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VS.

Electronically Filed
Jun 12 2018 03:25 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Volume 2

Fred Page, Esq.
Nevada Bar No. 6080
Attorney for Respondent
6145 Spring Mountain Road, Suite 201
Las Vegas, NV 89146

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CLERK OF THE COURT

OPCM
ELENI KILGORE
9149 Dorrell Lane
Las Vegas, Nevada, 89149
Defendant in Proper Person

DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA

RICHARD KILGORE,
Plaintiff,

Case No.: D-12-459171-D
Dept No.: I

vs.

Date of Hearing: 03/10/2015
Time of Hearing: 10:30 A.M.

ELENI KILGORE,
Defendant.

ORAL ARGUMENT REQUESTED: YES

"NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION/COUNTERMOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION/COUNTERMOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION/COUNTERMOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE."

**DEFENDANTS OPPOSITION TO PLAINTIFF'S
MOTION TO ENFORCE THE COURT'S DECEMBER 9, 2014 ORDER, HOLD
DEFENDANT IN CONTEMPT AND MODIFY CUSTODY**

AND

**DEFENDANT'S COUNTER MOTION TO MODIFY PHYSICAL CUSTODY AND
AWARDING THE DEFENDANT PRIMARY PHYSICAL CUSTODY OF THE TWO
MINOR CHILDREN, FOR CHILD INTERVIEWS AND TEENAGE DISCRETION; TO
REVIEW CHILD SUPPORT; FOR DEFENDANT'S ATTORNEY'S FEES AND COSTS
INCURRED HEREIN; AND RELATED MATTERS**

COMES NOW the Defendant, ELENI KILGORE, representing herself in Proper Person
and moves this Honorable Court for the following relief:

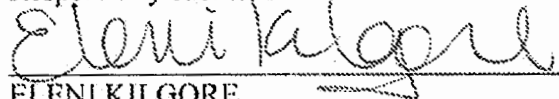
1. Denying the relief sought by the Plaintiff;

2. Modifying physical custody and awarding the Defendant primary physical custody of the parties' two minor children, for child interviews and teenage discretion regarding their visitation with the Plaintiff;
3. Modifying the Plaintiff's child support pursuant to NRS125B.145;
4. For Defendant's attorney's fees and costs incurred herein; and related matters
5. For such other and further relief as the court deems just and equitable.

This opposition and counter motion is made and based upon all the papers and pleadings on file, the attached affidavit and is made in good faith and not to delay justice.

Dated this 28 day of December, 2014.

Respectfully submitted:



ELENI KILGORE
9149 Dorrell Lane
Las Vegas, Nevada, 89149
Defendant in Proper Person

POINTS AND AUTHORITIES

I. FACTUAL BACKGROUND

Plaintiff, RICHARD SCOTT KILGORE (hereinafter "RICHARD") and Defendant, ELENI KILGORE (hereinafter "ELENI") were divorced in Clark County, Nevada by a Decree of Divorce that was entered on March 13, 2013. There are three children born as a result of the marriage, namely, Alexandria Kilgore, born: August 22, 1995, age 19; Nicholas Kilgore, born: June 29, 2000; and, Richard Kilgore, born: June 29, 2000. Pursuant to the Decree the parties were awarded joint legal custody of their children. ELENI was awarded primary physical custody of the oldest child Alexandria, with Alexandria having teenage discretion regarding visitation with their father. The parties share joint physical custody of the twin boys using an alternating weekly timeshare.

1 The most recent hearing in this case occurred on December 9, 2014 on RICHARD'S
2 motion to for orders to modify custody and ELENİ'S countermotion for an order to show cause,
3 to modify physical custody of the two minor children and related issues. The Court denied
4 RICHARD's motion to reduce child support because he failed to file an FDF.
5

6 The Court denied RICHARD's request to bar ELENİ's boyfriend from attending the
7 children's activities. The Court ordered the parties are the stay on separate sides of the gym or
8 field during the children's events and are not allowed to exchange any comments with each other
9 or each other's significant others. The parties are to pick a Marriage and Family Therapist and
10 start attending counseling under the supervision and recommendation of that counselor as to who
11 will attend and when. ELENİ's lawyer pointed out that fourteen year old Nicholas was refusing
12 to visit with his father and that the boy should have teenage discretion. The Court ordered that
13 Nicholas was not in charge of the case and ordered that Nicholas was to visit with his father.
14

15 RICHARD has now filed what he calls an emergency motion seeking to modify custody
16 and defined ELENİ in contempt. In the instant motion RICHARD complains that beginning
17 Monday, December 8, 2014 it was his visitation week but that following the December 9, 2014
18 hearing he made numerous attempts to get Nicholas, including picking him up from school,
19 school events and defendant's house but he has been unable to see his son.
20

21 There is no concealment/kidnapping as RICHARD's insinuates. The other twin boy,
22 Richard, still goes with his dad every other week. Nicholas chooses not to go regardless of what
23 ELENİ says. Both boys have cell phones their dad can call/text them on whenever he wants to.
24

25 The twins have been to 3 wrestling meets and tournaments outside of school in the last
26 week since the December 9, 2014 hearing. RICHARD was there and after school and on
27 Saturdays. The boys were with their coaches and team. RICHARD approached Nicholas on 2
28

1 separate occasions at these activities when he was with the coaches and team only and Nicholas
2 told him to leave him alone and he would talk to RICHARD when he (Nicholas) is ready. It took
3 place in front of the coaches but ELENI was not there. Indeed, Nicholas has sent RICHARD
4 countless texts, on his own, telling his father to leave him alone and that he would talk to him in
5 counseling.
6

7 Nicholas has been to school every day except 2 days when he was sick with stomach
8 issues, which has been documented on Family Wizard, the school, and his pediatrician.
9 RICHARD was informed and read it on Family Wizard. In short, ELENI is not keeping
10 Nicholas from RICHARD. The truth – which RICHARD simply refuses to accept – is that
11 Nicholas will No Longer put up with RICHARD'S verbal/physical abuse any more. Nicholas is
12 old enough to see and understand his father's abusive behavior. Consequently the decision not to
13 have any contact or communication with his father was strictly Nicholas', after the CPS worker
14 spoke to him.
15
16

17 On December 10, 2014 RICHARD was stalking ELENI. He followed ELENI from her
18 house. As a result ELENI called the police. It was around 5:15PM and it was dark outside and
19 raining. ELENI was frightened because she did not know who it was until the police told ELENI
20 to see if she could identify the vehicle. ELENI realized it was RICHARD stalking her.
21

22 RICHARD has shown up with the police on 2 separate occasions to get Nicholas. The
23 first time Nicholas refused to go and the officer told Nicholas he was old enough to choose and
24 he did not have to go. The second time occurred on December 10, 2014. ELENI told Nicholas
25 to go with the police to his father but Nicholas refused. Attached hereto as **Exhibit A** is a video
26 of the event. ELENI invited the 2 policemen into her home and they spoke with Nicholas for
27 over 30 minutes alone to try to get him to go. Nicholas still refused. The police asked ELENI if
28

1 she had ever witnessed any abuse by their father and ELENI said, "Yes". The police officers said
2 that Nicholas told them the CPS representative told Nicholas that he did not have to go to visit
3 his dad if Nicholas was afraid of him. The police told ELENI they tried everything to get him to
4 go but he still refused and they would document it in the family court police report.

5
6 On December 10th, RICHARD parked right next to ELENI to pick up Nicholas from
7 wrestling practice. RICHARD came out and got into his car. Nicholas came out, saw him and
8 started to take off because RICHARD was out of the car and video-taping. ELENI stayed in her
9 car. Nicholas was free to go with his father. RICHARD told Nicholas to get into his car and that
10 he had to go home with him. ELENI said and did nothing. Nicholas ran around and got into
11 ELENI's car. RICHARD then came up to ELENI's window and yelled at her in front of
12 Nicholas. ELENI video- taped the occurrence also.

13
14 On Sunday, Nicholas was asked by RICHARD and Alexandra to go to the movies with
15 their father and he still refused and did not go. ELENI did not know about it until later that day
16 when her daughter told her.

17
18 RICHARD has stalked ELENI, harassed and threatened her through video-tapes and
19 Family Wizard. RICHARD brought ELENI's boyfriend Tim's ex-wife to a wrestling tournament
20 to provoke an incident but failed because Tim and ELENI did not take the bait. Nothing
21 happened but RICHARD'S provocation was documented by the coaches, and with video and
22 pictures. RICHARD did try to get Tim banned from school events and functions even though
23 the Court specifically refused to grant the same request that RICHARD made at the December 9,
24 2014 hearing.

25
26 ELENI did what the court ordered and on numerous occasions that Nicholas go with his
27 father. ELENI did so in front of the police on 2 separate occasions. It was the CPS representative
28

1 who encouraged ELENI to seek a change of custody - a suggestion that was echo by Nicholas'
2 football coach, who Nicholas confides in. Along with the abuse ELENI learned was taking
3 place, a medical doctor told her that what RICHARD was doing to the twins was child abuse and
4 medical documentation of neglect.
5

6 II. ARGUMENT

7 I. OPPOSITION TO RICHARD'S 8 REQUEST TO FIND ELENI IN CONTEMPT

9 **NRS 22.010 Acts or omissions constituting contempts. The following acts or**
10 **omissions shall be deemed contempts:**

11 3. Disobedience or resistance to any lawful writ, order, rule or process issued by the
12 court or judge at chambers.

13 Pursuant to NRS22.010 contempt includes acts of disobedience or resistance to any
14 lawful writ, order, rule or process issued by the court. Any order meant to be the subject of a
15 contempt proceeding must be clear, unambiguous, and set forth the details of compliance in
16 clear, specific terms, so the parties will know what duties or obligations are imposed.
17 *Cunningham v. District Court*, 102 Nev. 551, 729 P.2d 1328 (1986). The moving party carries
18 the burden of demonstrating the other party had the ability to comply with the order, and the
19 violation of the order was willful. *Rodriguez v. District Court*, 120 Nev. 789, 102 P.3d 41
20 (2004). The inability of a contemnor to obey the order (without fault on their part) is a complete
21 defense and sufficient to purge them of the contempt charged. *Mccormick v. Sixth Judicial*
22 *District Court*, 67 Nev. 318, 326; 218 P.2d 939 (1950). However, where the contemnors have
23 voluntarily or contumaciously brought on themselves the disability to obey the order or Decree,
24 such a defense is not available; and the burden of proving inability to comply is upon the
25 contemnor. *Id.*
26
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1 There is no basis to find ELENI in contempt because she has not willfully or deliberately
2 violated the court's custody order. RICHARD's claim that ELENI has been withholding and
3 concealing Nicholas from him is nothing but an outright lie. ELENI has insisted that Nicholas
4 go with RICHARD for visitation but Nicholas refuses to do so. Nicholas is 14 years old. He is a
5 wrestler. He is at the age where ELENI can no longer physically make Nicholas go with
6 RICHARD for visitation. RICHARD is well aware of this fact. He has twice called the police to
7 try and have them intercede and force Nicholas to go with him but on both occasions the police
8 refused to do so, for obvious reasons. Like ELENI, the police realized they too could not and
9 would not physically drag Nicholas out of his home kicking and screaming and force him to go
10 with RICHARD. Even CPS told Nicholas not to go with RICHARD for visitation if he was
11 afraid of his father. The unfortunate fact is, the Court can issue all the orders it wants demanding
12 that ELENI insist that Nicholas have visitation with his father. However, the court has issued no
13 guidance as to what ELENI's is supposed to do if Nicholas refuses. ELENI has done her best to
14 comply with the court's order. She is therefore requesting that RICHARD's motion for an order
15 to show cause be denied.

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19 **2. OPPOSITION TO RICHARD'S REQUEST TO**
20 **MODIFY CUSTODY AND CHILD SUPPORT**

21 **NRS125.510. Orders: modification or termination; form; expiration.**

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

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

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

1 **NRS 125.480 Best interest of child; preferences; considerations of court;**
2 **presumption when court determines that parent or person residing with child is**
3 **perpetrator of domestic violence.**

4 1. In determining custody of a minor child in an action brought under this chapter, the
5 sole consideration of the court is the best interest of the child. If it appears to the court that joint
6 custody would be in the best interest of the child, the court may grant custody to the parties
7 jointly.

8 2. Preference must not be given to either parent for the sole reason that the parent is the
9 mother or the father of the child.

10 3. The court shall award custody in the following order of preference unless in a
11 particular case the best interest of the child requires otherwise:

12 (a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does
13 not enter an order awarding joint custody of a child after either parent has applied for joint
14 custody, the court shall state in its decision the reason for its denial of the parent's application.

15 (b) To a person or persons in whose home the child has been living and where the child
16 has had a wholesome and stable environment.

17 (c) To any person related within the third degree of consanguinity to the child whom the
18 court finds suitable and able to provide proper care and guidance for the child, regardless of
19 whether the relative resides within this State.

20 (d) To any other person or persons whom the court finds suitable and able to provide
21 proper care and guidance for the child.

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

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

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

27 (c) Which parent is more likely to allow the child to have frequent associations and a
28 continuing relationship with the noncustodial parent.

 (d) The level of conflict between the parents.

 (e) The ability of the parents to cooperate to meet the needs of the child.

 (f) The mental and physical health of the parents.

 (g) The physical, developmental and emotional needs of the child.

 (h) The nature of the relationship of the child with each parent.

 (i) The ability of the child to maintain a relationship with any sibling.

 (j) Any history of parental abuse or neglect of the child or a sibling of the child.

 (k) Whether either parent or any other person seeking custody has engaged in an act of
domestic violence against the child, a parent of the child or any other person residing with the
child.

 5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by
the court after an evidentiary hearing and finding by clear and convincing evidence that either
parent or any other person seeking custody has engaged in one or more acts of domestic violence
against the child, a parent of the child or any other person residing with the child creates a
rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic
violence is not in the best interest of the child. Upon making such a determination, the court shall
set forth:

1 (a) Findings of fact that support the determination that one or more acts of domestic
2 violence occurred; and

3 (b) Findings that the custody or visitation arrangement ordered by the court adequately
4 protects the child and the parent or other victim of domestic violence who resided with the child.

5 6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that
6 each party has engaged in acts of domestic violence, it shall, if possible, then determine which
7 person was the primary physical aggressor. In determining which party was the primary physical
8 aggressor for the purposes of this section, the court shall consider:

9 (a) All prior acts of domestic violence involving either party;

10 (b) The relative severity of the injuries, if any, inflicted upon the persons involved in
11 those prior acts of domestic violence;

12 (c) The likelihood of future injury;

13 (d) Whether, during the prior acts, one of the parties acted in self-defense; and

14 (e) Any other factors which the court deems relevant to the determination.

15 In such a case, if it is not possible for the court to determine which party is the primary
16 physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it
17 is possible for the court to determine which party is the primary physical aggressor, the
18 presumption created pursuant to subsection 5 applies only to the party determined by the court to
19 be the primary physical aggressor.

20 7. As used in this section, "domestic violence" means the commission of any act
21 described in NRS 33.018.

22 RICHARD's lawyer has not even cited the correct case in support of RICHARD's
23 request to modify custody. He relies on the case of *Murphy v. Murphy*, 84 Nev. 701, 447 P.2d
24 664 (1968). *Murphy* has been overruled by *Ellis v. Carucci*, 167 P3d 239 (Nev. 2007).
25 However, neither case applies to RICHARD's motion. When the parties share joint physical
26 custody the standard for a modification of custody is the "best interest of the child". *Truax v.*
27 *Truax* 110 Nev. 437; 874 P.2d 10 (1994); (See also, *Mosley v. Figliuzzi*, 113 Nev. 51; 930 P.2d
28 1110 (1997)).

29 RICHARD has made no showing that it is in the children's interests to award him
30 primary physical custody. RICHARD has had all court ordered visitation with his son Richard.
31 Therefore, it is hard to see how awarding him primary physical custody is justified under the
32 circumstances. As for Nicholas it would certainly not be in the boy's best interests to force him
33 to live with someone that he utterly detests. Nevertheless, RICHARD relies on the case of

1 *Martin v. Martin*, 90 P.3D 981 (2004). In *Martin* the Nevada Supreme Court did rule that a
2 custodial parent's pervasive interference with the noncustodial parent's parental rights may form
3 a basis to modify physical custody. The problem with RICHARD's argument is the fact that
4 there has been no pervasive interference by ELENI in RICHARD's parental rights. ELENI has
5 done nothing to obstruct or interfere with RICHARD's relationship with Nicholas. Fault for the
6 dismal state of that relationship rests with RICHARD alone. He is the one who has physically
7 and emotionally abused Nicholas to such a point that Nicholas wants nothing further to do with
8 him. RICHARD is only making matters worse by taking the actions described in this opposition.
9 ELENI submits it is not in Nicholas', or Richard's, best interest to be forced to live with
10 RICHARD the majority of time. She is therefore requesting that RICHARD's motion to change
11 custody be denied.
12
13

14 III. ELENI'S COUNTER MOTION

15 I. MODIFICATION OF PHYSICAL CUSTODY AND CHILD SUPPORT

16
17 At the December 9, 2014 hearing ELENI explained to the court in her request to change
18 custody that the children's relationship with their father had deteriorated to such an extent that
19 they wanted to remain living with ELENI the majority of the time and see their father every
20 other weekend. The boys have told ELENI that they want to live with her and have made similar
21 comments to CPS as well. The events that have occurred since the December 9 hearing only
22 serve to underscore this fact. Both boys but in particular Nicholas have a terrible relationship
23 with their father and it is only getting worse thanks to RICHARD's abusive, obsessive and
24 harassing behavior. It is worth recalling that RICHARD was fired as a result of his own conduct
25 and admitted in paperwork documenting his threatening and harassing behavior towards
26 ELENI's boyfriend and ELENI and engaging in illegal activity. RICHARD still lives in a
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28

1 foreclosed house, from which he will eventually be evicted. He still has no job and no way to
2 take care of the children. He continues to abuse his authority over the kids.

3 Both boys are 14 years old and certainly old enough and mature enough to describe to the
4 court and the problems they have encountered in relating with their father, his abusive and
5 demeaning behavior, and, the anxiety, distress and alienation they have been experiencing. This
6 situation is going to continue and will only get worse until the court steps in and does something
7 about it. The only practical solution is to change custody in order to minimize the boys'
8 exposure to RICHARD.
9

10 ELENI would therefore ask that the Court interview the boys outside the presence of both
11 parents to determine their wishes as to their custody and that if they say they want to remain
12 living primarily with ELENI that they be allowed to do so. ELENI would therefore request that
13 the Court award the parties joint legal custody of their children and that she have primary
14 physical custody, and that the boys have teenage discretion to decide when and under what
15 circumstances they have visitation with their father, or, that RICHARD have visitation every
16 other weekend.
17

18 If ELENI's request to change custody is granted it would be a change in circumstance
19 justifying a review and modification of RICHARD's child support obligation pursuant to
20 NRS125B.145, in which case RICHARD's child support must be set at 25% of his gross
21 monthly income, pursuant to NRS125B.070.
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2. ATTORNEY'S FEES

NRS 18.010 provides as follows:

2. In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party:

- (a) When he has not recovered more than \$20,000.00; or
- (b) Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third party complaint or defense of the opposing party was brought without reasonable ground or to harass the prevailing party.

NRS 125.150(3). Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce if those fees are in issue under the pleadings.

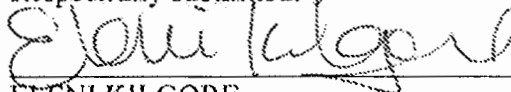
In a long line of cases, the Nevada Supreme Court has held that attorney's fees may be awarded in a post divorce action pursuant to NRS18.010 and NRS125.150(3). See *Sargeant v. Sargeant*, 88 Nev. 223, 495 P.2d 618 1972); *Leeming v. Leeming*, 87 Nev. 530, 490 P.2d 342 (1971); *Korbel v. Korbel*, 101 Nev. 140, 696 P.2d 993 (1985); *Fletcher v. Fletcher*, 89 Nev 540, 516 P.2d 103 (1973); *Halbrook v. Halbrook*, 114 Nev. 1455, 971 P.2d 1262 (1998); and, *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

If ELENI retains counsel she will incur attorney's fees. She is requesting that she have an award of attorney's fees and sanctions in the sum of \$3,000.00.

WHEREFORE, in the best interests of the minor children, let an order issue granting the relief requested by Defendant.

Dated this 28 day of December, 2014.

Respectfully submitted:



ELENI KILGORE
9149 Dorrell Lane
Las Vegas, Nevada, 89149
Defendant in Proper Person

AFFIDAVIT OF ELENIL KILGORE

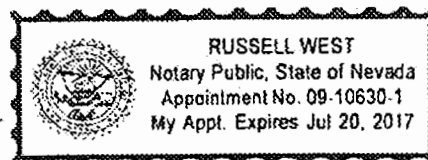
STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

1. ELENIL KILGORE, being first duly sworn on oath, states as follows:
2. That I am the Defendant in the above-entitled action. That I have read the foregoing opposition and counter motion, including the points and authorities and any exhibits attached thereto and the same are true and correct to the best of my knowledge and belief.
3. Plaintiff, RICHARD SCOTT KILGORE (hereinafter "RICHARD") and I were divorced in Clark County, Nevada by a Decree of Divorce that was entered on March 13, 2013. We have three children born as a result of the marriage, namely, Alexandria Kilgore, born: August 22, 1995, age 19; Nicholas Kilgore, born: June 29, 2000; and, RICHARD Kilgore, born: June 29, 2000. Pursuant to the Decree the parties were awarded joint legal custody of our children. I was awarded primary physical custody of the oldest child Alexandria, with Alexandria having teenage discretion regarding visitation with their father. We share joint physical custody of our twin boys using an alternating weekly timeshare.
4. For the reasons stated in my points and authorities, I am requesting that the Court grant me the relief sought in my opposition and counter motion.

Elenil Kilgore
ELENIL KILGORE

Subscribed and sworn to before me this
28 day of Dec, 2014.

Russell West
Notary Public



**Disk provided with hard copy to Court Chambers and to
Opposing Counsel**

EXHIBIT A

1 MOFI
2 ELENI KILGORE
3 9149 Dorrell Lane
4 Las Vegas, NV 89149
5 (702) 325-1835
6 Defendant in Proper Person

7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 RICHARD KILGORE,
11 Plaintiff,

Case No. D-12-459171-D
Dept. No: I

12 vs.

13 ELENI KILGORE,
14 Defendant.

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

16 Check the Statement that Describes the Motion or Opposition you are Filing:

17 X I am filing one of the three following types of excluded Motion/Opposition and am not
18 subject to the \$25.00 filing fee:

- 19 1. A Motion for/Opposition to temporary relief;
20 2. A Motion for/Opposition to the modification of child support *only*; or
21 3. A Motion for/Opposition to reconsideration or a new trial, which is being filed
22 within ten (10) days after the final decree or judgment, was issued.

23 ☐ I am not filing an excluded Motion/Opposition (listed above) and am subject to the \$25.00
24 filing fee.

25 DATED this 28th day of December, 2014.

Respectfully Submitted,

26 /s/ Eleni Kilgore
27 ELENI KILGORE
28 9149 Dorrell Lane
Las Vegas, NV 89149
(702) 325-1835
Defendant in Proper Person

1 TRANS

2 COPY

FILED

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3
4 EIGHTH JUDICIAL DISTRICT COURT

Anna L. Blum
CLERK OF COURT

5 FAMILY DIVISION

6 CLARK COUNTY, NEVADA

7 RICHARD SCOTT KILGORE,)

8 Plaintiff,)

CASE NO. D-12-459171-D

9 vs.)

10 ELENI KILGORE,)

11 Defendant.)

12
13 BEFORE THE HONORABLE CHERYL B. MOSS
14 DISTRICT COURT JUDGE

15 TRANSCRIPT RE: RETURN HEARING RE: PICK UP ORDER

16 TUESDAY, December 30, 2014

17
18 APPEARANCES:

19 The Plaintiff:
20 For the Plaintiff:

RICHARD KILGORE
JANICE JACOVINO, ESQ.
BONNIE LONARDO, ESQ.
7881 West Charleston Blvd. #160
Las Vegas, Nevada 89117

22 The Defendant:
23 For the Defendant:

ELENI KILGORE
FRED PAGE, ESQ.
6145 Spring Mountain Road, #201
Las Vegas, Nevada 89146
(702) 469-2378

1 LAS VEGAS, NEVADA

TUESDAY, DECEMBER 30, 2014

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 9:17:59)

4

5 THE COURT: AC 459171, Richard Kilgore and Eleni
6 Kilgore. Counsel, your appearances and bar numbers?

7 MS. JACOVINO: Good morning, Your Honor. Janice
8 Jacovino, 11612.

9 MS. LONARDO: Good morning, Your Honor. Bonnie
10 Lonardo, 8548.

11 THE COURT: Okay.

12 MS. JACOVINO: With us today is Richard Kilgore.

13 THE COURT: All right. Mr. Page?

14 MR. PAGE: Good morning, Your Honor. Fred Page, bar
15 number 6080, I'm appearing here on behalf of Gus Flangas.

16 THE COURT: Okay. I wasn't here at the last court
17 hearing. I believe it was Senior Judge Kathy Hardcastle. So,
18 I reviewed the pleadings that have been filed today, and this
19 was set on an order shortening time by the father, is that
20 correct?

21 MS. JACOVINO: It was. We had a -- we had provided
22 the Court with two different motions. One was an order
23 shortening time, which got set the day before our next March
24 hearing, at March 10th. This was for the pick up order

1 because we had the holidays coming up, and we've had --

2 THE COURT: Okay. What happened with that?

3 MS. JACOVINO: With the pick up order?

4 THE COURT: Yeah.

5 MS. JACOVINO: So, the holidays actually worked out
6 pretty well. We did the -- my client did get the children at
7 the dates that he was supposed to have the children. What
8 happened before that was is that the week we came to court,
9 which was the 8th, we were in court on the 9th, it was
10 supposed to be Dad's week. We go to court, we say Nick,
11 because there's two twin boys here, Nick's not coming with
12 Dad. We need to make sure that we -- we reiterate the fact
13 that this is Dad's week, we want to keep the order exactly as
14 it is, you know, because the judge said keep it as it is, and
15 then do counseling. So, that week comes, and we -- Monday, he
16 doesn't go with Dad. Tuesday we have court, the judge says
17 he's to go with Dad.

18 THE COURT: But did he get his court-ordered
19 visitation?

20 MS. JACOVINO: Only for the winter break, not for
21 that week, not for after court. It was his week --

22 THE COURT: Okay, well since he --

23 MS. JACOVINO: -- the week we were court.

24 THE COURT: -- was able to have the children, would

1 then the emergency go away?

2 MS. JACOVINO: Well, the emergency --

3 THE COURT: Because we're here today just on the
4 emergency. I don't know if we're going to address all of
5 these other things, but I do have a couple of notes. I'm up
6 to speed on everything that we've read here. But he has seen
7 the children, is that correct?

8 MS. JACOVINO: Yes. For the winter break he got his
9 -- he got his vacation time. He didn't get him that week that
10 he was supposed to, before winter. And we want to insure that
11 we gets him after.

12 THE COURT: How many days did he miss because it was
13 -- it's week on, week off, correct?

14 MS. JACOVINO: Correct. So, with Nick he missed the
15 entire week, and he's missed some time prior to that.

16 THE COURT: The last court hearing was?

17 MS. JACOVINO: The 9th.

18 THE COURT: The 9th, and he missed one entire week?

19 MS. JACOVINO: He missed the --

20 THE PLAINTIFF: (Indiscernible) missed two weeks
21 prior to that.

22 MS. JACOVINO: And he says the week prior to that,
23 as well.

24 THE COURT: Okay. Mr. Page, why was -- is it -- why

1 was he not able to visit?

2 MR. PAGE: Your Honor, there are two children, there
3 are two boys, they're both 14 years old, they're twins.

4 THE COURT: Yes.

5 MR. PAGE: One child is willing to go with Dad, the
6 other child is not. Dad has gone so far as to try and
7 exercise power and control over the child by contacting Metro
8 to try and force the child to go with him.

9 THE COURT: Since the last court date he contacted
10 Metro?

11 MR. PAGE: Yes. And Metro came over to Mom's house.
12 Metro interviewed the child, and the child refuses to go.
13 There's nothing more that Mom can do. She can encourage her
14 child to go all that she wants, but if he refuses to go, he
15 refuses to go.

16 THE COURT: Is this -- what's the child's name?

17 MR. PAGE: If Metro -- I'm sorry?

18 THE COURT: What's the child's name?

19 MR. PAGE: Nicholas.

20 THE COURT: Nick, okay.

21 MR. PAGE: And Nicholas has spoken to Metro, and
22 Metro refuses to, you know, force Nicholas by the scruff of
23 his neck to go into his father's car. There are some
24 underlying issues that are involved here between father and

1 son.

2 THE COURT: Yes, I'm aware of that. I read that all
3 in the pleadings, so Metro got involved, and the child didn't
4 want to go, correct?

5 MR. PAGE: Right. And I think the underlying issues
6 are not best resolved by Dad exercising power and control, and
7 twisting his son's arm and force him to get into his car. But
8 this may be better dealt with through additional counseling
9 rather than Dad being a bully.

10 THE COURT: Right. That was my next question. You
11 were in court 21 days ago. Have you two stipulated to a
12 counselor for the child? That was Kathy Hardcastle's order.

13 MS. JACOVINO: Yes, Your Honor. So, Mrs. Kilgore
14 went through and we want to do what's best for everybody, and
15 she was able to find somebody on your list.

16 THE COURT: Who did they select?

17 MS. JACOVINO: We -- we're discussing that today,
18 and we're not 100 percent sure.

19 THE COURT: Whose on the list, potential names?

20 MS. JACOVINO: Okay. So, we were going to go to
21 counseling with Donna Gosnell.

22 MR. PAGE: I think we're all familiar with Donna
23 Gosnell, she's okay.

24 THE COURT: Do we stipulate to Donna Gosnell? And

1 she'll take -- she'll take insurance?

2 THE DEFENDANT: She takes my insurance.

3 THE COURT: So, it's for counseling purposes, not
4 for -- for the -- to address the relationship issue with the
5 father, correct?

6 MR. PAGE: Yeah. Also, so the Court has more
7 information rather than less as part of this fact finding
8 role, it may be a good idea to have the children interviewed
9 by you, either in-camera, or through FMC.

10 THE COURT: Okay. You read my mind because I had a
11 note here to have the input because they're teenagers. So, we
12 -- we're setting them for --

13 MS. JACOVINO: Your Honor, we -- we agree to that,
14 but as Judge Hardcastle stated, we think that it would be
15 better if it happened after counseling, because well, we do
16 admit there's some under --

17 THE COURT: The child already spent time with Dad
18 over the holidays, correct?

19 MS. JACOVINO: He did spend the holiday time with
20 Dad.

21 THE COURT: So, they're ready to for it -- to be
22 interviewed.

23 MR. PAGE: Okay. Very good.

24 THE COURT: You will have a referral for that. Do

1 you want something kind of sped up on the interview? They
2 normally take 30 days to get a report back. So, I'm going
3 -- as long as he's being able to visit.

4 MS. JACOVINO: We don't know what next week is going
5 to hold though either, because this week is his time with Mom.

6 THE COURT: Is Mom encouraging that?

7 MR. PAGE: Mom's encouraging the child to go.

8 THE COURT: Okay.

9 MR. PAGE: It's just that even with Metro the child
10 won't go, there's not much else that she can do.

11 THE COURT: Okay. Well, it's taken three weeks. We
12 finally have Gosnell in place. They need to make an
13 appointment right away. Do you know when her first available
14 appointment is?

15 THE DEFENDANT: Your Honor, I contacted them
16 --

17 MR. PAGE: Go ahead and stand.

18 THE DEFENDANT: Sorry. I contacted them two weeks
19 ago with the name thing -- they just got to me today, and
20 Judge Hardcastle said --

21 THE COURT: Only two weeks?

22 THE DEFENDANT: -- we had to agree.

23 THE COURT: Well, they -- it was a holiday, but all
24 right, we'll get a -- a first appointment.

1 THE DEFENDANT: Okay.

2 THE COURT: Normally Donna would meet with the child
3 first, and she'll get input and history from both of you, and
4 then she'll work on the -- the counseling. And then hopefully
5 bring Dad involved. Okay. I'm --

6 MS. JACOVINO: Your Honor, we really do think that
7 the child's interview needs to happen after the counseling
8 because we do know that there's underlying issues, and I don't
9 believe that they're just underlying issues between Dad and
10 son, but also Mom and son.

11 THE COURT: I'll see that the interview should
12 -- well, we're going to try and you'll schedule the interview
13 downstairs, but I should say that the child would spend
14 additional time with the dad before the interview takes place.
15 So, if it doesn't happen, then you have to postpone the
16 interview. Call mediation center and at least have a visit
17 with Dad before he's interviewed again.

18 MS. JACOVINO: Okay, because this week is Mom's.

19 THE COURT: Or visit with Dad again before he's
20 interviewed first. Okay.

21 MS. JACOVINO; So, this week is Mom's, and then the
22 following Monday they are to come to Dad's.

23 THE COURT: And both children will be interviewed.
24 Age 14, right?

1 MR. PAGE: Yes.

2 THE COURT: Okay. Is it Dad's week this week?

3 MR. PAGE: No, this is Mom's week this week.

4 THE COURT: This is Mom's week, and the exchanges
5 occur on Sundays?

6 THE DEFENDANT: Mondays at 7:00.

7 MR. PAGE: Mondays at 7:00.

8 THE COURT: Okay. And they're out of school, right?

9 MR. PAGE: Until Monday.

10 THE COURT: And what are they doing during the
11 holidays, do they just stay at home?

12 THE DEFENDANT: They're with -- they're with me
13 right now.

14 MR. PAGE: What do they do at home, do they just
15 hang out?

16 THE DEFENDANT: Yeah, we hang out.

17 THE COURT: Okay. So, are we going meet at a public
18 place to exchange the children?

19 MR. PAGE: It hasn't been, I think it's always been
20 receiving parent picks up is what it sounds like.

21 THE COURT: It may be more feasible if you get them
22 out of the house and meet at a public place, a neutral place.
23 At the house, he may not want to leave the house.

24 MS. JACOVINO: So what -- what may work is I know

1 the kids to go wrestling, and so if it could be instead of 7
2 o'clock, if it's at 4:30, and --

3 THE COURT: Tournament or practice?

4 MS. JACOVINO: What?

5 THE COURT: Wrestling tournament or practice?

6 THE DEFENDANT: It's wrestling. They usually have
7 practice everyday.

8 THE COURT: Everyday?

9 THE DEFENDANT: And it usually is about -- it ends
10 between --

11 THE COURT: Why don't you drop them off at
12 --

13 THE DEFENDANT: -- 4:00 and 5:00.

14 THE COURT: -- practice -- is it on a Monday? Is
15 there practice on Mondays?

16 MR. PAGE: There should be practice every day for
17 wrestling.

18 THE DEFENDANT: Usually.

19 THE COURT: Dad picks up? He'll go -- they'll go
20 with their dad at the practice, and then Mom doesn't need to
21 be there. I know because I've read the history, and find out
22 more about that. Okay.

23 MS. JACOVINO: So, this Monday would be Dad's then
24 -- do we agree that he'll just pick them up and you won't be

1 there?

2 THE DEFENDANT: That's fine.

3 THE COURT: Dad will pick up from wrestling
4 practice. And what time does practice end?

5 THE DEFENDANT: It's different all the time.
6 Usually --

7 MR. PAGE: Actually maybe 4:30, 5 o'clock.

8 THE DEFENDANT: -- any where from 4:00 to 5:00. On
9 average it's been 4:30.

10 THE COURT: Okay. So, we'll move it up a little
11 bit. Pick up at 5:00 when they finish, and then we'll go a
12 week from there. I'm going to try to put some questions here
13 to the children that's going to be neutral, but obviously you
14 don't feed them the questions, because we'll find out if
15 they're coached or influenced in any way. So, just tell them
16 to tell the truth. We'll ask about the Centennial High School
17 incident, they're relationship with the parents, is there any
18 -- any other questions that should be asked?

19 MS. JACOVINO: Your Honor, the incidents are
20 numerous.

21 THE COURT: The custody preferences?

22 MS. JACOVINO: It appears that while both parents
23 are great parents, they don't seem to play nicely together at
24 school events, whether that be a wrestling match, or open

1 house.

2 THE COURT: Judge Hardcastle made orders that they
3 can be in opposite sides of the room or the field.

4 MR. PAGE: Right. And my client just --

5 THE COURT: And It hasn't worked out?

6 MS. JACOVINO: This week, yes.

7 MR. PAGE: My client disputes that they don't play
8 well together.

9 THE COURT: Yes, it worked out?

10 MS. JACOVINO: Yes.

11 THE COURT: Yes, they are keeping away from each
12 other?

13 MS. JACOVINO: Yes.

14 THE PLAINTIFF: Yes.

15 MS. JACOVINO: Since the order.

16 THE COURT: Okay. That's a standing order. Are you
17 requesting that it be modified? Won't be able -- the parents
18 be able to attend their activities.

19 MS. JACOVINO: Yeah. As long was do the 30 minutes
20 before, and the 30 minutes after, and the different sides.

21 THE COURT: 30 seems like a long time, but okay.
22 All right.

23 MR. JACOVINO: But I think we're open to something
24 different.

1 THE PLAINTIFF: The problem is they're warming up
2 before, so it's hard to see them.

3 MR. PAGE: I think the orders of --

4 THE COURT: So, if it's --

5 MR. PAGE: -- Judge Hardcastle has in place are
6 probably fine.

7 THE COURT: If it's Mom's week this week, they have
8 an activity, then what? Dad would be allowed to spend 30
9 minutes after the event, before and after the event?

10 MR. PAGE: Dad is before, Mom is after.

11 THE COURT: Okay. Well, we'll try and continue with
12 that.

13 MS. JACOVINO: The problem with before is they're
14 warming up, so there's not like 30 minutes that they talk to
15 Dad before.

16 MR. PAGE: Mom is before, Dad is after.

17 THE DEFENDANT: No, no, we're after.

18 THE COURT: Plaintiff, Dad, will have --

19 MR. PAGE: I'm sorry, Dad is before, Mom is after.

20 THE COURT: -- the first 30 minutes, and the mother
21 has the last 30 minutes.

22 MR. PAGE: It's really -- it's --

23 THE DEFENDANT: It's worked out well.

24 MR. PAGE: This is silly.

1 THE COURT: I don't think it's necessary. If the
2 child voluntarily wants to talk to a parent before or after,
3 then he should -- he should have discretion regarding that.
4 Do we need this 30 minute?

5 MR. PAGE: No. I -- I really don't think so.

6 THE COURT: I don't think so.

7 MR. PAGE: It's micromanaging to a degree, that's
8 kind of silly, they're 14 years old.

9 THE COURT: Do you normally talk to your son after a
10 wrestling event?

11 THE PLAINTIFF: I would like to -- I've always tried
12 to keep -- sorry, Your Honor.

13 THE COURT: Yeah.

14 THE PLAINTIFF: Keep space between us when we -- I
15 always gave her the respect to give her distance when she's
16 -- after events, so we all each had time to see them, or get
17 pictures with them, and --

18 THE COURT: Okay. So -- so, did this thing work?

19 THE PLAINTIFF: It's kind of awkward. I don't think
20 it's necessary myself, but --

21 THE COURT: I think we all agree in this room. I'm
22 going to eliminate the 30 minute. Just attend -- attend the
23 practices and the -- the tournaments, okay? You'll be there,
24 you can be present, and I'm not changing the week on, week

1 off. We'll keep trying with that and get Gosnell involved.
2 Okay.

3 Since I have everybody here in the forum, I want to
4 do some updated issues. First thing is what happened with the
5 November 24th hearing on the appeal of the termination of your
6 employment?

7 THE PLAINTIFF: I am still awaiting for an
8 arbitration date on my --

9 THE COURT: So nothing happened? And you have a new
10 date?

11 THE PLAINTIFF: Not yet. We just -- my attorney
12 just submitted the three arbitrator names and --

13 MS. JACOVINO: Arbitrator names.

14 THE COURT: Okay. This could be a long process.

15 MS. JACOVINO: It can be.

16 THE COURT: So, I'm going to put Dad on a work
17 search journal. We'll give you, both sides, a copy of the
18 work search journal. Mr. Page, you'll just get a copy to see
19 what it looks like. And give Dad one to fill out, it's
20 self-explanatory, okay? And that is a court pleading, so that
21 will be filed then -- well, where are we now? The end of each
22 month starting January.

23 MS. JACOVINO: So, we're looking at is he also
24 applied for unemployment, which was denied, and so he's

1 appealing that as well. So, Dad is not --

2 THE COURT: Yeah, I figured that, okay. So,
3 document that, and produce any documentation to Mr. Page, and
4 keep him in the loop as to where he's at with that. All
5 right. Work search journal, children interviews. I think Mom
6 is missing a schedule of arrears.

7 MR. PAGE: I'm not sure, I'm just kind of appearing
8 for Gus Flangas.

9 THE COURT: Okay. And the Whipsigh (ph) hearing
10 master lowered his 1275 one child emancipated, Alexandra? So
11 she's at 365, plus 193, plus 128? And the 193 hasn't changed
12 over the years? Okay. I would think maybe -- is it
13 documented already, the children's portion for their health
14 insurance, because Dad has to be chipping in for that. 193
15 for two kids.

16 MR. PAGE: I will ask Mom to provide that
17 information.

18 THE PLAINTIFF: 193 is for three kids. I'm still
19 paying for my daughter on there.

20 THE COURT: Well, she's over 18.

21 MR. PAGE: She doesn't count then.

22 THE COURT: And she -- and she graduated high
23 school, right?

24 MS. JACOVINO: She did. And it was taken off from

1 the child support, but -- the medical support is 193 as he
2 stated.

3 THE COURT: It should be apportioned for two
4 children. If Dad wants to pay the third voluntarily, if it's
5 minimal, we'll -- we'll continue but Mom should just verify
6 the 193. Huh?

7 THE CLERK: We can do the same amount for all three.

8 THE COURT: Oh, that's probably -- no.

9 THE CLERK: No?

10 THE COURT: Because you didn't -- well, you prorate
11 it. First you have the employee, then you have the
12 dependents, and then you divide up the dependents. Yeah.

13 MR. PAGE: For what it's worth, my client indicated
14 the premium did go up.

15 THE COURT: Just verify it. Okay. And there's an
16 extra 128 on arrears? Okay.

17 MS. JACOVINO: There is, Your Honor, and -- and
18 --

19 THE COURT: But Judge Hardcastle did not reduce him
20 because he did not file an FDF, and I saw an FDF filed.

21 MS. JACOVINO: He did file an FDF. I think what she
22 was looking for was the bank statements, and we're in the
23 process of gathering them. So, I did also -- I was also
24 confused why she would say she didn't file an FDF. We weren't

1 with Mr. Kilgore in the beginning of this case.

2 THE COURT: Okay. Did he pay -- did he pay
3 December, though?

4 MS. JACOVINO: He did.

5 THE COURT: Out of his savings?

6 MS. JACOVINO: But he can't --

7 THE COURT: He's living off of his savings?

8 MS. JACOVINO: He is, and there's not any left.

9 THE COURT: We are back in court --

10 MS. JACOVINO: March?

11 THE COURT: March 11th at 9:30.

12 MS. JACOVINO: Yeah, there is also the 10th because
13 we had filed the emergency motion because we didn't know if
14 Mr. Kilgore would be able to see his kids at all.

15 THE COURT: I thought that would be vacated because
16 of OST today, so we'll vacate that.

17 MS. JACOVINO: Well, we weren't sure what the
18 posture of today's was.

19 THE COURT: Yeah. Just combine that. It's going to
20 March 11th at 9:30, return hearing.

21 THE CLERK: Okay.

22 THE COURT: It's still on the calendar. So, can he
23 cover January, February, and March in good faith?

24 MS. JACOVINO: I'm sorry?

1 THE COURT: Without prejudice, can he cover January,
2 February, and March given his --

3 MS. JACOVINO: No.

4 THE COURT: -- budget? What's the shortfall? Well,
5 his shortfall is his expenses. How much does he have in
6 savings? What's his monthly budget? And he was terminated as
7 of?

8 MS. JACOVINO: October.

9 THE COURT: Okay. So, it's pretty recent?

10 MS. JACOVINO: It is.

11 THE COURT: Yeah. Does he not have savings to cover
12 the child support is that a priority?

13 MS. JACOVINO: I mean, the last amount that he
14 received, Your Honor, and we'll be submitting it was
15 approximately -- so the check in October was approximately
16 \$10,000. And since then he has been paying the child support.

17 THE COURT: Okay. It's 365, it will go down to 200,
18 it's 165 --

19 MR. PAGE: Your Honor, I'm sorry.

20 THE COURT: -- shortfall. Yeah?

21 MR. PAGE: I -- I don't want to get too far ahead of
22 what you're doing there by reducing child --

23 THE COURT: Yeah.

24 MR. PAGE: -- support down to 200. It should be

1 noted that he owns a gun business. He also has some military
2 retirement benefits.

3 THE COURT: Did Judge Hardcastle reopen discovery on
4 his income on the gun business?

5 MR. PAGE: She hadn't. But in addition, Mr. Kilgore
6 has his Nevada First Pension. Mr. Kilgore has been in service
7 for more than 25 years.

8 THE COURT: Okay. 30 is the max.

9 MR. PAGE: And under -- under NRS 286 if you're
10 police/fire, which he is, and you have more than 25 years of
11 service, and you're above age 50, you can immediately start
12 drawing your pension. So, therefore, he has the ability to
13 draw on his pension, pay child support based upon that
14 pension.

15 THE COURT: We have to do the QDRO on that still.

16 MR. PAGE: I'm sorry?

17 THE COURT: We have to do the QDRO on that.

18 MS. JACOVINO: We do.

19 MR. PAGE: We'll have to do the QDRO on that in
20 addition to -- should he also be paying child support based
21 upon that pension. She should be receiving that pension under
22 Cerdick (ph), and she needs to --

23 THE COURT: Correct.

24 MR. PAGE: -- do that right now.

1 THE COURT: Well, yes. So, the date --

2 MS. JACOVINO: Your Honor, he doesn't max until
3 -- until 28 years, not 25. And she also -- and I -- Judge
4 Hardcastle didn't want to --

5 THE COURT: Is it 28, I thought it was 30.

6 MS. JACOVINO: -- wasn't up to addressing.

7 THE COURT: Well, police might be different.

8 MS. JACOVINO: And --

9 THE PLAINTIFF: 28.75 is when I max out.

10 THE COURT: Well, when you become first eligible and
11 she has a community interest from the divorce, she should
12 --

13 MS. JACOVINO: We also have one in hers, which we
14 could then draw from as well.

15 THE COURT: -- be having a distribution whether -- I
16 mean, he could -- yeah, he can't hold out until he's like 70
17 years old, and not collect, and then she's not getting her
18 portion.

19 MR. PAGE: Right.

20 THE COURT: We might need to have some research on
21 that.

22 MR. PAGE: I think we do. This is -- there's also
23 omitted vacation and sick pay that he received when he was
24 terminated, and that has never been provided.

1 THE COURT: I have no problem if you get the
2 information and expedite that. If she's entitled she might
3 get -- she might be some checks coming to her.

4 MR. PAGE: I'll let Mr. Flangas know, and his staff
5 know. But it just depends where I come in on this case.

6 THE COURT: But as far as the child support
7 --

8 MS. JACOVINO: Your Honor, we need her QDRO as well.
9 She -- there's a community interest in hers.

10 THE COURT: We'll work on those, but let me deal
11 with the child support.

12 MS. JACOVINO: There also isn't --

13 THE COURT: You're asked --

14 MS. JACOVINO: -- just to clarify --

15 THE COURT: -- you asked to do the \$200 as an
16 unemployed, correct?

17 MS. JACOVINO: We -- I mean --

18 THE COURT: They have a counter argument for wilful
19 unemployment, that's why I'm putting him on the work search.

20 MR. PAGE: And there's also the fact that he should
21 be receiving his pension because he -- he is eligible for
22 -- to receive his retirement benefits, therefore, that amount
23 he should be receiving should be part of his child support
24 calculation.

1 THE COURT: Will you be -- I guess the question is,
2 sir, will you be applying to --

3 THE PLAINTIFF: No. I have no intention to exhaust
4 that. I'm going back to work.

5 THE COURT: Because the longer you wait the bigger
6 the check.

7 MS. JACOVINO: For both.

8 THE COURT: If you delay receiving your pension, if
9 you are eligible, you get a bigger check if you start taking
10 it later, correct?

11 THE PLAINTIFF: (No audible response).

12 THE COURT: Okay. And where has -- since October
13 have you been looking for a job?

14 THE PLAINTIFF: I have been looking. I have an open
15 workman comp claim with the City of Las Vegas still, so nobody
16 is willing to hire me because I am injured. I also had
17 surgery on my right arm that impedes me from --

18 THE COURT: What types of jobs can you get? Can you
19 get like private security, or? I mean, you still have your
20 --

21 THE PLAINTIFF: As soon as you put on there that I
22 got an open workman comp claim nobody will touch you.

23 THE COURT: And how long has that been open?

24 THE PLAINTIFF: And I had surgery in March, I'm

1 still not released from the doctor.

2 THE COURT: Okay. So, it would have to be a
3 doctor's note to say that he can't work. And nobody will hire
4 you even if you work --

5 THE PLAINTIFF: I have not been able to get a call
6 back.

7 THE COURT: Okay.

8 MR. PAGE: I'm sure he can even do something in mall
9 security where they observe and report.

10 THE PLAINTIFF: I can't stand or walk stairs for
11 long periods of time.

12 THE COURT: Okay. And employers won't hire you
13 because you have an open workman's comp?

14 THE PLAINTIFF: As soon as you put that on there I'm
15 not getting hired or a call back.

16 THE COURT: What about other potential jobs are
17 available then if you can't work law enforcement or security?

18 THE PLAINTIFF: I have no idea. I've been applying
19 just about everywhere I can.

20 MR. PAGE: He could do retail, he could do a gun
21 shop, he could --

22 THE PLAINTIFF: I can't stand for long periods of
23 time.

24 THE COURT: Okay. Desk job if you need to sit. I

1 don't know what your educational background is. Maybe an
2 office job.

3 MS. JACOVINO: Your Honor, my client is diligently
4 looking for work, and he will continue to do so. He's also
5 very diligently --

6 THE COURT: Be under an ongoing obligation to do
7 that. He'll be documenting that in the work search journal
8 from today forward. The first one is due by the last day of
9 January, and filed monthly until we come back. So, January,
10 February, we'll back middle of March, and they'll be served on
11 Mr. Page.

12 MR. JACOVINO: And so, we did the give the Court
13 numerous options whether or not to do the statutory minimum,
14 which would be the \$100 as your suggestion.

15 THE COURT: I will do that temporarily without
16 prejudice. There's pending wilful unemployment claim. We
17 need to know more about the worker's comp, his two appeals on
18 the termination, and the unemployment denial, unemployment
19 benefits denial. What is his living situation? I mean, Mom
20 claims he's -- he's in a foreclosed house, and he could be
21 evicted any time?

22 THE PLAINTIFF: It's not -- it's -- I've been
23 negotiating with them --

24 THE COURT: Loan modification, is what I would

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THE PLAINTIFF: I believe the mother's been calling the mortgage company trying to get me evicted quicker.

THE COURT: Bottom line, what's the status of the loan mod?

MS. JACOVINO: He's working on a loan modification and the thing that we need to get it completed as far as we know is a quit claim deed.

THE COURT: Quit claim deed.

MS. JACOVINO: And so --

THE COURT: Did you bring one to court today?

MS. JACOVINO: I did bring one to court today.

THE COURT: Okay. She has to sign it. Isn't it mandated under the decree?

MR. PAGE: I have no idea that she'll sign it.

THE COURT: For purposes of releasing her interest

--

MS. JACOVINO: And then he can work on the modification.

THE COURT: -- and she has no interest in

--

MS. JACOVINO: I have --

THE COURT: In the divorce you agreed to just quit claim and walk away from the house, it's upside down?

1 THE DEFENDANT: Your Honor, it was never in the
2 divorce to even be quit claimed. Until this, this was the
3 first time I'd ever heard about quit claim.

4 THE COURT: Was he awarded the house as his sole and
5 separate property?

6 THE DEFENDANT: No, because it was in foreclosure
7 then, so we -- it wasn't even brought up.

8 THE COURT: Did he agree to take 100 percent of the
9 debt?

10 THE DEFENDANT: He -- he said he was going to stay
11 in the house. But the quit claim -- none of that was ever
12 brought up --

13 THE COURT: Do you guys recall what was in the
14 decree?

15 THE DEFENDANT: -- because it was in foreclosure.

16 THE COURT: I don't have a copy in front of me
17 today, but is there -- what was the?

18 MS. JACOVINO: I have a copy of the decree. It
19 doesn't specifically delineate. We thought that where it
20 could --

21 THE COURT: It's not an omitted asset.

22 MR. JACOVINO: We thought that where it could
23 potentially be is they had attached some AB lists, and
24 --

1 THE COURT: Okay. Bottom line? There's not going to
2 be any profit or equity in the house?

3 THE DEFENDANT: No.

4 THE COURT: So, she should sign the quit claim, and
5 date -- is there a notary downstairs?

6 MS. JACOVINO: I have a notary with me today.

7 THE COURT: Good. Okay. So, she'll sign a quit
8 claim after court today, and she'll be released from any and
9 all liabilities on the house. And you can proceed with the
10 loan modification, and you have to keep Mr. Page up to date on
11 that.

12 MS. JACOVINO: And also I have -- I did bring the
13 recorder's page, which is public knowledge, so it can be
14 admitted into evidence. He's not -- he is in foreclosure
15 process. There is no foreclosure, they just recorded the
16 notice of default this month.

17 THE COURT: Okay. Well, once you have a notice it
18 could be 90 days maybe, or --

19 MS. JACOVINO: Well, he'd go to mediation. He can't
20 do anything with -- without the quit claim deed. So, he
21 -- the process has started.

22 THE COURT: Okay. Keep us posted, keep Mr. Page
23 posted. All right.

24 MS. JACOVINO: Mr. Page is -- I'm not sure if Mr.

1 Page is representing Ms. Kilgore. I know he appears at the
2 hearings. I know that she files pro per. I've actually, you
3 know, I'm not positive that Ms. Kilgore is represented, or to
4 what degree she's represented.

5 THE COURT: You're here for Gus Flangas, right?

6 MR. PAGE: Yes.

7 THE COURT: He's the attorney of record, he's
8 retained?

9 MR. PAGE: I presume so. I -- I've just been
10 communicating with their staff, and they say Fred, could you
11 fill in, and I'll fill in.

12 THE COURT: Yep. Perfectly fine.

13 MS. JACOVINO: She files everything pro per, though,
14 Your Honor.

15 THE COURT: No, if she has a retained attorney she's
16 not to file anything pro per. They understand.

17 MR. PAGE: Sure.

18 THE COURT: Okay. Next item is --

19 MS. JACOVINO: Also, I have one other question?

20 THE COURT: Yes?

21 MS. JACOVINO: I don't want to put you on the spot,
22 but we have two different addresses for Ms. Kilgore, and it's
23 not a big deal, but we mail certified to both addresses, and
24 so if we could just have the updated address for the Court. I

1 believe the address on her pleadings is --

2 THE COURT: What do you have?

3 THE DEFENDANT: 9194 Dorrell Lane -- in 89149.

4 MR. PAGE: I don't know whether --

5 THE DEFENDANT: 9149.

6 MR. PAGE: It appears to be trying to create issues
7 where none should exist. It's on the pleadings, it's 9149
8 Dorrell Lane, Las Vegas, Nevada, 89149.

9 THE COURT: That's her physical address?

10 MR. PAGE: It's her physical address. They know it,
11 because that is where Dad goes to pick up the children.

12 THE COURT: We have 9194, did you read that
13 backwards?

14 MR PAGE: 9149.

15 THE DEFENDANT: 9149.

16 THE CLERK: 9149, I'll change it.

17 MS. JACOVINO: The most recent one is 9149, but we
18 were sending copies to both. So, we just wanted to make sure
19 the affidavit --

20 THE COURT: And the service should be on Mr.
21 Flangas, the retained attorney.

22 MS. JACOVINO: I'm not -- like I said, Your Honor, I
23 didn't know Mr. Flangas has been retained. He's never been
24 here, and everything's pro per, including the last filed

1 document that was filed yesterday, it states pro per.

2 MR. PAGE: I received the calls from Mr. Flangas's

3 --

4 THE COURT: From here on out, Mr. Flangas --

5 MR. PAGE: -- office and they say Fred appear, Fred
6 appears.

7 THE COURT: -- the only one that should be filing on
8 her behalf as the retained attorney. And she's not to file
9 anything pro per because she has a retained attorney, okay? I
10 need a schedule of arrears from Mom, going back from the
11 decree I guess.

12 MR. PAGE: Mom also requests that Dad's pension be
13 taken into consideration when computing his child support
14 amount because he is eligible to retire under NRS 286.

15 THE COURT: You said you were going to research
16 -- we said we were going to research --

17 MR. PAGE: Okay.

18 THE COURT: -- NRS 286.

19 MR. PAGE: Without -- without prejudice to
20 retroactive modification.

21 THE COURT: I don't think Marvin Snyder would able
22 to answer that question, but he can draw up the PERS, QDRO,
23 and if there's --

24 MR. PAGE: I just need to find out what the monthly

1 amount is from PERS that Dad is going to be receiving, and
2 then we can retroactively make a determination as to what his
3 obligation should have been.

4 THE COURT: And date of eligibility if it is -- if
5 that is the case.

6 MR. PAGE: I'm pretty sure it is. I researched it
7 before the last hearing, and he's eligible to retire.

8 THE COURT: Unfortunately, I have limited experience
9 with some of the PERS people on that. Okay.

10 MR. PAGE: They should give the information to Mom.

11 THE COURT: He's vested, she should be able to get
12 her portion, that's my guess.

13 MS. JACOVINO: Mom also has to do a QDRO and Dad
14 should get his portion of that as well. We're sitting here
15 pointing fingers that Dad can collect some money from
16 retirement. Mom's got a retirement as well. Dad is
17 unemployed.

18 MR. PAGE: I -- I think Counsel -- I think Counsel
19 --

20 MS JACOVINO: And this is joint and primary.

21 MR. PAGE: -- misunderstands, Counsel may
22 misunderstand. It has to go under service with first
23 eligibility for retirement. Mom is not eligible to retire
24 because she's a teacher, and the amount of years of service

1 that she has. So, upon her first eligibility for retirement,
2 she -- Dad can have some of her retirement.

3 THE COURT: She may actually collect --

4 MR. PAGES: But right now, that -- Mom can have
5 Dad's immediately.

6 THE COURT: -- a check, but if she eligible, then
7 the ex-spouse would get their portion potentially. Review the
8 case law, review the statutes, you may submit a brief on that,
9 and if the -- if a -- if PERS approves it, okay, then she's
10 entitled to her checks, and if he wants to delay his check, or
11 if there's some impact on whether he must start taking his
12 checks. I will need to know that answer.

13 MS. JACOVINO: I mean, there's definitely an impact
14 if he takes now versus later.

15 THE COURT: Okay. Her interest is collecting her
16 check. So, I don't know if I have the authority to force him
17 to start taking his check. So, I'll need to know an answer on
18 that, you guys can brief that.

19 MR. PAGE: Based upon the new case law, we'd like to
20 --

21 THE COURT: Right.

22 MR. PAGE: -- make a record that Mom would be
23 collecting her retirement as of December, and making a record
24 of that because under the case law if you don't act upon your

1 right you lose them. That's my reading of the case.

2 THE COURT: I'm not sure if I follow. December last
3 year, December this year?

4 MR. PAGE: December this year. December now,
5 because we're in December 2014.

6 THE COURT: What's the significance of December?

7 MR. PAGE: There's a case that came out in the fall
8 regarding PERS from the Nevada Supreme Court, you're probably
9 familiar with it.

10 THE COURT: Unh-unh.

11 MR. PAGE: It has to --

12 THE COURT: What -- okay, what would it have to do
13 with?

14 MR. PAGE: That -- in that case if my recollection
15 is correct, and it could possibly be wrong, that is in that
16 case the wife waited a number of years before trying to
17 collect her retirement benefits under Cerdick (ph).

18 THE COURT: Okay.

19 MR. PAGE: And the Nevada Supreme Court concluded
20 that because you waited that period of time you lost the
21 ability to collect retroactive support.

22 THE COURT: I mean you can locate it, you may let us
23 know in your brief. Okay. Are you writing the brief, or Mr.
24 Flangas writing the brief? By the way, I mean Judge

1 Hardcastle pronounced that the parties still retain joint
2 physical custody, so I had a question mark here that child
3 -- child support be set versus Wright v. Osburn.

4 MS. JACOVINO: Correct.

5 THE COURT: Now, Mom would -- Mom makes what, 5,700
6 -- 5,648 a month, 5,700 a month? And then you take 25 percent
7 of hers, and 25 percent of Dad's, whether it's 365 or 200,
8 doesn't that make her the greater wage earner?

9 MS. JACOVINO: Yes.

10 MR. PAGE: It -- it would, but for the fact of Dad's
11 -- the nature of Dad's loss of his employment, plus the fact
12 that if he did lose his employment that he -- we're entitled
13 to take into account his receipt of pension monies towards the
14 child support calculation.

15 THE COURT: Pension is a division of an asset,
16 shouldn't it be counted as income?

17 MR. PAGE: Yeah. I mean, it's no different than
18 military retirement benefits, or PERS retirement benefits.
19 When the parties are divorced we always take that into
20 consideration.

21 MS. JACOVINO: She's already been awarded her half.

22 MR. PAGE: About the only thing they don't take into
23 consideration are some forms of disability.

24 THE COURT: Okay. And she has a pending claim

1 before the court to ask for the primary, correct?

2 MR. PAGE: Yes.

3 THE COURT: And Hardcastle didn't say much about
4 them, what to proceed.

5 MS. JACOVINO: We're also asking for primary,
6 especially with the issue where --

7 THE COURT: Well, then that's --

8 MS. JACOVINO: -- we have one son that doesn't want
9 to come over.

10 THE COURT: -- that's putting the kids in a tug of
11 war, and when dealing with teenagers, and I don't know if
12 they're almost 15, or they just turned 14?

13 MR. PAGE: They're 14 and a half.

14 THE COURT: The teenager situations, you know, I
15 don't know, there's -- I don't foresee a custody trial on
16 this, I'm not sure. I mean, because we're in the middle of
17 counseling, we've got relationship issues. I don't know how
18 it's going to pan out in the next -- at least the next three
19 month until we come back to court.

20 MS. JACOVINO: Your Honor, the other thing that I
21 hope to gain today is just simply what week is Mom, and what
22 week is Dad's, because for a pick up order it was easy when we
23 had a bunch of breaks, and we had the -- the court order that
24 said first week to Dad, uneven days first, you know, and then

1 on --

2 THE COURT: This is my finding, it should be Wright
3 v. Osburn, that's the law. Number 1, there hasn't been a
4 finding by clear and convincing evidence of wilful
5 unemployment. Number 2, since Dad is on arrears, everything I
6 can do is without prejudice. I'll put him at the 200, plus
7 the 193, and -- and the 128 that was previously ordered, and
8 we will rearrange, do the math, and potentially give him
9 offsets if she actually had to pay him more under Wright v.
10 Osburn because I don't know what -- right now we're status quo
11 on custody. So, you see where I'm following -- going with
12 that?

13 MS. JACOVINO: We do, Your Honor.

14 THE COURT: So, okay. So, if it -- it turns out
15 that he had to pay the 200, when actually she should have been
16 paying him under joint physical custody, any overages, or
17 credits are offsets back will be taken off of the arrears, and
18 she should file a schedule of arrears --

19 MR. PAGE: Right. Also, I'm --

20 THE COURT: -- for the next court date.

21 MR. PAGE: -- I would -- has he filed a financial
22 disclosure form?

23 MS. JACOVINO: He filed a financial disclosure form
24 with a report. He filed the motion to modify custody back in

1 December. It was Judge Hardcastle's mistake.

2 THE COURT: It should have been updated because he
3 still had his -- did he put zeros down, or he put --

4 MS. JACOVINO: He did.

5 THE COURT: -- he put zeros down?

6 MS. JACOVINO: For income.

7 THE COURT: If it's still accurate, then he doesn't
8 need to file one.

9 THE CLERK: (Indiscernible).

10 THE COURT: Huh? I saw it, the day he filed his
11 motion.

12 MS. JACOVINO: 12/8.

13 THE COURT: Yeah. By the time of hearing I saw it
14 was there.

15 THE CLERK: (Indiscernible).

16 THE COURT: Is it hers? I saw his because he said
17 he was a municipal court marshall.

18 THE CLERK: I don't see in December.

19 THE COURT: Wow, okay.

20 MS. JACOVINO: Were you able to pull up the one from
21 -- that was filed on 12/8?

22 THE CLERK: Yes, it's hers.

23 MS. JACOVINO: The 12/8 one, and then there's one on
24 10/21.

1 THE COURT: The original motion to modify the child
2 support that he filed?

3 MS. JACOVINO: Yes.

4 THE COURT: Yeah. Yep, 10/21.

5 THE CLERK: Yeah, 10/21. I see it.

6 THE COURT: You're looking at the wrong date. All
7 right. So, the quit claim, that will be signed, she'll be off
8 the hook on the house. We've got three QDROs that are
9 pending. One QDRO has been prepared, and that is the PERS
10 QDRO, is that correct?

11 MS. JACOVINO: It appears that way. We're not
12 really sure how that one got prepared because it wasn't
13 prepared by Dad, and it's Dad's pension. So, what we would
14 really need is we need Mom to have hers prepared, Dad to have
15 his prepared, and then the third one is this questionable
16 military one, which nobody is really sure if any money is in
17 there, and includes Mr. Snyder.

18 THE COURT: And you investigated the military QDRO?

19 MS. JACOVINO: They haven't gone to get it done, no.

20 MR. PAGE: That's -- well, on -- on -- I don't think
21 Counsel really understands, it doesn't -- because the QDRO is
22 in Dad's name doesn't mean that Dad prepares the QDRO because
23 the QDRO is in Mom's name, it doesn't mean Mom prepares the
24 QDRO. Either one can prepare --

1 THE COURT: Why don't we --
2 MR. PAGE: -- the QDRO. If --
3 THE COURT: It's -- Snyder is supposed to do it,
4 right? All three?
5 MS. JACOVINO: They were going to QDRO Masters and I
6 don't misunderstand. How does she have that information?
7 THE COURT: Who is QDRO Masters?
8 MS. JACOVINO: They're in with Willick's.
9 MR. PAGE: It's very easy to do them. And I think
10 for at least for the --
11 THE COURT: I was thinking Willick could do the
12 military QDRO.
13 MR. PAGE: Willick -- Willick would be well
14 qualified to the military.
15 THE COURT: And that would be Mom to take the
16 initiative on that, and depending on, I guess, that whatever
17 it said in the -- their settlement who is bear to the cost we
18 can deal with that later.
19 MS. JACOVINO: Yeah, that was an interesting -- if
20 there's money in there, it goes --
21 THE COURT: Willick would need money up front to do
22 a military QDRO.
23 MS. JACOVINO: Again, and Dad's got very little
24 money at this point.

1 THE COURT: You haven't told me how much he has left
2 in savings, and they're entitled to that.

3 THE PLAINTIFF: I have approximately 45 -- I'm
4 sorry, Your Honor -- \$4500 left in savings.

5 THE COURT: That's it?

6 THE PLAINTIFF: Yeah. And I have pay for half my
7 arbitration to the city.

8 THE COURT: So, you've got to pay 200, plus 193,
9 plus the 120. You child support would be 521 for the next
10 three months, without prejudice. And you're not paying
11 --

12 MS. JACOVINO: And we've got the counseling costs.

13 THE COURT: -- a mortgage. Huh?

14 MS. JACOVINO: The counseling costs per month.

15 THE COURT: And who is paying the counseling cost?
16 After insurance, after insurance?

17 MR. PAGE: They're probably going to have to split
18 the reimburse.

19 MS. JACOVINO: Again, reimburse their separate
20 split.

21 THE COURT: Yeah. We're split down the reimburse
22 for now.

23 MS. JACOVINO: And Dad won't be covered at all, so
24 he'll be paying his entire.

1 THE COURT: Well, 850 a QDRO usually, isn't it?

2 MR. PAGE: 850, 750, somewhere in there.

3 THE COURT: Yeah. If Mom wants checks now from
4 PERS, that should be done first.

5 MR. PAGE: Yes.

6 THE COURT: Military can wait until he has a job, or
7 we have some money. Unless somebody wants to front the
8 monies, and seek a reimbursement later. And then this third
9 QDRO is Mom's Clark County School District.

10 MR. PAGE: I'm sorry?

11 THE COURT: Is there a third QDRO, her PERS pension
12 with the school district?

13 MR. PAGE: Yes.

14 THE COURT: That should be prepared. So, Mom pays
15 her own, or Dad has to pay for her disclosure cert?

16 MS. JACOVINO: The way that -- that the decree read
17 was something like Mom pays for Dad, Dad pays for Mom's, and
18 it's a question mark on who pays for that one that may or may
19 not have money in it.

20 THE COURT: So -- right. If Dad --

21 MS. JACOVINO: Depending on --

22 THE COURT: It's the same thing, same concept. That
23 Dad's looking to get some checks. Well, Mom's not eligible to
24 retire or collect yet, she's only in her 40s, so. Then maybe

1 that can wait.

2 MR. PAGE: We did submit the QDRO for Dad to --

3 THE COURT: Okay.

4 MR. PAGE -- Dad's Counsel. They have not returned
5 it yet, I don't know why. I'd ask that they be compelled to
6 sign.

7 THE COURT: Mom's the one motivated to get some
8 checks from PERS on Dad's because he might be the one eligible
9 to -- to take and retire.

10 MS. JACOVINO: I think what Dad's looking to do is,
11 again, we're not quite sure where the information came from
12 for the QDRO to be drawn up, and so --

13 THE COURT: Until they have money to pay Willick to
14 research military, and then also pay for the school district,
15 that's on hold. The PERS on the police department might be
16 some checks coming, so we need to finish that one up. And
17 Snyder prepared that one?

18 MS. JACOVINO: It was QDRO Masters over at
19 Willick's. Snyder prepared the divorce decree.

20 MR. PAGE: May we have them be compelled to sign the
21 QDRO for PERS and return that to Mom now?

22 THE COURT: Yeah. I can't stop that. If PERS
23 approves it, by the plan administrator approves, then it will
24 be signed.

1 MR. PAGER: PERS -- PERS has approved it, it was my
2 understanding. We need their signature on the QDRO so we can
3 get your signature --

4 THE COURT: Do you have it with you today?

5 MR. PAGE: -- on the QDRO.

6 THE COURT: Do you have it with you today?

7 MR. PAGE: I gave it to them at the last hearing,
8 and they've simply sat on it since that time.

9 THE COURT: Do you have --

10 MR. PAGE: They need to sign it.

11 THE COURT: -- do you have the approved PERS?

12 MS. JACOVINO: We don't -- we've seen a copy, and it
13 might be in some of our pleadings. I don't have --

14 THE COURT: Do we have the --

15 MS. JACOVINO: -- the entire case file with me.

16 THE COURT: -- we have this issue up on the air
17 though about whether --

18 MS. JACOVINO: We don't where the information came
19 from, and I know Counsel likes to lecture me on how it
20 happens, but Dad doesn't feel that the information is 100
21 percent correct. He wasn't there.

22 THE COURT: I can't argue with a plan administrator
23 if a plan administrator approves it. But there is a legal
24 question about his eligibility to retire, and whether he can

1 elect to start taking checks now, or she can get her checks
2 and he can wait, or he must take his checks in order for her
3 to get her checks, and then they're going to force a question
4 on me.

5 MR. PAGE: Obviously the QDRO is going to be divided
6 pursuant to the time (indiscernible) that's what the QDRO
7 contains.

8 THE COURT: You're going to need time to brief this.
9 I'll postpone it.

10 MR. PAGE: All they need to do is sign it. We'd
11 like to have them sign it, or payment of contempt.

12 THE COURT: I will -- I will hold off on that.

13 MS. JACOVINO: When we're talking about contempt,
14 Judge, we had a custody order for the kids.

15 THE COURT: Do you have the original QDRO?

16 MS. JACOVINO: I have a copy of something that she
17 provided with the pleadings.

18 MR. PAGE: Could she sign it and give it back?

19 MS. JACOVINO: I don't have it with me today. This
20 is a small file.

21 MR. PAGE: Can you do it as soon as you get back to
22 your office, please?

23 THE COURT: It won't make a difference. By the time
24 we get back to court I can make him sign it in the courtroom.

1 MR. PAGE: Okay.

2 THE COURT: If you bring it -- your bring it. Bring
3 another copy, and then depending on the legal issue, how I
4 roll, is depending on when I will sign that QDRO. Okay. All
5 right, and Mom, all right, and schedule arrears. I have to
6 order CPS records? I understand there's a case that was
7 -- might have been informational only, but I'll sign a records
8 request. Counsel, put a reminder if next time you're in
9 chambers you may obtain a copy of the Unity notes. It will be
10 under a confidential gag order, so you can keep it in the
11 attorney files, but your clients cannot have copies. If they
12 want their own copies they can go down to their -- their
13 office on Martin Luther King and obtain it under Chapter 159.
14 But I will give it to the lawyers to hold under a gag order.
15 Okay. That's all I have for now. So, a status check on
16 Gosnell, his appeals on the termination, and the unemployment
17 benefits denial, his status check on his work search journal.
18 Will review Mom's schedule of arrears, that should be filed.
19 If Hardcastle ordered that Dad produce discovery, such as bank
20 statements, that must be in -- sent over to I guess, whose
21 -- whose is taking it, Flangas, or you?

22 MR. PAGE: I believe it's going to Flangas's office.

23 THE COURT: Everything goes to Flangas's office,
24 okay? And then you'll come back, bring the PERS, the police

1 department PERS QDRO, and Counsel is mandated to file briefs
2 on the PERS issue. And I'll have to make some phone calls to
3 PERS and see, or maybe talk with a lawyer who's expert on
4 PERS, they can consult with Willick on that I suppose. I'm
5 sure he may know. Status quo on the joint physical custody.
6 The \$1,650 in sports and other activities expenses,
7 extracurricular expenses, Mom has a half share reimbursement.
8 Is that actually listed in the decree that they pay half the
9 sports? If it is in the decree, then Mom has to --

10 MS. JACOVINO: It's -- it's -- they agree to -- they
11 agree to football, and then, so it was going to be school, and
12 then extracurricular activities when approved by both parents,
13 and football was an agreed upon sport.

14 THE COURT: So -- so, he agrees to pay half of the
15 football?

16 MS. JACOVINO: He's -- in some of the ones in there
17 he stated he's paid, and he also has gone out-of-pocket for
18 some of the expenses as well, including football and
19 insurance, and --

20 THE COURT: Okay. So, you gather all your bills.

21 MS. JACOVINO: Uh-huh.

22 THE COURT: You meet and confer.

23 MS. JACOVINO: That was part of what Hard
24 -- Hardcastle ordered before the next hearing.

1 THE COURT: Okay. And with the unreimbursed med
2 bills, was there was a 30/30 rule?

3 MS. JACOVINO: It was.

4 THE COURT: We're not -- okay. And are these
5 parties on Wizard?

6 MR. PAGE: Yes.

7 MS. JACOVINO: They are.

8 THE COURT: If Mom can document that she put in
9 Wizard --

10 MR. PAGE: Yes, she can.

11 THE COURT: -- she had a legitimate bill and Dad did
12 not reimburse in 30 days, Dad is on the hook for 100 percent
13 of the bill, and vice versa. So, you have to print them out,
14 off the website, what's uploaded, everything gets uploaded on
15 Wizard. And then you're going to have to bring me a stack of
16 documents as well.

17 MS. JACOVINO: The other thing that we were
18 --

19 THE COURT: This is for the lawyers, should be able
20 to straighten that out. It's a math problem, I mean, it's
21 expensive doing evidentiary hearing for every single bill, and
22 every single sports bill activity. Okay.

23 MS. JACOVINO: The other thing we're looking at was
24 is Dad pays his lion's share of the IRS debt, which according

1 to the decree --

2 THE COURT: Yeah, I read up on that.

3 MS. JACOVINO; -- was half and half.

4 THE COURT: Okay. So, he did attach some of those
5 bills for 2011, and '12, I -- no, 2011 and prior.

6 MS. JACOVINO: It's my --

7 THE COURT: '12 they were on their own.

8 MS. JACOVINO: Right. It's my understanding that at
9 this point there's no more IRS debt, but what we're looking at
10 is Dad's paid the lion's share, and it said the 50/50, Dad
11 needs --

12 THE COURT: She paid 200 and he paid like 20 --

13 MS. JACOVINO: I think at this point it's a little
14 bit different because she --

15 THE COURT: -- 5429.

16 MS. JACOVINO: -- her last return got taken to pay
17 the IRS debt as well, right?

18 THE DEFENDANT: They actually took -- my -- my tax
19 guy had set it up that they would take -- so, I'll stand up.
20 That they would take my -- they've taken a couple of my
21 returns. And some of his returns that he thinks went to the
22 IRS were taken for child support arrears, because I called and
23 checked on that, so --

24 THE COURT: Okay. We have to trace that.

1 THE DEFENDANT: This was supposed to be done too in
2 that financial thing.

3 THE COURT: You have bring me a stack of documents
4 so I can see what was taken out, and what was applied.

5 MS. JACOVINO: So, that's the other thing that we're
6 looking at is --

7 THE COURT: Some of the lawyers should be able to
8 work out.

9 MS. JACOVINO: -- who's is paying the medical bills,
10 who's paying the extracurricular, and who pays the IRS debt.

11 THE COURT: Come back in March. Are you -- if
12 you're actively working and you're still gathering
13 information, paperwork, and bills, I should -- maybe I can
14 refer you guys to have a mediation session, maybe a UNLV
15 mediation session to just work out these numbers. It would at
16 least straighten things out for me if you guys can't agree by
17 that time, and tell me this is what we have, this is what we
18 have.

19 MS. JACOVINO: Well, I think some -- I mean, we've
20 got two issues going on. Some is that they both feel that
21 they're owed different amounts. But it's also that even if it
22 comes out that some amounts are owed, Dad doesn't have a lot
23 of money coming in, and I do think that, through the
24 discovery, we'll be able to figure out, and that, I just mean

1 to meet and confer. I'm not saying we have to go through
2 formal discovery and have an evidentiary on how much owed, and
3 we're -- you know, or further, but both sides feel that
4 they're entitled to different amounts of money. And so
5 --

6 THE COURT: I don't know who is going --

7 MS. JACOVINO: -- hopefully the meet and confer will
8 clear some of that up.

9 THE COURT: -- to come up behind or come out ahead.
10 But the med bills, everything. All these figures, I don't
11 know who is going to come out ahead or are they going to break
12 even. We'll get that number I suppose. Okay. Kids are to
13 bring their laptops to do homework when they are with Dad
14 during the week, I'm assuming.

15 MS. JACOVINO: The kids --

16 THE COURT: He has internet.

17 MS. JACOVINO: He does have internet. The kids were
18 able to receive tablets for Christmas, and they can now -- I
19 don't believe that's such a big issue because they have
20 tablets at Dad's house.

21 THE COURT: Yeah, but do they do their homework on
22 laptops?

23 MS. JACOVINO: Do they need that specific laptop at
24 Mom's to do it?

1 THE PLAINTIFF: My understanding there may be a
2 program that I can have installed that she had at her house
3 that I did not have at mine --

4 THE COURT: Okay.

5 THE PLAINTIFF: -- on my computer.

6 THE COURT: That's feasible, that works out better,
7 that's fine. But if the kids use their own laptops, the
8 laptops should go with the kids.

9 MS. JACOVINO: Well, we didn't have the laptop
10 before, they were given ones for Christmas.

11 THE COURT: Well, I don't want to hear laptops go
12 missing, or destroyed, or anything like that. They are there
13 for the kids' benefit. Okay. Once school starts up and
14 they've got to do their homework, and they're allowed to bring
15 their laptops in their household. Okay.

16 MS. JACOVINO: Just to clarify --

17 THE COURT: And their -- did they get a behavior
18 order because of these incidents?

19 MS. JACOVINO: Mom and Dad? No.

20 THE COURT: I should sign one. Have things calmed
21 down since? Everybody's just --

22 MS. JACOVINO: Since the hearing?

23 THE PLAINTIFF: Since our hearing it has.

24 THE COURT: It seems like Hardcastle didn't feel it

1 was -- maybe she didn't think about it at the time, but maybe
2 for everybody's protection, we should just do the behavior
3 order. And Counsel, you'll explain under fine terms -- fine
4 print, okay? That's a court order.

5 MS. JACOVINO: So, we just want to make sure because
6 what we're hoping is that it hits the minutes in case we need
7 to do a minute order after today.

8 THE COURT: Yeah.

9 MS. JACOVINO: Is that Mom has this week because
10 it's the winter break. And then, so Monday the kids would go
11 to Dad's at 5 o'clock, and then the following week would go to
12 Mom.

13 THE COURT: It will be 5:00 p.m. because there's
14 always wrestling practice at 5:00 p.m.

15 MS. JACOVINO: Right. It ends at about that. We
16 just want to make sure that we get --

17 THE COURT: Okay. Do we have a back up if there is
18 no wrestling practice, or yes? Mom wants to know. A neutral
19 place. They'll be back in school, so maybe he can get them
20 from school.

21 MR. PAGE: School's a neutral place.

22 THE COURT: Okay. So, while they're on holiday, it
23 will be 5 o'clock wrestling practice. If they're back in
24 school you should pick them up from school, he's not working

1 right now, right?

2 MR. PAGE: Right.

3 THE COURT: Okay. And then Mom doesn't have to be
4 there. Now, they do have cell phones, the twins have cell
5 phones?

6 MR. PAGE: Yes.

7 THE COURT: And who maintains the cell phones and
8 pays for them?

9 THE PLAINTIFF: I have been, Your Honor.

10 THE COURT: You have? And you will continue to do
11 so?

12 THE PLAINTIFF: As long as I can. I have to change
13 plans here soon, so.

14 THE COURT: What's going to happen with that? The
15 teenagers will get upset if you take their cell phones, or
16 turn them off. Is it costly, or just \$10 a line?

17 THE PLAINTIFF: Well, it's \$10 a line, but then we
18 have the data and all that, it gets -- I'm paying like over
19 \$200 a month.

20 THE COURT: Any suggestions, Mom? What do you want
21 to do with the cell phones?

22 THE DEFENDANT: Well, the way it was in our -- the
23 way it originally, the -- you know, you had ordered was, that
24 technically he's in charge for Richard, and I'm charge for

1 Nicholas, so. You know what I mean?

2 THE COURT: Okay.

3 THE DEFENDANT: So, we were supposed to pay for
4 everything for Richie, I pay for everything for Nicholas, even
5 though it hasn't happened. So, I have no problem taking on
6 -- because that's who I'm in charge of, because he writes off
7 Richard, and I write off Nicholas. I have no problem taking
8 on Nicholas's cell phone, and he pays for Richard. I'm more
9 than willing to be accommodating.

10 THE COURT: And help a little bit? Okay. He's
11 agrees.

12 MS. JACOVINO: And that will help, thank you.

13 THE COURT: Yes?

14 MS. JACOVINO: Yes.

15 THE COURT: Dad's in charge of Richie's cell phone
16 plan. Mom will now, and Dad may to authorize by phone, call
17 your provider and transfer the line to your account. And
18 you'll cooperate with that?

19 THE PLAINTIFF: Yes, I will.

20 THE COURT: Okay.

21 MS. JACOVINO: So, just so we have it, and I'm
22 sorry, I'm not trying to beat a dead horse here.

23 THE COURT: Yeah.

24 MS. JACOVINO: One final -- so Dad will pick up the

1 kids on 1/5 through 1/12 and then Mom gets them 1/12 through
2 1/19. And I'm just looking for the dates, so we can
3 --

4 THE COURT: Monday -- Monday wrestling practice,
5 they're back in school, right?

6 MR. PAGE: Yes.

7 THE DEFENDANT: Yes.

8 THE COURT: So, they'll be at wrestling practice.

9 MS. JACOVINO: It's just in case something happens
10 where we need another pick up order --

11 THE COURT: If there is no wrestling practice it
12 will be after school.

13 MS. JACOVINO: -- we have a date that we can go back
14 to.

15 THE COURT: They are back in school next week.
16 Okay. So, does that answer your question?

17 MS. JACOVINO: I just wanted the dates, so we have
18 dates we can go back to, because say something happens a month
19 from now, and we get -- well, whose week is it?

20 THE COURT: Okay. 1/5 is the first day back in
21 school, there will be wrestling practice, it will be 5
22 o'clock-ish.

23 MS. JACOVINO: And that's Richard's week.

24 THE COURT: Right. And every --

1 MS. JACOVINO: And then Mom's week is --

2 THE COURT: -- Monday thereafter as long as they're
3 in wrestling practice. If they're not in wrestling practice,
4 no activities, it will be -- he is responsible to pick them up
5 from school. They have to be reasonable. If he does get a
6 40-hour week, or a part time job, and he's not available to
7 pick them up after school, I guess they're going to go to
8 Mom's house until he gets off work, unless you're working
9 graveyard, and you pick them up at a reasonable hour, but you
10 can't pick them up at midnight. But you have to show your
11 schedule and say I'm -- I'm going to be off at 5:00, I'll get
12 them by 6:00, and you have to cooperate with that.

13 MS. JACOVINO: The nice thing is that both parents
14 really want to have time with their kids, so.

15 THE COURT: Okay. And they're using the Wizard
16 actively? Because that's how we monitor how they communicate.
17 They're logging on, logging off, going to get the text alerts.
18 Do you know how to set that up?

19 MR. PAGE: He is now, he wasn't using it for about
20 two years prior.

21 THE COURT: You can get it on your smartphone too,
22 it's an app. Okay. Start learning and use it more actively
23 because it all goes through there and then we don't have any
24 he said, she said. Okay. Any more questions?

1 MR. PAGE: I don't think so.
2 THE COURT: Who got the order last time?
3 MS. JACOVINO: I do have the quit claim deed, so
4 we'll get that signed.
5 THE COURT: And you have you notary?
6 MS. JACOVINO: I do have my notary as well.
7 THE COURT: Grab your notary. You do it in the
8 anteroom out there.
9 MS. JACOVINO: Thank you.
10 THE COURT: And what's that -- who did the order
11 last time?
12 MR. PAGE: There was no order.
13 MS. JACOVINO: Nobody did the order, we were waiting
14 on the minutes. And there were no minutes.
15 THE COURT: The minutes have been done.
16 MS. JACOVINO: The minutes are done?
17 THE COURT: Oh, yeah. They've been done since last
18 week.
19 THE CLERK: They were done the same week.
20 THE COURT: Okay. Who wants to volunteer for the
21 December 9th, and who wants to volunteer for today?
22 MR. PAGE: I think she volunteered for both.
23 THE COURT: Huh?
24 MS. JACOVINO: You think I volunteered for both?

1 THE COURT: Because you're covering for -- no.
2 MS. JACOVINO: Well, I'll take one, he can take the
3 other.
4 THE COURT: Exactly. How about you get the December
5 9th, Ms. Jacovino?
6 MS. JACOVINO: Sounds good.
7 THE COURT: Mr. Page, you'll get today, or Ms.
8 Flangas will. Everything goes to Flangas's office, and Mr.
9 Flangas will do the -- today's hearing.
10 MS. JACOVINO: Thank you. And just to ensure, I
11 want to make sure it get passed by me as well, so it's not
12 just an order to the Court.
13 THE COURT: Limited discovery is reopened on
14 incomes, pensions, work termination, appeal files,
15 unemployment benefits, appeals files, worker's comp files,
16 sign authorizations for that. Okay. Mr. Flangas can request
17 what he wants on those. Okay. Good luck.
18 MS. JACOVINO: We'll see you in March.
19 MR. PAGE: Thank you for your time.
20 THE COURT: Thank you. And get with Gosnell, and
21 the child interview, we'll just combine that to March.
22 MR. PAGE: Okay.
23 THE COURT: Thank you. Sign up downstairs.
24 (PROCEEDINGS CONCLUDED AT 10:08:40)

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ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the
above-entitled case to the best of my ability.

/s/ Nita Painter
Nita Painter, Transcriptionist


CLERK OF THE COURT

BREF

FRED PAGE, ESQ.
Nevada Bar: 6080
PAGE LAW OFFICE
6145 Spring Mountain Road, Suite 201
Las Vegas, Nevada 89146
Phone: (702) 469-3278
Facsimile: (702) 628-9884
E-mail: fpagelawoffices.com
Attorney for Defendant

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

RICHARD KILGORE,

Plaintiff,

vs.

ELINI KILGORE,

Defendant.

D-12-459171-D

CASE NO.: ~~D-14-500650-S~~
DEPT. NO.: I

Hearing Date: March 11, 2015

Hearing Time: 9:30 a.m.

**DEFENDANT'S BRIEF REGARDING RETIREMENT BENEFITS AND OMITTED
ASSETS**

Defendant, ELINNI KILGORE, by and through her counsel, Fred Page, Esq., hereby
submits her Brief regarding retirement pension benefits and omitted assets.

DATED this 17 day of March 2015

PAGE LAW OFFICE


FRED PAGE, ESQ.

Nevada Bar No. 6080
6145 Spring Mountain Road, Suite 201
Las Vegas, Nevada 89146
(702) 469-3278
Attorney for Defendant

POINTS AND AUTHORITIES

I.

FACTUAL BACKGROUND

Defendant, Eleni Kilgore, and Plaintiff, Richard Kilgore, were divorced from each other on March 13, 2013. In the Decree, Eleni was awarded her time rule share of the defined benefit plan with the Nevada Public Employees Retirement System in Richard's name pursuant to Gemma/Fondi. See Decree at page 3, line 25, through page 4, line 8.

There was no discussion of any kind of any of the other benefits that Richard had through his employment with Clark County.

Sometime in 2014, Richard reached his first eligibility to retire as result of his status of being police/fire through the Nevada Public Employees Retirement System. Even though Richard reached his first eligibility for retirement, he failed to commence payments to Eleni of her community property share of the retirement benefits awarded to her in the Decree of Divorce as required by *Sertic, infra*.

After the divorce, Eleni had the Qualified Domestic Relations Order prepared To this day, Richard still refuses to authorize his counsel to sign the Qualified Domestic Relations Order. Also, in approximately 2014, Richard was terminated from his position with Clark County. Richard admitted in open court that even though he is no longer employed that he is voluntarily choosing to forego receipt of the retirement benefits.

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II.
GOVERNING LAW AND ARGUMENT

A. **Eleni Should Begin Receiving Her Community Property Distribution of the Retirement Benefits Immediately**

The case law is pretty clear. In *Sertic v. Sertic*,¹ the Supreme Court ordered that the “normal distribution of a spousal share of a retirement is to be upon first eligibility for retirement, and that if a worker does not retire at first eligibility, the worker must pay the spouse whatever the spouse would have received if the worker *did* retire at that time.”²

Despite multiple requests, Richard has refused to pay Eleni anything. Richard should be ordered to pay Eleni her community property share of the retirement benefits to the date Richard filed his Motion and should be ordered to pay Eleni her community property share of the retirement benefits going forward.

B. **The Omitted Assets of Vacation and Sick Pay Should Be Divided Equally**

The community accumulated unused vacation and sick throughout the course of the marriage. The accumulated vacation and sick pay was never discussed during the pendency of the divorce and was never addressed in the Decree of Divorce.

Under *Amie v. Amie*,³ *Gramanz v. Gramanz*,⁴ and *Williams v. Waldman*,⁵ assets that are not divided or “omitted assets,” the parties hold the un-adjudicated asset as tenants in common, and either party may petition the Court for an allocation of that asset. This situation is

¹ 111 Nev. 1194, 901 P.2d 148 (1995).

² Nevada Family Law Practice Manual, 2F.34 (emphasis in the original).

³ 106 Nev. 541, 796 P.2d 233 (1990).

⁴ 113 Nev. 1, 930 P.2d 753 (1997).

⁵ 108 Nev. 466, 836 P.2d 614 (1992).

1 distinguishable from *Doan v. Wilkerson*, 130 Nev. Adv. Op. 48 (June 26, 2014) in that in Doan,
2 the retirement account was raised, discussed, and then ignored.

3 Eleni should be entitled, as a matter of law, to one-half of the time rule portion of the
4 accumulated vacation and sick pay from the date of marriage through March 13, 2013.

5 **C. Richard Should Be Compelled to Sign the Qualified Domestic Relations Order**
6 **Dividing the Defined Benefit Plan**

7
8 The parties were ordered to prepare Qualified Domestic Relations Orders. Eleni did as
9 she was ordered and had the Qualified Domestic Relations Order dividing the PERS defined
10 benefit plan. However, Richard refuses to authorize his counsel to sign the same. Eleni requests
11 that Richard be required to sign the Qualified Domestic Relations Order.
12

13 **III.**
14 **CONCLUSION**

15 WHEREFORE, based upon the foregoing, Defendant, ELENI KILGORE, respectfully
16 requests that the Court enter the following orders:

- 17 1. Compelling Richard to commence paying Eleni her time rule share of the defined benefit
18 plan through PERS.
19
20 2. Dividing the vacation and sick pay as an omitted asset.
21
22 3. Compelling Richard to sign the Qualified Domestic Relations Order for the PERS
23 defined benefit plan, and;

24 ///

25 ///

26 ///

27 ///

28 ///

1 4. For any further relief the Court deems proper and just.

2 DATED this 10th day of March 2015.

3 PAGE LAW OFFICE

4 

5 FRED PAGE, ESQ.

6 Nevada Bar No. 6080

7 6145 Spring Mountain Road, Suite 201

8 Las Vegas, Nevada 89146

9 (702) 469-3278

10 Attorney for Defendant

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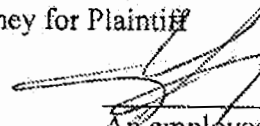
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CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 10th day of March 2015, that the foregoing BRIEF was served pursuant to NRCP 5(b) by placing a true and correct copy in the United States Mail, postage prepaid, to the following:

Bonty Lonardo, Esq.
7465 West Lake Mead Blvd. #100
Las Vegas, Nevada 89128
Attorney for Plaintiff



An employee of Page Law Office

1 **TRANS**

2
3 **COPY**

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CLERK OF COURT

4
5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **FAMILY DIVISION**
7 **CLARK COUNTY, NEVADA**

8
9 RICHARD SCOTT KILGORE,)
10 Plaintiff,)
11 vs.)
12 ELENI KILGORE,)
13 Defendant.)
14

CASE NO. D-12-459171-D
DEPT. I

15 BEFORE THE HONORABLE CHERYL B. MOSS
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 WEDNESDAY, MARCH 11, 2015

18 APPEARANCES:

19 The Plaintiff: RICHARD KILGORE
For the Plaintiff: JANICE JACOVINO, ESQ.
20 BONNIE LONARDO, ESQ.
7881 West Charleston Blvd. #160
21 Las Vegas, Nevada 89117
22 The Defendant: ELENI KILGORE
For the Defendant: FRED PAGE, ESQ.
23 6145 Spring Mountain Road, #201
Las Vegas, Nevada 89146
24 (702) 469-2378

1 LAS VEGAS, NEVADA

WEDNESDAY, MARCH 11, 2015

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 9:54:05)

4
5 THE COURT: 459171, Richard Kilgore and Eleni
6 Kilgore -- Alani (ph).

7 MS. KILGORE: Actually you said first the right --

8 THE COURT: Huh?

9 MR. PAGE: It's Eleni, you said it right the first
10 time.

11 THE COURT: Eleni. Okay. Counsel, your appearances
12 and bar numbers?

13 MS. LONARDO: Good morning, Bonnie Lonardo, 8548.

14 THE COURT: Bonnie Lonardo?

15 MS. LONARDO: Lonardo.

16 THE COURT: L-o-n-

17 MS. LONARDO: a-r-d-o.

18 THE COURT: -- a-r-d-o?

19 MS. JACOVINO: Jan Jacovino on behalf of Plaintiff,
20 11612.

21 MR. PAGE: Good morning, Your Honor, Fred Page, Bar
22 Number 6080 on behalf of Defendant who is present.

23 THE COURT: Okay. I've got a full calendar this
24 morning, but just the housekeeping matter, we have a brief on

1 a -- the QDRO, admitted assets argument. It was given to me
2 by email yesterday. I have a hard copy now. Did you get one,
3 Ms. Jacovino?

4 MS. JACOVINO: Yeah, it was provided by email and
5 faxed to us as well.

6 THE COURT: Is this an ongoing issue from your
7 original motion or countermotion?

8 MR. PAGE: Back when we had the hearing -- I think
9 it was on December 31st or something like that --

10 THE COURT: Uh-huh (affirmative).

11 MR. PAGE: -- we -- you asked us to -- asked both
12 parties --

13 THE COURT: File a brief.

14 MR. PAGE: -- to supply briefs. So, we supplied a
15 brief for the return hearing. Just following what your orders
16 were on that.

17 THE COURT: Were you able to file a brief,
18 Ms. Jacovino?

19 MS. JACOVINO: I believe it was -- Mr. Page just
20 filed this, I thought our brief would be a responsive brief to
21 Mr. Page's brief. I did see the minutes it says counsel, it
22 doesn't specifically designate.

23 THE COURT: You know, it's a asset -- omitted asset
24 money issue, if we're not in a super hurry, they should be

1 able to file an opposing brief, argue the Sertic case, the
2 Amie case, and of course the most recent Supreme Court case,
3 the Doan matter which was my case and get a full briefing on
4 that, and then could have the lawyers argue that. I mean --

5 MR. PAGE: I -- I've referenced --

6 THE COURT: -- yeah.

7 MR. PAGE: -- Doan, and I think as far as the
8 retirement accounts --

9 THE COURT: We'll talk --

10 MR. PAGE: -- it's pretty much Black letter law.

11 THE COURT: -- well, maybe -- yeah, maybe we'll send
12 -- today is the child -- children interview, the twins,
13 Nicholas and --

14 MR. PAGE: Richard.

15 THE COURT: -- Richard. And talk about that and
16 there's a Gosnell report; is that correct?

17 MR. PAGE: There is a Gosnell report, that was
18 received yesterday. And you said -- you indicated you had a
19 copy I believe?

20 THE COURT: Received yesterday, well, let me see.

21 MR. PAGE: I've got it around here.

22 MS. JACOVINO: Did you receive a copy?

23 MR. KILGORE: No, I didn't.

24 THE COURT: I've got to search my --

1 MS. JACOVINO: We did not receive a copy.
2 THE COURT: -- 10,000 emails here.
3 MR. PAGE: I have an extra copy.
4 THE COURT: I did have -- and I -- I do know I have
5 the child interview.
6 MR. PAGE: Have you received the child interview?
7 MS. JACOVINO: We did. We picked it up a couple
8 days ago.
9 THE COURT: I do not have a Gosnell report, so I'd
10 like a copy so I can speed read it.
11 MS. JACOVINO: It's only one page, we're doing the
12 same thing.
13 THE COURT: Thank you.
14 MR. PAGE: May I approach?
15 THE COURT: You may approach. I'm glad you brought
16 copies. Okay. Now, Gosnell is the children's therapist that
17 you stipulated to.
18 MR. PAGE: Yes.
19 THE COURT: So, good, she -- they've been --
20 Nicholas is -- it's Nicholas and Richard have been attending.
21 Okay. First session was January 29th.
22 MS. JACOVINO: Has Eleni seen the Gosnell report,
23 and are we allowed to show it to our client?
24 MR. PAGE: I'm sorry?

1 MS. JACOVINO: Eleni, has -- has she seen the
2 Gosnell report or --

3 THE COURT: She can read it but she can't --

4 MS. KILGORE: I just saw it this morning.

5 THE COURT: -- have a copy. Both parents can read
6 it, but they can't have a copy. I'm going to advise the
7 parents, the contents of this letter does not leave this
8 courtroom under penalties of contempt. There will be no
9 repercussions to the children based on what we are reading in
10 this letter.

11 Okay. Here's some red flags. Number one -- I don't
12 know, the -- perhaps this letter isn't completely -- doesn't
13 conflict with what we read in the children's interview.
14 Richard has more or less of a problem with Dad but Nick is --
15 right now, I believe he doesn't want any contact with the
16 father. And that's why we have to send it out to a
17 professional for the counseling so they can work on that
18 strained relationship.

19 The second red flag is -- well, Nicholas mentioned
20 that the father has firearms I guess in his household, but he
21 is a -- used -- well, used to work for the courts or law
22 enforcement. So, I'm assuming he properly stores them. Does
23 -- does he still have firearms, or is there a TPO that
24 prevents him from possessing any firearms right now?

1 MS. JACOVINO: He still --

2 MR. PAGE: There may be grounds based upon the
3 content of both the child interview and Donna Gosnell's report
4 to ask for a TPO on Nicholas' behalf, because it appears that
5 acts of domestic violence have occurred or may be likely to
6 occur based upon the contents to the satisfaction of the Court
7 which is basically a probable cause standard.

8 MS. JACOVINO: There's no acts of domestic violence.
9 There's no concern.

10 THE COURT: So, right now the answer is there is no
11 TPO, number one. Number two, the mother obviously she may
12 make that call and file one, but what you do is you normally
13 go down and you personally file an application downstairs,
14 TPO, they're supposed to review it, the TPO Commissioner in 48
15 hours and then they set a hearing. However, there's an
16 ongoing D case, so it's going to be automatically combined
17 here. As far as you're not going to end up in the TPO
18 Commissioner's courtroom, because there's an ongoing D case
19 here.

20 MS. JACOVINO: Your Honor, the firearms haven't been
21 a concern before. They're locked in a safe.

22 THE COURT: You have a gun safe, sir?

23 MR. KILGORE: Yes, Your Honor, I do.

24 THE COURT: And how many firearms do you have?

1 MR. KILGORE: I have four.

2 THE COURT: Four? So, you have a -- I -- I see a
3 mention of an --

4 MR. KILGORE: I use --

5 THE COURT: -- M60 machine gun?

6 MR. KILGORE: No, that belonged to a company I used
7 to be partners in, and I don't own that anymore, it still
8 belongs to the company. It is not mine.

9 THE COURT: What company?

10 MR. KILGORE: It used to be Desert Arms that went
11 out of business several years ago.

12 THE COURT: So, why are you in possession of it?

13 MS. JACOVINO: He's not.

14 MR. KILGORE: I'm not.

15 THE COURT: You're not? Doesn't exist?

16 MR. KILGORE: Oh, it exists with -- Desert Arms
17 still has it.

18 THE COURT: Oh, it's not in your possession?

19 MR. KILGORE: No.

20 THE COURT: Okay. So, what's the other four that
21 you have?

22 MR. KILGORE: I have them for my job as a marshal, I
23 have a handgun, an -- an AR-15, a shotgun, and a back-up
24 pistol.

1 THE COURT: Two carries and -- two handguns and an
2 AR-15 rifle and a shotgun?

3 MR. KILGORE: Correct.

4 THE COURT: And where do you store the ammo?

5 MR. KILGORE: Everything is kept into a safe, a big
6 walk-in vault safe.

7 THE COURT: Okay.

8 MR. KILGORE: The kids do not have access to it.

9 THE COURT: No access in the safe. Okay.

10 MR. PAGE: It's pretty graphic what's contained
11 within both the child interview and Donna Gosnell's report.

12 THE COURT: Well, the order will be that he is to
13 properly store everything in a locked safe and no children
14 access -- can access it.

15 MR. PAGE: If a TPO is granted, he would be required
16 to turn over those weapons to the law enforcement --

17 THE COURT: So, what --

18 MR. PAGE: -- authorities.

19 THE COURT: -- you're making an oral request for the
20 TPO, the TPO has to be, one, to the --

21 (COUNSEL AND CLIENT CONFER BRIEFLY)

22 THE COURT: -- satisfaction of the Court, that's the
23 statute; and two, it has to be some type of immediate danger
24 of risk or harm. Number three, the child is not being forced

1 to see the father, so there's no contact going on. If there
2 is no contact, and it's at the child's kind of wishes right
3 now, then there is no immediate harm or danger.

4 MR. KILGORE: Your Honor, I would never harm my
5 kids. The -- anybody --

6 MS. JACOVINO: Wait --

7 THE COURT: No, I'm --

8 MR. KILGORE: -- that would make that accusation --

9 THE COURT: -- going through the law with the
10 lawyers here. We're talking the law. And I don't see a basis
11 to award a TPO right now, because the child is not having any
12 contact with you. If contact were to resume by way of a
13 reunification through Donna Gosnell, then it is a standing
14 order not to provide the children -- that safety precautions
15 be done -- taken at your house that your guns are locked up,
16 the ammo's locked up separately, or there's no access to that
17 gun safe. Okay?

18 MS. JACOVINO: And, Your Honor, we're not arguing
19 with that order, that's been --

20 THE COURT: Oral request for TPO denied at this
21 point -- at this time.

22 MS. JACOVINO: And your order is that they're to
23 remain locked up with no contact --

24 THE COURT: Right. So, we got a teenage boy, we

1 have the counseling in place, Richard's not -- Richard, Jr.'s
2 not much -- not the problem. You leave it to the professional
3 to work on the reunification, and Gosnell is what you guys
4 stipulated to, so she has to keep doing what she's doing.
5 Based on therapy, intensive therapy, the boy has to be going
6 at least once a week, correct? And use the health insurance
7 to go through these sessions once a week, once every two
8 weeks? And this can take a --

9 MR. PAGE: It usua --

10 THE COURT: -- couple of months. And --

11 MR. PAGE: It usually takes -- you know, we usually
12 defer to the therapist as to what they recommend for
13 reunification. Even whether reunification is possible. I
14 just finished -- help finished up a case in another department
15 where reunification simply wasn't possible, their relationship
16 was too damaged and the child, you know, will see --

17 THE COURT: Will have --

18 MR. PAGE: -- the mom if and when she wants to.

19 THE COURT: It's up to the therapist, Ms. Gosnell,
20 to report back --

21 MS. JACOVINO: And if we don't --

22 THE COURT: -- to the Court.

23 MS. JACOVINO: -- if we don't allow Rich to see
24 Nick, then this relationship is continuing to be strained and

1 to be further alienation. And the words --

2 THE COURT: I understand. And the child's thoughts
3 on the matter regarding his dad are pretty extreme.

4 MS. JACOVINO: I agree. And I'm also not sure that
5 they're all the child's or that they haven't been put in the
6 child's head --

7 THE COURT: Okay.

8 MS. JACOVINO: -- by repeated --

9 THE COURT: And you understand --

10 MS. JACOVINO: -- incidents.

11 THE COURT: -- teenagers have a mind of their own.
12 Obviously Richard and Nick have different personalities and --

13 MS. JACOVINO: They do.

14 THE COURT: -- perceptions and philosophies and I
15 can't force a teenager to just, here you go, go with your dad.
16 I mean he'll crawl out the bedroom window and run away back to
17 Mom's house. I mean --

18 MS. JACOVINO: Well, children's discussion is only
19 one factor when we look at it.

20 THE COURT: That's -- well, we have to leave it to a
21 professional to decide how they're going to initiate contact.
22 First, Nick's got to get all his issues out on the table, and
23 he's angry right now with his father. And when that anger
24 subsides, maybe the therapist will work on him about

1 expressing his emotions and feelings. He may be able to then
2 start some type of minimal contact either by phone call,
3 email, take him out to dinner. It's just -- it's not going to
4 happen just like now. It has to be worked through with a
5 therapist.

6 MS. JACOVINO: The problem is if we cut it off, it's
7 likely not to be -- the reunification as Mr. Page was saying
8 may not happen. I feel that there needs to be contact and
9 while I'm not the psychiatrist or the psychologist --

10 THE COURT: Well, I'll tell you what, if birthdays
11 are coming up or holidays, you know, I mean the father -- I
12 don't have a problem with him if he wants to send a birthday
13 card or -- and whatnot, but I don't know if it's feasible if
14 he'd even pick up a phone and talk to his dad would we --
15 would Dad be allowed to send him an email? This is what
16 therapists are supposed to do, the ones that work with the
17 Courts, they know that we could start -- they have to ask the
18 child, would you be willing to, you know, take an email from
19 your dad, or are you ready to start a phone call, would you
20 like to meet in a public place.

21 MS. JACOVINO: It's also about fostering --

22 THE COURT: In addition to working --

23 MS. JACOVINO: -- the relationship.

24 THE COURT: -- on his own individual anger and

1 issues.

2 MR. PAGE: Ms. -- Nicholas stated to Ms. Gosnell
3 that his father's physically abusive to him, has broken the
4 door down to hit him, and Nicholas states his father --

5 THE COURT: I know all the --

6 MR. PAGE: -- has left bruises on him.

7 THE COURT: -- I know all the details. I -- we have
8 a child that doesn't want the contact. I mean if you want me
9 to order an email, I mean an email may -- may not be as -- it
10 won't be too traumatic, he's a teenager like I said, if you
11 want that, but he -- he should get those details from
12 Ms. Gosnell. He is to be worked into that counseling and how
13 should I approach this, because you know, you've been talking
14 to my son, Ms. Gos -- I'm talking about Ms. Gosnell -- and she
15 will make the suggestions, why don't you start with an email,
16 you know, or something like that.

17 MS. JACOVINO: We -- you know, coming here today, we
18 did think that there could possibly be a change in custody and
19 in the visitation schedule. We didn't think that it would
20 be --

21 THE COURT: I'm aware of like --

22 MS. JACOVINO: -- pretty much no contact.

23 THE COURT: -- the Christmas --

24 MS. JACOVINO: Uh-huh (affirmative).

1 THE COURT: -- yeah, he wanted to enforce the order
2 and he did spend a week with him?

3 MS. JACOVINO: He did.

4 THE COURT: Nicholas did?

5 MR. KILGORE: Yes, I've had him every -- ever since
6 then every other week and everything's been fine.

7 THE COURT: I don't know what goes on outside of the
8 courtroom, but are you -- so you've been having your weekly
9 visitation with him?

10 MR. KILGORE: Correct, he just went home on Monday.
11 The only thing they told -- indicated to me is they just want
12 the change it's a set -- Sunday for exchange day because of
13 the -- having to take stuff to school and picking up from
14 school, they have to bring all their personal stuff. And
15 that's the only thing -- we have a great relationship.
16 Nicholas texted me this morning that he's feeling much better
17 -- or still feeling sick but he's getting better. He was sick
18 all weekend.

19 THE COURT: And how many sessions has he gone with
20 Donna Gosnell?

21 MR. KILGORE: I have not, I have no money to go to
22 her.

23 MS. JACOVINO: No, she means Nick.

24 MR. PAGE: He -- he was ordered to attend therapy

1 THE COURT: No, the insurance --
2 MR. PAGE: -- and he's disobeyed the Court's
3 orders --
4 THE COURT: -- is using that.
5 MR. PAGE: -- by failing to do so.
6 THE COURT: Is -- insurance is using --
7 MR. PAGE: Yes.
8 THE COURT: -- Gosnell?
9 MS. JACOVINO: Insurance for the children.
10 MR. PAGE: The idea of cost is a red herring, it's a
11 distraction. He was ordered to go, the cost is minimal to
12 him, he declined to go. That's contempt.
13 THE COURT: Well, there's something I don't --
14 MR. KILGORE: I have no money, Counselor.
15 THE COURT: -- the Gosnell letter doesn't mention --
16 and I mean I don't know, is Gosnell aware that he's having the
17 weekly contact with the dad?
18 MR. PAGE: It doesn't mention that --
19 THE COURT: Yeah.
20 MR. PAGE: -- it mentions that Richard --
21 THE COURT: Oh, it doesn't.
22 MR. PAGE: -- de -- or Nicholas details the abuse
23 and harassment that he's gone at -- under at his father's
24 hands and that he wants no further contact with him.

1 THE COURT: Uh-huh (affirmative).

2 MR. PAGE: That is the --

3 THE COURT: I do not want to empower the child
4 though. We would look at their level of intelligence,
5 education, maturity.

6 MR. PAGE: Nicholas is a mature kid, he is an A-B --

7 THE COURT: Yeah.

8 MR. PAGE: -- student.

9 THE COURT: Well, Mom obviously wants the -- you
10 know, wants what's best for Nick and --

11 MS. KILGORE: Right. My hope --

12 THE COURT: -- Nick wants the extreme order which is
13 I want to be able to choose to just have zero contact. But
14 he's -- I'm assuming -- I won't want to say the word
15 reluctantly, maybe that's how he feels about it, reluctantly
16 going over to Dad's and doing the visits, and I'm getting a
17 different story from Dad that the visits are -- are going
18 normal.

19 MR. PAGE: How is she going to get a different story
20 from Dad? He is interested in his --

21 THE COURT: I'm getting a different story --

22 MR. PAGE: -- own hide.

23 THE COURT: -- from Mom as well --

24 MR. PAGE: Really what --

1 THE COURT: -- I'm assuming.
2 MR. PAGE: What should happen based upon the
3 disgusting, despicable conduct described in both the child
4 interview and --
5 MS. JACOVINO: Mr. Page --
6 MR. PAGE: -- is -- shh, I'm not done talking,
7 Counsel.
8 MS. JACOVINO: Disgusting, despicable --
9 MR. PAGE: It is disgusting and despicable --
10 THE COURT: Okay.
11 MR. PAGE: -- the Court should cut off --
12 THE COURT: I'm going to ask both --
13 MR. PAGE: -- all contact --
14 MR. KILGORE: Harassing and bullying.
15 THE COURT: -- counsel --
16 UNIDENTIFIED MALE: Hey, hey --
17 THE COURT: -- I'm going to ask --
18 UNIDENTIFIED MALE: -- let's not get out of line
19 here, please. Respect each other.
20 THE COURT: Okay.
21 MR. PAGE: Thank you. That all --
22 THE COURT: Let me -- no. I'm going to ask both
23 counsel to reel it in, we're going to professional in this
24 courtroom, and I understand both of you have to advocate

1 zealously for your clients. But I don't -- it's not so much
2 what Dad wants and what Mom wants, it's sitting in the middle
3 here and figuring out what's in the best interest of this
4 child. Richard's not so much the problem, Richard, Jr. It's
5 Nick is the one that has these -- these issues with the -- the
6 relationship with the father.

7 MR. PAGE: Since we have information here that there
8 are acts of domestic violence that have occurred under
9 125.480, the Court can consider this to be clear and
10 convincing evidence that acts of domestic violence have
11 occurred that the presumption arises that Mr. Kilgore is not
12 fit to have either shared or primary physical custody of
13 either child and based upon Nicholas' uncontrovuted (sic) --
14 uncontroverted statements that his father has physically
15 abused him in addition to mentally abusing him that contact
16 with --

17 THE COURT: Okay. This is --

18 MR. PAGE: -- both children should be --

19 THE COURT: -- a return hearing --

20 MR. PAGE: -- cut off.

21 THE COURT: We had an hour last time to argue all of
22 this, so I'm not going to rehash or repeat, number one.

23 MR. PAGE: Unfor --

24 THE COURT: Number two, the contents of the child

1 interview and now the -- the Gosnell, I find that they are
2 consistent as far as some of these very extreme allegations
3 and somewhat disturbing allegations of what the boys --
4 particularly Nick had been reporting to the FMC specialist.

5 Let me ask Mom just real quick, Nick has been going
6 every week with the father -- visits with the father?

7 MS. KILGORE: No, I'm the only one who has taken
8 him. His father never took him. Donna told me that.

9 THE COURT: No, no, no, I'm not -- the --

10 MR. PAGE: Visitation, listen.

11 MS. KILGORE: Oh, yes --

12 THE COURT: -- just the regular visitation.

13 MS. KILGORE: -- visitation.

14 THE COURT: So, I mean you're -- you're encouraging
15 it, you have to comply with the order and -- correct?

16 MS. KILGORE: His --

17 THE COURT: Was there a problem at Christmastime,
18 was Nick kicking and screaming, didn't really want to go
19 and --

20 MS. KILGORE: Actually Nick was threatened to run
21 away. The only reason Nicholas has actually been going and
22 seeing his dad -- and I have been encouraging him --

23 THE COURT: Uh-huh (affirmative).

24 MS. KILGORE: -- I've always encouraged my children

1 to have a relationship with their dad.

2 THE COURT: Uh-huh (affirmative).

3 MS. KILGORE: I don't know what goes on over there
4 since I haven't been there. The stuff I've heard seriously
5 upsets me. And Richie did back up his claims I guess in
6 counseling when she saw them individually. The only reason
7 Nicholas told Donna that he kept going -- and he's told me
8 repeatedly is because I told him because you signed the pick-
9 up order that he has to go or he's going to be arrested and
10 that this is not the way we go about trying to give him
11 teenage discretion or whatever.

12 THE COURT: Well, you did what --

13 MS. KILGORE: They're going to be --

14 THE COURT: -- he had to do, yeah.

15 MS. KILGORE: -- 15 -- you know, they're going to be
16 15 years old. So, the only reason he's been going and he told
17 Donna, the only reason I'm going is because my mother told me
18 I need to do this in order to look responsible and gain
19 teenage discretion. But --

20 THE COURT: It sounds like --

21 MS. KILGORE: -- he's also at home stressing out,
22 because he's deathly sick right now since I picked him up --

23 THE COURT: Right.

24 MS. KILGORE: -- that if he doesn't get it, he's --

1 like you said -- my fear is that right now Nicholas is at a
2 fragile state. He is very angry --

3 THE COURT: How's his grades --

4 MS. KILGORE: -- he is upset.

5 THE COURT: -- by the way?

6 MS. KILGORE: His grades are good, he gets A, B's
7 and C's.

8 THE COURT: Sounds like a mature response on his
9 part and he has to do --

10 MS. KILGORE: If you listen to him speak, even in
11 counseling --

12 THE COURT: -- he doesn't want to get his mom in
13 trouble, he wants to make sure the order is complied with.
14 And I mean they're not young kids, they know what a court is,
15 they know their parents are fighting in the courtroom, we're
16 not supposed to discuss these -- obviously the adult issues
17 with them. And he's still a minor and he can't make -- I
18 don't know, maybe he can, I don't -- I'm not sure, because
19 it's something called teenager discretion at this point. And
20 it's been ongoing since Christmas now, we are -- we've
21 evaluated this for two months and he's just -- according to
22 you, he's just reluctantly going, because he doesn't want to
23 get you in trouble in court.

24 MS. KILGORE: He actually told me he would rather be

1 arrested and go to juvenile hall than go to his dad's which
2 broke my heart. But right now it's how he feels and -- and
3 Nicholas even told his dad in -- in a couple texts, you know,
4 we work this out in counseling but the more his -- Nicholas is
5 a lot like his dad, the more you force him to do something,
6 the more stubborn -- you know, they're teenagers.

7 THE COURT: Okay.

8 MR. PAGE: So, if we take -- apply the facts to the
9 law, and we look at teenage discretion under 480, we look at
10 the acts of domestic violence and abuse by Dad toward these
11 children and apply that along with the relationship of the
12 parents and the level of conflict in this case, I think under
13 Truax, under a best interests standard, it simply makes sense
14 to confirm primary physical custody of Nicholas to Mom, go
15 forward with that, give the child teenager discretion as to if
16 and when he wants to see his father. Then if Dad wants to
17 start reunification therapy with Donna Gosnell or Donna
18 Wilburn or somebody like that, he is free to do so.

19 But I think that would eliminate the --

20 THE COURT: Okay. I understand --

21 MR. PAGE: -- level of conflict here. And as far as
22 Richard is concerned, I think the presumption arises under 480
23 that Mr. Kilgore is not fit to have shared physical custody of
24 Nick either given the acts of domestic violence and the

1 comments that are detailed not only Donna Gosnell's report but
2 also in the child interview. Calling Mom's --

3 MR. KILGORE: Alleged.

4 MS. LONARDO: Shh.

5 MR. PAGE: -- fiancé a pedofile, he's calling all
6 women hoes and be a dick to them in addition to hitting
7 Nicholas in front of Richard -- I presume it's in front of
8 Richard, breaking things in front of Nicholas, just -- it's an
9 abusive environment, and it is not something that would be in
10 Richard's best interest either.

11 THE COURT: And Richard, Jr., is -- he gets A's and
12 B's as well --

13 MS. KILGORE: Yes.

14 THE COURT: -- he's doing well in school?

15 MS. KILGORE: He actually gets straight A's.

16 THE COURT: Okay. I'm limited on time, so I'm going
17 to give Ms. Jacovino --

18 MS. JACOVINO: Your Honor, we --

19 THE COURT: -- a few minutes to respond and then I
20 will make a -- probably an ongoing temporary decision and
21 we'll come back on the QDRO issue after you brief -- file your
22 legal brief on the matter, and then we'll take oral argument
23 on that. All right?

24 MS. JACOVINO: Your Honor, both the FMC interview

1 and this one page letter that we've just --

2 THE COURT: The Gosnell report.

3 MS. JACOVINO: -- received today talk about abuse
4 and what it is that Dad says. The abuse is vague. We don't
5 have anything that he was -- that he was hit. We don't have
6 anything other than the words from Nicholas. The words from
7 Nicholas --

8 THE COURT: Are you referring to physical, mental,
9 emotional abuse --

10 MS. JACOVINO: All of those.

11 THE COURT: -- we don't know?

12 MS. JACOVINO: If you look in the -- if you -- I
13 don't believe they're happening. If you look in the FMC
14 interview and they talk that there's abuse, that my father's
15 verbally abusive; that he looks down upon women. None of
16 these things are facts. These are allegations and they're by
17 Nicholas and I understand teenage discretion, and I don't
18 actually want to make Nick do something he doesn't want to do.
19 But what we do want to make sure is that --

20 THE COURT: These are A-B students --

21 MS. JACOVINO: -- they keep --

22 THE COURT: -- they're not like failing kids who are
23 truant, juvenile delinquents --

24 MS. JACOVINO: No, I would never say that they're

1 bad kids. Or that --

2 THE COURT: I would give that --

3 MS. JACOVINO: -- Eleni's a bad mom.

4 THE COURT: -- different weight than I would --

5 MS. JACOVINO: But I also wouldn't --

6 THE COURT: -- with honor roll students who are

7 athletes and succeeding in school and -- and being resilient

8 with the parental conflict and be able to maintain their

9 school and their grades.

10 MS. JACOVINO: If it was -- as well as --

11 THE COURT: That's very difficult to do for -- I

12 mean that gets more weight when terms of intelligence,

13 resilience, maturity that these -- these -- these --

14 MS. JACOVINO: I agree --

15 THE COURT: -- boys are doing --

16 MS. JACOVINO: -- they're great kids.

17 THE COURT: -- are well in school despite that.

18 Because --

19 MS. JACOVINO: I agree.

20 THE COURT: -- anyway, continue.

21 MS. JACOVINO: They're great kids. I do think they

22 are allowed some discretion, but if we break the relationship

23 between Richie and his father --

24 MS. LONARDO: Nick.

1 THE COURT: You acknowledge -- I mean you can --
2 MS. JACOVINO: I wasn't done.
3 MS. LONARDO: Oh.
4 THE COURT: -- see -- you acknowledge --
5 MS. JACOVINO: Mr. Page wants no relationship --
6 THE COURT: -- there -- there -- there's a strain
7 between the relationship particularly --
8 MS. JACOVINO: With Nick and Richard, yes.
9 THE COURT: -- with Nick and Dad.
10 MS. JACOVINO: Yes.
11 THE COURT: Okay. We acknowledge that.
12 MS. JACOVINO: We do, but we need to work on it and
13 towards --
14 THE COURT: You feel --
15 MS. JACOVINO: -- it and keep it.
16 THE COURT: -- it's not in the best interest to just
17 have Nicholas decide completely cut off the contact.
18 MS. JACOVINO: Exactly. Because some of these
19 things that he's saying he heard or that he knows his father
20 did he wasn't even present for. These words that he's saying
21 his father said --
22 THE COURT: The father doesn't believe --
23 MS. JACOVINO: -- we don't know the context --
24 THE COURT: -- that Nick --

1 MS. JACOVINO: -- or if --

2 THE COURT: -- is only doing this, so he doesn't
3 want to get his mom in trouble because of the court order.
4 And that he just --

5 MS. JACOVINO: Both of those, where he tells them
6 that if I don't go, I'm going to be arrested, Richard didn't
7 say that --

8 THE COURT: The father feels differently --

9 MS. JACOVINO: -- Dad didn't say that.

10 THE COURT: -- about that. That the visits are
11 going okay, you're having your normal routine --

12 MR. KILGORE: Yes, sir (sic), we (indiscernible).

13 MS. JACOVINO: And he wants to keep it.

14 THE COURT: -- and you're going to his sports
15 activities?

16 MR. KILGORE: We've gone to the sporting events, we
17 go to picnics and --

18 THE COURT: Do you think your son is just pretending
19 to be --

20 MR. KILGORE: We had a church function this --

21 THE COURT: -- to do -- to go through the motions?

22 MS. JACOVINO: We wouldn't say pretending, we
23 believe that --

24 THE COURT: Do you believe the therapy with Gosnell

1 is helping --

2 MR. KILGORE: I think he's being --

3 THE COURT: -- these sessions?

4 MR. KILGORE: -- coached by his mother on what to
5 say and she's bullying and harassing him.

6 THE COURT: Have you let Gosnell know who you are,
7 that --

8 MR. KILGORE: I haven't gone --

9 THE COURT: -- whenever --

10 MR. KILGORE: -- to her yet because I have no money
11 to go down there.

12 THE COURT: It's -- well, you're supposed to let her
13 know you're the dad and that the issues are between you and
14 Nick. And then at some point -- she's supposed to work on
15 Nick, get the counseling in, and then at some point either
16 bring you into her office or reinstate the contact.

17 MR. KILGORE: Yes, Your Honor.

18 THE COURT: Okay.

19 MS. JACOVINO: He didn't --

20 THE COURT: So --

21 MS. JACOVINO: -- need the contact reinstated,
22 because it has been there.

23 THE COURT: I'm just surprised, we have lawyers on
24 both sides, you're supposed to sign up. I think I told that

1 last time. I repeat that speech every time when I have cases
2 like this. You're supposed to have -- sign up, let them
3 know --

4 MS. JACOVINO: We're not sure --

5 THE COURT: -- you're the mom --

6 MS. JACOVINO: -- still whether --

7 THE COURT: -- let her know you're the dad --

8 MS. JACOVINO: -- it's Mr. Flangas or Mr. Page in
9 how invested Mr. Page is in this. I'm not sure if he's
10 attorney of record. I mean he files his brief the day before,
11 he --

12 THE COURT: Well, I wasn't talking about Mr. Page, I
13 was talking about -- you were here at the last court hearing
14 and I said -- you sign -- you guys agreed to Gosnell, you go
15 sign up with her and let her know. So, I need Dad to go sign
16 up and let her know that this is an ongoing thing. And I
17 can't guarantee when Gosnell may want to bring them in a
18 therapeutic setting and get them in there in the same room.
19 That's usually the first steps, you know, in -- in terms of
20 the therapy reunification.

21 Okay. I understand what you're arguing, you don't
22 want the full, complete cutoff and give him the absolute
23 teenager discretion.

24 MS. JACOVINO: No, because that is only --

1 THE COURT: Is there anything else I should know
2 before I -- because this -- we'll continue to monitor this.
3 Insurance is going to cover how many more sessions, do you
4 know?

5 MS. KILGORE: They -- they will cover up to like 50
6 sessions before we have to --

7 THE COURT: Fifty?

8 MS. KILGORE: Yeah, something like that --

9 THE COURT: Wonderful.

10 MS. KILGORE: -- 40 or 50.

11 THE COURT: And what's the co-pay?

12 MS. KILGORE: \$20.

13 MR. PAGE: \$20. For him to say that he can't afford
14 \$20 when he has an attorney in this room --

15 THE COURT: Is the order for him --

16 MR. PAGE: -- appears to be less than credible.

17 THE COURT: -- to pay the \$20? Or half of that?

18 MS. JACOVINO: It'd be half of that, but it's also
19 that the insurance is not going to cover --

20 THE COURT: You -- okay, you ordered half and did he
21 advance any monies to Mom? I may need to --

22 MR. PAGE: No.

23 MS. JACOVINO: No, my --

24 THE COURT: -- make --

1 MS. JACOVINO: -- client is unemployed right now.

2 THE COURT: Let me check the minutes. Is it a
3 direct order?

4 MS. JACOVINO: That he pays?

5 THE COURT: Half. You're supposed to --

6 MR. PAGE: Actually he should pay for the whole
7 thing since he is the --

8 THE COURT: -- take care of all the logistics --

9 MR. PAGE: -- one responsible.

10 THE COURT: It says parties to equally divide any
11 co-pays, and they've had one session and it's been three --
12 two plus months now and Mom has fronted how many \$20 co-pays?
13 It's not --

14 MS. KILGORE: Quite a few.

15 THE COURT: -- her job to front that.

16 MS. KILGORE: I'm not exactly sure.

17 THE COURT: I mean if the order was clear and to
18 equally divide each month, you do your 10 bucks -- or each
19 month 10 bucks for however many sessions he did that month.
20 Now Dad's two months -- two months behind? That's contempt of
21 court. It's a money issue, I mean I'm not -- I don't want to
22 put him in jail just for that, but I need to admonish him to
23 put up the money. I -- your kid's more enough -- important
24 enough and the counseling sessions to benefit your kid, you

1 got to pay the money.

2 MS. JACOVINO: I'm not sure if all --

3 THE COURT: I want Dad to catch up --

4 MS. JACOVINO: Is it on Family Wizard?

5 THE COURT: -- by the end of this week and catch up
6 and either -- and Mom already fronted the 20, have the bills
7 been --

8 MR. KILGORE: Your Honor, I had --

9 THE COURT: -- do you pay the 20 when you show up at
10 the office?

11 MR. KILGORE: I had no idea they were even going.
12 And I hadn't received anything on Family Wizard --

13 THE COURT: Okay.

14 MR. KILGORE: -- of any kind of --

15 THE COURT: It's simple. When you have a name, you
16 have an address, you contact that person and take care of the
17 logistics and the billing. The order was clear, parties to
18 divide any co-pays. If they want payment up front before they
19 -- when they show up at the office each week or whenever they
20 go, then you -- you pay for it. And it doesn't happen unless
21 somebody prepays that 20 bucks and I'm assuming Mom did it,
22 how many times already?

23 MS. KILGORE: I've done it a couple times and then I
24 had to pay two --

1 THE COURT: Two times?

2 MS. KILGORE: -- I had to pay \$250 for the letter,
3 too.

4 THE COURT: Okay. The parties are to equally split
5 that. I want Dad to catch up. Now, I just need to know if he
6 needs to pay Gosnell directly or pay you --

7 MS. KILGORE: No, pay me, I already paid --

8 THE COURT: -- directly.

9 MS. KILGORE: -- the money. Yes.

10 THE COURT: Dad's to catch up his half by the end of
11 the week.

12 MS. JACOVINO: We --

13 THE COURT: Under penalties of contempt.

14 MS. JACOVINO: As long as it goes into Family
15 Wizard, we'll take care of it. We don't know how many
16 sessions and -- not to be argumentative but --

17 THE COURT: Call up Gosnell.

18 MS. JACOVINO: -- she's saying that they went a
19 couple.

20 THE COURT: You had every day since the last court
21 date to call her and find out her billing, find out -- you're
22 just -- you leave it all to Mom to take care of all the
23 logistics? They have joint legal custody, correct?

24 MS. JACOVINO: Yes.

1 THE COURT: Then a parent has to step up and be
2 responsible and contact and do their part. Okay.

3 MS. JACOVINO: She'll be --

4 THE COURT: I don't know what --

5 MS. JACOVINO: -- she'll be paid --

6 THE COURT: -- why that would've been confusing.

7 MR. PAGE: One additional --

8 THE COURT: Are you conceding that if she wants --
9 Dad wants Mom to take care of everything then --

10 MS. JACOVINO: No, we're not conceding that --

11 THE COURT: -- is she going to be the primary
12 custodian?

13 MS. JACOVINO: -- we do not want primary --

14 THE COURT: Well, I'm questioning --

15 MS. JACOVINO: -- custody. Or joint.

16 THE COURT: -- why it's so hard to take care of
17 logistics.

18 MS. JACOVINO: It just hasn't been --

19 THE COURT: These are -- I mean these are two
20 intelligent, educated parents here.

21 MS. JACOVINO: There just hasn't been communication
22 between the parents. And like we said, there wasn't a lot of
23 things going on with the Family Wizard and so now that --

24 THE COURT: If they have questions, they come to you

1 and you tell them how -- this is how it works, this is how
2 logistics work. All right.

3 MS. JACOVINO: We'll contact Ms. Gosnell and --

4 THE COURT: I'm just trying to be --

5 MS. JACOVINO: -- get the payment.

6 THE COURT: -- firm about it, I'm not -- I'm not
7 holding anybody in contempt today, but technically it is.
8 Because the order is clear. It's a direct order. Has the
9 order been prepared from the last court hearing?

10 MR. PAGE: It's prepared, I gave it to opposing
11 counsel, I asked her to bring with her here today --

12 THE COURT: I've got to move on with my orders.
13 Counseling --

14 MR. PAGE: -- it matches the minutes --

15 THE COURT: -- will absolutely --

16 MR. PAGE: -- I'd like her to sign it.

17 THE COURT: -- continue. Dad needs to step up, get
18 with Gosnell, introduce himself, and tell Gosnell whenever
19 he's ready, you know, we'll work on that. I do not believe
20 it's in the best interests -- not in the best interests to
21 completely cut off the contact because we're hanging on by a
22 thread here. And I appreciate that, and I'm making a finding
23 that Nicholas has a high level of maturity, what you told me
24 and relayed back to me today shows a very mature response that

1 he's doing this. Some kids will just do kicking and screaming
2 and end up in juvenile detention, miss school, because they
3 are so traumatized by it. But I think he has some sense of
4 resiliency, he can continue to work with Gosnell, but what is
5 the length of the visits weekly right now?

6 MR. PAGE: Week-on, week-off.

7 THE COURT: It's week-on, week-off?

8 MR. PAGE: Yes.

9 THE COURT: That might not be appropriate based
10 on --

11 MR. PAGE: I know.

12 THE COURT: -- the child's wishes. The child
13 interview and the Gosnell report is not consistent with a
14 week-on week-off. I'm -- I'm not here to cut off complete
15 contact if we're hanging on by a thread, we want to keep that
16 thread and work on that. But week-on week-off is too
17 traumatizing for a child who is mature and giving mature
18 responses as far as his relationship with both of his parents.

19 What's the kid's schedule? He's got a lot of sports
20 activities, Dad is allowed to go to sports activities, I think
21 -- I don't know, maybe another judge ordered that they be on
22 opposite sides of the field or the gym --

23 MS. JACOVINO: And the last --

24 MR. PAGE: It was.

1 MS. JACOVINO: -- the last time you --

2 THE COURT: He'll follow that, we got rid of the 30-
3 minute rule.

4 MS. JACOVINO: Right.

5 THE COURT: That doesn't make sense. I'm going to
6 respect Nick's wishes, he's resilient though, but I'm not
7 going to cut the contact off completely. The standard order
8 would normally be every other weekend. Give him a break --

9 MS. JACOVINO: We think we need more --

10 THE COURT: -- give him a breather. It shows to him
11 -- I mean he has to know -- I mean he's not completely -- you
12 had to -- you can't discuss the details of these court
13 proceedings. That's EDCR 5.03. But they're not -- they're
14 not dumb kids, they know what a judge, a lawyer is, they know
15 their parents are in court. Every other weekend would be a
16 standard order, number one --

17 MS. JACOVINO: Your Honor, we'd like --

18 THE COURT: -- number two, it gives him a breather.
19 Number three, it tells him -- it sends a message to the child
20 that the judge is --

21 MS. JACOVINO: Listening.

22 THE COURT: -- honoring his wishes. And, four, you
23 need to let -- without discussing the confidentiality of these
24 court proceedings, let the child know that, one, he's getting

1 a breather, but the reason is so that he can slowly work on
2 building back up again, maybe hopefully get back to a week-on
3 week-off. It's temporary primary with Mom.

4 Richard, Jr., he has got an amazing amount of
5 resiliency as well. He sees conflict on both ends, he still
6 respects his father and his mother. Despite things that he's
7 related to Gosnell -- and these don't go -- and this kid's not
8 going to be disciplined for what he said about the dad here in
9 this letter. If I find about it, I'm going to hold a parent
10 in contempt for divulging information. These are supposed to
11 be kept confidential.

12 It -- it's damaging, permanently damaging if a
13 repercussion goes back to the kid especially at a teenage age
14 right now and they will not respect the courts, they will not
15 respect the whole system and they will probably lessen the
16 respect for the parents. When they grow up and they have
17 their own families and their spouses and kids, your future
18 grandkids, whatever, the way they're going to treat those
19 people close to them is the way parents -- the -- what they're
20 going through right now. And it's got -- it's got to get
21 better. It's got to get better.

22 MS. JACOVINO: Your Honor, you put us down to every
23 other weekend, we would request at least every weekend.

24 THE COURT: Every other --

1 MS. JACOVINO: And then --

2 THE COURT: -- you never know when every other is
3 when you want to enforce an order --

4 MS. JACOVINO: That's true.

5 THE COURT: -- that's definitely a concern for Dad,
6 so we're going to go -- what weekend is coming up this
7 weekend? I'm going to give him a break this weekend, and Dad
8 will resume next weekend. So, it'll be -- a weekend is
9 defined as Friday after school or 3:00 o'clock if there's no
10 school and it'll run until Sunday at 6:00 p.m. and let -- does
11 he -- I want to limit the number or exchanges. Does he live
12 nearby the school, he could just take him to school Monday
13 morning or 9:00 a.m. if they're not in school.

14 MS. JACOVINO: Yeah, we can do --

15 THE COURT: 8:00 a.m. if they're not in school. So,
16 this is --

17 MS. JACOVINO: We could do drop-offs at school and
18 pick-ups from --

19 THE COURT: -- one, two, three -- this is -- this is
20 second weekend. Dad will have first and third weekends. Any
21 fifths, that's fine, he can have the fifths. They happen
22 about twice a year. First, third, and any fifths.

23 MS. JACOVINO: Yeah, that's --

24 THE COURT: Friday pick-up from school or activity

1 or take him to his activity, and they never have to run into
2 Mom and her fiancé. And then he'll take them to school Monday
3 morning.

4 MS. JACOVINO: Now, that's only to Nicholas?

5 THE COURT: That's to Nicholas. Richard they will
6 retain joint physical custody, because the boy's resiliency
7 and come in -- and he -- now he does not have any problems
8 with both parents on both ends.

9 MS. JACOVINO: The one thing he did ask --

10 THE COURT: So, he would have teenager discretion.

11 MS. JACOVINO: The one thing he did ask was for
12 pick-ups on Sunday.

13 THE COURT: Yeah, and he is so independently
14 thinking from Nick being twins it's amazing. I will respect
15 his maturity, but I expect him to maintain and continue and
16 you have to encourage. But he has teenager discretion,
17 because there's no relationship strain and he comes and goes
18 as he pleases. And if he's got activities, friends to go see,
19 that's on him. He's a teenager, he's got a lot of busy
20 activities. But it's teenager discretion. It's week-on week-
21 off but that's up to him, if he needs to go bounce back to his
22 mom's house and do something or pick up stuff --

23 MR. KILGORE: He needs to be on the same schedule
24 as --

1 THE COURT: -- he has teenager discretion as long as
2 he doesn't abuse the discretion. And he continues to maintain
3 weekly contact with the father.

4 MS. JACOVINO: Your Honor --

5 MR. PAGE: Are you making findings, Your Honor,
6 under 125.480(4) (a) the wishes of the child? And also (j)
7 which is any history of a parental abuse or neglect of a child
8 and (k) --

9 THE COURT: Not as to Richard. Richard hasn't
10 stated --

11 MR. PAGE: But as -- but as to --

12 THE COURT: -- in the interview --

13 MR. PAGE: -- Nicholas you are?

14 THE COURT: Yeah.

15 MS. JACOVINO: As to the abuse, it's only what's
16 being said.

17 THE COURT: I understand your legal argument.

18 MS. JACOVINO: We haven't had a hearing, we haven't
19 had an evidentiary --

20 THE COURT: Right.

21 MS. JACOVINO: -- it's only what's being said.

22 THE COURT: With respect to any alleged physical or
23 emotional -- I don't see any physical with respect to Richard,
24 Jr.; emotional, mental, given what Richard's statements have

1 -- it's consistent in the child interview, I -- I'm honoring
2 his wishes for teenager discretion. It'll mess up the child
3 support obviously because you got Wright v. Osburn on one kid,
4 and then you're going to have a full 18 percent --

5 MR. PAGE: Right.

6 THE COURT: -- on that. And you guys have to sit
7 down, calculate and make -- pitch an argument to me, because
8 the number is probably going to be something we're going to
9 have to discuss. There's no -- it might not be black and when
10 you just have --

11 MS. JACOVINO: Judge, the one thing that we want to
12 do with --

13 THE COURT: He has --

14 MS. JACOVINO: -- you know, as unhappy as we are
15 that we're only getting the weekends is to make sure that
16 the --

17 THE COURT: Temporarily. Give Nick a breather, work
18 on the Gosnell sessions. Dad is to sign up and get caught up
19 with the billing with Gosnell and we -- we keep moving along
20 and respond to this in 90 days --

21 MS. JACOVINO: We just want to --

22 THE COURT: -- talk about it more in 90 days.

23 MS. JACOVINO: -- ensure that Nick and --

24 MR. PAGE: And see if it --

1 MS. JACOVINO: -- Richard are able to go over --
2 THE COURT: Maybe after school and --
3 MS. JACOVINO: -- on the same --
4 THE COURT: Huh?
5 MS. JACOVINO: -- days. That this weekend is the
6 same weekend that we would also have Richie.
7 THE COURT: Whose week is it this week?
8 MS. KILGORE: It's my week.
9 THE COURT: Shall we switch then --
10 MS. KILGORE: We switch --
11 THE COURT: -- give him the second and fourths and
12 the fifths?
13 MS. KILGORE: We switch on Monday.
14 THE COURT: Oh, Dad is expecting them? Okay. Did
15 you just have them this weekend?
16 MR. PAGE: Yeah.
17 MS. KILGORE: Yes.
18 THE COURT: He just had them this weekend.
19 MR. KILGORE: And -- and I gave her (sic) to her --
20 the church had a function on Friday night, so she had them
21 Friday night and Saturday --
22 THE COURT: Hmm.
23 MR. KILGORE: -- for a church function.
24 MS. KILGORE: It was an overnight retreat at the --

1 THE COURT: I'm going to go --

2 MS. KILGORE: -- church function.

3 THE COURT: -- with the -- just stick with the
4 original order, the first and the thirds and any fifths coming
5 up. And it's a Friday pick-up from school, Monday, take them
6 to school, you don't have to come into contact with the adults
7 on this side, Mom and her fiancé. And we limit the amount of
8 exchanges, we have a behavior order in place. And we keep the
9 conflict down and work on the kids. Just keep working on
10 them. It's a temporary situation. If a miracle happens and
11 improvements -- I'm losing jurisdiction slowly over a 17-year-
12 old boy.

13 MS. JACOVINO: Yes.

14 THE COURT: Seventeen might be a foregone
15 conclusion. Childhood doesn't last forever, you only got a
16 few months left and we're hanging on it. It's up to you both
17 parents, do your part. I do make a finding, Mom hasn't --
18 well, she's encouraging, but I don't know it might -- first of
19 all, you don't want to go to trial where -- I mean a -- on a
20 contempt trial, you're going to waste the kids' college funds
21 just to prove a point I guess. We're dealing with teenagers,
22 so I'm hearing it from Dad, I don't know if Mom was
23 obstructive or not, but I let her say her piece as to what
24 happened with Christmas and what Nicholas had advised her what

1 he did and why he went without kicking and screaming and not
2 running away or crawling out a bedroom window. It's not worth
3 it. I'm telling both parents, it's not worth it to spend tens
4 of thousands of dollars with your attorneys to just prove a
5 point. We've got teenagers now.

6 MS. JACOVINO: And it was Richard --

7 THE COURT: My inclination is given Mom's
8 explanation -- and I asked her on the spot, these parents
9 don't know when I ask you on the spot and I'm a very, you
10 know, inquisitive judge, and you give me a off-the-cuff
11 response, it gives me an indication whether or not, you know,
12 this is all planned or if it makes sense. It makes sense in
13 my brain given this, the Gosnell child interview, the
14 pleadings, and the allegations going back and forth.

15 So, my inclination is I don't think Mom was
16 obstructive, she has to deal with a -- a boy who has a mind of
17 his own as well, I don't think she was obstructive at all.
18 And --

19 MS. JACOVINO: We think it is.

20 THE COURT: -- Dad had every right, I gave him the
21 benefit of the doubt, I did sign the pick-up order, and the
22 boy made a mature decision not to basically -- he -- he did a
23 decision that did not cause any further turmoil, you know, he
24 mitigated the circumstances, and I think that's a very mature

1 response and action on his -- on Nick's part. And he gets a
2 lot of credit with me for that. Okay.

3 MS. JACOVINO: The only thing I was going to suggest
4 is that Richard, Jr., had asked to have the switches take
5 place on Sunday so they didn't have to bring it to school --
6 bring all their stuff to school.

7 THE COURT: Best way to pick-up/drop-off in school,
8 so I've expanded that. I don't know want to do a Sunday
9 night, I'll let Dad just keep them that night and just take
10 them to school Monday morning.

11 MS. JACOVINO: Okay.

12 THE COURT: Boys can -- does Richard drive -- Junior
13 drive?

14 MS. KILGORE: No.

15 MR. PAGE: No, not yet.

16 MS. KILGORE: They're 14 and a half.

17 THE COURT: Well, work out the logistics, I'm not
18 here to hold your hand or babysit and tell you how to be
19 parents. But avoid each other, move on with your lives, and
20 work on your sons.

21 MS. JACOVINO: Thank you.

22 THE COURT: It'll work -- it'll work. Can we set it
23 after the last day of school?

24 THE CLERK: Okay. So, when do they get out?

1 THE COURT: Because we're going to be March, April,
2 May --

3 MS. KILGORE: June 4th is the last day of school.

4 THE COURT: A little plus 90 days so --

5 THE CLERK: Is June 4th --

6 THE COURT: Because they're going to be in finals,
7 and I want the kids not to know that court's coming up until
8 summertime.

9 THE CLERK: Okay. So, July would that be adequate?

10 THE COURT: No, no, no, just after -- last day of
11 school is --

12 THE CLERK: Oh, okay.

13 THE COURT: -- the first week of school (sic).

14 THE CLERK: So, okay, sorry. So --

15 THE COURT: About mid-June.

16 THE CLERK: We're looking at June 10th at 9:30.

17 THE COURT: June 10th at 9:30. I want a report on
18 Gosnell to the Court, Gosnell to give the report to the Court,
19 attorneys are authorized to get their copies ahead of times.
20 Thanks. Again, I didn't know she didn't send it to us.

21 MR. PAGE: I wanted to clarify --

22 THE COURT: Coun -- will be -- that's one, Gosnell
23 report, a status check on counseling therapy. Two, the
24 calculation of the child support, what's going on right now

1 with that? Because I don't have time to calculate that right
2 now.

3 MR. PAGE: Child support's going to obviously be 18
4 percent --

5 THE COURT: He's unemployed.

6 MR. PAGE: -- of -- of Dad's income.

7 THE COURT: It'll be 100 and then they would do
8 50/50, Write v. Osburn, they maintain -- they maintain the
9 joint physical --

10 MR. PAGE: Right. But there's --

11 THE COURT: -- of Richard, Jr.

12 MR. PAGE: And Mom also --

13 MS. JACOVINO: So, under --

14 MR. PAGE: -- also --

15 THE COURT: In other words --

16 MR. PAGE: -- before you interrupt me counsel is --

17 THE COURT: -- can we hold until June when we'll
18 figure out all the monies and then figure out where we're at?

19 MR. PAGE: Can we wait until June or do you want --

20 THE COURT: Is Mom -- Mom works --

21 MR. PAGE: -- the money now?

22 MS. JACOVINO: Your Honor, he's unemployed.

23 THE COURT: -- and he's unemployed --

24 MR. PAGE: She said it's okay. But also we should

1 keep in mind that Mom's paying for the health insurance for
2 the children --

3 THE COURT: Keep track of your --

4 MR. PAGE: -- she indicates it is --

5 THE COURT: -- bills. That's --

6 MR. PAGE: -- 362 a month.

7 THE COURT: -- on the table.

8 MR. PAGE: Or 326 a month.

9 MS. KILGORE: 326.

10 THE COURT: We'll enforce the orders from last time
11 on health insurance premiums or make a new order if there
12 hasn't been an order and splitting the premiums. I need a
13 status check -- is Dad on still appeal with the --

14 MS. JACOVINO: He is --

15 THE COURT: -- employment situation?

16 MS. JACOVINO: -- right now what they've done is
17 they've submitted --

18 THE COURT: Give me a status check on that. That's
19 all I need to know. Child support, yeah, we're good to go.

20 MS. JACOVINO: Status check on Gosnell --

21 THE COURT: I need a Gosnell letter --

22 MS. JACOVINO: -- child support, and status check --

23 THE COURT: -- I want to see how the kids are doing.

24 MS. JACOVINO: -- on employment appeal.

1 THE COURT: Dad will take his visitation, you get
2 your holidays per the last order, that's enforced. He gets
3 the Father's Day, Memorial Day -- whoever's Memorial Day,
4 that's the next one coming up. Summer vacation, that'll be
5 enforced, okay? That's it.

6 MR. PAGE: Also, Your Honor, I just want to make
7 sure that on the -- for Nicholas we're making a finding as
8 to --

9 THE COURT: Attorney's fees deferred ongoing.

10 MR. PAGE: -- teenage discretion under 480(a) --
11 (4)(a) and 4(k) and (l) regarding history of parental abuse,
12 that you're making a finding that is part of your discretion.

13 THE COURT: These are all temporary orders --

14 MS. JACOVINO: It's my understanding that that
15 wasn't --

16 THE COURT: -- so we're not having a trial --

17 MS. JACOVINO: -- what the finding was.

18 THE COURT: -- today, Mr. Page. I thank you for
19 making a record. We will bring it up in June if you wish. I
20 can't -- like I said, I can't stop them, but I have cause
21 under Rooney whether or not they want to go forward on any
22 contempt evidentiary hearings. I'm not dismissing it, but I
23 just sort of said my two cents on it. Either let bygones be
24 bygones, move forward. Your kids are almost in college. And

1 think about it in the next 30 days -- 90 days. It's
2 preserved, I'm not closing the door on anything. So, I know
3 there has been a bunch of pleadings filed, motions for show
4 cause, it's a mess. But you want to simplify things and just
5 focus on what's the most important. And that's --

6 MR. PAGE: Is there a time deadline they have to
7 file their responsive brief to the omitted asset --

8 THE COURT: Absolutely.

9 MR. PAGE: -- and the Sertic issue?

10 THE COURT: So, you have 10 days -- from today --
11 you got the brief now, right?

12 MS. JACOVINO: Yeah, I got it yesterday by --

13 THE COURT: Ten business --

14 MS. JACOVINO: -- fax in the afternoon.

15 THE COURT: -- days to file a responsive brief. I
16 don't want to flood the case, you don't need a reply brief.

17 MR. PAGE: No reply brief.

18 THE COURT: You just -- you just -- yeah. Save you
19 some time and money. You go over that Sertic, Doan, and Amie
20 cases, I want to see your brief on that. Okay?

21 MR. PAGE: Also we did have a Qualified Domestic
22 Relations Order.

23 THE COURT: It's a return on the QDRO issue. Yeah,
24 we're going to orally argue that. You put them on a 9:00

1 a.m.?

2 THE CLERK: 9:00, 9:30, yeah, it's (indiscernible).

3 THE COURT: We need like an hour setting for this
4 case.

5 THE CLERK: Okay.

6 MS. JACOVINO: We're sorry.

7 MR. PAGE: Also, Your Honor, we have the QDRO --

8 THE COURT: And I don't want -- yeah, and I don't
9 want to rush so maybe I'll have him look for a one hour.

10 MR. PAGE: We have the QDRO, we'd like to have him
11 sign it, we've been waiting months for them to sign.

12 THE COURT: Not if there's a legal issue on it right
13 now --

14 MR. PAGE: There -- there is no --

15 THE COURT: -- and there might have been one --

16 MR. PAGE: -- there -- it's Gemma v. --

17 THE COURT: -- two -- there's changes with the --

18 MR. PAGE: -- it's Gemma, Fondi, that's all it is.

19 THE COURT: I haven't ruled on it, and they need to
20 brief it.

21 MS. JACOVINO: And your brief was only handed over
22 yesterday.

23 THE COURT: I'll tell you --

24 MR. PAGE: As to whether someone should sign a -- a

1 QDRO under --

2 THE COURT: Here's the thing --

3 MR. PAGE: -- Gemma, Fondi? Really?

4 THE COURT: -- what you do is you prepare a QDRO --
5 tone it down, Counsel. You prepare a QDRO, technically they
6 need my signature to get a plan admin -- plan approval
7 administrator.

8 MS. JACOVINO: Yes.

9 THE COURT: I don't have a problem doing that but
10 it's subject to a take-back if they -- if you don't prevail on
11 your legal argument. It's a mess, because one, his employment
12 status changed. He got -- he got let go. And then you're
13 looking at is there PERS -- it's PERS, right?

14 MS. JACOVINO: Yeah.

15 MR. KILGORE: Correct.

16 MR. PAGE: Well --

17 THE COURT: PERS regulations. If he vested and then
18 you get let go and then you either win or lose the appeal,
19 that's going to be an ongoing issue, because you're saying --
20 and I haven't ruled on it, because they need to argue against
21 it that she got it no matter what. She vested, she got it --

22 MR. PAGE: Uh-huh (affirmative).

23 THE COURT: -- it got split up, and she shouldn't
24 have to pay the penalty for him completely voluntarily waiving

1 -- giving up his collection of retirement benefits.

2 MR. PAGE: I don't think there is a waiver of him --
3 for his retirement benefits by virtue of his separation from
4 service.

5 THE COURT: I have -- he's not the first PERS that a
6 person -- that got let go and all that, I've had other people,
7 yeah. I want you to fully investigate and not just the law,
8 you better talk to the PERS people how that works.

9 MR. PAGE: And I believe it's the Hanson case that
10 we want to preserve Mom's right that he was first -- he was
11 eligible to retire back in 2014.

12 THE COURT: Okay. I'm going to need a whole new
13 education on PERS, because I'm in a different system. Okay?
14 Some judges are in the PERS and the County people are in the
15 PERS but --

16 MR. PAGE: You're not in PERS?

17 THE COURT: -- but -- nope.

18 MR. PAGE: Really?

19 THE COURT: Nope, nope. Only judges who had prior
20 government experience like DA's or Public Defenders or
21 Attorney General or -- I don't know or county or state. They
22 -- they're in the PERS. So, half the judges are in PERS, half
23 aren't. But I need a -- and I've had police officers here
24 before. We -- it's -- it's -- I hate to be compulsive but I

1 need a whole new education on PERS and I want you two lawyers,
2 do your job, go talk to the PERS people -- not the law, what
3 the legality of this, but what is the regulation when you
4 terminate, what is the impact of a pending appeal.

5 And again this isn't going to be -- it might not be
6 decided fully. I -- I don't have a problem signing the QDRO
7 and you get an approval from the plan administrator, but there
8 might be an amendment to that, and that's -- I mean I -- it
9 doesn't make sense. You can get approval from the plan
10 administrator but if the order -- if you have an order in
11 place, they will come back and say, take it all back, because
12 we prevail and it doesn't work.

13 But she may also argue none of this stuff has
14 nothing to do with the fact that she already earned it during
15 the marriage.

16 MR. PAGE: All right. Now --

17 THE COURT: So, prove that to me and then I'll do
18 that. But I think 90 days is non-reasonable. What they do is
19 -- and I need to know -- he hasn't taken it yet and if he's
20 eligible or if he's giving it up, what is her rights to go
21 take it, because you have to take it only when they're
22 eligible or when they actually start collecting the check.

23 MR. PAGE: I -- I --

24 THE COURT: Or first date of eligibility --

1 MR. PAGE: Eligibility, there you go.

2 THE COURT: -- which means either 30 years max at
3 the age of 62 or something, I don't know.

4 MR. PAGE: He is first -- because he's -- falls
5 under police, fire, he's eligible to retire basically after 20
6 years when you're 50 years of age. He's reached that point.
7 So, I want to make sure that Mom's rights are preserved --

8 THE COURT: Uh-huh (affirmative).

9 MR. PAGE: -- as of at least today --

10 THE COURT: Tell me what -- yeah.

11 MR. PAGE: -- under Henson I believe the case name
12 is that she's not going to waive anything --

13 THE COURT: If you want another --

14 MR. PAGE: -- by waiting another 90 days.

15 THE COURT: -- court date, I'll separate that out so
16 it'll make my hearings shorter, I'll break it down. I'll have
17 a half hour on the -- that and you do your homework and give
18 me some PERS info, and I'll make a ruling if you want 30 days
19 on that, it's 10 days for opposition and then reply.

20 MS. JACOVINO: We're not arguing --

21 MR. PAGE: I think I would.

22 MS. JACOVINO: -- that she waives --

23 MR. PAGE: I think I would.

24 MS. JACOVINO: -- anything.

1 THE COURT: Okay.

2 MS. JACOVINO: It's preserved.

3 THE COURT: Let me get my calendar out. I'll give
4 you dates and I'll let you go, and I've got to take this Green
5 case.

6 MR. PAGE: While you're looking it up, Your Honor --

7 THE COURT: Yeah.

8 MR. PAGE: -- there were some CPS records we were
9 supposed to get for today that we didn't receive. It is
10 believed that those CPS records will mirror what's in the
11 child interview and also Donna Gosnell's report.

12 THE COURT: I'm going to go into my emails, I'm
13 going to search the case, I'm going to find out if they
14 emailed me --

15 MS. JACOVINO: And, Your Honor, this isn't just --

16 THE COURT: -- the CPS records.

17 MS. JACOVINO: -- Dad's pension that we're looking
18 at. Mom is eligible as well and so we'll be looking to get
19 our share of the community assets from Mom --

20 THE COURT: It's already been done --

21 MR. PAGE: Actually she's not eligible. Thank you
22 for trying, Counsel.

23 THE COURT: -- in the divorce so -- it's in the
24 divorce decree. Huh?

1 MS. JACOVINO: Oh, Mr. Page, so funny.
2 THE COURT: On the divorce decree.
3 MR. PAGE: I'm sorry?
4 MS. JACOVINO: Under the divorce, half of Mom's half
5 of Dad's.
6 THE COURT: All right. And who's to do the QDRO and
7 pay for it?
8 MS. JACOVINO: Dad's got to pay for Mom's, Mom had
9 to pay for Dad's.
10 MS. KILGORE: No, we had to --
11 MR. PAGE: Mom's already done the --
12 MS. KILGORE: -- pay for our own.
13 MR. PAGE: -- QDRO with QDRO Masters.
14 THE COURT: So, did Dad pay for Mom's QDRO?
15 MS. JACOVINO: Not yet.
16 MR. PAGE: No. He hasn't done it.
17 THE COURT: Get it done. Okay. CPS -- CPS records.
18 Tell you what, I don't see anything in my emails. I usually
19 don't miss this stuff. I'll check with my staff. Did I -- I
20 don't know if it's -- did I actually put out an order to
21 request the records?
22 MS. JACOVINO: It was in the minutes.
23 MR. PAGE: Yeah, the first part of the last -- the
24 last order that I submitted to counsel --

1 THE COURT: Goodness gracious.
2 MR. PAGE: -- that she hasn't returned back to me.
3 MS. JACOVINO: You gave it yesterday afternoon.
4 THE COURT: Did I say court will --
5 MR. PAGE: It matches the minutes --
6 THE COURT: -- order the CPS records?
7 MR. PAGE: -- you can sign it now, Counsel.
8 THE COURT: Yeah, item 13 on the minutes.
9 MR. PAGE: Uh-huh (affirmative).
10 THE COURT: What the heck happened? Okay.
11 MS. JACOVINO: Anything else you have for me? I've
12 got --
13 THE COURT: Wait, wait, I'm in the wrong email
14 folder, hang on. I have one where the clerks respond to me
15 and then I have one where I make requests to my clerk. So,
16 let me get in this one. And if my staff -- I won't say they
17 dropped the ball but -- no. That -- that's on me, I didn't
18 request -- but my clerk is supposed to do a week ahead and
19 check all the minutes and make sure everything is -- reports.
20 I'm out of time.
21 So, let me tell me -- well, let just me get it for
22 you, I'll have him give it to be email in 24 hours and then
23 you lawyers can sign for them. They don't get a copy, you
24 keep the copy in the file under a gag under, confidential gag

1 order. You're free to sit down with your client and review
2 the unity notes. Okay?

3 MS. JACOVINO: Thank you.

4 THE COURT: Okay. It could have been an email
5 overlook. Dates?

6 THE CLERK: We could -- so on June 3rd what I can do
7 is move it out to 10:30 and they'll have the rest of the --

8 THE COURT: No. Oh, yes.

9 THE CLERK: Would that work?

10 THE COURT: June what?

11 THE CLERK: June 10th.

12 MS. JACOVINO: 10th.

13 THE CLERK: Move it until 10:30 and then --

14 THE COURT: Half hour setting, yes, thank you. And
15 block it out.

16 THE CLERK: Okay. Yeah. Just one 10:30 setting.

17 THE COURT: Okay. June 10th at 1:30 (sic).

18 MS. KILGORE: 1:30?

19 MS. JACOVINO: Is it 1:00 or 10:00?

20 THE CLERK: 10:30.

21 MS. JACOVINO: 10:30.

22 THE COURT: June 10th at 10:30.

23 MS. JACOVINO: 10 at 10:00.

24 THE COURT: What did I say? And you have a half

1 hour slot on the QDRO issues --

2 THE CLERK: Yes.

3 THE COURT: -- 30 days out?

4 T HE CLERK: We can do that -- do you want to schedule

5 them both like -- I can do a 10:00 o'clock and then 10:30 and

6 that way they each --

7 THE COURT: On the June?

8 THE CLERK: Yeah, June 10th.

9 THE COURT: No, they want to come in 30 days sooner.

10 THE CLERK: Oh, 30 days.

11 THE COURT: On the QDRO. So, let me look --

12 THE CLERK: Okay. Thirty days out or 30 days

13 sooner?

14 THE COURT: Sooner.

15 THE CLERK: Sooner. Okay. So, then we can do that

16 at -- on May 13th at 10:00 o'clock.

17 THE COURT: That's the soonest we have?

18 THE CLERK: Not soonest we have.

19 THE COURT: Because a month from now would be early

20 April.

21 THE CLERK: Yeah, the earliest we have would be

22 April 6th at 10:30.

23 THE COURT: One slot?

24 THE CLERK: One slot.

1 THE COURT: Leave it one slot.
2 THE CLERK: Okay. There's only scheduled in there.
3 THE COURT: So --
4 THE CLERK: It'd be --
5 THE COURT: Two slots taken now?
6 THE CLERK: Yeah. Let me see. Yeah, it looks like
7 we have a vacant spot.
8 THE COURT: Did you -- you said April?
9 THE CLERK: Yeah. Actually we could do one that's
10 farther out, May 20th at 9:00 o'clock, that would be a --
11 MS. JACOVINO: Your Honor, we can't do April. My
12 partner and I are both out for most of April.
13 THE COURT: Is your client good with that? We'll
14 look in May. Early May? Let's see what I have. Well, I
15 could fit you in -- oh, I don't want to put it on that one.
16 9:30, 9:30 --
17 MS. JACOVINO: Early May would be fine, late April
18 would be fine.
19 THE COURT: There's -- how about a 1:30? Do you
20 guys do criminal cases, too? It's hard to get here early
21 mornings when you're criminal.
22 MS. JACOVINO: We -- we do, but we also do civil
23 cases so we just do what we can. So, the afternoons --
24 THE COURT: How about 1:30 --

1 MS. JACOVINO: -- would be fine.
2 THE COURT: -- on -- and I'll approve this --
3 THE CLERK: Okay.
4 THE COURT: -- so you don't get in trouble. May --
5 you want early May so what was I looking at? May 4th, Monday?
6 I got Ed Vargas in a pro per trial. I'm going to get you in
7 at like at 1:30 for a hour half slot.
8 MS. LONARDO: Your Honor, can we do the 11th?
9 THE COURT: You want May 11th?
10 MS. LONARDO: Yes.
11 THE COURT: Monday, May 11th, let's see, I've got a
12 trial, Sherri Shane and Christopher Ford. It's a divorce
13 case. No kids, property, and debts. All right. I'll give
14 you a half hour slot.
15 THE CLERK: So, you want May 11th?
16 THE COURT: Gambling assessments, okay. Nice. It's
17 a property and debt and probably community waste trial. Okay.
18 So, that's what we're going to do, we're going to do May 11th.
19 Okay. With you, Mr. Page? 1 :30?
20 MR. PAGE: I'll -- I'll make it work.
21 THE COURT: Thirty minute slot, be here on time,
22 because I've got a trial, I'm going to push the trial out from
23 1:30 to 2:00, and just tell the lawyers to come in at 2:00.
24 MS. JACOVINO: And this is only going to be on

1 the --

2 THE COURT: QDRO.

3 MS. JACOVINO: -- QDRO issue?

4 MR. PAGE: Can we do it on the other financial
5 issues like the omitted asset and the --

6 THE COURT: Ms. Jacovino has 10 business days from
7 today to file a reply brief -- her brief on the QDRO. I'm
8 sorry, what was your question?

9 MR. PAGE: We also may as well throw in the
10 financial issues regarding the omitted assets.

11 THE COURT: Let's do financials and QDRO on the May
12 11th. You sit down and calculate the child support
13 retroactive, arrears or readjustment since the temporary
14 orders were in place or you come to an agreement. Sometimes
15 they just agree to a number and then go forward with that --

16 MS. JACOVINO: We'd like to.

17 THE COURT: -- agree to a judgment.

18 MS. JACOVINO: It's -- it's hard to do anything with
19 the monetary right now, Your Honor.

20 THE COURT: And it's ongoing, too, about his
21 employment case as well. If you hear anything new, let me
22 know. This goes on the left side of the file. Whose turn is
23 it to prepare the order?

24 MR. PAGE: Their turn.

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THE COURT: Thank you. Mr. Page will sign off.

MS. JACOVINO: I'll try not to get it to you the day
before.

THE COURT: All right. I'll see you guys in May.

MS. JACOVINO: Thank you, Your Honor.

MR. PAGE: Thank you, Counsel. And Counsel --

(PROCEEDINGS CONCLUDED AT 10:46:45)

* * * * *

1 ATTEST: I do hereby certify that I have truly and
2 correctly transcribed the digital proceedings in the above-
3 entitled case to the best of my ability.
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Tami S. Ondik, CET


CLERK OF THE COURT

1 ORD
2 Bonnie Leonardo, Esq
3 Nevada Bar No. 8548
4 Janice Jacovino, Esq
5 Nevada Bar No. 11612
6 LONARDO & JACOVINO LLC
7 7465 W. Lake Mead Blvd., Suite 100
8 Las Vegas, Nevada 89128
9 Telephone: (702) 562-8125
10 Facsimile: (702) 562-8177
11 Email: info@ljlawlv.com
12 Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

10 RICHARD KILGORE,) CASE NO.: D-12-459171-D
11)
12 Plaintiff,) DEPT. NO.: 1
13 vs.)
14 ELENI KILGORE,)
15 Defendant.)

December 9, 2014 Order

17 Plaintiff filed a Motion to Modify the Child Support, due to his loss of income. Defendant
18 filed and Opposition and Countermotion and Plaintiff filed a Reply in Support of It's Motion and
19 Opposition to Defendant's Countermotion. The Opposition and Countermotion include numerous
20 claims. On December 9, 2014 both parties appeared with attorneys. However, Defendant's attorney
21 stated he did not represent her but was appearing as a favor to a friend. To this day, Defendant's
22 attorney has not made an appearance and Defendant continues to file in proper person.

23 At this hearing the Court heard argument and the made following ruling:
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28 - 1 -
Order - 12-9-2014 Hearing

RECEIVED

JAN 14 2015

DEPT. 1

- 1 IT IS HEREBY ORDERED that Plaintiff is to have his visitation this week as ordered
2 in the Decree. (This was alternating week schedule for joint primary custody and
3 the week of the hearing was Plaintiff's week with the boys.)
- 4 2. IT IS FURTHER ORDERED that Defendant is to comply with visitation in the decree
5 and to provide Nicolas to his dad on that Tuesday.
- 6 3. IT IS FURTHER ORDERED that the family is to attend counseling with a marriage
7 and family therapist for the next 6 months. The counseling is to be both as a family
8 and individually.
- 9 4. IT IS FURTHER ORDERED that if available, the marriage and family therapist would
10 be a provider who is accepted by the Defendant's insurance.
- 11 5. IT IS FURTHER ORDERED that the parties shall each pay half of the children's
12 therapy session.
- 13 6. IT IS FURTHER ORDERED that the child interviews would not take place until after
14 6 months of counseling was complete.
- 15 7. IT IS FURTHER ORDERED that the parties are to participate in a meet and confer to
16 exchange documents, specifically the medical bills and receipts paid by each party.
- 17 8. IT IS FURTHER ORDERED that the QDRO's are to be completed and signed.
- 18 9. IT IS FURTHER ORDERED that both parties need to use Family Wizard
- 19 10. IT IS FURTHER ORDERED that when attending school functions and extra
20 curricular activities the parties are to stay on opposites sides of the venue, dad on
21 the left side, mom on the right.
- 22 11. IT IS FURTHER ORDERED that Plaintiff is allotted the 30 minutes, before the event
23 and Defendant is allotted 30 minutes after the conclusion of the event to interact
24 with the children.
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1 12. IT IS FURTHER ORDERED that Financial Disclosures need to be provided to the
2 court

3 13. IT IS FURTHER ORDERED that Plaintiff's bank statements, last check and an
4 updated affidavit are to be provided before the child support modification would be
5 considered.

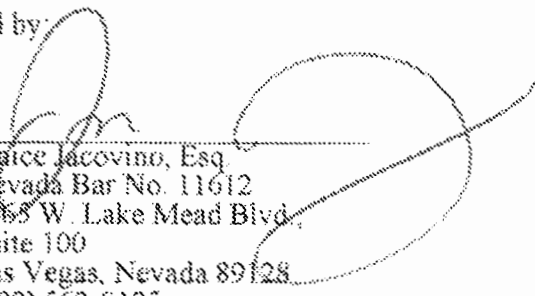
6 14. IT IS FURTHER ORDERED that a return court date is set as March 11, 2014 at 9:30
7 a.m.

8 FEB 12 2015

9 DATED this _____ day of January, 2015.

10
11
12 
13 District Court Judge 

14
15 Submitted by:

16
17 
18 Janice Jacobino, Esq.
19 Nevada Bar No. 11612
20 7465 W. Lake Mead Blvd.,
21 Suite 100
22 Las Vegas, Nevada 89128
23 (702) 562-8125
24 Attorneys for Plaintiff
25
26
27
28


CLERK OF THE COURT

1 BREF
2 Bonnie Lonardo, Esq.
3 Nevada Bar No. 8548
4 Janice Jacovino, Esq.
5 Nevada Bar No. 11612
6 LONARDO & JACOVINO LLC
7 7465 W. Lake Mead Blvd., Suite 100
8 Las Vegas, Nevada 89128
9 Telephone: (702) 562-8125
10 Facsimile: (702) 562-8177
11 Email: info@ljlawlv.com
12 *Attorneys for Plaintiff*

8 DISTRICT COURT
9
10 CLARK COUNTY, NEVADA

11) CASE NO.: D-12-459171-D
12 RICHARD KILGORE,)
13) DEPT. NO.: I
14 Plaintiff,)
15 vs.)
16 ELENi KILGORE,)
17 Defendant.)

17 **Response Brief Regarding PERS, Possible Omitted Assets and the QDROs**

18 Plaintiff, Richard Kilgore, by and through his counsel, the Law Office of Lonardo &
19 Jacovino hereby submits their Response Brief regarding PERS, the QDRO and possible omitted
20 assets.

21
22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **FACTS**

24 The parties were married in Las Vegas, Nevada on December 15, 1992. The divorce was
25 contentious, but it was eventually resolved by agreement and the Court's issuance of the divorce
26 decree filed on March 13, 2013. See Exhibit 1 a true and correct copy of the Decree.

27 The decree divided the marital assets including the retirement accounts. For both parties, the
28

- - -
Response Brief

1 QDROs were to be prepared so that each party would have the opportunity to receive their
2 community property interest in the pensions. Both Plaintiff and Defendant are members of PERS.
3 Plaintiff's benefits are located under the police and fire plan. Plaintiff's contribution is employer
4 only as such he cannot seek a refund for his share of the contributions, since he is not directly
5 contributing. See Exhibit 2: PERS Police and Fire Summary, page 3 a true and correct copy of the
6 NV PERS police and fire summary publication. Defendant is a regular PERS member. a true and
7 correct copy of the NV PERS regular member summary publication. Both Defendant and Plaintiff
8 have vested. Plaintiff files this brief in the hope that this court will not force Plaintiff to retire and to
9 lose his termination appeal.
10

11 MEMORANDUM OF POINTS AND AUTHORITY

12 Plaintiff Should Not Have To Draw Retirement

13 Retirement benefits earned during a marriage are community property. See NRS 125 &
14 Walsh v. Walsh, 103 Nev. 287, 738 P.2d 117 (1987). Mr. Kilgore is eligible to retire, however, if he
15 draws from his retirement, then it will force him to retire and will negatively impact his chance at
16 reinstatement.
17

18 Pursuant to *Sertic v. Sertic*, 111 Nev. 1192, 901 P.2d 148 (1995), "When the pensioner who
19 chooses to work beyond the first eligibility period to retire without penalty and requires the
20 pensioner to pay the non-pensioner what the non-pensioner would have received if retirement had
21 occurred when the pensioner was first able to retire without penalty." Here, the penalty is that a
22 payout from PERS would require Mr. Kilgore to retire as he does not have the ability to make
23 payments out of pocket. In addition, Mr. Kilgore cannot take an employee refund as his pension is
24 employer funded only. Finally, Mr. Kilgore is in the middle of an appeal of his termination, if he has
25 to pay from PERS then he will be required to retire, See Exhibit 3; PERS Benefits and QDRO
26
27
28

1 publication, page 4 , which will negatively impact his appeal.

2 In addition to eligibility *Sertic* further explains that the pension can be distributed if the
3 below conditions are met:

- 4 (1) the court could determine the present value of the community share of the
- 5 pensioner's pension with reasonable certainty;
- 6 (2) there are sufficient existing funds at time of trial to distribute the non-
- 7 pensioner's interest; and
- 8 (3) both parties agree the distribution would be the final distribution of the pension
no matter what might happen in the future.

9 When looking at the 1st condition under *Sertic*, present value, PERS will review the QDRO
10 and should be able to determine Defendant's share of the pension. In regards to the 2nd condition,
11 sufficient funds, Mr. Kilgore does not have sufficient funds. He is receiving unemployment and has
12 exhausted his savings. In addition, he cannot take an employee refund as Mr. Kilgore's plan is
13 employer funded only. See Exhibit 2. Further, Plaintiff is without funds to provide out of pocket
14 payments on the retirement, so the only possible way for Plaintiff to pay Defendant her share of his
15 PERS would be forced retirement.

16
17 When these conditions cannot be met the court may order that the non-contributing party's
18 share of the PERS not be paid until the employee spouse retires. See NRS 125.155(2). Since
19 Plaintiff cannot meet these conditions, NRS 125.155 allows the court discretion to order that the
20 payments are not made until Mr. Kilgore actually retires.

21
22 Mr. Kilgore will sign the QDRO after PERS and the court reviews and approves the QDRO;
23 however having PERS distribute Mrs. Kilgore's share of Mr. Kilgore's retirement will force Mr.
24 Kilgore into retirement. See Exhibit 3; PERS Police and Fire Summary, Pages 4 & 5. This will
25 negatively impact Mr. Kilgore's termination appeal as his reinstatement would be jeopardized due to
26 the fact that to draw from the pension he would need to retire; and if he is retired there would be no
27
28

1 need for appeal of the termination as they do not reinstate retired employees. In addition, Mrs.
2 Kilgore is currently employed and living with her fiancé. She is not financially dependent on this
3 distribution and should be required to wait until the entire appeal process is completed, until Plaintiff
4 actually retires or until Plaintiff is in a position to pay the distribution. Waiting for Plaintiff to retire
5 would benefit Mrs. Kilgore if Plaintiff is reinstated then his pension amount and her share of his
6 pension would increase as his earnings increase. See *Gemma v. Gemma*, 105 Nev. 458, 778 P.2d 429
7 (1989). Finally, Mrs. Kilgore is also a PERS member. As such, she can early so that Defendant, who
8 is in need of the funds, can draw his share of the community asset. See *Sertic v. Sertic*, 111 Nev.
9 1192, 901 P.2d 148 (1995).

11 Plaintiff understands that QDROs were contained in the decree and the PERS benefits are
12 community assets; however for Plaintiff to draw from his retirement to provide Mrs. Kilgore with
13 her share would be detrimental to termination appeal and would force Plaintiff into a retirement. See
14 Exhibit 3; Page 4. In addition, Plaintiff's PERS plan is employer funded only. As such, Plaintiff
15 cannot seek a refund of his contributions, since his employer provided the contributions. See Exhibit
16 2; Page 3. Further, Plaintiff is without funds to provide out of pocket payments on the retirement, so
17 the only possible way for Plaintiff to pay Defendant her share of his PERS would be forced
18 retirement. As such, once approved by PERS, Exhibit 3; Pages 4 & 5. Plaintiff will sign the QDRO,
19 however the court should stay the disbursement of the funds in accordance with *Sertic* and *NRS 125*
20 until after the appeals process is completed, until Plaintiff has the funds to pay the disbursement or
21 until Plaintiff retires.

22 **Vacation and Sick Pay were are not Omitted Assets**

23 The vacation and sick time were considered in the divorce proceedings with the pension and
24 asset division. The parties have submitted financial disclosures, with supporting evidence included,
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1 the fact that decree did not specially reference vacation and sick pay does not mean that the vacation
2 and sick time is an omitted asset. See *Bonnell v Lawrence*, 128 Nev. ___, ___, 282 P.3d 712,
3 715 (2012); *Doan v Wilkerson*, 130 Nev. Adv. Op. 48. In *Doan* the court found that pension was not
4 an omitted asset because, the pension was disclosed and considered during proceedings, but omitted
5 from the decree. The parties provided the financial disclosures, earning statements and W2s were
6 evidence of the disclosure and consideration. As such, the fact that vacation and sick time was not
7 divided in the decree is not exceptional enough of a circumstance to change the decree to obtain the
8 justifiable equitable relief. See *Id.* Like *Doan*, the Kilgore's decree does not reference the vacation
9 and sick days. However, since the financial disclosure was provided, and since both parties were
10 represented during the divorce proceedings, the vacation and sick pay should be viewed as disclosed
11 and considered. Therefore, here like in *Doan*, not including the vacation and sick time in the decree
12 is not an exceptional enough of a circumstance to change the decree for the justifiable equitable
13 relief.
14

15
16 Alternatively, if the court does find that the vacation and sick time is an omitted asset, then
17 the court should view this brief as a motion to divide Defendant's vacation and sick time as omitted
18 assets. Further, the courts division of assets must be equitable. It would be challenging to determine
19 which sick and vacation days were accrued, used, and not used during the marriage. In addition, the
20 division would be unfair for the party who did not take as many sick days or vacation days and
21 would punish the non-leave taking spouse for not using their time. Finally, Mr. Kilgore is currently
22 facing a financial hardship, while Mrs. Kilgore is financially stable. It would be an undue hardship if
23 Mr. Kilgore was required to pay Mrs. Kilgore for his vacation or sick time, as such the equitable
24 solution, which saves costs for both parties would be for each party to retain the whole interest in
25 their own sick and vacation time.
26
27
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1
2
3 **CONCLUSION**

4 The disbursement should not be allowed until the appeals process is completed, until Plaintiff
5 is ready to retire or until Plaintiff has the funds to pay Defendant without drawing from his PERS.
6 Additionally, there are no omitted assets as the vacation and sick time were considered with the
7 pensions and since parties submitted financial disclosures, and both parties were represented by
8 counsel during divorce proceedings, the fact that decree does not specifically reference both parties'
9 vacation and sick pay does not mean that it was an omitted asset. As such, Plaintiff requests that the
10 court deny Defendant's requested relief under the brief.
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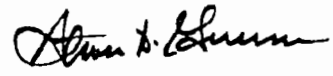
13 DATED this 23 day of March, 2015.
14

15 Submitted by:
16

17 /s/ Janice Jacovino
18 Janice Jacovino, Esq.
19 Nevada Bar No. 11612
19 7465 W. Lake Mead Blvd.,
Suite 100
20 Las Vegas, Nevada 89128
(702) 562-8125
21 Attorneys for Plaintiff
22
23
24
25
26
27
28

Exhibit 1

Exhibit 1



CLERK OF THE COURT

1 **DECD**
2 LOUIS C. SCHNEIDER, ESQ.
3 State Bar No: 009683
4 LAW OFFICE OF LOUIS C. SCHNEIDER, LLC
5 500 South Seventh Street
6 Las Vegas, Nevada 89101
7 (702) 435-2121
8 Attorney for Plaintiff

6 **DISTRICT COURT, FAMILY DIVISION**

7 **CLARK COUNTY, NEVADA**

8 RICHARD SCOTT KILGORE,)
9)

10 Plaintiff,)

11 vs.)

12 ELENI KILGORE,)

13 Defendant.)

CASE NO.: D-12-459171-D

DEPT. NO.: I

HEARING DATE: January 10, 2013

HEARING TIME: 9:30 am

DECREE OF DIVORCE

14 THIS MATTER having come on for hearing on January 10, 2013, with Plaintiff,
15 RICHARD SCOTT KILGORE, appearing by and through his attorney of record, LOUIS C.
16 SCHNEIDER, ESQ., and Defendant, ELENI KILGORE, appearing by and through her attorney of
17 record, ROGER GIULIANI, ESQ.

18 The Court being duly advised in the premises, having considered the papers and pleadings
19 on file, the representations of Counsel, the testimony of the parties, the settlement of the parties,
20 and good cause appearing, makes the following FINDINGS:

21 1. That the Court has jurisdiction in the premises, both as to the subject matter
22 thereof as well as the parties hereto, NRS 125.010 et seq;

23 2. That the parties, RICHARD SCOTT KILGORE and ELENI KILGORE, have
24 been, and are now, actual, bona fide residents of the County of Clark, State of Nevada, and have
25 actually domiciled herein for more than six weeks immediately preceding the commencement of
26 this action;

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

RECEIVED

MAR 04 2013

DISTRICT COURT
DEPT. I

1 3. That the parties were married December 15, 1992 in Las Vegas, Nevada;

2 4. That there are three (3) minor children (ALEXANDRA KILGORE, born August
3 22, 1995; NICHOLAS KILGORE, born June 29, 2000; and RICHARD KILGORE, born June 29,
4 2000) born the issue of this marriage; and to the best of her knowledge, Defendant is not now
5 pregnant;
6

7 5. That the parties are entitled to an absolute Decree of Divorce on the grounds as
8 set forth in the Complaint.

9 **NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED**
10 that the bonds of matrimony heretofore and now existing between parties, be and the same are
11 hereby wholly dissolved, set aside, and forever held for naught, and that the parties are awarded
12 an absolute and final Decree of Divorce, and each of the parties hereto is hereby restored to the
13 status of a single, unmarried person, with all of the rights and privileges thereof.

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall
15 have PRIMARY PHYSICAL CUSTODY of the Parties' daughter, Alexandria Kilgore, with
16 TEENAGE DISCRETION to the daughter for VISITATION.

17 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Parties shall
18 share JOINT PHYSICAL CUSTODY of the twin boys on a week on / week off rotation. The
19 Parties shall adhere to the standard court ordered HOLIDAY VISITATION SCHEDULE,
20 attached herein and incorporated into the Decree of Divorce.

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff's CHILD
22 SUPPORT is SET at \$1275.00 per month, commencing November 1, 2012, via voluntary wage
23 garnishment. The Plaintiff has paid \$576.00 per month for November and December 2012
24 towards the \$1275.00 per month owed, with a balance owing of \$1398.00. The Plaintiff, as of
25 January 25, 2013 has not paid any of the \$1275.00 child support for January 2013. The parties
26 acknowledge that a Writ of Garnishment shall be immediately issued and served upon the
27 Plaintiff's employer. The Decree of Divorce shall be used as an Order for the issuance of the Writ
28 of Garnishment. The Plaintiff shall complete any and all necessary documentation necessary

1 to effectuate the voluntary garnishment. Until the wage garnishment is in place, Plaintiff shall
2 pay child support by providing money orders to Attorney Giuliani's office to be forwarded to
3 Defendant.

4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Child support at
5 \$1275.00 will be paid through 8/31/13; beginning 9/1/13 child support will be paid through the
6 already existing voluntary garnishment via Wesley vs. Foster (if joint custody), or 25% (if primary
7 custody to either parent), plus the additional payment of insurance premiums, currently set at
8 \$193.00 (this amount is also included in the \$1275.00 figure); Each Party will provide their most
9 CURRENT pay stubs to the other by 8/1/13 to make accurate calculations of the exact figures.

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that CHILD SUPPORT
11 ARREARS totaling \$1152.00 for the time period prior to November 1, 2012 have already been
12 paid and are no longer at issue.

13 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Parties will
14 equally divide any unreimbursed medical expenses using the 30/30 rule; all outstanding medical
15 bills for the minor children shall be re-submitted to the other party via FAMILY WIZARD within
16 30 days of the signing of the Decree of Divorce - each Party will have 30 days from the receipt of
17 the re-submitted bills to reimburse the other Party. Placed on the record at the time of the hearing,
18 counsel for the Defendant handed to counsel for the Plaintiff the resubmission of outstanding
19 medical bills through January 1, 2013 in the total amount of \$2992.49, with Plaintiff's one half
20 amount due and owing to the Defendant within thirty days of January 10, 2013 the amount of
21 \$1496.24, a copy of which was provided to the court as evidence.

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each Party shall
23 keep the vehicle currently in their possession as their sole and separate property, subject to any
24 encumbrance thereon, holding the other harmless from such debt.

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Parties'
26 retirement accounts shall be divided via Gemma vs. Fondi; there are three retirement accounts
27 that need to be addressed. Marvin Snyder shall prepare and complete the QDRO s with each Party
28

1 paying one half of the expenses. All three QDRO s must be complete within 90 days of the filing
2 of the Decree of Divorce. Mr. Snyder shall inquire about Plaintiff s military retirement, with
3 regard to its value, prior to the preparation of the QDRO. The Parties agree that a military QDRO
4 or similar instrument shall be prepared for purposes of dividing the community interest in
5 Plaintiff's retirement. If it is determined that there is a value of zero in the Plaintiff's military
6 retirement, then Defendant shall pay for the entire expense of that QDRO. However, in the event
7 there is a community interest in Plaintiff's military retirement, regardless of the amount, then
8 Plaintiff shall pay for the entire expense of that QDRO.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties shall
10 divide any and all community property via an A/B list. Defendant shall prepare an A/B list within
11 five days from the filing of the Decree of Divorce and Plaintiff shall choose which list he wants
12 within five days of receiving the list. Defendant, upon Plaintiff choosing which list, shall have ten
13 days to arrange movers and retrieve her items, with the residence being made available to her
14 during that ten day time period. Both Parties, pursuant to the Joint Preliminary Injunction, are
15 admonished and must immediately cease from disposing of any community property.

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that pursuant to
17 agreement between the Parties, the following items will not be included on the A/B list, and shall
18 be distributed as follows: - Defendant is awarded one (1) golf cart, three (3) junior dragsters, and
19 one (1) motorcycle, currently in the possession of Charles Payne. - Plaintiff is awarded two (2)
20 ATV's, three (3) dirtbikes, one (1) motorcycle, one canoe, and the Jacuzzi that were in his
21 possession. Special note is made that the junior dragsters are for the use and enjoyment of the
22 children, and when used by the children while with Plaintiff, Plaintiff will ensure the dragsters are
23 returned to Defendant on the same day they are utilized.

24 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that in exchange for the
25 value of the two vehicles that were sold by Plaintiff and the proceeds retained by him, Plaintiff
26 shall bear the costs of preparing the Decree of Divorce and all subsequent documents, with
27 Attorney Giuliani reviewing and signing off on all pleadings/interlocutory pleadings prior to
28

1 submission.

2 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties shall
3 equally divide any monies owed to the IRS prior to and including tax year 2011. The Parties shall
4 each be responsible for their own returns, filed separately, in 2012. Any tax liability either party
5 assumes for 2012 shall be the responsibility of the party incurring that liability. As well, should
6 either Party be entitled to a refund, that refund shall be retained by the Party receiving the refund.
7 Additionally noted is the letter received by Defendant indicating and additional tax debt of
8 \$2500.00, to be addressed as follows: - If Defendant can demonstrate that the liability was
9 incurred by the Plaintiff, Plaintiff shall be responsible for payment of this additional debt. If
10 Plaintiff can demonstrate that the liability was incurred by Defendant, Defendant shall be
11 responsible for payment of this additional debt. If it is found that both Parties are responsible for
12 the additional debt, the cost will be split evenly between the Parties. The Court will retain
13 jurisdiction regarding this debt.

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that both parties waive
15 any claim for ALIMONY.

16 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Parties shall file
17 their 2012 tax returns separately. Plaintiff shall claim the minor child Richard Jr. and Defendant
18 shall claim the minor children Alexandria and Nick each and every year the children can legally
19 be claimed for tax purposes.

20 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties each
21 have family pets in their respective possessions. Each will be awarded the pets they currently have
22 and are responsible for all costs associated with their respective pets

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the parties shall
24 each pay one half of all agreed upon extracurricular activities for the minor children, including
25 uniforms and necessary safety equipment. Football for the twins is deemed an agreed upon
26 activity.

27 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the items belonging
28

1 to the minor child Alexandria including her furniture, television, three boxes of doll collection,
2 and clothing will not be listed on the A/B list. Alexandria will pick up her furniture and clothing
3 at the time the items from the A/B list are retrieved.

4 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that there are two
5 collection notices from Quantum Collections that have been addressed. The Parties are equally
6 responsible for the debt owed on these accounts. Defendant has already remitted her one half of
7 the amount owed. The remaining balance on the two accounts is the sole responsibility of
8 Plaintiff.

9 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the two additional
10 collection accounts totaling approximately \$1700.00 from Quantum Collections regarding debt
11 from pet-related expenses shall be split equally between the parties. Defendant has indicated that
12 she has already remitted her one half of the amount owed. Subject to proof of Defendant's claim
13 of payment, the remaining balance on these accounts shall be the sole responsibility of Plaintiff.
14 The Court shall retain jurisdiction over this item

15 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that each party shall
16 bear their own ATTORNEY'S FEES and COSTS.

17 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Defendant shall
18 retain the last name Kilgore.

19 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that both parties
20 acknowledged concurrence with the settlement terms.

21
22 **NOTICE IS HEREBY GIVEN** of the following provisions of NRS 125.510(6):

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

1 guardian or other person having lawful custody or a right of visitation of the child in
2 violation of an order of this court, or removes the child from the jurisdiction of the court
3 without the consent of either the court or all persons who have the right to custody or
4 visitation is subject to being punished for a category D felony as provided in NRS
5 193.130.

6
7 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention of October 25,
8 1980, adopted by the 14th Session of the Hague Conference on Private International Law apply if
9 a parent abducts or wrongfully retains a child in a foreign country. The parties are also put on
10 notice of the following provisions in NRS 125.510(8):

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

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

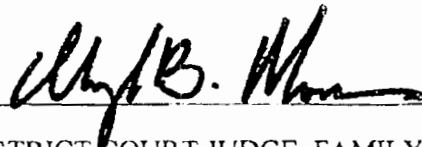
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18 (b) Upon motion of one of the parties, the court may order the parent to post a
19 bond if the court determines that the parent poses an imminent risk of wrongfully
20 removing or concealing the child outside the country of habitual residence. The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

1 **NOTICE IS HEREBY GIVEN** of the following provisions of NRS 125C.200:
2 If custody has been established and the custodial parent intends to move his residence to a
3 place outside of this state and to take the child with him, he must, as soon as possible and
4 before the planned move, attempt to obtain the written consent of the noncustodial parent
5 to move the child from this state. If the noncustodial parent refuses to give that consent,
6 the custodial parent shall, before he leaves this state with the child, petition the court for
7 permission to move the child. The failure of a parent to comply with the provisions of this
8 section may be considered as a factor if a change of custody is requested by the
9 noncustodial parent.

10 **NOTICE IS HEREBY GIVEN** that they are subject to provisions of NRS 31A and NRS
11 125.450 regarding the collection of delinquent child support payments.

12 **IT IS SO ORDERED.**

13
14 MAR 11 2013
15 DATED this _____ day of _____, 2013.

16
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18  VR
19 DISTRICT COURT JUDGE, FAMILY DIVISION
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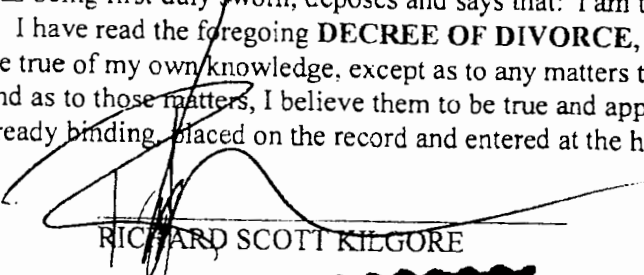
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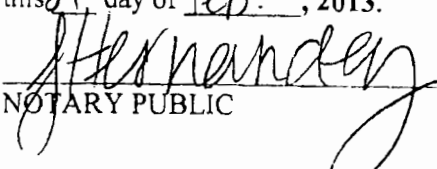
VERIFICATION

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

RICHARD SCOTT KILGORE being first duly sworn, deposes and says that: I am the Plaintiff in the above-entitled action. I have read the foregoing **DECREE OF DIVORCE**, know the contents thereof, and the same are true of my own knowledge, except as to any matters therein stated upon information and belief and as to those matters, I believe them to be true and approve such **DECREE OF DIVORCE**, as already binding, placed on the record and entered at the hearing on January 10, 2013.


RICHARD SCOTT KILGORE

SUBSCRIBED and SWORN to before me
this 21 day of Feb., 2013.


NOTARY PUBLIC



VERIFICATION

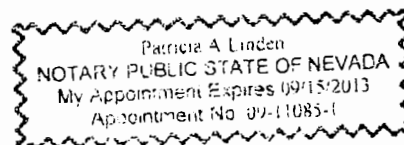
STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

ELENI KILGORE being first duly sworn, deposes and says that: I am the Defendant in the above-entitled action. I have read the foregoing **DECREE OF DIVORCE**, know the contents thereof, and the same are true of my own knowledge, except as to any matters therein stated upon information and belief and as to those matters, I believe them to be true and approve such **DECREE OF DIVORCE**, as already binding, placed on the record and entered at the hearing on January 10, 2013.


ELENI KILGORE

SUBSCRIBED and SWORN to before me
this 27 day of Feb., 2013.


NOTARY PUBLIC



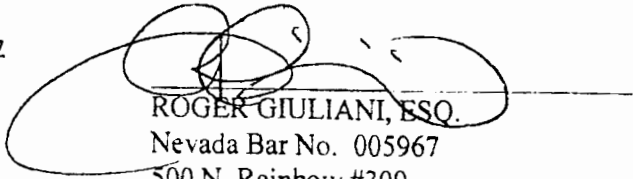
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Respectfully Submitted:

Muhammad Kamalani #10907
LOUIS C. SCHNEIDER, ESQ., FOR

Nevada Bar No. 009683
500 South Seventh Street
Las Vegas, Nevada 89101
(702) 435-2121
Attorney for Plaintiff

Approved as to Form and Content:



ROGER GIULIANI, ESQ.
Nevada Bar No. 005967
500 N. Rainbow #300
Las Vegas, Nevada 89107
(702) 388-9800
Attorney for Defendant

Standard Holiday Visitation Schedule

All visitations below are from 8:00 a.m. to 8 p.m.

Even Years

<u>Dad</u>	<u>Mom</u>
Martin Luther King Day	President's Day
Easter	Independence Day
Labor Day	Nevada Day
Veteran's Day	Thanksgiving Weekend (Starts 8 p.m. on Wed.)
Winter Break (1 st Half)	Winter Break (2 nd Half)
Children's Birthday	Mother's Day
Father's Day	Mother's Birthday
Father's Birthday	
Spring Break	

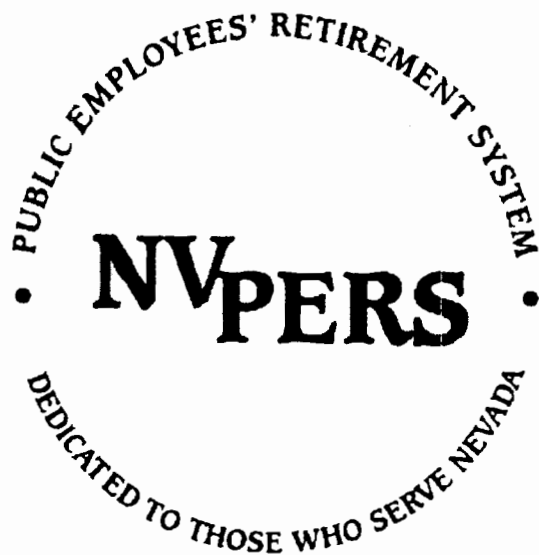
Odd Years

<u>Dad</u>	<u>Mom</u>
President's Day	Martin Luther King Day
Independence Day	Easter
Nevada Day	Labor Day
Thanksgiving Weekend (Starts 8 p.m. on Wed.)	Veteran's Day
Winter Break (2 nd Half)	Winter Break (1 st Half)
Father's Day	Children's Birthday
Father's Birthday	Mother's Day
	Mother's Birthday
	Spring Break

For Winter Break and Spring Break, the timeshare commences on Friday when school lets out before the break and ends on Sunday at 6:00 p.m. before school re-commences, unless the parties agree otherwise.

Exhibit 2

Exhibit 2



**SUMMARY PLAN
DESCRIPTION**

**FOR
POLICE AND FIRE MEMBERS**

**ENROLLED ON OR AFTER
JANUARY 1, 2010**

www.nvpers.org

This document has been prepared for members of the Public Employees' Retirement System of Nevada to provide general information.

It is based on retirement law effective from the 75th session of the Nevada Legislature, 2009. This is not a legal document, nor is it intended to serve as a basis for legal interpretation. Official legal reference may be found in the Nevada Revised Statutes.

INTRODUCTION

This document has been prepared for police and fire members of the Public Employees' Retirement System (PERS) to provide general information concerning the System.

If you work for a Nevada public employer in an approved police/fire position, you will be enrolled in PERS. Membership is not cancelled automatically upon termination of employment. Membership can only be cancelled upon refund, retirement or death of a member.

TYPES OF CONTRIBUTION PLANS

Your base pay, longevity pay, shift differential pay and call-back pay are subject to retirement contribution. Overtime, terminal leave, pay from secondary employment, and any other type of payment not specifically listed as subject to retirement contribution within Chapter 286 of the NRS is not subject to contribution.

Employer Pay Contribution Plan (EPC)

If you are an employee of a local government employer, you are contributing under EPC. You might also be contributing under EPC if you

work for the State of Nevada and you voluntarily chose to participate under EPC. Under this plan, the employer pays the total PERS contribution on your behalf. These contributions are not deposited to your individual member account and are not available for refund upon termination of employment.

Employee/Employer Contribution Plan

Employees of the State of Nevada and many of the smaller employers have the option to contribute under this plan. You and your employer share equally in the contribution to PERS. Your after tax contribution is refundable upon the termination of your employment, if you do not elect to receive a monthly retirement benefit. You can find current contribution rates at www.nvpers.org. If you are unsure of which plan you are contributing under, contact your employer or PERS.

SERVICE

Police and fire members earn service credit based on years, months and days actually worked.

Purchase of Service

If you have five years of creditable service, you may purchase up to five years of additional service credit. You must pay the full actuarial cost associated with your age and average compensation at the time of the purchase. The cost to purchase one year of service averages about one-third of your annual salary. Payment may be made in a lump sum or by installment agreement.

Purchase of service may also be accomplished using certain types of retirement savings accounts such as 401(a), 401(k) qualified pension trusts, 403(b) and 457 retirement savings plans and IRAs.

Refund of Contributions

If you contribute under the employee/ employer contribution plan, you may withdraw your employee contributions if you terminate all employment for which a contribution is required or if you are employed in a position ineligible for membership for at least 90 days.

A refund cancels all rights to membership including service credit earned under the EPC plan.

Repayment of Refunded Contributions

If you received a refund of employee contributions and later return to work and reestablish active membership for a period of at least six months, you may repay the refunded contributions and restore service credit. Repayment, including interest at the actuarially determined rate, may be made in a lump sum or by monthly installments. Service will not be restored until your agreement is paid in full.

BENEFITS

Service Retirement Vesting

If you are a contributing member of PERS after June 30, 1989, you earn the right to receive a retirement allowance after five years of service.

Eligibility for Unreduced P/F Benefits

Years of Police/Fire Service	Age
5 Years	65
10 Years	60
20 Years	50
30 Years	Any Age

Benefit Calculation Factors

The amount of allowance you receive will be based on three factors:

- **Service Credit** – years, months and days on which contributions were paid.
- **Average Compensation** – average of your highest 36 consecutive months of employment with provision that each 12 month period of salary may not increase greater than 10% of the prior 12 months of salary reported. Salary increases due to promotion and assignment related compensation are excluded from salary cap calculation.
- **Selection of retirement option and age of you and your beneficiary at the time of retirement.**

Benefit Formula

The formula used for the calculation of your retirement benefit is as follows:

Service Credit x 2.5% x Average Monthly
Compensation = Unreduced Monthly Benefit

Example: 20 Years x 2.5% = 50%
50% x \$3,000 = \$1,500

Retirement Options

Benefits are paid to you for life and, after your death, to the one person named as your beneficiary on the retirement application. It is not mandatory to name a beneficiary. Prospective retirees may elect one of seven retirement plans.

Option 1 – The Unmodified Allowance –

This option pays you the full monthly allowance you have earned for your lifetime. If you name your spouse or registered domestic partner as beneficiary at the time of retirement, he or she will be eligible after your death to receive up to 50% of your allowance based on your service credit in the Police and Firefighters' Retirement Fund. Your spouse or registered domestic partner must be at least age 50 before collecting a lifetime benefit. This benefit is available only if you are contributing under the Employer Pay Contribution Plan (EPC) at the time of retirement. Otherwise no beneficiary allowance is available under this option.

Option 2 – This option pays an actuarially reduced benefit for your lifetime. After your death, the same benefit continues for the lifetime of your beneficiary.

Option 3 – This option pays an actuarially reduced benefit for your lifetime. After your death, 50% of the benefit continues for the lifetime of your beneficiary.

Options 4 and 5 – These options are calculated the same as options 2 and 3 but are not payable to a beneficiary before the age of 60.

Options 6 and 7 – These options allow you to designate a specific amount to be paid to the beneficiary.

The reduction from the Unmodified Allowance is determined by an actuarial percentage based on your age and your beneficiary's age at the time of retirement.

After retirement, the named beneficiary cannot be changed. If you chose any of the Options 2-7, you may under certain conditions, choose to revert to the Unmodified Option; however, the benefit for the spouse or registered domestic partner as beneficiary would no longer apply. Additionally, if your beneficiary predeceases you, the law provides that your benefit will revert to the Unmodified Option.

Benefit Calculation Formula
Unreduced Service Retirement Benefit

Using the example in the benefit formula mentioned previously, let us assume that you will retire at age 50 with 20 years of service credit and an average compensation of \$3,000. Your spouse or registered domestic partner is age 48 and is the beneficiary in this calculation. You may name someone other than your spouse or registered domestic partner under Options 2-7.

Average Compensation = \$3,000

Service Credit = 20 police/fire years x 2.5% = 50%

	<u>Retiree Benefit</u>	<u>Beneficiary Benefit</u>
Option 1 (Unmodified)	\$1,500.00	\$ 750.00*
Option 2	\$1,362.00	\$1,362.00
Option 3	\$1,428.00	\$ 714.00

Options 2 and 3 are reduced based on your age and your beneficiary's age, rounded to the nearest year, at the time of your retirement.

*Your spouse or registered domestic partner must reach age 50 before receiving this benefit.

If you have a combination of police/fire and regular member service credit, the Option 1 beneficiary benefit will be calculated using only the police/fire service credit, excluding the regular member service credit.

Early Retirement Reduction

In the event you earn the years of service necessary to receive a retirement benefit but have not reached the age required for an unreduced benefit, you may retire at any age with your benefit reduced by 6% for each full year you retire early.

An example of how this reduction would work is provided below for a 49 year old retiree with 20 years of service, a \$3,000 per month average compensation, and a beneficiary who is age 45.

This calculation assumes that the beneficiary is the spouse or registered domestic partner of the retiree.

Benefit Calculation Formula Reduced Service Retirement Benefit

Average Compensation = \$3,000.00
Police/Fire Service = 20 years x 2.5% = 50%
Unmodified Allowance = \$1,500.00
Early Retirement Reduction =
6% (12 mths early) x \$1,500.00 = \$90
Reduced Unmodified Allowance = \$1,410.00

	Retiree Benefit	Beneficiary Benefit
Option 1 (Unmodified)	\$1,410.00	\$ 705.00*
Option 2	\$1,230.23	\$1,230.23**
Option 3	\$1,313.98	\$ 656.99**

The reduced amounts under Options 2 and 3 are based on your age and your beneficiary's age, rounded to the nearest year, at the time of your retirement.

* Your spouse or registered domestic partner must reach age 50 before receiving this benefit.

** The reduced amounts under Options 2 and 3 are based on your age and your beneficiary's age at the time of retirement.

How to Apply

Between three and six months before your retirement date, request an estimate of your retirement benefit and an application for retirement. The request should include:

1. *Your anticipated retirement date.*
2. *Your name and the last four numbers of your Social Security number.*
3. *Your beneficiary's name, birth date and the last four numbers of his or her Social Security number.*

It is also wise to consult a PERS counselor prior to your retirement.

Disability Retirement

If you have five or more years of service and become totally unable to perform your current or any comparable job because of an injury or mental or physical illness of a permanent nature, you are eligible to apply for disability retirement. **Your application must be filed with PERS prior to your termination of employment.**

How to Apply

The disability packet includes a disability retirement application and four supplemental parts:

1. *Disability Retirement Application – Your retirement plan selection*
2. *Employee Report – Completed by you*
3. *Employer's Report – Completed by your Personnel or Human Resources representative*
4. *Supervisor's Report – Completed by your supervisor*
5. *Physician's Report – Completed by your physician and submitted with copies of your recent medical records*

The completed application is submitted to the Retirement Board for consideration at its regular monthly meetings. Disability retirement benefits are calculated in the same manner as service retirement benefits described previously, but without a reduction for age. To apply for disability benefits, employees are urged to contact PERS or the retirement liaison officer where you work.

For special information regarding disability retirement, ask for a copy of the PERS' Disability Retirement Publication. All PERS publications are on our website: www.nvpers.org under the "Publications" link.

Survivor Benefits

Eligibility

If you were to die prior to retirement, your eligible survivors would be eligible for a survivor benefit if:

1. *You had two years of service in the two and one-half years immediately preceding your death; or*
2. *You had more than 10 years of accredited service; or*
3. *Your death was caused by an occupational disease or an accident arising out of or in the course of your employment, regardless of service credit.*

Who is Included

Your eligible survivors include:

1. *Your spouse or registered domestic partner*
2. *Your survivor beneficiary and additional payees, if designated*
3. *Your dependent children under the age of 18*
4. *Your dependent parents, provided there are no other eligible survivors at the time of your death.*

All members of the System should list one person as the survivor beneficiary (not a spouse, registered domestic partner, trust or charitable organization) to receive a lifetime benefit in the event of your death or you and your spouse or registered domestic partner's simultaneous death prior to retirement. Additional payees may also be designated to split the payment with the survivor beneficiary by a percentage you provide. Monthly payments to additional payees cease upon the death of the designated survivor beneficiary. If a monthly payment is not available and no spouse, registered domestic partner or dependent children exist, then the survivor beneficiary and additional payees may be eligible to split, by the percentage provided, a one-time, lump-sum payment of any existing member contributions in the System.

Amount of Survivor Benefits

The following monthly benefits are payable to a surviving spouse or registered domestic partner, survivor beneficiary and/or dependent children if your death occurs prior to retirement:

<u>Service Credit</u>	<u>Spouse/Survivor Reg. Domestic Part.</u>	<u>Each Child*</u>
2+	\$450	\$400
10+	Option 3	\$400
(If member was under age for full eligibility)		
5+	Option 2	\$400
(If member was fully eligible to retire)		
15+	Option 2	\$400

*Until age 18 or age 23 if a full-time, unmarried student. Incapacitated adult children may be eligible. Other restrictions may apply.

Your PERS benefit and Social Security

Your PERS benefit will not be affected by a Social Security benefit. However, a Social Security benefit may be affected because you receive a PERS pension. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) are the two Federal Government regulations that may reduce your Social Security benefit. We suggest you contact the Social Security Administration at 800-772-1213 or visit their website at www.ssa.gov for more information.

PERS' Counseling Services

PERS representatives are available to assist you Monday through Friday, 8:00 a.m. to 5:00 p.m. over the phone or in one of our three office locations. PERS counselors also travel to the rural areas in the Spring and Fall of each year. Rural counseling notices are sent through your public employer with a listing of dates, times and locations.

Public Employees' Retirement System of Nevada

Carson City Office

693 W. Nye Lane
Carson City, NV 89703
(775) 687-4200
Fax: (775) 687-5131

Las Vegas Summerlin Office

7455 W. Washington Ave., Suite 150
Las Vegas, NV 89128
(702) 486-3900
Fax: (702) 304-0697

Las Vegas Eastern Office

5820 S. Eastern Ave., Suite 220
Las Vegas, NV 89119
(702) 486-3900
Fax: (702) 678-6934

Toll free from anywhere in the USA:

1-866-473-7768

Website: www.nvpers.org

Public Employees' Retirement System Board

George W. Stevens, *Chairman*
Las Vegas

Mark R. Vincent, *Vice Chairman*
Las Vegas

James Green, *Member*
Las Vegas

David F. Kallas, *Member*
Las Vegas

Bart Mangino, *Member*
Las Vegas

David Olsen, *Member*
Carson City

Charles A. Silvestri, *Member*
Las Vegas

Executive Staff

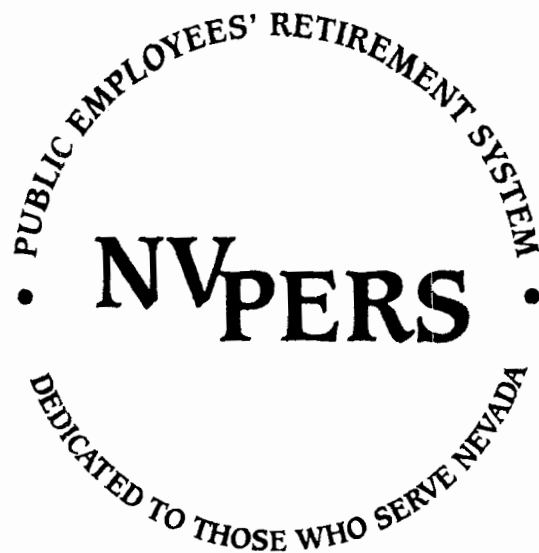
Dana K. Bilyeu, *Executive Officer*

Tina Leiss, *Operations Officer*

Ken Lambert, *Investment Officer*

Exhibit 3

Exhibit 3



**PERS Benefits
and
Qualified Domestic
Relations Orders**

www.nvpers.org

This document has been prepared for members of the Public Employees' Retirement System of Nevada to provide general information.

It is based on retirement law effective from the 74th session of the Nevada Legislature, 2007. This is not a legal document, nor is it intended to serve as a basis for legal interpretation. Official legal reference may be found in the Nevada Revised Statutes. It is intended to assist you and your attorney to determine benefits which may be subject to a community property claim. It should not in any way be construed as legal advice.

Chapter 286 of the Nevada Revised Statutes (NRS 286.6703) requires that a court judgment, decree or order, created to provide authority for PERS to split a benefit, be qualified by the Public Employees' Retirement System (PERS). To be qualified, the order must include all of the information provided in our sample Qualified Domestic Relations Order (QDRO) and must be in compliance with Chapter 286 of the Nevada Revised Statutes.

The Estimate Process

If you are going through a divorce, PERS can provide you with information regarding your account. You may then take this to your legal counsel for negotiations and the division of community property.

Initially, PERS looks at the number of years of service you have in our System. Depending on the number of years of service credit the System will provide the following:

- If you have less than five years of service and no employee contributions, a letter stating you are not vested and you are not eligible for benefits or a refund of any monies.
- If you have less than five years of service but you have personal contributions, a letter stating you are not vested in our System. We will provide the dollar amount of your personal contributions and any mandated employer-paid monies that may be eligible for distribution if the member terminates from public employment and submits a request.
- If you have more than five years of service credit in PERS, a benefit estimate assuming termination of employment at the end of the current month with benefits beginning the first of the following month.

In addition, PERS will provide an estimate assuming termination at the end of the current month with benefits beginning as of the first eligible age, based on the plan you are in and the number of years of service in PERS. Any personal contributions you have paid into the System as well as any mandated employer-paid monies eligible for distribution will also be provided with this information.

If you are already retired, a benefit estimate showing what portion of the current benefit should be paid to the ex-spouse based on the retirement option selected at the time of retirement and the dates of marriage. The letter will also indicate if the retirement option you selected

at the time of retirement already provides for a continuing benefit to the ex-spouse.

- If you have not been married the entire time you have been a member of PERS, the System will provide you with an estimate showing the portion of the benefit to which a spouse/ex-spouse is entitled based on years of service earned during the marriage divided by total years of service in PERS.

PERS will not project service credit or salary in divorce estimates. These estimates are based on information posted to the account as of the date of the request.

The Negotiation Process

There are four ways in which your retirement account could be affected by a divorce:

1. After an estimate is provided, a current value is established for the retirement account. Current or present values can be calculated by an actuary or by a CPA. PERS cannot provide you with this calculation. Once a current value is calculated, another asset may be used to offset your PERS retirement, i.e. if the PERS account is valued at \$50,000, then perhaps \$50,000 equity in the house could be traded to offset the amount determined by the CPA or actuary to be the value of the PERS benefit.

In the first scenario above, PERS requires a certified copy of the Divorce Decree stating that the PERS benefit is the sole and separate property of the member.

In the second through the fourth scenarios, PERS requires a Qualified Domestic Relations Order (QDRO) to begin making payments to the ex-spouse at the time of retirement.

2. Court documents may provide that, at the time of retirement, the ex-spouse must receive a

portion of the benefit, but there is no requirement that the ex-spouse be designated as beneficiary to receive a continuing benefit after the death of the retiree. **For example**, if the member earned a benefit of \$1,000 per month and the court awarded \$200 per month to the ex-spouse, PERS would set up the retiree's benefit at \$800 and the ex-spouse's benefit at \$200. If the ex-spouse were to predecease the retiree, the retiree would begin receiving the full \$1,000 beginning the first of the month following death. When the retiree passes away, payments to the ex-spouse cease.

3. Court documents may provide that, at the time of retirement, the retiree must select a plan to provide a continuing benefit after his or her death and designate the ex-spouse as beneficiary. In this event, the retiree takes a reduction in the monthly benefit to provide this continuing coverage after the retiree's death. **As an example only**, the retiree might take a reduction from the \$1,000 to \$925 per month. The reduction in the benefit is based on the ages of the member and the beneficiary and the retirement option designated. In this example, the retiree would receive \$925 per month for his/her lifetime. The ex-spouse would not receive a benefit until the retiree died. After the retiree's death, the ex-spouse would begin to receive a benefit which would continue until his/her death. If court documents provide that an ex-spouse is to be named as the beneficiary to receive a benefit after the retiree's death, a different beneficiary cannot be named at the time of retirement.
4. Court documents may provide that, at the time of retirement, the retiree must take a reduction in the monthly benefit to provide a continuing benefit to the ex-spouse upon the retiree's death. In addition, the court documents may provide that the ex-spouse is to receive a portion of the monthly benefit during the retiree's lifetime. For example, the retiree takes a reduction from \$1,000 to \$925 per month to provide the continuing benefits to

the ex-spouse upon the retiree's death. If the court awards \$200 per month to the ex-spouse, PERS would set up the retiree's benefit at \$725 and the ex-spouse's benefit at \$200. If the ex-spouse is named as the beneficiary to receive a benefit after the retiree's death, the retiree cannot name a different beneficiary at the time of retirement.

Survivor Benefits

If the member dies before retirement, survivor benefit law governs how benefits are paid. PERS will pay eligible survivors, who, as defined by statute, are the spouse and dependent children. If there are no eligible survivors, PERS pays the beneficiary designated on the Beneficiary Designation for Unmarried Members of the System Form or Member Demographics Form.

If there are no eligible survivors, no designation on the single survivor form, but there are personal contributions in the account, then a portion of these monies will go to the ex-spouse, if the QDRO addressed this issue.

Time of Retirement

At the time the member retires, PERS will notify the ex-spouse (Alternate Payee) that payment will commence. **PERS will not pay benefits to an Alternate Payee before the retirement of the member.** The Alternate Payee will be responsible for any federal income taxes owed on the monies and can designate a bank or their home to receive their portion of the benefit. The Alternate Payee will receive the payment until the member dies, goes back to work in a PERS eligible position, or does not provide PERS with requested paperwork. If the Alternate Payee dies prior to the death of the retiree, the benefit ceases. The Alternate Payee cannot designate anyone to continue to receive his or her portion of the retiree's benefit. The portion that was paid to the Alternate Payee reverts to the member.

Qualified Domestic Relations Order (QDRO)

A QDRO is a supplement to a divorce decree and goes into further detail as to how the asset, in this case the PERS benefit, will be split. A QDRO may be incorporated into the Divorce Decree as well.

Appendix B is a sample QDRO that complies with PERS' statutory requirements, as well as the checklist the System uses to determine whether the QDRO is in compliance with NRS Chapter 286.

- If the QDRO does not comply with statute, PERS will send a letter indicating the areas to be modified in the QDRO.
- If the QDRO complies, PERS will send a letter stating the QDRO complies and request a certified copy of the QDRO. The process is not complete until PERS receives a certified copy of the QDRO.
- If a certified copy of the QDRO is in the member's file, PERS will contact the ex-spouse when the member retires and will establish benefits for the ex-spouse in accordance with the QDRO.

To assist you and your attorney in preparing a QDRO that is in compliance with NRS Chapter 286, we are providing: Rules to Determine the Qualified Status of Domestic Relations Court Orders and to Administer Distributions Under Such Orders (Appendix A); Draft Qualified Domestic Relations Order (Appendix B); and a QDRO Checklist (Appendix C)

PERS strongly encourages you or your attorney to submit a "draft" of the proposed QDRO to PERS for review prior to the court's approval and filing.

Appendix A

Rules to Determine the Qualified Status of Domestic Relations Court Orders and to Administer Distributions Under Such Orders

The Public Employees' Retirement System (PERS) administers the retirement programs for eligible public employees of the State of Nevada and its political subdivisions. The programs are defined benefit plans funded by employer and employee and/or employer-paid contributions and investment returns.

Benefits accrue and are payable upon termination of employment either as a lump-sum refund of contributions if available or a monthly benefit. Monthly benefits are based on the formula specified in the Nevada Revised Statutes, i.e. years of service X 2.5% (for service earned prior to July 1, 2001 and 2.67% for service earned after July 1, 2001) X average compensation for the highest consecutive 36 months of reported salary.

PERS is exempt from the Qualified Domestic Relations Order (QDRO) provisions of the 1984 Retirement Equity Act because the 1974 Employee Retirement Income Security Act (ERISA) relates only to private sector plans. PERS is governed by Chapter 286 of the Nevada Revised Statutes:

NRS 286.6703 requires the following:

1. A person may submit a judgment, decree or order of a district court or the supreme court of the State of Nevada relating to child support, alimony or the disposition of community property to the executive officer or his designee for a determination of whether the judgment, decree or order entitles an alternate payee to receive from the system all or a portion of the allowance or benefit of a member or a retired employee.
2. The judgment, decree or order submitted to the executive officer must be signed by a district judge or by the justices of the supreme court and entered and certified by the clerk of the district court or the clerk of the supreme court.

3. The executive officer or his designee shall, in accordance with the rules prescribed by the board, determine whether the judgment, decree or order entitles the alternate payee to receive an allowance or benefit from the system. An alternate payee is entitled to receive an allowance or benefit from the system if the judgment, decree or order:

- (a) Specifies clearly the names and last known mailing addresses, if any, of the member or retired employee and the alternate payee. The alternate payee's social security number must be provided in a separate cover letter.
- (b) Specifies clearly the amount, percentage or manner of determining the amount of the allowance or benefit of the member or retired employee that must be paid by the system to each alternate payee:

For example:

50% X Years of Service Credit Earned

During Marriage

Total Years of Service Credit Earned

- (c) Specifically directs the system to pay an allowance or benefit to the alternate payee;
 - (d) Does not require the system to provide an allowance or benefit to an alternate payee before the retirement of the member or the distribution to or withdrawal of contributions by a member.
 - (e) Does not require the payment of an allowance or benefit to an alternate payee before the retirement of a member or the distribution or withdrawal of contributions by a member.
4. "Alternate payee" means a spouse, former spouse, child or other dependent of a member or retired employee who, pursuant to a judgment, decree or order relating to child support, alimony or the disposition of community property, is entitled to receive all or a portion of the allowance or benefit of a member or retired member from the System.

NRS 286.6703 authorizes the Public Employees' Retirement System (PERS) to adopt policies for the purpose of determining the qualified status of domestic relations court orders and to administer distribution of monies under the System pursuant to such orders. PERS has adopted the following policies:

Policies

13.1 The System will acknowledge receipt of and honor written community property claims made under NRS 123.240 against a member's contributions or benefits

13.2 A person may submit a judgment, decree, or order of a district court or the Supreme Court of the State of Nevada relating to child support, alimony, or the disposition of community property to the Executive Officer or his designee for a determination of whether the judgment, decree, or order entitles an alternate payee to receive from the System all or a portion of the allowance or benefit of a member or a retired employee.

13.3 The judgment, decree, or order submitted to the Executive Officer must be signed by a District Judge or by the Justices of the Supreme Court and entered and certified by the Clerk of the District Court or the Clerk of the Supreme Court.

13.4 The System shall, in accordance with rules prescribed by the Board, determine whether the judgment, decree, or order entitles the alternate payee to receive an allowance or benefit from the System.

13.5 The System shall provide a written notice to the parties to the action of any determination that a judgment, decree, or order is not in compliance with retirement statutes or rules adopted by the Board.

13.6 An alternate payee is entitled to receive an allowance or benefit from the System if the judgment, decree or order:

- a. Specifies clearly the names and last known mailing address, if any, of the member or retired employee and the alternate payee;

- b. Specifies clearly the amount, percentage, or manner of determining the amount of the allowance or benefit of the member or retired employee that must be paid by the System to each alternate payee;
- c. Specifically directs the System to pay an allowance or benefit to the alternate payee;
- d. Does not require the System to provide an allowance, benefit, or any option not otherwise provided in Chapter 286 of NRS; and
- e. Does not require the payment of any allowance or benefit to an alternate payee before the retirement of a member or the distribution to or withdrawal of contributions by a member.

13.7 The Social Security Numbers of the member or retired employee and the alternate payee must be submitted to the System at the time of submission of the judgment, decree or order. The System will not process the judgment, decree or order until the required Social Security Numbers are submitted.

13.8 Receipt of a judgment, decree, or order which does not comply with Chapter 286 of NRS, or the System's Official Policies, will serve as a temporary notice to the System of a forthcoming order regarding distribution of a member's benefit. Any attempts to obtain a refund of contributions or retirement allowance from such member's account will not be allowed for a period of 90 days from receipt by the System of such judgment, decree, or order.

13.9 If the judgment, decree, or order awards 100% of the benefit to the alternate payee, the alternate payee shall receive 100%, less a minimum check of \$10.00 to the retired employee.

13.10 If a retired employee submits a judgment, decree or order awarding a portion of their benefit to an alternate payee, the benefit change will be effective with the next monthly check run following the receipt of the approved certified copy of the order.

13.11 If a judgment, decree, or order indicates that arrearages are owed by the member or retired employee to an alternate payee, the System will not participate in the collection of these arrearages. Arrangements for

payment must be made between the two parties.

13.12 If a retired employee returns to work for a Nevada public employer in a position eligible for membership and fails to notify the System in a timely manner, as delineated in NRS 286.520(2)(a), the retired employee is responsible for reimbursing the System for all benefits that have been overpaid, including any benefits paid to his alternate payee.

13.13 If the retired employee's account is suspended for any reason, his alternate payee's account shall also be suspended. If the retired employee's account is canceled, the alternate payee's benefit shall be stopped indefinitely unless the alternate payee is the beneficiary under one of the Options 2 through 7.

13.14 If the judgment, decree, or order indicates that the System is to pay the alternate payee for a specific period of time, it is the responsibility of the retired employee to apprise the System 30 days prior to the date that payments to the alternate payee are to stop or change.

In addition, PERS has adopted the following procedures:

1. If the order establishes payment to the Alternate Payee based on the period of marriage, the years of credited service earned during the marriage must be either (1) calculated in the order or (2) the marriage date given and date of divorce. The order must also specify whether the dollar amount or percentage applies to contributions or a future benefit on the basis of:
 - The number of payments or period to which the order applies.
 - The retirement plan (the Unmodified or one of six alternate plans) to which the order applies. Lacking this information, PERS will assume that the member has sole discretion in the choice of a retirement plan and/or whether to retire or take a refund.

2. Upon receipt of a properly issued order, the member and each Alternate Payee named in the order shall be timely notified. Such notice will be mailed to each person at the address included in the order.
3. Monies payable to an Alternate Payee will be paid in accordance with the benefit plan elected by the Participant.
4. The order may provide that if a member dies before the Alternate Payee begins receiving benefits and a refund of the contribution account is payable the Alternate Payee will be eligible to receive the specified share of the refund.
5. PERS provides a defined benefit plan, and as such, the Alternate Payee may not assign these benefits.
6. After monthly payments begin to an Alternate Payee, the payments will cease when the first of the following occurs:
 - The time period indicated in the order has expired;
 - The death of the Participant;
 - The death of the Alternate Payee.
7. There will be no segregation of retirement accounts.
8. The Alternate Payee must file a Tax Withholding Certificate or other form with PERS to provide instructions for federal income tax withholding.
9. If the Alternate Payee is also named as the beneficiary, the Alternate Payee must provide proper proof of birth and continuity of name change documentation within 90 days after the retirement effective date. If this documentation is not received within 90 days after retirement, the benefit shall be suspended until the requirement is met.

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1 **ORDR**
2 **FRED C. PAGE, ESQ.**
3 **Nevada Bar: 6080**
4 **PAGE LAW OFFICE**
5 **6145 Spring Mountain Road, Suite 201**
6 **Las Vegas, Nevada 89146**
7 **Phone: (702) 469-3278**
8 **Facsimile: (702) 628-9884**
9 **E-mail: fpagelawoffices.com**
10 **Attorney for Plaintiff**

DISTRICT COURT, FAMILY DIVISION**CLARK COUNTY, NEVADA**11 **RICHARD KILGORE,**12 **Plaintiff,**13 **vs.**14 **ELINI KILGORE,**15 **Defendant.**

16 **CASE NO.: D-12-459171-D**
17 **DEPT. NO.: D-14-500650-8**
18 **I**

ORDER

19 This matter having come on for Return Hearing Re: Pick Up Order before the above
20 court on the 30th day of December, 2014, Attorney Fred Page, Esq., Bar #6080, present in place
21 of Attorney Leo Flangas, Esq., for the Defendant, Eleni Kilgore. Attorney Bonty "Bonnie"
22 Lonardo, Esq., Bar #8548, also present on behalf of the Plaintiff, Richard Kilgore, the Court
23 being fully advised as to the premises and therefore;

24 IT IS HEREBY ORDERED that Custody shall remain Status Quo, with a week on, week
25 off schedule.

26 IT IS FURTHER ORDERED that the 30 minute visits with the wrestling events is
27 ELIMINATED.
28

RECEIVED

1 of 3

MAR 19 2015**DEPT. I**

1 IT IS FURTHER ORDERED that the Defendant shall sign a Quitclaim Deed after court
2 today.

3 IT IS FURTHER ORDERED that, TEMPORARILY, without prejudice, Plaintiff's
4 CHILD SUPPORT is SET at \$521.00 per month, which includes health insurance premiums.

5 IT IS FURTHER ORDERED that Parties are REFERRED to Family Mediation Center
6 (FMC) for Child Interviews. The minor child Nicholas to spend more time with Plaintiff before
7 the Child Interview.
8

9 IT IS FURTHER ORDERED that the Parties STIPULATE to Donna Gosnell for
10 counseling for Plaintiff and the minor children. Defendant's insurance will cover, Parties to
11 equally divide any co-pays.
12

13 IT IS FURTHER ORDERED that While on Holiday Break, Plaintiff shall pick up the
14 minor children at wrestling practice on Mondays or pick up from school. The minor children's
15 laptop computers are to go with them.

16 IT IS FURTHER ORDERED that the Plaintiff shall keep a monthly work search journal
17 until he is employed and file a copy with this Court by the last day of each month.
18

19 IT IS FURTHER ORDERED that the Plaintiff shall keep Counsel informed of the loan
20 modification on the marital residence.

21 IT IS FURTHER ORDERED that Counsel to research both Parties retirements and
22 submit Briefs.
23

24 IT IS FURTHER ORDERED Defendant shall file a Schedule of Arrears for CHILD
25 SUPPORT ARREARS.

26 IT IS FURTHER ORDERED that the Parties and Counsel are to trace the IRS debt of the
27 Parties.
28

1 IT IS FURTHER ORDERED that the Court will request the Child Protective Services
2 (CPS) records for this family. Counsel is permitted to have a copy of the Unity Notes under a
3 Gag Order.

4 IT IS FURTHER ORDERED that the Return Hearing re: FMC Child Interview is SET
5 for March 11, 2015 at 9:30 a.m.
6

7 IT IS FURTHER ORDERED that the hearing scheduled for March 10, 2015 at 10:30 is
8 VACATED.

9 IT IS FURTHER ORDERED that the Return Hearing scheduled for March 11, 2015 at
10 9:30 a.m. STANDS.

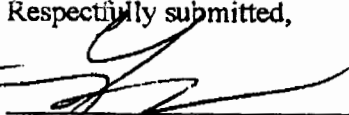
11 IT IS FURTHER ORDERED that a Behavior Order is ISSUED to the Parties.

12 IT IS FURTHER ORDERED that the Defendant shall be responsible for Nicholas's cell
13 phone, Plaintiff shall be responsible for Richard's cell phone.
14

15 IT IS FURTHER ORDERED Attorney Page/Flangas shall prepare the Order from today's
16 hearing, Attorney Jacovino to sign as to form and content.
17

18 DATED this ____ of MAR 27 2015, 2015
19

20 
DISTRICT COURT JUDGE VR

21
22 Respectfully submitted,
23 

24 FRED C. PAGE, ESQ.
25 Nevada Bar No.: 6080
26 6145 Spring Mountain Road, Suite 201
27 Las Vegas, Nevada 89146
28 Phone: (702) 469-3278
E-mail: fpagelawoffices.com
Attorney for Defendant

Approved as to Form & Content:

29  3/12/2015
BONTY LONARDO, ESQ.
Nevada Bar No.: 8548
7465 West Lake Mead Blvd. #100
Las Vegas, NV 89128
(702) 562-8125
blonardo@aol.com
Attorney for Plaintiff

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CLERK OF THE COURT

ORDR

FRED C. PAGE, ESQ.

Nevada Bar: 6080

PAGE LAW OFFICE

6145 Spring Mountain Road, Suite 201

Las Vegas, Nevada 89146

Phone: (702) 469-3278

Facsimile: (702) 628-9884

E-mail: fpagelawoffices.com

Attorney for Plaintiff

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

RICHARD KILGORE,

Plaintiff,

vs.

ELINI KILGORE,

Defendant.

D-12-459171-D
CASE NO.: ~~D-14-500650-S~~
DEPT. NO.: I

ORDER

This matter having come on for Return Hearing Re: Pick Up Order before the above court on the 30th day of December, 2014, Attorney Fred Page, Esq., Bar #6080, present in place of Attorney Leo Flangas, Esq., for the Defendant, Eleni Kilgore. Attorney Bonty "Bonnie" Lonardo, Esq., Bar #8548, also present on behalf of the Plaintiff, Richard Kilgore, the Court being fully advised as to the premises and therefore;

IT IS HEREBY ORDERED that Custody shall remain Status Quo, with a week on, week off schedule.

IT IS FURTHER ORDERED that the 30 minute visits with the wrestling events is ELIMINATED.

RECEIVED
MAR 19 2015
DEPT. I

1 IT IS FURTHER ORDERED that the Defendant shall sign a Quitclaim Deed after court
2 today.

3 IT IS FURTHER ORDERED that, TEMPORARILY, without prejudice, Plaintiff's
4 CHILD SUPPORT is SET at \$521.00 per month, which includes health insurance premiums.

5 IT IS FURTHER ORDERED that Parties are REFERRED to Family Mediation Center
6 (FMC) for Child Interviews. The minor child Nicholas to spend more time with Plaintiff before
7 the Child Interview.
8

9 IT IS FURTHER ORDERED that the Parties STIPULATE to Donna Gosnell for
10 counseling for Plaintiff and the minor children. Defendant's insurance will cover, Parties to
11 equally divide any co-pays.
12

13 IT IS FURTHER ORDERED that While on Holiday Break, Plaintiff shall pick up the
14 minor children at wrestling practice on Mondays or pick up from school. The minor children's
15 laptop computers are to go with them.

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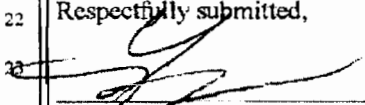
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16 hearing, Attorney Jacovino to sign as to form and content.

17
18 DATED this ____ of MAR 27 2015, 2015

19
20 
21 DISTRICT COURT JUDGE JR

22 Respectfully submitted,

23
24 Approved as to Form & Content:

25 
26 FRED C. PAGE, ESQ.
27 Nevada Bar No.: 6080
28 6145 Spring Mountain Road, Suite 201
Las Vegas, Nevada 89146
Phone: (702) 469-3278
E-mail: fpagelawoffices.com
Attorney for Defendant

29  3/12/2015
30 BONTY LONARDO, ESQ.
Nevada Bar No.: 8548
7465 West Lake Mead Blvd. #100
Las Vegas, NV 89128
(702) 562-8125
blonardo@aol.com
Attorney for Plaintiff

1 CERT

Case no. R-13-180572-R

2 CERTIFICATE OF MAILING

3 The foregoing Clark County District Court Order Filed April 10, 2015 was served upon
4 Richard Scott Kilgore by mailing a copy thereof, first class mail, postage prepaid to:

5
6 RICHARD SCOTT KILGORE
7 6509 Columbian Falls
8 Las Vegas NV 89149

9 on the 8th day of June, 2015.

11 /s/ T. Vulpi

12 Employee, District Attorney's Office
13 Family Support Division
14
15
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19
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21
22
23
24
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26
27
28

FDF

Electronically Filed
05/04/2015 02:33:05 PM

Name: Janice Jacobino (Bar # 11612)
 Address: 7465 W. Lake Mead Blvd. Ste 100
Las Vegas, NV 89128
 Phone: (702) 562-8125
 Email: Info@LTLAWLV.com
 Attorney for Plaintiff
 Nevada State Bar No. 11612



CLERK OF THE COURT

8th Judicial District Court

Las Vegas, Nevada

Richard Scott Kilgore Plaintiff, vs. Eleni Kilgore Defendant.	Case No. <u>D-12-459171D</u> Dept. <u>1</u>
---	--

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (first, middle, last) Richard Scott Kilgore
2. How old are you? 53
3. What is your date of birth? 04/20/1961
4. What is your highest level of education? _____

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ check one)
☒ No
☐ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)

2. Are you disabled? (☒ check one)

☒ No☐ Yes

If yes, what is your level of disability? _____

What agency certified you disabled? _____

What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: City Las Vegas Date of Hire: 04/18/1989 Date of Termination: 10-13-2014
 Reason for Leaving: Terminated

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending 04/01/15 my gross year to date pay is \$7,899.00.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=	\$0.00	×	52	=	\$0.00	÷	12	=	\$0.00
Hourly Wage		Number of hours worked per week		Weekly Income		Weeks		Annual Income		Months		Gross Monthly Income

Annual Salary

\$10,712.00	÷	12	=	\$892.67
Annual Income		Months		Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			\$0.00
Bonuses			\$0.00
Car, Housing, or Other allowance:			\$0.00
Commissions or Tips:			\$0.00
Net Rental Income:			\$0.00
Overtime Pay			\$0.00
Pension/Retirement:			\$0.00
Social Security Income (SSI):			\$0.00
Social Security Disability (SSD):			\$0.00
Spousal Support			\$0.00
Child Support			\$0.00
Workman's Compensation			\$0.00
Other: Unemployment			\$0.00
Total Average Other Income Received			\$0.00

Total Average Gross Monthly Income (add totals from B and C above)	\$892.67
--	----------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	0.00
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	
10.	Union Dues	
11.	Other: (Type of Deduction)	
Total Monthly Deductions (Lines 1-11)		0.00

Business/Self-Employment Income & Expense Schedule**A. Business Income:**

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ _____

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:			
Total Average Business Expenses			0.00

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money you spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me <input type="checkbox"/>	Other Party <input type="checkbox"/>	For Both <input type="checkbox"/>
Alimony/Spousal Support	0.00			
Auto Insurance	152.00			
Car Loan/Lease Payment	499.99			
Cell Phone	220.00			
Child Support (not deducted from pay)	686.00			
Clothing, Shoes, Etc...	75.00			
Credit Card Payments (minimum due)	25.00			
Dry Cleaning	0.00			
Electric	300.00			
Food (groceries & restaurants)	750.00			
Fuel	360.00			
Gas (for home)	60.00			
Health Insurance (not deducted from pay)				
HOA	180.00			
Home Insurance (if not included in mortgage)				
Home Phone				
Internet/Cable	180.00			
Lawn Care	25.00			
Membership Fees				
Mortgage/Rent/Lease				
Pest Control	20.00			
Pets	125.00			
Pool Service	40.00			
Property Taxes (if not included in mortgage)				
Security				
Sewer	100.00			
Student Loans				
Unreimbursed Medical Expense	175.00			
Water	100.00			
Other:				
Total Monthly Expenses	4,072.99			

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st	Nicholas Kilgore	06/29/00	50/50	Yes	No
2 nd	Richard Kilgore	06/29/00	50/50	yes	No
3 rd					
4 th					

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone	75.00	50.00		
Child Care	0.00	0.00		
Clothing	100.00	100.00		
Education	50.00	50.00		
Entertainment	50.00	50.00		
Extracurricular & Sports	150.00	150.00		
Health Insurance (if not deducted from pay)	96.50	96.50		
Summer Camp/Programs	100.00	100.00		
Transportation Costs for Visitation	0.00	0.00		
Unreimbursed Medical Expenses				
Vehicle				
Other:				
Total Monthly Expenses	621.50	596.50	0.00	0.00

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution
None			\$ 0.00

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value	Total Amount Owed	Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	2011 Ford F150 Truck	\$	- \$16,000.00	= \$-16,000.00	R Kilgore
2.	Medical Expenses	\$	- \$3,500.00	= \$-3,500.00	R Kilgore
3.	Attorney Fees	\$	- \$2,500.00	= \$-2,500.00	R Kilgore
4.		\$	- \$	= \$0.00	
5.		\$	- \$	= \$0.00	
6.		\$	- \$	= \$0.00	
7.		\$	- \$	= \$0.00	
8.		\$	- \$	= \$0.00	
9.		\$	- \$	= \$0.00	
10.		\$	- \$	= \$0.00	
11.		\$	- \$	= \$0.00	
12.		\$	- \$	= \$0.00	
13.		\$	- \$	= \$0.00	
14.		\$	- \$	= \$0.00	
15.		\$	- \$	= \$0.00	
Total Value of Assets (add lines 1-15)		\$0.00	- \$22,000.00	= \$-22,000.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Capital One Credit Card	\$ 700.00	R Kilgore
2.		\$	
3.		\$	
4.		\$	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 700.00	

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) HAVE retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ 3300.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ _____.
4. I currently owe my attorney a total of \$ 2,500.00.
5. I owe my prior attorney a total of \$ _____.


IMPORTANT: Read the following paragraphs carefully and initial each one.

RK I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

RK I have attached a copy of my 3 most recent pay stubs to this form.

_____ I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

_____ I have not attached a copy of my pay stubs to this form because I am currently unemployed.


Signature

02 April 2015

Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on (date) May 4, 2015, service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

☒ Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

Fred C. Page, Esq
6145 Spring Mountain Rd., Ste 201
Las Vegas, NV 89146 - Attorney for Defendant

☐ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file herein to: _____

Executed on the 4th day of May, 20 15.

B. P.
Signature

RICHARD KILGORE

6509 COLUMBIA FALLS CT, LAS VEGAS NV 89149-4522

LVMARSHAL2@GMAIL.COM

Effective
Date: 10/19/2014End
Date: 10/17/2015Maximum Benefit
Amount: \$10,712.00Weekly Benefit
Amount: \$412.00

Payment Summary

Total Amount Paid:
\$7,075.00Remaining Balance Amount:
\$ 3,637.00Overpayment Balance:
\$0.00

Benefit Week	Date Filed	Net Amount Paid	Overpaid Week	Deductions	Payment Issued	Confirmation Number	View Claim Answers
03/21/2015	03/23/2015						View
03/14/2015	03/17/2015	371.00	N	Y	Y	3186344	View
03/07/2015	03/08/2015	371.00	N	Y	Y	3145512	View
02/28/2015	03/03/2015	371.00	N	Y	Y	3124582	View
02/21/2015	02/24/2015	371.00	N	Y	Y	3089466	View
02/14/2015	02/17/2015	371.00	N	Y	Y	3053662	View
02/07/2015	02/09/2015	371.00	N	Y	Y	3020961	View
01/31/2015	02/02/2015	371.00	N	Y	Y	2980473	View
01/24/2015	01/26/2015	371.00	N	Y	Y	2945350	View
01/17/2015	01/18/2015	371.00	N	Y	Y	2899697	View
01/10/2015	01/15/2015	371.00	N	Y	Y	2886966	View
01/03/2015	01/15/2015	371.00	N	Y	Y	2886959	View
12/27/2014	12/29/2014	371.00	N	Y	Y	2809133	View
12/20/2014	12/23/2014	371.00	N	Y	Y	2777057	View
12/13/2014	12/15/2014	371.00	N	Y	Y	2732762	View
12/06/2014	12/15/2014	371.00	N	Y	Y	2732731	View
11/29/2014	12/02/2014	371.00	N	Y	Y	2668289	View
11/22/2014	11/26/2014	371.00	N	Y	Y	2633452	View
11/15/2014	11/17/2014	64.00	N	Y	Y	2590548	View
11/08/2014	11/13/2014	0.00	N	N	N	2567245	View
11/01/2014	11/04/2014	0.00	N	N	N	2532613	View
10/25/2014	10/26/2014	0.00	N	N	N	2494900	View

RICHARD KILGORE

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02/28/2015	03/03/2015	371.00	N	Y	Y	3124582	View
02/21/2015	02/24/2015	371.00	N	Y	Y	3089466	View
02/14/2015	02/17/2015	371.00	N	Y	Y	3053662	View
02/07/2015	02/09/2015	371.00	N	Y	Y	3020961	View
01/31/2015	02/02/2015	371.00	N	Y	Y	2980473	View
01/24/2015	01/26/2015	371.00	N	Y	Y	2945350	View
01/17/2015	01/18/2015	371.00	N	Y	Y	2899697	View
01/10/2015	01/15/2015	371.00	N	Y	Y	2886966	View
01/03/2015	01/15/2015	371.00	N	Y	Y	2886959	View
12/27/2014	12/29/2014	371.00	N	Y	Y	2809133	View
12/20/2014	12/23/2014	371.00	N	Y	Y	2777057	View
12/13/2014	12/15/2014	371.00	N	Y	Y	2732762	View
12/06/2014	12/15/2014	371.00	N	Y	Y	2732731	View
11/29/2014	12/02/2014	371.00	N	Y	Y	2668289	View
11/22/2014	11/26/2014	371.00	N	Y	Y	2633452	View
11/15/2014	11/17/2014	64.00	N	Y	Y	2590548	View
11/08/2014	11/13/2014	0.00	N	N	N	2567245	View
11/01/2014	11/04/2014	0.00	N	N	N	2532613	View
10/25/2014	10/26/2014	0.00	N	N	N	2494908	View