to put a standing  
23 objection on the record to any testimony that  
24 precedes the May 2012 order per McMonagle.

25 MS. WILSON: Okay.

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Sandra Lynn Nance

Plaintiff/Petitioner

Y Christopher Michael Ferraro

Defendant/Respondent

Case No. D-10-426817-D

Dept. F

MOTION/OPPOSITION  
FEE INFORMATION SHEET

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

\$25 The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  
-OR-  
 \$0 The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:

- The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
- The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
- The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on \_\_\_\_\_.

Other Excluded Motion (must specify) no filing fee for Motions in Limine.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

\$0 The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:

- The Motion/Opposition is being filed in a case that was not initiated by joint petition.
- The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

-OR-  
 \$129 The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.  
-OR-  
 \$57 The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:  
 \$0  \$25  \$57  \$82  \$129  \$154

Party filing Motion/Opposition: Defendant Date 01/11/16

Signature of Party or Preparer Michael

## Suzanne Morehead

---

**From:** Janet Tolleson  
**Sent:** Wednesday, January 13, 2016 10:16 AM  
**To:** Staff  
**Subject:** FW: \*\*Document Rejection\*\* D-10-426817-D - Defendant Christopher Ferraro's Motion in Limine #2 - 01/12/2016

Please claim.

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

**From:** noreply@tylerhost.net [mailto:noreply@tylerhost.net]  
**Sent:** Wednesday, January 13, 2016 3:46 AM  
**To:** H&S  
**Subject:** \*\*Document Rejection\*\* D-10-426817-D - Defendant Christopher Ferraro's Motion in Limine #2 - 01/12/2016

Efile ID :7755764  
Document :Defendant Christopher Ferraro's Motion in Limine #2  
Case Number :D-10-426817-D  
Date Filed :01/12/2016  
Reason :  
Comments :Missing signature page 2  
Reviewer : Mimi Fumo

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

SANDRA LYNN NANCE,

Appellant,

v.

CHRISTOPHER MICHAEL  
FERRARO,

Respondent.

Electronically Filed  
May 08 2017 04:12 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court No.: 72454

District Court No.: D426817

**APPEAL FROM ORDER GRANTING RELOCATION AND MODIFYING  
CHILD CUSTODY**

Eighth Judicial District Court of the State of Nevada

In and for the County of Clark

THE HONORABLE DENISE L. GENTILE

DISTRICT COURT JUDGE

---

**APPELLANT'S APPENDIX – VOL. 6**

---

Emily McFarling, Esq.

Nevada Bar Number 008567

McFarling Law Group

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<sup>1</sup> Submitted under seal subject to Court approval.

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3	06/27/16	Trial Testimony Transcript dated June 27, 2016	AA00593- AA00696
3-4	06/28/16	Trial Testimony Transcript dated June 28, 2016	AA00697- AA00764
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