

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARD KILGORE,
Appellant/Cross-Respondent,

vs.

ELENI KILGORE,
Respondent/Cross-Appellant.

Case No.: 73977

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JOINT-APPENDIX

Volume 8

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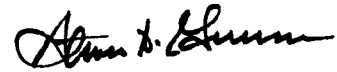
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CLERK OF THE COURT

1 **OPP**
2 **BETSY ALLEN, ESQ.**
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9 betsyallenesq@yahoo.com
10 Attorney for Plaintiff

7 **DISTRICT COURT , FAMILY DIVISION**

8 **CLARK COUNTY, NEVADA**

9 **RICHARD KILGORE,**
10 **Plaintiff,**

11 **vs.**

12 **ELENI KILGORE,**

13 **Defendant.**

CASE NO.: D-12-459171-D

DEPT. NO.: I

03 / 28 / 17

10 : 00 am

14
15 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO AMEND OR MAKE**
16 **ADDITIONAL FINDINGS OF FACT, TO ALTER OR AMEND JUDGMENT AND FOR**
17 **ATTORNEY'S FEES AND COSTS AND COUNTERMOTION FOR SANCTIONS**

18 Plaintiff, Richard Kilgore, by and through his counsel, Betsy Allen, Esq, hereby
19 submits this Opposition to Defendant's Motion to Amend or Make Additional Findings of
20 Fact, to Alter or Amend Judgment and for Attorney's Fees and Costs.

21 This Opposition is made and based upon the papers and pleadings on file
22 herein, the attached Points and Authorities submitted herewith and any argument the
23 Court may entertain at the hearing of the above matter.

24 DATED the 16th day of February, 2017.

25 /s/ Betsy Allen
26 **BETSY ALLEN, ESQ.**
27 Nevada Bar No. 6878
28 P.O. Box 46991
Las Vegas, NV 89146
(702) 386-9700
Attorney for Plaintiff

1 court, jury, master, or adverse party, or any order of the court,
2 or master, or abuse of discretion by which either party was
3 prevented from having a fair trial; (2) Misconduct of the jury or
4 prevailing party; (3) Accident or surprise which ordinary
5 prudence could not have guarded against; (4) Newly
6 discovered evidence material for the party making the motion
7 which the party could not, with reasonable diligence, have
8 discovered and produced at the trial; (5) Manifest disregard by
9 the jury of the instructions of the court; (6) Excessive damages
10 appearing to have been given under the influence of passion or
11 prejudice; or, (7) Error in law occurring at the trial and objected
12 to by the party making the motion. On a motion for a new trial
13 in an action tried without a jury, the court may open the
14 judgment if one has been entered, take additional testimony,
15 amend findings of fact and conclusions of law or make new
16 findings and conclusions, and direct the entry of a new
17 judgment.

18 The Defendant, in the instant case, filed a motion to make new findings or to
19 alter or amend the judgment. The "argument" from the Defendant is nothing based
20 upon any of the above reasons but based upon a claim that counsel, and his client,
21 were not put on notice that child support was at issue and that the "temporary" orders
22 were (1)some not temporary and (1)some were but nonetheless, the Court should order
23 child support in her favor when it suits her.

24 Not only has the Defendant filed a Motion for a New Trial prior to the time she is
25 ALLOWED to file it, she has filed it contrary to both documentation, testimony at trial
26 and basic logic. In Plaintiff's pre-trial memorandum, he plainly(and in recognizable
27 English) puts that child support is at issue. (See attached Exhibit "1" page 2, line 8).
28 Additionally, counsel for Plaintiff should read Exhibit 1, page 4, lines 3-13, which sets
forth the child support issue IN DETAIL and again, in plain English. Thus, putting
everyone on notice. Finally, in the Order dated October 13, 2016, signed by Mr. Page,
(see Exhibit "2") the child support is listed as **temporary**, thus not permanent, thus still
up for decision by the Court.

Secondly, at trial, counsel for Plaintiff spent an inordinate amount of time
discussing Mr. Kilgore's job loss, unemployment, prospects at getting gainful

1 employment and then his rehiring at the City of Las Vegas. There is no worldly reason
2 this subject would have been covered, ad nauseum, if it was not relevant. Further,
3 Defendant never objected to the line of questioning. So, either counsel for Defendant
4 knew there was a pending issue with child support or just thoroughly enjoyed the
5 discussion regarding Mr. Kilgore's employment plight.

6 Finally, basic logic dictates that this issue would be covered at trial. Mr. Kilgore
7 LOST his job. He was unable to pay child support and asked that his child support be
8 adjusted accordingly. As a result, counsel for Eleni opted to file countless
9 countermotions and drag out these proceedings for more than a year. However, the
10 issue of child support was NEVER addressed in a final order. It was, in fact, the biggest
11 issue at the trial.

12 The bottom line is that Defendant did not like the outcome. After the Court
13 announced its initial decision on October 31, 2016, counsel for Eleni began complaining
14 about the issue of child support. However, when you litigate issues, THE COURT CAN
15 AND WILL RULE AGAINST YOU. It is a hazard you undertake when you go before a
16 Court to settle a dispute.

17 Finally, there is ZERO basis to award attorney's fees. Under, NRS 18.010, the
18 Court can only award attorney's fees if the opposition was filed without a reasonable
19 basis or with the intent to harass. It is neither. It is a continued argument with counsel
20 about this Court's ruling. It was clear from all of the complaining, immediately after this
21 Court issued its rulings, that Defendant and her counsel were not happy. However,
22 there is NO basis in law, fact or logic to file the Motion that was filed.

23 COUNTER-MOTION FOR SANCTIONS

24 Pursuant to EDCR 7.60(1):

25 The Court may, after notice and an opportunity to be heard,
26 impose upon an attorney or a party any and all sanctions which
27 may, under the facts of the case, be reasonable, including the
28

1 imposition of fines, costs or attorney's fees when an attorney or a
2 party without just cause....presents to the Court a motion or an
3 opposition to a motion which is obviously frivolous, unnecessary or
4 unwarranted.

5 The motion filed with the Court, requesting another chance, and citing NOTHING
6 which would present this Court with a reason to re-open this case is literally the definition
7 of frivolous, unnecessary and unwarranted. Defendant's "buyers remorse" on having the
8 Court try this case is also not a reason. And the only way to stop this type of motion is
9 to sanction the attorney who filed it.

10 Thus, Plaintiff requests \$2,500.00 in sanctions in the form of Attorney's fees.

11 CONCLUSION

12 Defendant's Motion should be denied in its entirety. There is no basis in law, fact
13 or any other rational basis for which it should be entertained.

14 DATED the _16th__ day of February, 2017.

15
16 /s/ Betsy Allen
17 BETSY ALLEN, ESQ.
18 Nevada Bar No. 6878

19 CERTIFICATE OF SERVICE

20 I hereby certify that I served a true and correct copy of the foregoing Opposition
21 to Fred Page, Esq., via email to:

22 fpagelawoffices.com

23
24 Betsy Allen
25 Betsy Allen, Esq.
26
27
28

Digitally signed by Betsy Allen
DN: cn=Betsy Allen, postalCode=70501, email=BetsyAllen@betsyallen.com, c=US
Date: 2017.02.20 10:38:51 -0800

PMEM

RICHARD KILGORE
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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

NAME,

RICHARD KILGORE,

v.

NAME,

ELENI KILGORE.

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

PRE-TRIAL MEMORANDUM

Plaintiff, RICHARD KILGORE, representing in proper person, hereby submits his amended pre-trial memorandum for the evidentiary hearing set for July 25, 2016, in Department I.

I.

STATEMENT OF ESSENTIAL FACTS

A. Names and Ages of the Parties:

1. RICHARD KILGORE 54

2. ELENI KILGORE 46

The parties divorced on March 13, 2013. There are 3 children born the issue of this marriage, to wit; Richard Jr. and Nicholas, both 15 years of age, and Alexandra, 20 years of age.

1 II.

2 **RESOLVED ISSUES**

- 3 a. There are no resolved issues

4 III.

5 **UNRESOLVED ISSUES**

- 6 a. Permanent Order for Physical Custody;
7 b. Child Support;
8 c. Child Support Arrears;
9 d. PERS retirement pay;
10 e. Vacation/Sick Time benefits;
11 f. Attorney's Fees and Costs.
12

13 IV.

14 **LEGAL AND PHYSICAL CUSTODY**

15
16 In making the determination of custody, the applicable Nevada Revised Statutes
17 requires the Court to solely consider the best interest of the child(ren) into consideration.
18 In entering orders with regard to custody and support of minor children, the Court's
19 paramount consideration under Nevada law is the welfare of the children. *Culbertson v.*
20 *Culbertson*, 91 Nev. 230, 533 P.2d 768 (1975). The guiding principle in the court's
21 exercise of its discretion in cases affecting the rights and welfare of the children, are the
22 best interests and the welfare of the children whose rights are involved. *Fenkell v. Fenkell*,
23 86 Nev. 397, 469 P.2d 701 (1970).
24

25 NRS 125.480(4) sets forth factors affecting the best interests of children. As NRS
26 125.510 and 125.480 have been recently repealed as of October 1, 2015 by AB 236,
27
28

1 pursuant to NRS 125C, the provisions are similar in that the sole consideration for this
2 Court is the best interests of the child in an action for determining physical custody of a
3 child. Further, in determining the best interests of the child, the factors listed in NRS
4 125.480 (4) set forth below, remain the same - almost identical to newly enacted
5 legislation:

6
7 4. In determining the best interest of the child, the court shall consider, among
other things:

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

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

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

11 (d) The level of conflict between the parents.

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

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

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

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

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

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

18 (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.

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

20 An analysis under the factors, as detailed herein, demonstrate that granting Dad's
21 request for Joint Legal and Physical Custody of Nicholas is in his best interest. This court
22 must take into consideration the hostile aggressive parenting, brainwashing, and parental
alienation perpetuated by Eleni towards the children.

23 //

24 //

V.

CHILD SUPPORT & CHILD SUPPORT ARREARS

Considering a joint physical custody determination, child support should be calculated pursuant to Wright v. Osborn, NRS 125B.070 and NRS 125B.080. However, at the current time Mom is living with a boyfriend that contributes a significant portion of income and support to the household. Moreover, the unresolved PERS benefits have not yet been factored into the child support calculation. If Eleni is entitled to PERS benefits on behalf of Richard, then that is income for Eleni and should be considered as such for her, reducing the income and obligation of support for Richard. Furthermore, the calculation of child support arrears has not fairly taken into consideration the employment issues that affected Richard's income for well over a year.

VI.

PERS RETIREMENT PAY

Under the Nevada Supreme Court, the Hensen v. Hensen 2014 ruling is very clear in that the nonemployee spouse (Eleni), is not entitled to any PERS Pension benefits until she very clearly files a motion with the District Court requesting immediate payment of those benefits. She still has not filed that motion, and their supplemental to the status check hearing is not and does not meet the Supreme Court's intent of filing a motion to request the immediate payment of the benefits. It also clearly explains that she is not entitled to any benefits prior to the date of her filing the proper motion, and therefore NOT entitled to any arrears of benefits.

The Nevada PERS manual on domestic relations, in BOLD lettering, states that they will NOT pay the alternate payee (former spouse), while the employee is still working.

1 This is because I am not actually in receipt of this income, and have no ability to pay it,
2 along with child support, and still be expected to live and care for myself or my family.

3 Lastly, on the subject of paying Eleni my PERS benefits while still employed, I refer
4 to a publication by Mr. Willick himself in that he clearly noted that "NRS 125.155, which
5 became effective on July 5, 1995, carves out PERS retirements exclusively as permissively
6 immune from division until actual retirement of the participant spouse, if the trial court so
7 orders. Yet, six weeks after that effective date, the Nevada Supreme Court in Sertic, supra,
8 ordered that all spousal shares of retirement benefits are to be distributed to the spouses
9 upon first eligibility for retirement. **This would appear to present both an equal
10 protection issue, and a question as to which mandate takes priority.**" And also noted
11 that "As a practical matter, it is not possible to both distribute a spousal share of a
12 retirement upon eligibility despite the wage-earner's continued employment, and to
13 base the spousal share paid on the amount that the wage-earner ultimately receives.
14 This leaves the trial courts with no practical means of accomplishing these
15 conflicting directives except to make the best projection possible at the time of
16 divorce, and have the parties return to court when the employee eventually retires to
17 adjust the distributable spousal share."
18
19
20

21 VII.

22 VACATION AND SICK TIME

23
24 This argument should not be considered by the court. First and foremost, the
25 receipt of my vacation and sick time was nearly 18 months AFTER the divorce was
26 finalized. They were not an asset at time of divorce, nor were they omitted under any fraud
27
28

1 or mistake. Eleni is an employee in the same pay and retirement system, and is intimately
2 familiar with how vacation and sick time is accrued and paid. She had every opportunity to
3 address this during the nearly two year long battle for divorce if it was a concern. They
4 should have to prove to this court that fraud or a mistake was made prior to this court ever
5 entertaining the idea that it was an asset or that it was omitted. Furthermore, had I remained
6 employed during this time and taken a day off to go to the doctor or take a vacation, my
7 accrued vacation and sick time would pay me as a regular day's salary, and Eleni would
8 not be any more entitled to that than has already been calculated by this court for the
9 spousal and child support already. These accrued benefits were not an asset until I cashed
10 them out 18 month after the divorce was final, and therefore was not an asset and was not
11 omitted during the divorce proceedings.
12

13
14 **VIII.**

15 **ATTORNEY'S FEES**

16 Attorney's fees should be denied in their entirety, because Eleni is not the prevailing
17 party, and there has been no proper show cause to determine contempt.
18

19 **NRS 18.010 Award of Attorney's fees.**

- 20 1. The compensation of an attorney and counselor for his or her services is
21 governed by agreement, express or implied, which is not restrained by law.
22 2. In addition to the cases where an allowance is authorized by specific
23 statute, the court may make an allowance of attorney's fees to a prevailing
24 party:
25 (a) When the prevailing party has not recovered more than \$20,000; or
26 (b) Without regard to the recovery sought, when the court finds that the
27 claim, counterclaim, cross-claim or third-party complaint or defense of the
28 opposing party was brought or maintained without reasonable ground or to
harass the prevailing party. The court shall liberally construe the provisions
of this paragraph in favor of awarding attorney's fees in all appropriate
situations. It is the intent of the Legislature that the court award attorney's
fees pursuant to this paragraph and impose sanctions pursuant to Rule 11

1 of the Nevada Rules of Civil Procedure in all appropriate situations to punish
2 for and deter frivolous or vexatious claims and defenses because such
3 claims and defenses overburden limited judicial resources, hinder the timely
4 resolution of meritorious claims and increase the costs of engaging
5 business and providing professional services to the public.

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

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

12 Regarding Eleni's request for attorney's fees. Eleni has provided no mandatory
13 legal basis for her request for attorney's fees. As such, it is within this Court's discretion
14 whether to make an award of attorney's fees at all in this matter pursuant to NRS 126.171.
15 Furthermore, Eleni has not yet been deemed the prevailing party, and pursuant to NRS
16 18.010 and EDCR 7.60 this court must make a finding that Richard has brought on
17 maintained this suit upon baseless and frivolous grounds to award her fees under those
18 statutes. She is only entitled to attorney's fees if she can demonstrate I am harassing by
19 defending the motion, based on Rivero v. Rivero.

20 VIII.

21 LIST OF WITNESSES

- 22 1. Pat Skorkowski – Superintendent Clark County School District/Or.
23 Representative of CCSD Benefits and Payroll
- 24 2. Tina M. Leiss – Executive Officer of Nevada PERS/Or Representative of Public
25 Employees' Retirement System on Nevada
- 26 3. Deborah Rowe
- 27 4. Timothy L. Rowe
- 28 5. Panorea Kinard
6. Dr. John Lepore/Or Designated Representative of KidFixer Pediatric
7. Alexandra Kilgore
8. Camille Kilgore
9. Morgan Davis – City of Las Vegas Dep City Attorney Civil Division
10. Dr. Karin Huffer
11. Thomas Mathews – Director, HQ Collection, IRS, Western Area

12. Donna Gosnell, M.S., MFT
13. Sonya Hellwinkel – Director, NV PERS

IX.

LIST OF EXHIBITS

1. Financial Disclosure Form from Plaintiff
2. Financial Disclosure form from Defendant
3. NV PERS Manual
4. Excerpt from, "An Introduction to Pensions in Nevada Divorce Law", Willick Law Group, October 15, 2004.

X.

UNUSUAL LEGAL OR FACTUAL ISSUES PRESENTED

None.

XII.

LENGTH OF TRIAL

One half day which is currently set for July 25, 2016 at 1:30 p.m.

DATED this 22 day of June, 2016.

Respectfully Submitted,



RICHARD KILGORE
1810 THOROUGHBRED RD
HENDERSON, NV 89002
RACEDAD336@YAHOO.COM
702-325-3518
PLAINTIFF

1
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that on this 22nd day of June, 2016, I caused the
4 foregoing document entitled **PRE-TRIAL MEMORANDUM** to be served as follows:

- 5 [X] pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and
6 Administrative Order 14-2 captioned *Aln the Administrative Matter of*
7 *Mandatory Electronic Service in the Eighth Judicial District Court,* @ by
8 mandatory electronic service through the Eighth Judicial District Courts
9 electronic filing system;
10 [X] by placing same to be deposited for mailing in the United States Mail, in a
11 sealed envelope upon which first class postage was prepaid in Las Vegas,
12 Nevada;
13 [] pursuant to EDCR 7.26, to be sent via **facsimile**, by duly executed consent
14 for service by electronic means;
15 [] by hand-delivery with signed Receipt of Copy.

16 To the attorney(s) listed below at the address, email address, and/or facsimile number
17 indicated below:

18 FRED PAGE ESQ
19 6145 Spring Mountain Rd, Suite 201
20 Las Vegas, NV 89146
21 702-469-3278
22 jpage@pagelawoffices.com

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26
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28


RICHARD KILGORE

1 **ORDR**
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9 **betsyallenesq@yahoo.com**
10 **Attorney for Plaintiff**

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

13 **RICHARD KILGORE,**
14 **Plaintiff,**

15 **vs.**

16 **ELENI KILGORE,**
17 **Defendant.**

18 **CASE NO.: D-12-459171-D**

19 **DEPT. NO.: I**

20 **ORDER**

21 **THIS MATTER** having come before the Court on August 2, 2016 with the Plaintiff
22 **RICHARD KILGORE** present, Plaintiff in Proper Person, and the Defendant, **ELENI**
23 **KILGORE**, not present, represented by Fred Page, Esq. and the Court having read all
24 the papers and pleading orders the following:

25 **IT IS HEREBY ORDERED** that the Plaintiff's Objection to Master's report and
26 **Recommendation is DENIED;**

27 **IT IS FURTHER ORDERED** that the District Attorney's office shall not impose
28 any sanctions, contempt, or set any future hearing dates pending trial decision.
Further, the 25 day sanction is **STAYED;**

IT IS FURTHER ORDERED that the Child Support Clerk shall amend the court
minutes from June 14, 2016 hearing to reflect Plaintiff's temporary child support shall
be set at \$1,500.00 per month, with \$692.13 being withheld from Plaintiff's paycheck
every two weeks;

1 IT IS FURTHER ORDERED that the Defendant's countermotion to the
2 Objection, being filed untimely, Court finds the Objection was filed timely;


3 IT IS FURTHER ORDERED that per stipulation, Sonya Hellwinkle, a PERS
4 representative, may appear by video conference for the Evidentiary Hearing on August
5 15, 2016;

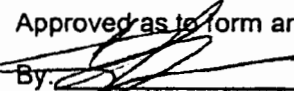
6 IT IS FURTHER ORDERED that Defendant's request for Attorney's fees and costs
7 is DENIED;

8 IT IS FURTHER ORDERED that the Evidentiary Hearing set for August 15, 2016
9 stands,

10 DATED the ____ day of OCT 13 2016, 2016.

11
12 
13 DISTRICT COURT JUDGE VR

14
15 
16 BY: BETSY ALLEN, ESQ.
17 Nevada Bar No. 6878

18 Approved as to form and content:
19 By: 
20 FRED PAGE, ESQ.
21 Nevada Bar No. 6080

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Richard Kilgore
Plaintiff/Petitioner

Eleni Kilgore
Defendant/Respondent

Case No. D-12-459171-D

Dept. I

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

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

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

- ☐ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
- ☒ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
- ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
 - ☒ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
 - ☒ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
 - ☐ Other Excluded Motion (must specify) _____.

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

- ☐ **\$0** The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
- ☐ The Motion/Opposition is being filed in a case that was not initiated by joint petition.
 - ☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
- OR-
- ☐ **\$129** The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
- OR-
- ☐ **\$57** The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

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

The total filing fee for the motion/opposition I am filing with this form is:

☐ \$0 ☐ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition:

Richard Kilgore

Date 2/17/17

Signature of Party or Preparer

Betsy


CLERK OF THE COURT

1 **RPLY**
2 **FRED 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 Defendant*

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

13 **RICHARD KILGORE,**

14 Plaintiff,

15 vs.

16 **ELENI KILGORE,**

17 Defendant.

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

Hearing Date: 3/28/2017

Hearing Time: 10:00 a.m.

18
19
20 **DEFENDANT'S REPLY TO OPPOSITION TO MOTION TO AMEND OR**
21 **MAKE ADDITIONAL FINDINGS OF FACT, TO ALTER OR AMEND**
22 **JUDGMENT**

23 **AND**
24 **FOR ATTORNEY'S FEES AND COSTS**
25 **AND**
26 **OPPOSITION TO COUNTERMOTION FOR SANCTIONS**

27 COMES NOW, Defendant, ELENI KILGORE, by and through her counsel
28 Fred Page, Esq. and hereby files her Reply to Plaintiff's Opposition to her Motion
to Amend or Make Additional Findings of Fact, to Alter or Amend Judgment, and

1 for Attorney's Fees and files her Opposition to Plaintiff, RICHARD KILGORE'S.
2 Countermotion for Sanctions. This Reply and Opposition is based upon the papers
3 and pleadings on file, the attached Points and Authorities and any oral argument
4 that the Court may wish to entertain.
5

6 DATED this 27th day of March 2017
7

8 PAGE LAW OFFICE

9
10 

11 FRED PAGE, ESQ.
12 Nevada Bar No. 6080
13 6145 Spring Mountain, Suite 201
14 Las Vegas, Nevada 89146
15 (702) 469-3278
16 Attorney for Defendant

17 **POINTS AND AUTHORTIES**

18 **I.**
19 **REPLY**

20 Richard's Opposition is as emotional and unhinged as the undersigned as
21 seen in some time. The reality is that Richard is trying to have it both ways. If the
22 Motion was not filed, then Richard would be claiming that the Minute Order was a
23 final Order and that any request for relief was time barred. If the Motion is filed as
24 it is, out of an abundance of caution, then Richard engages in an emotional rant
25 claiming that the Motion is premature. The reality is that a Minute Order is an
26 Order and as such, Eleni's rights need to be protected regardless of what Richard
27 thinks.
28

1 Richard could have made his arguments claiming that the Minute Order was
2 not yet a final Order in a calm and reasoned manner. Richard could have reached
3 out and stipulated that the Motion, in his opinion, was premature and that all rights
4 were preserved until an Order, other than the Minute Order, was filed. Richard
5 chose to do none of those things. Richard chose to make his arguments personal in
6 an attempt to further poison the waters in this case.¹
7
8

9 Richard claims that there has been no Notice of Entry that has been done.
10 Richard is incorrect. The act of the Court faxing or emailing the Minute Order to
11 counsel may be reasonably construed as being provided Notice of Entry of an
12 Order. There is a reasonable amount of ambiguity. Should any Court decide on its
13 own that it faxing or emailing an Order is Notice of Entry, then Eleni would be
14 without recourse but to question her counsel as to why no Motion was filed.
15
16

17 **A. The Findings of Fact Made Should Be Altered or Amended**
18

19 Richard fails to address most of the requests for the Orders to be altered or
20 amended.
21
22
23
24
25

26 ¹ Richard's counsel has made it very clear on a number of occasions of her disdain for family law
27 and regards the area of practice beneath her contempt. Such an attitude likely leads to the snide
28 comments by Richard of "Whotion" (whine + motion) that should have no place in any legal
submission.

1 **1. Child Custody**

2 Richard failed to address Eleni's request that the record be corrected as to
3 when she had primary physical custody. Because Richard failed to address the
4 issue, the issue should be regarded as being granted.
5

6 **2. Eligibility for Retirement**

7
8 Richard fails to address the finding that Richard was first eligible to retire in
9 March 2015. That date is when Eleni made her claim for the omitted pension
10 income stream. Because Richard failed to address that issue, that request should be
11 considered as being granted.
12

13 **3. Child Support**

14
15 Richard complains about child support and claims that child support was at
16 issue at the evidentiary hearing and that the parties were on notice of the same.
17 Richard simply misstates what occurred.
18

19 First, Judge O'Malley clearly stated what the remaining issues were at the
20 settlement conference. Child support was not among them. Second, the fact that
21 Richard went over irrelevant areas at the evidentiary hearing is his choice and not a
22 choice that for which any one, but Richard, should be held responsible.
23

24
25 Third, basic logic would not dictate that child support would be covered at
26 trial. Eleni was confirmed as primary custodian of Nicholas at the beginning of
27
28

1 2016, and Richard received his job back at the beginning of 2016. The issue of
2 custody, and support, was resolved.

3 As stated, orders from the February 9, 2016, hearing were unambiguous as
4 to the issues for trial. Retroactive modification of child support was not one of the
5 issues. Judge O'Malley's recitation of the remaining issues did not include
6 retroactive child support.
7

8
9 Because of the above, the findings made should be amended and the
10 accurately reflect the record.
11

12 **B. The Judgment In the Minute Order Should Be Altered or Amended**

13 Richard has provided no argument to this request for relief as outlined in
14 Eleni's Motion and any of the five subheadings and therefore the same should be
15 granted.
16

17 **C. Eleni Should Be Awarded Her Attorney's Fees**

18 Richard provided no opposition to this request.
19

20 **II.**
21 **OPPOSITION**

22 Richard makes the overly emotional request for fees. For the reasons given
23 above, Richard's request should be denied.
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III.
CONCLUSION

WHEREFORE, Defendant, ELENI KILGORE, respectfully requests that the Court enter the following orders.

1. Altering and amending the findings as indicated.
2. Altering and amending the judgment as indicated.
3. Awarding Eleni \$1,500 in attorney's fees,
4. Denying Richard's Countermotion in its entirety, and;
5. For any further relief the Court deems proper and just.

DATED this 27 day of March 2017

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of March 2017 that the foregoing Reply and Opposition was served via email to Betsy Allen, Esq. via email because Plaintiff's counsel has failed to enroll in mandatory e-service for this case as required by AO 14-2.



An employee of Page Law Office

1 TRANS

FILED

APR - 3 2018

2
3 COPY

Ann L. Johnson
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
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: ALL PENDING MOTIONS

18 TUESDAY, MARCH 28, 2017

19 APPEARANCES:

20 The Plaintiff:
21 For the Plaintiff:

RICHARD SCOTT KILGORE
BETSY ALLEN, ESQ.
629 S. 6th St.
Las Vegas, Nevada 89101
(702) 386-9700

22 The Defendant:
23 For the Defendant:

ELENI KILGORE
FRED PAGE, ESQ.
500 N. Rainbow Blvd., #300
Las Vegas, Nevada 89107
(702) 469-3278

1 LAS VEGAS, NEVADA

TUESDAY, MARCH 28, 2017

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

3 (THE PROCEEDINGS BEGAN AT 10:29:47)

4

5 THE COURT: Case D-459171, Richard Kilgore and Eleni
6 Kilgore. I don't know if she goes by another name.

7 MS. KILGORE: Eleni.

8 THE COURT: Okay. Eleni. Okay. Counsel, your
9 appearances and bar numbers.

10 MS. ALLEN: Be -- Betsy Allen, bar number 6878, on
11 behalf of Mr. Kilgore, the Plaintiff, who is present.

12 THE COURT: You're retained of unbundled?

13 MS. ALLEN: Who knows anymore.

14 THE COURT: Then I'll take that as a retained,
15 because I've seen you so many times.

16 MS. ALLEN: Don't say that. Please --

17 THE COURT: Mr. Page.

18 MS. ALLEN: -- just don't.

19 MR. PAGE: Good morning, Your Honor. Fred Page, bar
20 number 6080, on behalf of Ms. Kilgore. I am bundled.

21 THE COURT: You are unbundled?

22 MR. PAGE: No, I am bundled.

23 THE COURT: You're bundled, so that means you're
24 retained. All right. Mr. Page, this is your motion to amend

1 the opposition countermotion. I just got your six page brief
2 reply.

3 MR. PAGE: Yeah.

4 THE COURT: It was emailed to me. Ms. Allen got a
5 chance to review it?

6 MR. PAGE: Yeah, I'm sure she did.

7 THE COURT: If I -- okay. See if I can think.
8 Three issues. Number one, clarification one. Who had custody
9 within a certain time period of 2015-16. Number two, oh, boy.
10 Now I'm like -- well, I'll let you go through it. Why don't
11 you summarize what your motion is about?

12 MR. PAGE: I think we --

13 THE COURT: Number two would be the -- the child --
14 I guess the child support was not an issue per the Judge
15 Sanchez (sic) settlement conference -- or now Judge O'Malley,
16 senior judge now. And --

17 MR. PAGE: It wasn't an issue in the order that she
18 submitted or gave from the bench in February of 2016.

19 THE COURT: Okay. Minute order not been reduced to
20 an actual order. Was there any direction for a lawyer to
21 actually convert that into an order?

22 MR. PAGE: There was a direction from -- for Ms.
23 Allen to do so. I received something a week or 10 days back.
24 I really haven't gone through it. I did this out of an

1 abundance of caution because you did a minute order and then
2 you served it on all parties. I'd rather not have the
3 argument that I've blown any deadlines. So I went ahead and
4 filed a motion to alter or amend, because these issues that
5 exist aren't going to change. They -- they are what they are.
6 And therefore, we may as well address those whether there's --
7 whether the minute order's a final order, whether there's
8 another order to follow up from Ms. Allen. So --

9 THE COURT: Okay.

10 MR. PAGE: I think these are fair -- fairly straight
11 forward as they're listed in the motion itself that there's no
12 factual dispute that my client had primary physical custody of
13 the child, Nicholas, from March 2015 through to the present.
14 Child support was calculated as though the parties had joint
15 physical custody from December 2014 through January 2016.
16 We're asking that though -- it's at variance with the actual
17 reality in this case.

18 So we would ask that the findings be altered or
19 amended to reflect what the actual values -- I -- I don't
20 think there's any contradiction in the record that Mom has had
21 the -- had Nicholas full time pretty much 100 percent of the
22 time since March of 2015. So I think --

23 THE COURT: March of 2015.

24 MR. PAGE: -- it would be important to have the

1 record reflect that. I didn't really see anything directly on
2 point for that in the opposition filed by Dad.

3 As to child support, we would argue that any new
4 calculations for child support should begin in January of 2016
5 rather than February of 2016, because at a minimum, Dad
6 recommenced employment on January 4, 2016. That's also
7 adequately supported in the record.

8 As to the retirement division arrears, there is
9 54,000. With interest, a grand total of 56,000. The amount
10 is collectable as a judgment. The monies are due to my client
11 as her share of the community property. And the decree was
12 never appealed from and no 60B motion was ever filed. So it's
13 not really an omitted asset, it's just the sense that we have
14 this division and Mom never received her fair share of that.

15 So if we don't allow Mom to get that money as she
16 deems necessary, then we're going to be affecting an unequal
17 division of community property that would be contrary to the
18 requirements of 125D.150(1)(b). And for that, like I said,
19 it's not possible to do at this point because the decree has
20 long since been filed. And the appeal time for that decree
21 has long since passed. So we think that Mom -- any collection
22 on that being stayed would affect something that is at
23 variance with both the statute and the underlying case law.

24 Retirement benefits going forward, we still have the

1 same problem. And that is the longer Mr. Kilgore continues to
2 work, the longer he continues to divest my client of her
3 rights to her community property. Once again, the same issue
4 arises is that we're divesting my client of her rights to
5 community property, which would be at variance with the
6 statute and also the intent of the legislature.

7 That child support was considered at all, again --
8 that's -- has to do with what was stated by Judge O'Malley at
9 the settlement conference. I still have the same habit you do
10 and I -- I first want to call her Sanchez and then call her
11 O'Malley but Judge O'Malley --

12 THE COURT: It's O'Malley. Yeah, it's O'Malley.

13 MR. PAGE: So we have that issue. And Judge
14 O'Malley said these are the only issues that are left. And
15 you further clarified that in the order that was from the
16 February hearing. I believe it was filed in March. So the
17 fact that Mr. Kilgore put it in his pretrial memorandum
18 doesn't re -- revive it simply by him filing it. The fact
19 that he decided to go over the time of trial --

20 THE COURT: Okay.

21 MR. PAGE: -- doesn't change the fact that the --
22 the scope of the issues was framed by Judge O'Malley and your
23 subsequent order.

24 THE COURT: Seems like I feel like a deja vu on this

1 that this has come up before in a prior court hearing.

2 MR. PAGE: We -- I think we talked about it in
3 December.

4 THE COURT: Okay.

5 MR. PAGE: We needed some clarification.

6 THE COURT: Appreciate your recalling it. Just you
7 don't believe there were any orders issued or -- I thought
8 maybe you initiated. You wanted to ask this to make sure you
9 knew what to prepare for in the evidentiary hearing.

10 MR. PAGE: I'm sorry?

11 THE COURT: I thought you had brought it up. Maybe
12 one of you brought it up. Are we doing this issue because we
13 were going to prepare for an evidentiary hearing? Now I see
14 this motion and I was like --

15 MR. PAGE: Oh.

16 THE COURT: -- thought we had that discussion
17 already.

18 MR. PAGE: Prior -- prior to the trial, I don't have
19 a recollection. That's why I was a bit puzzled when it was --

20 THE COURT: I knew you --

21 MR. PAGE: -- being brought up after in early
22 November or late October. I think it was Halloween we had our
23 last day of trial. And when you were giving your decision
24 from the bench, I think at that time -- I was a bit puzzled at

1 that time because of that.

2 THE COURT: Bef -- don't you believe before the
3 evidentiary hearing, you asked that point of clar --
4 clarification? You just made a verbal --

5 MR. PAGE: I don't recall. I have not --

6 THE COURT: Or you pointed it out?

7 MR. PAGE: I haven't reviewed the video record.

8 THE COURT: Let me know if you can remember that in
9 a prior pleading. It might have been in a pleading as well.

10 MS. ALLEN: What?

11 MR. PAGE: Well, he filed a pretrial memorandum
12 saying that that's a issue. Just because he filed a pretrial
13 memorandum saying that's an issue doesn't make it an issue.
14 You defined the issues and Judge O'Malley defined the issues.
15 This is what we have.

16 THE COURT: Okay. Well, I'll go with what you have
17 right now and then I'm going to hear from Ms. Allen. Okay.
18 Anything else?

19 MR. PAGE: And as far as the timing of the motion,
20 it's -- it's better that we do this now because I don't want
21 to harm any time deadlines that my client has. If I don't
22 file the motion and then this comes up at a later time, I do a
23 motion to alter or amend after another order is yet filed, the
24 argument's going to be is that I blown my time deadline. So

1 they really can't have it both ways. It's simply done out of
2 an abundance of caution to make sure my clients are preserved
3 regardless of the circumstances.

4 And I think this is certainly something that --
5 regardless of whether an order -- the minute order is filed or
6 there needs to be another order on file, which is going to be
7 the final order, these are things that can be considered and
8 addressed by the Court because I think for at least a good
9 number of these things, it's relatively straight forward that
10 some of these things are at variance -- what's in the record.
11 And I'd also think, as it relates to the retirement accounts
12 and the arrears, that well, it may be an issue that runs
13 counter to the existing statutes and case law.

14 THE COURT: Okay. All right. Yeah, read your
15 pleadings in your reply. Your opposition, Ms. Allen.

16 MS. ALLEN: Yes, and so just I'll go down. So with
17 regard to the custody issue, again, I wasn't on this case from
18 the beginning. So I come in at a very late time. As a matter
19 of fact, I showed up for trial if the Court remembers. But it
20 was my understanding that the parties had retained joint
21 physical custody of Nicholas until the point that we came in,
22 I think October 31st, and conceded it.

23 THE COURT: Just had those minutes up. 10/31/16
24 Halloween, 9:00 a.m.

1 MS. ALLEN: We conceded it. And so I appreciated
2 that he says the child had been with Mom, but there was no
3 temporary order in place. There was no -- the Court saying --
4 giving a temporary joint -- or temporary primary physical to
5 Mom or anything. It was joint until that point in time.

6 THE COURT: Correction, if you look at the August
7 2015 minutes with O'Malley, it says the party -- this Court
8 has tempor -- temporarily resolved --

9 MS. ALLEN: Okay.

10 THE COURT: -- the custody -- let me read it to you.
11 It says -- the fine print is so small. Okay. I just saw it.
12 Oh, that's not the one. Okay. Oh, it is. Hang on, let me
13 get there. Let me get there. There it is. Item -- it's in
14 the top of the minutes. This Court has temporarily resolved
15 Nicholas issues. Court stated parties agreed to the
16 following. Two children in the matter, joint legal of both.
17 Respect to Richard will have shared physically -- physically
18 -- no, physical, there's a typo, custody on an alternating
19 weekly basis. And Richard will have discretion on attending
20 events but he will be with Dad on Dad's weeks. Temporarily
21 Mom will have primary custody of Nicholas reserving Da --
22 Plaintiff, Dad, and Mom to re-litigate once there is
23 substantive progress with the new therapist.

24 MS. ALLEN: Which none of that has been done. By

1 the way, to this date --

2 THE COURT: Yeah.

3 MS. ALLEN: -- Nicholas still hasn't been --

4 THE COURT: Mom took temporary primary August 28,
5 2015. That was with O'Malley. And then 12/31 -- 12/1/16 --
6 I'm sorry, 10/31/16 you made a stipulation for permanent joint
7 with Richard. Keep that the same. And then Nicholas was
8 referred Keisha Weiford or Nick Ponzo. And --

9 MS. ALLEN: Which none of that --

10 THE COURT: -- we did some interim calculations on
11 10/31/16.

12 MS. ALLEN: None of the counseling by the way has
13 happened. Nothing.

14 THE COURT: I know.

15 MS. ALLEN: Right, so --

16 THE COURT: And Mom would have permanent primary of
17 Nicholas but would have been as of 10/31/16.

18 MS. ALLEN: Right, and we agreed to that. We said
19 -- we came in and signed but we wanted the counseling.

20 THE COURT: But there was an acknowledgment on
21 8/22/15 that Mom would have the temporary primary. If that
22 was acknowledged, then for sure you would get child support
23 from August 2015 --

24 MS. ALLEN: And --

1 THE COURT: -- forward.

2 MS. ALLEN: And the child support is what the child
3 support is but -- but to co -- so the last time we were here,
4 just -- this is my irritation and hence the snarkiness in my
5 motion, which by the way, Mr. Kilgore had nothing to do with.
6 That was all me.

7 THE COURT: I suspected that.

8 MS. ALLEN: We -- we come back -- this is why I -- I
9 truly did quit litigating in -- in Family Court because we
10 just come back like weekly. It's just a constant series of I
11 -- I don't like it so I'm going to do this, I don't like it so
12 I'm going to do -- I -- it just -- it gets old. The Court --

13 THE COURT: Well --

14 MS. ALLEN: -- makes a ruling. This is how it
15 works.

16 THE COURT: And that's what sanctions rule 11, 37
17 are.

18 MS. ALLEN: But this is how it works generally. You
19 -- you file your motions, you go to trial, the Court or the
20 jury makes a decision, there's an order, and then you appeal
21 it, right? We don't come back 54 ways of Sunday.

22 THE COURT: There's NRCP -- what is it?

23 MR. PAGE: 52.

24 MS. ALLEN: So --

1 THE COURT: 52, motion to amend.

2 MS. ALLEN: So but with regard to the child support
3 issue, he keeps saying Mr. Kilgore -- that -- that wasn't an
4 issue at trial. Right? We keep -- the -- this -- this
5 constantly comes up. And I'm -- at least I'm willing to get
6 up and say, you know what, the child support is what the child
7 support is with regard to Nicholas and that issue. And that's
8 fine. Whatever the Court deems reasonable with regard to the
9 fact that there was a temporary order for custody of Nicholas.

10 But he -- the -- the reason why we're back in court
11 is my client loses his job in October of 2014. He loses his
12 job. And as a result of that, he asked for a modification.
13 That -- that issue was never decided. We -- like there was
14 never any finality on that decision. And Mr. Page just keeps
15 whining about the fact that it wasn't part of it. It was in
16 his pretrial memorandum.

17 But let's ignore the fact that it's in his pretrial
18 memorandum and let's talk about the -- what day of -- of
19 testimony that we had about my client's job and what he did,
20 you know, to try to like stave off the bleeding because he
21 didn't have an income. And the fact that he, you know, he
22 appealed it and all these things. Why would we discuss in any
23 manner, shape, or form, right, his -- his job and why he lost
24 it and what he did to try to get other employ -- why would we

1 discuss any of that if child support was not an issue? That
2 is the most ridiculous thing I've ever heard in my life.

3 Child support was absolutely an issue in this case.
4 And the fact that Mrs. Kilgore is unhappy that she came out on
5 the losing end of the child support issue, give me a break.
6 My client owes her, what, 50 some thousand dollars from his
7 retirement, which this -- this only serves to make me even
8 more irate.

9 He -- Mr. Page actually says the longer Mr. Kilgore
10 works, right, the longer she suffers. So my client's not
11 supposed to work anymore? That is the most ludicrous thing I
12 think I've ever heard next to the child support argument.
13 This is -- this is ridiculous.

14 This woman is making more money than my client is.
15 And now she wants to go into and get a judgment on his -- on
16 his paycheck, complaining because the Court stayed the
17 judgment? So she goes in and she's allowed to garnish his
18 wages? What is supposed to do? Live in a box? That's
19 essentially what she wants. My good friend, John Grays (ph),
20 once told me that the -- the way that family court works is
21 if, you know -- if you run over them with a semi, they want
22 you to back over them a couple of times because they're not
23 happy until there's blood everywhere.

24 THE COURT: Let's stick with the facts in this case

1 and the procedural history.

2 MS. ALLEN: Well, Your Honor --

3 THE COURT: And I've heard everything you said,
4 obviously. And -- and it's --

5 MS. ALLEN: The reason why -- and I'll tell Mr.
6 Page. The reason why the Court set the end -- or January is
7 -- is the date for the child support -- he said it should have
8 been I think February.

9 THE COURT: Let me -- let me --

10 MR. PAGE: It should have been -- you said February,
11 it should have been January.

12 THE COURT: -- put this in perspective here.

13 MS. ALLEN: Yeah, the reason the Court -- well the
14 reason --

15 THE COURT: The December 1st, 2016 court minutes
16 says we will supercede anything on 10/31/16. And this is the
17 part that they want amended. Item three of the 12/1/16
18 minutes, for December 2014 to January 2016, Mom and Dad
19 continue to maintain joint physical custody of the children.
20 That's on me, I wrote that.

21 If you look at the August 2015 court minutes with
22 Judge O'Malley, there is a reference there that says
23 temporarily resolve -- this Court has to tempor -- there's
24 typos. This Court probably says has to temporarily resolve

1 the Nicholas issues. They agree joint legal of both, continue
2 to have shared of Richard. And then Mom would have temporary
3 primary. Now that Court made -- Judge O'Malley made that
4 finding on August 2015.

5 Mr. Page's argument is basically he's telling the
6 Court maybe the Court kind of missed the boat on that on
7 August 2015. Until that next issue -- the same issue was
8 brought up a year and like two months later.

9 MS. ALLEN: Okay.

10 THE COURT: 10/31/16 permanent primary physical
11 custody of Nicholas to Mom --

12 MS. ALLEN: And --

13 THE COURT: -- but has anything changed? We --
14 everybody knew of Nick that Mom had primary of Nick from
15 August 2015. So yes, it's kind of --

16 (COUNSEL AND CLIENT CONFER BRIEFLY)

17 THE COURT: You know, this is where Mom wants to
18 recoup the money from August 15, 2015 until 10/31/16, but my
19 calculations in item three was joint physical from December
20 2014 to January 2016. It's kind of like it's on the tip of
21 your nose. You can't -- you can't ignore it. And what am I
22 supposed to do with that?

23 MS. ALLEN: I just -- no, Your Honor, I just said --

24 THE COURT: And he wants me to correct a substantive

1 error.

2 MS. ALLEN: I just said it is what it is. If that's
3 the case -- again, I wasn't part of this case.

4 THE COURT: Then we do -- we got to redo the
5 calculations.

6 MS. ALLEN: And if that's what he -- that's what he
7 wants to correct, I have no problem with it.

8 THE COURT: I'll tell you right now, this case was
9 kind of a -- and not in any derogatory way, it was kind of a
10 mess. My court clerk couldn't even figure out how to write
11 the court minutes. So I took full responsibility and I wrote
12 these court minutes. And I spent hours and hours --

13 MS. ALLEN: Sure you did.

14 THE COURT: -- weekends on it trying to make sure I
15 got these calculations correct and the time periods. Now, for
16 clarity's sake, Mr. Page pointed that out, I'm always
17 cautious. I'm like okay, why you bring this back again. Same
18 way you felt about that, but I -- I'm looking at it. And I'm
19 kind of asking Counsel put their heads together and say is
20 anybody on notice or does this -- these temporary orders
21 indicate some kind of defacto. And it was an agreement and
22 it's in the minutes. The minutes are kind of -- protect the
23 record on that.

24 So what we're fighting over here is August 2015 Mom

1 had primary. So she wants a Wright vs. Osburn on Richard and
2 she wants 18 percent from Dad based on whatever his income was
3 deemed to be for these months, 8/15 until the final, final
4 order on 10/31/16, which pretty much is 8/15 -- August 2015
5 all the way to the present.

6 MS. ALLEN: Which is fine.

7 THE COURT: But I --

8 MS. ALLEN: And again, I didn't -- I'm not --

9 THE COURT: I'm looking to see if I miscalculated
10 item three on 12/30 -- 12/1/16 where I declare them to be
11 joint physical custody of the children. What I was thinking
12 at that time was -- was there a motion -- was there a motion
13 before me? Or when did the actual request come on board? But
14 it looks like the record appears to be more -- more -- the
15 record appears to be more logically clear there that Mom had
16 primary from August 2015 forward.

17 MS. ALLEN: And we -- that's fine. I -- again, that
18 -- it is what it is with regard to the minutes. I am -- I --
19 that's -- if that's what it says, that's what it says.

20 THE COURT: You just got to do recalculation.

21 MS. ALLEN: And then it needs to be recalculated but
22 all this other stuff that he brings up, this is all the other
23 -- the stuff that he argued before. Meanwhile, as of March
24 15th, D.A. Family Support is still taking \$1500 out of my

1 client's paycheck because we don't have a final order in this
2 case.

3 THE COURT: It says Attorney Allen prepare the
4 order.

5 MS. ALLEN: It is. I prepared it, I sent it to Mr.
6 Page about a week ago. What had happened was --

7 THE COURT: December? It's now Mar -- end of March.

8 MS. ALLEN: There was -- right, but what had
9 happened was, Your Honor, I -- we waited. As a matter of
10 fact, Mr. Page contacted me and he goes --

11 THE COURT: Yeah.

12 MS. ALLEN: -- why haven't you done the order. And
13 I said I don't have the minutes because I didn't at the time.
14 I got them about a week later but --

15 THE COURT: If I draft this, we put them in your
16 attorney folders the same day.

17 MS. ALLEN: I don't have an attorney folder.

18 THE COURT: What?

19 MS. ALLEN: I don't have one.

20 THE COURT: Okay.

21 MS. ALLEN: I don't --

22 THE COURT: Well, my girls should have figured that
23 out. If there's no attorney folder, it should be faxed or
24 emailed to you.

1 MS. ALLEN: It -- I believe it was emailed to me at
2 some point. So, but --

3 THE COURT: The girls might have an email limit.

4 MS. ALLEN: -- in our conversations, I think there
5 was a misunderstanding on my part because I thought Mr. Page
6 was doing it but I realized he wasn't. I prepared.

7 THE COURT: Unh-uhn (negative). Well, let me see.

8 MS. ALLEN: And I did a detailed --

9 THE COURT: I thought you were supposed to do it.

10 MS. ALLEN: In my conversation with him.

11 THE COURT: Oh okay. Understood.

12 MS. ALLEN: I -- it was a mistake on my part. So I
13 -- I went through and I did it. And I sent it to him last
14 week. And I said look at it in comparison with the notes and
15 tell me if you want any changes to it aside from the fact of
16 what you're re-litigating.

17 THE COURT: Minutes say attorney Allen prepare the
18 order and the D.A. order.

19 MS. ALLEN: And I didn't get any response from him.

20 THE COURT: Okay.

21 MS. ALLEN: So there's an order. There's -- I did a
22 detailed findings and order. I did --

23 THE COURT: Well, you just had to block and copy and
24 then convert that to an order. That's it, it's all specific

1 in there.

2 MS. ALLEN: Well, I change -- I -- I'm --

3 THE COURT: Just fine. Okay.

4 MS. ALLEN: I -- I -- anyways, I -- whatever. I --

5 I --

6 THE COURT: You see how lengthy that was.

7 MS. ALLEN: It was -- it was fixed and I did -- and

8 I did it. And I sent it over to him.

9 THE COURT: Okay.

10 MS. ALLEN: So --

11 THE COURT: Neither here nor there but anyway --

12 MS. ALLEN: So there -- there needs to be --

13 THE COURT: Where's the order now?

14 MS. ALLEN: What?

15 THE COURT: Where's the order now?

16 MS. ALLEN: I gave it to him.

17 THE COURT: You have it, Mr. Page?

18 MR. PAGE: I have it.

19 THE COURT: And any issues with it? Is it verbatim

20 from the minutes?

21 MR. PAGE: I have --

22 THE COURT: She might have tweaked a few things.

23 MR. PAGE: I have not done a compare and contrast

24 with the minutes as of yet.

1 MS. ALLEN: But so --
2 THE COURT: Okay.
3 MS. ALLEN: My client is --
4 MR. PAGE: I mean, I -- I was in --
5 THE COURT: I know, I wrote a lot there and takes
6 time.
7 MS. ALLEN: So he's putting the money in her account
8 as -- as per the --
9 MR. PAGE: No, he's not.
10 MS. ALLEN: -- court order for the --
11 MR. PAGE: No, he's not.
12 MS. ALLEN: -- for the -- what -- what do you call
13 it? The PERS, the retirement. And then --
14 THE COURT: The 350 a month. Yeah.
15 MS. ALLEN: Well, no, he minused the -- because
16 they're -- they're taking 1500 out of his check --
17 THE COURT: I got to figure what that --
18 MS. ALLEN: -- for child support.
19 THE COURT: Yeah, I got to figure what the math is.
20 MS. ALLEN: So he is minusing that from the -- from
21 the --
22 THE COURT: Because D.A. don't have that order to
23 put him on --
24 MS. ALLEN: And I just called them.

1 THE COURT: What's the final?

2 MS. ALLEN: And that they won't do anything without
3 an order.

4 THE COURT: Where's he at now? What's his like
5 current? 350 on that one.

6 MS. ALLEN: 1292.

7 THE COURT: Is it 1292? They're taking too much.

8 MS. ALLEN: Right, and they won't do anything
9 without an order. And so I need to get a final order in this
10 case for a number of reasons. Number one is this needs to be
11 fixed. Number two, there's an appel -- there's a very large
12 appellate issue here on the -- on the retirement that -- and
13 -- no disrespect --

14 THE COURT: It could have been a case of first
15 impression.

16 MS. ALLEN: -- to the Court. I believe you did
17 exactly what you were supposed to do per the statute but I
18 think my client has a substantial appeal here. And he wants
19 to get moving on that.

20 THE COURT: We talked about that. This might be the
21 first case that might --

22 MS. ALLEN: Right.

23 THE COURT: -- have a ruling on the Supreme Court.
24 Okay. Well, based on --

1 MS. ALLEN: So I just need the recalculation on the
2 child support for Nicholas.

3 THE COURT: Number one, if it appears to me, I can't
4 ignore -- I can't ignore the obvious. And it's not just one,
5 but two sets of court minutes where it indicates Mom did have
6 primary of Nicholas from August 2015 forward. For the time
7 period August 2015 until -- let's see. I calculate until
8 January 2016. That -- we have to do the -- the calculation on
9 that. So that's how many months? August 2015 until -- I'm
10 trying to save my number three on my court minutes because I
11 did it from 12/14 to January 16. So it actually would --

12 MS. ALLEN: Oh, yeah.

13 THE COURT: -- be 12 -- December 2014 until July
14 2015.

15 MS. ALLEN: And he was unem --

16 THE COURT: And then there's a time period from
17 August 2015. So when did I start -- in February 2016, we did
18 Dad's income, but where did I make the indication of the
19 change in cus -- I think I indicated the change of custody
20 occurred on October 2016 when it shouldn't --

21 MS. ALLEN: Right.

22 THE COURT: -- have been joint.

23 MS. ALLEN: But, Your Honor, just keep in mind that
24 my client was unemployed all those months.

1 THE COURT: What did I do?

2 MS. ALLEN: But my client was unem --

3 THE COURT: That -- that's early 2016. That's when
4 he tried -- he came in and made the request to the Court to
5 readjust the child support. I have here on item five -- on
6 July 2016, I did these calculations to joint of Richard.

7 And then -- but did I put Mom -- I did put Dad on 18
8 percent for Nicholas. So that was an acknowledgment. I
9 believe that looks like an acknowledgment in my calculations
10 that Dad was paying for primary to Mom of Nicholas. And then
11 I subtracted the amounts on item five of my December 1st, 2016
12 court minutes. So something happened there.

13 So what was the time period? From February to June,
14 Dad would pay 18 percent for Nicholas. Well, this is -- this
15 is kind of promising because I did put Dad on 18 percent for
16 Nicholas, which was an acknowledgment of custody. So that --
17 that shortens your time period of the recalculations, Mr.
18 Page, from August 2015 I believe until January 2016. All
19 right. So thank goodness we only have to do August,
20 September, October, November, December, and January. That's
21 six months where I would have to just apply the item four from
22 February 2016. I had Dad at -- what -- there was a change of
23 his income. You got your job back --

24 MS. ALLEN: He got his job back.

1 THE COURT: -- in January, February 2016.

2 MS. ALLEN: He got it back --

3 THE COURT: So --

4 MS. ALLEN: -- at the end of January of 2016.

5 THE COURT: August 2015 until January 2016, you were
6 unemployed. Then I have to put you on primary of Nicholas at
7 a hundred and then Mom would pay you. And then you do the
8 shared. And then we -- and we just do the difference with
9 Mom's because she's got the bigger amount. You guys could sit
10 down and do that. I mean, I don't like to do math. I have to
11 sit down and do that kind of math. It's determinable because
12 I already determined it. It says Mom's 25 percent would have
13 been 1170. So what you do is you just do the -- for the
14 Richard, right? And then Dad would have been not 200, but
15 100. So you do 1070 for -- for the Richard. And then for the
16 -- the Nicholas, Mom -- Dad would be paying 100, isn't that
17 correct? Because he's got -- Mom's got primary.

18 MS. ALLEN: Yeah.

19 THE COURT: So isn't that 970?

20 MS. ALLEN: Mom -- so Mom -- during that time
21 period --

22 THE COURT: And you what? You know what amount came
23 out on -- on that anyway was 970? Is that weird? But it says
24 970. And then subtracting the 213 for Mom providing health

1 insurance, Mom would pay -- it should have been 970 minus --
2 Mom would get a discount of 213, right? So Mom would be kind
3 of on the hook for 757. And I put 757 per month times 13
4 months for that time period. Dad should have received from
5 Mom the amount -- for some reason, the -- the math is still
6 the same. 9841 on item three of the court minutes. Is -- the
7 math still came out the same the way I applied it because he
8 was on unemployed rate.

9 MR. PAGE: He was unemployed but also he didn't
10 resume employment end of January. He resumed employment
11 January 4th at -- at worst.

12 MS. ALLEN: And -- and Your Honor, actually it kind
13 of was at the end of January but even if it wasn't, the Court
14 didn't give him credit for 0 -- October 2014. You said
15 because of when he -- when he was terminated on -- in October
16 of 2014 and when he resumed in January --

17 THE COURT: He didn't get paid.

18 MS. ALLEN: -- of 2016, it -- it made it a wash.

19 THE COURT: It kind of washed it off.

20 MS. ALLEN: So you didn't give him credit for
21 October of 2014 and she doesn't get January. And that was --
22 that was the -- the sort of give and take that the Court did.

23 MR. PAGE: The -- I -- there was no such statement
24 referenced that the Court ever made such a statement. The

1 reality is --

2 THE COURT: Honestly, I can't remember it. Sounds
3 familiar, but I can't remember it.

4 MS. ALLEN: I re -- I distinctly remember the Court
5 saying in your -- in your --

6 THE COURT: Yeah, which hearing?

7 MS. ALLEN: -- monologue.

8 THE COURT: Which court minutes?

9 MS. ALLEN: But you said basically, you know, you --
10 you terminated in sometime in October and resumed sometime --

11 THE COURT: Cheap --

12 MS. ALLEN: -- in January so we're going to make
13 those a wash.

14 THE COURT: The cheapest way to find out is to go
15 get -- get the video cite.

16 MS. ALLEN: So we started it in November of '14 to
17 February.

18 THE COURT: Sounds familiar.

19 MR. PAGE: There is no factual dispute that his
20 implement restarted in January 4th. Therefore his higher
21 child support amount should commence in January. There is a
22 definite factual dispute that the Court ever made such a
23 statement for analysis.

24 MS. ALLEN: Then let's go back and we'll do -- we'll

1 give him the entire month of October of 2014 because that's
2 when he lost his job. That's fair. I have no problem with
3 that.

4 THE COURT: What did I put you on for October 2014?
5 Do you remember?

6 MR. PAGE: There's no -- there's nothing in the
7 record that his child support --

8 MR. KILGORE: It was October 14th.

9 THE COURT: Did I put you on full child support?
10 And you got -- you got -- didn't get any pay on October -- the
11 whole month of October?

12 MR. KILGORE: No, I was terminated. And I was up
13 until --

14 THE COURT: Early October? You were terminated
15 early October?

16 MR. KILGORE: October 14th.

17 THE COURT: And then the court order was put -- you
18 paid the full child support in October?

19 MR. KILGORE: I -- you never modified it throughout
20 the whole --

21 MS. ALLEN: Process.

22 MR. KILGORE: -- procedure.

23 THE COURT: Yeah.

24 MS. ALLEN: This was never modified the whole time.

1 MR. KILGORE: It was never modified. I paid 1500
2 until I couldn't pay it no more.

3 THE COURT: Sounds like a wash to me.

4 MR. PAGE: The motion was not filed until November.

5 THE COURT: You think it might be on a video record
6 where we discu -- your attorney argued that?

7 MR. KILGORE: It was --

8 THE COURT: To just wash out that --

9 MR. KILGORE: I think it was --

10 THE COURT: -- the October and the January?

11 MR. KILGORE: November when we filed for a motion.
12 Our first court date was in December, I believe.

13 MR. PAGE: The law under Day in this case would be
14 child support once accrued is non-modifiable. We're unable wa
15 -- wipe it out retroactively particularly since we already
16 filed --

17 THE COURT: You really want to get technical, you
18 look at the due date on the decree and find out when the due
19 date would have been.

20 MR. PAGE: The due date would be the 1st.

21 THE COURT: But then if I -- but then -- but then if
22 he was terminated early October and I did -- and he did pay
23 the full child support -- okay. 2014. The question is he
24 couldn't get to court until January 2015. I think that's when

1 he started his child support reduction motion.

2 MS. ALLEN: He -- no, he held --

3 MR. KILGORE: No, it was in --

4 THE COURT: Or he filed right away.

5 MR. PAGE: It was at the end of December.

6 MR. KILGORE: It was in December.

7 MR. PAGE: End of December.

8 THE COURT: Under Ramaciotti, you -- you start from

9 the date that you filed the motion. We can't do any

10 retroactive --

11 MS. ALLEN: Right, and we di -- but the -- the -- he

12 didn't resume work though until like middle of January. And

13 so that's --

14 MR. PAGE: It was January 4th. We all know this.

15 THE COURT: No, he was like he didn't --

16 MR. PAGE: He testified to it.

17 THE COURT: -- the job back -- he was like over a

18 year.

19 MS. ALLEN: Yeah, he was over a year.

20 THE COURT: It was like over a year.

21 MS. ALLEN: Yeah, absolutely.

22 THE COURT: You know, what happens to these dads

23 when they file these, they get terminated early October. What

24 you got to do -- and they don't know that. A lot of them

1 don't know that when they don't have counsel available at all
2 times. They wait until like two months down the road. Oh, I
3 better file a motion. Then they don't know the
4 non-retroactivity application. We cannot retroactively apply
5 and give you any credits but then the moms get to keep the
6 child support even though you weren't earning the money defacto
7 wise.

8 It's -- it's kind of -- I don't want to say flaw in
9 our system but that's the Day vs Day case. You see what I'm
10 saying? If you knew you got terminated like October 4th, you
11 should have been filing in court October 5th to preserve your
12 rights to be off the hook on -- kind of on October. Not for
13 the child -- full child support but on the unemployed rate.
14 It's a terrible consequence, isn't it? Well, at least for
15 him, not for Mom. She would be entitled to the money. One
16 way to look at it is to view it under that theory of Day vs
17 Day, no retroactivity.

18 MR. PAGE: Correct.

19 THE COURT: So you would have to find out when he
20 made the -- just take a look at when he filed his motion.
21 Soon as he found out he got terminated October -- because he
22 got terminated after the settlement conf -- no, before. He
23 got terminated -- wait a minute. Oh, I got logged out. When
24 did he file his motion after he -- 2014?

1 MR. PAGE: I don't --

2 THE COURT: I just logged myself -- I got logged out.
3 I hate this system. One, I could suggest go find the video
4 cite. You got a lot more free time than I do. And tell me
5 where I said I'll wash out January and October. Two, we can
6 go back and look at when he filed his motion and then apply
7 Day vs Day, no retroactivity. If --

8 MS. ALLEN: It would have been in October.

9 THE COURT: And I don't know what the result would
10 be because now you're opening up a can of worms or I'm
11 confirming that -- 10/21? He did come back right away. So he
12 -- about two and a half weeks later he came back. He knew to
13 file the motion.

14 MS. ALLEN: Hm?

15 THE COURT: He knew to file the motion. So if I say
16 he filed in that month, then he would get the retroactivity
17 for that month.

18 MS. ALLEN: He filed it 10/21?

19 THE COURT: According to motion to reduce child
20 support. That's why I write this down.

21 MS. ALLEN: I know that when the Court said that
22 about washing out October and January, it was October 31st.

23 THE COURT: The Court -- the minutes?

24 MS. ALLEN: Well, I don't know if it was in the

1 minutes. I know it will be on the video. I know -- I
2 remember the Court saying that. I -- there's no place I would
3 have gotten that other than you saying that.

4 THE COURT: Beginning 2014, Mom's child support was
5 set at 950 based on joint physical custody. And I ran it
6 through January 2016. I redid it so I ran it only until
7 August 2015 where they would have the benefit of joint. And
8 then 2015 -- August 2015 forward, I did the primary, which
9 would have been a hundred from Dad. It would be a straight
10 100 from Dad. And then you do the Wright v. Osburn for
11 Richard and then you subtract the -- I'm sorry, you don't
12 subtract, you add the hundred. You're fighting about a few
13 hundred dollars here.

14 MS. ALLEN: Right.

15 THE COURT: August 2015.

16 MR. PAGE: Additional issue here. Was -- was Dad
17 receiving unemployment from the State of Nevada during this
18 time as well?

19 THE COURT: August 2015 we knew Dad was unemployed.
20 Couldn't work. So --

21 MR. PAGE: And -- and receiving unemployment.

22 THE COURT: For the months of August, September,
23 October, November, December, January -- no, December --
24 January you said he got his job back? Or no, you want to

1 start a -- if I included January, August, September, October,
2 November, December, January, it's six months at a hundred
3 dollars that \$600 would go to Mom but then Mom would be pay
4 Dad the 1170 minus Dad's 100 for Richard. So that would be
5 1070.

6 MR. PAGE: You're not taking into account the caps.

7 THE COURT: 1070 -- no, Mom wouldn't be capped out.

8 MR. PAGE: Yes, she would be capped out because it's
9 a straight 18 percent -- I'm sorry, it would be -- you --

10 THE COURT: Wait.

11 MR. PAGE: -- offset the new account.

12 THE COURT: Well, yeah. No. What you do is you
13 take 25 percent of Mom's which was the 1170. I don't cap it.
14 It's 25 percent.

15 MR. PAGE: But you first -- first you offset and
16 then you cap.

17 THE COURT: Right. Wesley v. Foster.

18 MR. PAGE: Right.

19 THE COURT: You take 25 percent of Mom's for
20 Richard, 25 percent of Dad's which would have been the 200.

21 MR. PAGE: 1070.

22 THE COURT: 1170 --

23 MR. PAGE: And you cap.

24 THE COURT: -- minus 200 is 970. Mom's paying for

1 two kids. You don't -- there's no cap of like 430 -- 485
2 or --
3 MR. PAGE: If Mom --
4 THE COURT: -- 495.
5 MR. PAGE: If Mom is at 5,000 -- say Mom is
6 hypothetically at \$5,000 per month. If you do the Wright vs.
7 Osburn --
8 THE COURT: Oh, you --
9 MR. PAGE: -- calculation --
10 THE COURT: -- you --
11 MR. PAGE: -- as modified by Wesley vs. Foster.
12 What we should be doing is once we determine what Mom's amount
13 is, then you apply the cap so then it should be whatever --
14 THE COURT: I don't know where you're coming with
15 that --
16 MR. PAGE: -- one of the presumptive --
17 THE COURT: -- fuzzy math. You take -- you let 25
18 percent, 1170, okay, is Mom's. Then you take 200 for Dad's
19 unemployed on -- for Richard, you get 970. You get 970.
20 That's Wright vs. Osburn. You don't -- you -- you don't cap,
21 because Mom -- Mom is at 11 -- 1170. You do it before you
22 cap. But if Mom's obligation is 970, there is no way she be
23 capped out at two kids based on that income back in 2014,
24 2015. The caps were like six something, five --

1 MR. PAGE: Right.

2 THE COURT: -- something.

3 MR. PAGE: But that's -- because if -- if Mom --
4 because of Ms. -- in that situation, if they're -- if -- if
5 just Richard exists and Mom is paying child support to Dad
6 because he's unemployed, she would be paying more than if he
7 has primary physical custody. That's obviously a result --
8 it's not intended by the Nevada legislature. That's --

9 THE COURT: I'm just doing what the case law is
10 telling me to do.

11 MR. PAGE: You offset, then you cap. The cap should
12 for -- Mom should be whatever it is for 670 for her income
13 bracket --

14 THE COURT: Well, her --

15 MR. PAGE: -- for Richard.

16 THE COURT: -- 25 percent was 1170. I don't know.

17 MR. PAGE: I'm sorry, say that again?

18 THE COURT: Her 25 percent for two kids was 1170.

19 MR. PAGE: Oh, I thought you're talking about one
20 kid. I'm sorry. I thought you were saying about Richard and
21 Nicholas --

22 THE COURT: Oh, no.

23 MR. PAGE: -- was out of the equation.

24 THE COURT: We're talking about the calculation --

1 MR. PAGE: Okay.
2 THE COURT: -- for Richard.
3 MR. PAGE: Nevermind then.
4 THE COURT: Yeah, it would be --
5 MR. PAGE: Nevermind.
6 THE COURT: -- 25 percent.
7 MR. PAGE: Okay.
8 THE COURT: I follow you.
9 MR. PAGE: Okay.
10 THE COURT: Okay. So it's 970, but then she's also
11 paying health insurance.
12 MR. PAGE: Yeah.
13 THE COURT: Right? So you take -- what you have --
14 you have to do is take 970 and then that would -- Mom would
15 pay Dad and then you take back out 213. So for -- you back it
16 out because she gets the discount, he's at 757. If you look
17 at my court minutes, there's a number there of 757. So it
18 appears the math is kind of still good. For some reason,
19 that's how it turned out. Maybe it was just worded wrong, but
20 I think that was my intention. Call it what it is. I did
21 knew -- I did -- I did make Dad pay the 18 percent for
22 Nicholas on that 100. So 757. And then Mom to Dad. And then
23 Dad has to pay Mom a hundred for Nicholas. So it would be --
24 wouldn't it be like 657? Because if she gets a further

1 reduction because Dad would owe her for Nicholas. So yeah,
2 maybe you got to have a working session to recalculate this
3 and put our heads together and make sure.

4 MS. ALLEN: I -- I really --

5 THE COURT: It appears to me --

6 MS. ALLEN: The -- the Hearing Master is going to
7 continue to -- to take out the wrong amount until we -- we
8 figure this out. That's the only -- and the other part of
9 this is --

10 THE COURT: I got to get you back right -- in right
11 away. And I can't do this in the middle of my morning
12 calendar.

13 MS. ALLEN: I -- I can't either.

14 THE COURT: I need a half a day --

15 MS. ALLEN: I'm --

16 THE COURT: -- with you guys to run this math
17 month-by-month.

18 MS. ALLEN: My kid just text me. I need to get
19 something to one of my kids. But I -- but I need to get this
20 figured out, because the Hearing Master not only has -- is --
21 continuing the 1500, they have not taken that suspension off
22 of my client's record, so he's still paying more in insurance.
23 And he has this appeal issue that he wants to get moving on.

24 THE COURT: And why don't you just maybe just -- do

1 you have a half day available?

2 MS. ALLEN: Because I -- and the thing is I know
3 that Mr. Page and his client want the PERS issue settled at
4 some point and going up on appeal potentially can do that.
5 And so --

6 THE COURT: I'm like in the next couple of weeks. I
7 know.

8 MR. PAGE: Also while you're looking at that here,
9 an issue that's a -- an initial of -- issue of complication is
10 that Mr. Kilgore should have been receiving --

11 THE COURT: Well --

12 MR. PAGE: -- unemployment from the state of Nevada
13 during a portion of time he's unemployed. I don't believe
14 that's ever been taken into --

15 THE COURT: You're going to need --

16 MR. PAGE: -- consideration.

17 THE COURT: -- me here. I mean, I would say Mr.
18 Page, Ms. Allen, sit down, just do the math. But you guys
19 might come up with a field of disagreements and I have to be
20 the one to put my foot down and say this is -- this is what --
21 how I made my order, yeah.

22 MR. PAGE: I mean, if I --

23 THE COURT: Okay. I don't think Mr. Page has, you
24 know, wasted my time in court here. I think I need -- might

1 have to do it, but it might be -- the calculations might shave
2 off a few dollars or it might just end up being the same
3 calculations, just I had the time periods wrong.

4 This was very difficult to write these court
5 minutes. I mean, my court clerk that was responsible for
6 these minutes, she's -- she's pretty sharp. And she -- and
7 literally, she watched the video six times. I watched it at
8 least three times so I can make sure -- and it was -- it was
9 just all over the place and I had to -- I had to make sure I
10 calculated these time --

11 MS. ALLEN: So --

12 THE COURT: -- periods.

13 MS. ALLEN: -- you want us to come back.

14 THE COURT: Huh?

15 MS. ALLEN: You want us to come back?

16 THE COURT: Yeah. We'll have to do it and I got to
17 make room for you guys. You know, right now I'm setting out
18 to end of August. That's how busy I am. Might have to do --
19 if I had my courtrooms on --

20 MR. PAGE: I've got trial that may settle at the end
21 of April.

22 THE COURT: Like how end of the April? Because --

23 MR. PAGE: The 27th.

24 THE COURT: -- I'm even cancelling conf -- the

1 District Judge's conference. I can't go because I'm so busy.
2 And I'm starting to fill those dates that I'm supposed to be
3 off and in -- in Reno. I'm filling those with trials and
4 orders shortening times. So I'm -- I'm not going to any
5 conferences this year.

6 I'm looking -- or what -- when in April?

7 MR. PAGE: I think there's a decent chance my
8 case --

9 THE COURT: I'm looking around --

10 MR. PAGE: -- trial for the 27th will settle.

11 THE COURT: The conference that I'm not going to is
12 maybe 19, 20, 21, I think. But then my girls have been
13 snapping up the dates. So I don't know what's been filled on
14 the calendar. So let me look. I'm going to try to -- maybe
15 try to look at April. Let me check with Susanna or get her on
16 the phone and find out which dates she snapped up.

17 What hours -- what's your schedules on like April
18 19, 20, 21? The Monday is the -- I think the Monday -- I'm
19 sorry, the Wednesday is the April 19th.

20 MS. ALLEN: I can do that. Well, I have an 8:00
21 o'clock in -- in -- at the RJC.

22 THE COURT: Do you want to do afternoon? I think --

23 MS. ALLEN: I'm theoretically scheduled to start --
24 to start a trial on the 17th in front of Kephart.

1 THE COURT: Tell her to pull up the calendar, like
2 the afternoon of the 18th or the 19th, maybe.
3 MS. ALLEN: Your -- Your Honor --
4 THE COURT: Because I don't know if we snapped up
5 the --
6 MS. ALLEN: I'm theoretically supposed to start a
7 trial on the --
8 THE COURT: When?
9 MS. ALLEN: -- 17th?
10 THE COURT: Oh, forget that.
11 MS. ALLEN: Like a criminal trial, so two weeks, not
12 just a day.
13 THE COURT: Those -- is that trial going to go 11 --
14 get continued to 11?
15 MS. ALLEN: I know. And I don't know. I can't --
16 but right -- as of right now, this is the second or third
17 setting and everybody is pushing to go forward, so I -- I
18 don't know.
19 THE COURT: You think it's going to go?
20 MS. ALLEN: I'm -- I'm trying.
21 THE COURT: I need a half day or at least two hours
22 with Kilgore.
23 THE CLERK: In the next week couple of weeks,
24 we're --

1 THE COURT: To do the math. I've got a trial this
2 afternoon, so I can't do it, I think. She's looking? She's
3 going to look.

4 MS. ALLEN: What about the 14th?

5 THE COURT: Wait, just to give you guys some
6 guidance, I mean, probably -- if I take a look at it, because
7 I can't say motion granted or not granted until I figure out
8 what the numbers are. We end up being in the same place or
9 we're just off by a few dollars, great. If parents do their
10 own calcula -- calculations and want to come up with their own
11 number, that's fine as well, but I have to do the math. I'm
12 responsible for it. So I need to sit down and put our heads
13 together and do that. So I can't say I'm inclined to grant
14 the motion, but it's worth a look.

15 MS. ALLEN: Well, but --

16 THE COURT: It's worth a look.

17 MS. ALLEN: -- part of the -- are you -- you're just
18 talking about the child's --

19 THE COURT: Yeah.

20 MS. ALLEN: -- re -- recal --

21 THE COURT: What I'm looking at -- yeah, for the
22 child support.

23 MS. ALLEN: Not the --

24 THE COURT: As far as the child support, it is --

1 was an issue. He had a pending motion. Whatever Sanchez --
2 I'm sorry, O'Malley wrote in her court minutes, even though
3 it's omitted in the court minutes, he had a pending motion
4 before me still at that time. We knew he lost his job in
5 2014. They settled with O'Malley in August 2015 and it was
6 still up in the air. So it doesn't say you closed the door on
7 it and then, you know, and it -- we've talked about it so many
8 times. I think there's no problems with the procedural due
9 process and the notice issue here that this was going to be
10 prepared for for trial.

11 MS. ALLEN: What about the --

12 THE COURT: We had this long --

13 MS. ALLEN: -- the stay on the collection on the
14 judgment for the PERS? The Court --

15 THE COURT: According --

16 MS. ALLEN: -- state --

17 THE COURT: -- to the rules, I made a stay of the
18 collection --

19 MS. ALLEN: Yeah.

20 THE COURT: -- with a 350 payment, otherwise he
21 won't be able to pay her -- his bills and we had a long
22 discussion about --

23 MS. ALLEN: Yes.

24 THE COURT: -- what's her budget and his budget.

1 Mr. Page is taking the position that once you get a money
2 judgment, and this is a division money judgment, not in the
3 nature of support, that becomes below nature of support. So I
4 want to make sure the support gets paid first. And then you
5 got to look at the bills, okay, and then if it's going to
6 result in the -- in the matter of nature of public policy that
7 a wage garnishment happens on his paycheck. He could face
8 eviction. He cannot be able to buy groceries. Theoretically,
9 okay. If the law is the law and it says he'll collect, they
10 can't take out more than 50 percent of your paycheck. They
11 will lien your house. I don't even think he -- I don't know
12 if he has a house.

13 MS. ALLEN: No.

14 THE COURT: They will do all of those things that
15 you do for execution.

16 MS. ALLEN: In addition to the fact that I believe
17 employment with the county or the city --

18 THE COURT: And you cited --

19 MS. ALLEN: -- if you have a wage garnishment, it
20 can get your terminated.

21 THE COURT: There's -- I don't know if it's a
22 specific rule or not -- rule or not if a judge has the
23 authority. If you feel that I do not have authority staying
24 executions of judgment because I've ordered -- a lot of judges

1 order it, make a hundred a month, won't charge interest as
2 long as you pay on time. If not, then you can -- you're more
3 than 30 days -- days late, go get the -- go -- go execute
4 under the law. Take up the 50 percent of the paycheck. Okay.
5 If this -- this conflicts, it's the same concept. I'm
6 putting him on installment payment plans.

7 But yeah, her competing consideration is this is
8 going to, balloon out and I don't know if I'm going to live
9 long enough to see that money that I've been entitled to from
10 the day you retired and this is the impact of why we're
11 talking about a new appeal case of the supreme court.
12 That's --

13 MS. ALLEN: Absolutely.

14 THE COURT: -- never been decided on.

15 MS. ALLEN: Absolutely.

16 MR. PAGE: Also, there's the retirement benefits
17 going forward. And yes, she is -- the more he works, the
18 longer she suffers, because this is her community property.

19 THE COURT: Yeah, I'm not --

20 MR. PAGE: It belongs to her.

21 THE COURT: There is no --

22 MR. PAGE: We can't take it away from her.

23 THE COURT: -- good argument. The constable, other
24 cases, they've taken out \$38,000 from a bank account and

1 people are like that's my savings. They come in here and they
2 fight about, you know, and then they settled out of court, but
3 it's -- it -- it's a harsh result, either way. They -- it's
4 catch 22. It's a catch 22 --

5 MS. ALLEN: Which is why I believe that --

6 THE COURT: -- for both of them.

7 MS. ALLEN: -- there needs to be --

8 THE COURT: Trust me.

9 MS. ALLEN: -- some sort of --

10 THE COURT: I mean --

11 MS. ALLEN: -- decision.

12 THE COURT: -- yeah, I'd like to get her -- get her
13 what -- there is -- do for her, but then I can't -- you know,
14 he can't up --

15 MS. ALLEN: On the street.

16 THE COURT: Exactly.

17 MR. PAGE: He can -- he can start taking his
18 retirement. He can take a different job. There are choices
19 available to him.

20 MS. ALLEN: You can't force someone to retire.

21 THE COURT: That's involuntary servitude to force
22 him to --

23 MS. ALLEN: Yeah.

24 THE COURT: -- get a second job.

1 MS. ALLEN: No.
2 MR. PAGE: It's --
3 THE COURT: We're dealing with the law.
4 MR. PAGE: It's not involuntary --
5 THE COURT: Right.
6 MR. PAGE: -- servitude. It --
7 MS. ALLEN: It is.
8 MR. PAGE: But she is entitled to her portion of the
9 community property. That is an absolute right.
10 MS. ALLEN: Yeah.
11 THE COURT: Right now --
12 MS. ALLEN: Maybe he has an absolute right to have
13 his job.
14 THE COURT: When we come back, we'll -- we'll have
15 time. If you want to do further briefing, if you tell me I'm
16 making an error on the law saying I don't have the discretion
17 to do the stay of execution, judgment is a property judgment,
18 it's a judgment, and then they will have to either file any
19 kind of emergency writ or something. But right now, I'm
20 leaning towards that I have the authority to do the payment
21 plans. But not -- I don't know how to make room for the child
22 support. He knows he's got to pay that off the top whether
23 his bills get paid or not. I -- that's my policy. You got to
24 pay the child support for --

1 MS. ALLEN: Is the -- is it possible the Court has
2 maybe the 13th or 14th available --

3 THE COURT: Of April? You're talking about Thursday
4 or Friday?

5 MS. ALLEN: Fridays are usually a little better for
6 me.

7 THE COURT: Yeah.

8 MS. ALLEN: I don't tend to have court on Fridays at
9 the RJC.

10 MR. PAGE: There is -- my client has plans for
11 Friday because that's when Spring Break starts. They are
12 going to --

13 THE COURT: Is that when Spring Break starts?

14 MR. PAGE: -- be traveling.

15 MS. KILGORE: For the whole next week we will not be
16 here.

17 MS. ALLEN: Spring Break's the 10th to the 14th.

18 THE COURT: So you said -- the 13th you said is a
19 Thursday?

20 MS. ALLEN: Yes.

21 MR. PAGE: 13th can possibly work.

22 THE COURT: My secretary is saying April 18th at
23 1:30, but that's your trial.

24 MS. ALLEN: And --

1 THE COURT: Your criminal trial.

2 THE COURT: -- you can set it, but with the
3 understanding that if -- if --

4 THE COURT: No. No. No. What -- I'm -- hang on.
5 Let me IM her back. I'm thinking -- there was just something
6 I saw here, the 12th, 11th -- the 12th? Well, there's trial
7 is there. No, the 13th.

8 MS. ALLEN: I can do the 12th or the 13th.

9 THE COURT: The 13th.

10 MS. ALLEN: In the afternoon -- but the afternoon.

11 THE COURT: What is 4/13? Hang on. What do I have
12 on the 13th? What do I have on the 13th? I have --

13 MR. PAGE: I'm sorry, but Your Honor --

14 THE COURT: So the --

15 MR. PAGE: -- my -- my -- Your Honor, my client just
16 told me she's going to be gone the week of the 10th through
17 the 14th.

18 MS. ALLEN: That's Spring Break.

19 THE COURT: I just had that date -- that date --
20 that trial went off. I had the date. Gone, like out of town?

21 MS. KILGORE: Yes. We already have plans and -- and
22 we have paid for everything for the kids.

23 THE COURT: You know what, I got to have Susanna get
24 with you guys. Does she have your cell phone numbers?

1 MR. PAGE: Yeah.
2 MS. ALLEN: Yeah.
3 MR. PAGE: She has mine.
4 MS. ALLEN: I'm assuming.
5 THE COURT: I don't have time. I -- she's going to
6 finagle a date for you guys, find you at least a two hour slot
7 somewhere.
8 MS. ALLEN: And just so the Court knows, just so you
9 know, I leave the 6th and come back the 10th.
10 THE COURT: 6th through 10 is a no for Ms. Allen.
11 MS. ALLEN: And I mean --
12 THE COURT: 10 through 14 is a no for Mom. How
13 about you, Dad?
14 MR. KILGORE: I'm open, Your Honor.
15 THE COURT: You're working.
16 MS. ALLEN: Here's the thing.
17 THE COURT: Okay.
18 MS. ALLEN: If -- if --
19 THE COURT: He's just --
20 MS. ALLEN: -- I mean --
21 THE COURT: -- like me. I'm just working.
22 MS. ALLEN: -- if we find something --
23 THE COURT: Yeah.
24 MS. ALLEN: -- if she calls me and finds something,

1 even if I'm in a jury trial, I can talk to Kephart.

2 THE COURT: This is what happens.

3 MS. ALLEN: I can talk to him and I can potentially
4 finagle like an hour to an hour and a half, like an extra long
5 lunch --

6 THE COURT: Tell you what.

7 MS. ALLEN: -- or something like that.

8 THE COURT: Save -- I'm going to tell Susanna save
9 4/18. If your child goes off on the 17th, we got 24 hours to
10 ask you guys to come in.

11 MS. ALLEN: That's -- I'm -- let me --

12 THE COURT: And call your clients.

13 MS. ALLEN: -- see, the 18th? Oh, sorry.

14 THE COURT: Save 4/18 afternoon, right?

15 MS. ALLEN: Yeah.

16 THE COURT: I'll have Susanna save it. By the 7 --
17 if the 17th you know, got to give -- call the parents.

18 MS. ALLEN: And honestly, I should -- in theory, I
19 should know by the 12th. That's our calendar call date. It's
20 a -- the Wednesday before. If you -- I'll tell you this. If
21 the Court -- if you can -- if you can get something on the
22 19th towards the morning time, Bill Kephart has criminal
23 calendars Mondays and Wednesdays and they go forever. He
24 won't start until 1:00 o'clock on Monday and Wednesday.

1 THE COURT: What did you say again, on the 19th?

2 MS. ALLEN: On the 19th, if you can do something in
3 the morning, I could -- you know, or -- because he -- his
4 criminal calendar --

5 THE COURT: Oh, he starts later?

6 MS. ALLEN: -- it -- I think his normal motion
7 calendar goes --

8 THE COURT: Yeah, but you got to hop on over to
9 another building. I don't want you to do that. Susanna will
10 tell you -- I said save 4/18 in the afternoon.

11 MS. ALLEN: Okay.

12 THE COURT: Your trial -- criminal trial might not
13 go. I told her to put a tickler on her calendar to call you
14 on 4/12 because you will know by then.

15 MS. ALLEN: I should know by then.

16 THE COURT: On -- on the availability. Oh, 4/17 is
17 available at 1:30. So 4/17 at 1:30, 4/18 at 1:30 --

18 MS. ALLEN: Okay.

19 THE COURT: -- is available by some miracle.

20 MS. ALLEN: If my trial doesn't --

21 THE COURT: It's my double stack. But you can be
22 the stack one. I have a stack two. I can make them a stack
23 one later.

24 MS. ALLEN: Okay.

1 THE COURT: So --

2 MS. ALLEN: So in the interim --

3 THE COURT: Let's work with that. 4/17 and 4/18,
4 both at 1:30, save.

5 MS. ALLEN: And Your Honor, and in the interim
6 because the D.A. Family Support is going to continue --

7 THE COURT: I'll have her ask you on 4/12.

8 MS. ALLEN: Yeah. They're going to continue the
9 1500, so my client -- the PERS payment is putting the money
10 and minus that amount. So he's putting 205 which is the 350
11 minus what the D.A. is taking on top of that. Does that make
12 sense?

13 THE COURT: What's your -- basically your bottom
14 line request here? Do you need to shave a few hundred off
15 because it's not --

16 MS. ALLEN: No. No. No. What I'm saying is the
17 D.A. is taking 1500 out of -- out of his paycheck and it's
18 over --

19 THE COURT: It's been always 1500 --

20 MS. ALLEN: Right.

21 THE COURT: -- for the last --

22 MS. ALLEN: But if that's over --

23 THE COURT: -- like I can remember.

24 MS. ALLEN: -- 200 -- what, 200 or --

1 MR. KILGORE: Yes.
2 THE COURT: 1292 is --
3 MS. ALLEN: Right.
4 THE COURT: -- 208.
5 MS. ALLEN: 208. So he's putting -- instead of
6 putting the full 350 in, he's subtracting --
7 THE COURT: The difference.
8 MS. ALLEN: -- he's subtracting --
9 THE COURT: 208.
10 MS. ALLEN: -- the -- the difference.
11 THE COURT: 142 you're putting in her account?
12 MR. KILGORE: 205 is what I've been --
13 THE COURT: It's 1500, right? You're supposed to
14 pay 1292, right? You got an extra 208 and then 350 is a
15 hundred and forty-two difference.
16 MR. KILGORE: Okay.
17 MR. PAGE: My client advises that he's not doing so.
18 He's only put in one payment of \$400; therefore, she alleges
19 that he's making a potential misrepresen -- representation of
20 facts.
21 THE COURT: I'll be honest with you, mixing with the
22 child support with the 350, it should be 350, 350, 350.
23 MS. ALLEN: I have the receipts.
24 THE COURT: Yeah.

1 MS. ALLEN: I have it on my bank account.

2 THE COURT: I can make her refund you that 208 out
3 of that 1500 and put it back in your account.

4 MR. KILGORE: Okay. That's fine.

5 THE COURT: Yeah, I want to keep a straight
6 accounting since we're only a few months into this. Let's
7 stop that. I want to see 350 and I want you to refund him
8 208.

9 MS. KILGORE: He hasn't --

10 THE COURT: If you're getting 1500 --

11 MR. PAGE: He hasn't paid.

12 MS. KILGORE: He hasn't made the payments. One week
13 ago because he always does it right before we go to --

14 MR. PAGE: Stand.

15 MS. KILGORE: -- court -- oh, sorry. One week
16 ago --

17 THE COURT: I can listen to that all that. I just
18 need to make sure we

19 MS. KILGORE: Yeah, well, I have it on my cal -- one
20 week ago he put in 400. I can show you my bank account
21 because I made a special account.

22 THE COURT: And he's probably way ahead.

23 MS. KILGORE: \$400. So he's not making monthly
24 payments or whatever he's claiming.

1 MR. PAGE: It's a material misrepresentation --
2 THE COURT: This was to be --
3 MR. PAGE: -- of fact.
4 THE COURT: -- effective --
5 MS. KILGORE: January.
6 THE COURT: -- January. So January, take out -- if
7 they have proof they took out 1500, you got to put 350 in her
8 account, supposed to, and then you got to refund him back 208.
9 MS. KILGORE: That's fine. If he --
10 THE COURT: Okay.
11 MS. KILGORE: -- does that, I will.
12 THE COURT: And then you guys should just be able to
13 have your attorneys square away the accounting and tell you
14 guys where you're at and then get squared away for -- it's end
15 of March. Get squared away for April. And then sign an
16 agreement together saying this is what we agreed to, we're
17 squared away, Judge told Dad do 350 from now on and then you
18 got to put 350 -- 208 in his account and put it back there.
19 So we have perfect accounting.
20 MS. KILGORE: And that's only if he pays me.
21 MR. PAGE: Which doesn't cover the interest on the
22 judgment.
23 THE COURT: Okay. Passed the matter then. We're
24 going to -- we're -- we'll -- we'll rule on the motion until I

1 figure out what the numbers will be. It might be plus or
2 minus. I don't know.

3 (PROCEEDINGS CONCLUDED AT 11:24:44)

4 * * * * *

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

8

9

Adrian Medrano

10

11

Adrian N. Medrano

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6-5-17

STEVEN D. GRIERSON
CLERK OF THE COURT

BY

ERICA CARREON

DEPUTY

DISTRICT COURT
CLARK COUNTY, NEVADARichard Kilgore
PLAINTIFF,

vs

Eleni Kilgore
DEFENDANT.

CASE NO.

D459171

DEPT. NO.

I

DOCKET

Supplemental Exhibit for Plaintiff

HEARING DATE:

6-5-17

HEARING TIME:

1:30 PM

RE: VACATION/

SICK PAY

★ COURT NOTE:

NET:

86477.42

SIGNATURE

NAME

ADDRESS

CITY, ST. ZIP

PHONE NUMBER



November 02, 2016

RE: Richard S Kilgore

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ELIZABETH N. FRETWELL
CITY MANAGER

This is to verify that the above employee of the City of Las Vegas, as of March 16, 2013, had a biweekly base salary of \$3299.73 or \$41.25 per hour. His total sick balance as of that time was 107.00 hours and his total vacation balance was 102.35.

Sincerely;

René McGillivray
Payroll Specialist
City of Las Vegas

CITY OF LAS VEGAS
495 S. MAIN STREET
LAS VEGAS, NEVADA 89101

VOICE 702.229.6011
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Gross Earnings:		\$	8635.69
Withholding Exemptions:	(0 * \$ 162.5)	\$	0.00
Additional Amount:		\$	0.00
Marital Status:			Single
NRA written on W4 form:			0.00
Tax Deferred Amounts Per Paycheck:			
<ul style="list-style-type: none"> Pre-tax parking Dependent care Medical insurance premium Retirement reductions Flexible spending account Supplemental retirement account 		\$	0.00
Taxable Gross Wages:	(\$ 8635.69 + \$ 0.00) -	\$	8635.69
(Subject to Withholding)	(\$ 0.00 + \$ 0.00) =		
Federal Income Tax	(\$ 8635.69 - \$ 7727.00) = \$ 908.69	\$	2158.27
Withheld:	(\$ 908.69 * 33%) = \$ 299.87		
	(\$ 299.87 + \$ 1858.40 + \$ 0.00) =		
<div style="text-align: right;"> <input type="button" value="Another"/> <input type="button" value="Modify"/> </div>			

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Related Employee Tax Rates:

OASI/Social Security	6.20%	up to \$113,700 for 2013
Medicare	1.45%	no maximum
PERS Plan I	6.00%	
PERS Plan II	4.64%	
PERS Plan III	5% to 15%	
TRS Plan I	6.00%	

Steven D. Grierson

ORDR

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Attorney for Defendant

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

RICHARD KILGORE,

Plaintiff,

vs.

ELENI KILGORE,

Defendant.

CASE NO.: D-12-459171-D

DEPT. NO.: 1

Hearing Dates: July 25, 2016, August
15, 2016, October 31, 2016, December
1, 2016

Hearing Times: 9:30 a.m. and 1:30
p.m.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND
ORDERS FROM EVIDENTIARY HEARING AND STATUS CHECK
HEARING**

The evidentiary hearing regarding the PERS payment, omitted vacation and
sick, pay, survivor beneficiary, and attorney's fees was held in front of the Hon.
Cheryl B. Moss on the above referenced dates and times. A status check hearing

1 was also held December 1, 2016. Defendant, Eleni Kilgore, was present and was
2 represented by and through her counsel, Fred Page, Esq. Plaintiff, Richard
3 Kilgore, was present and was represented by and through his counsel, Betsy Allen,
4 Esq. The Court having considered the exhibits admitted and the testimony
5 presented hereby enters the following orders.
6

7 8 **FINDINGS OF FACT**

9 1. Defendant, Eleni Kilgore (hereinafter "Eleni"), and Plaintiff, Richard
10 Kilgore (hereinafter "Richard"), were married to each other on December 15,
11 1992, in Las Vegas, Nevada.
12

13 2. When Eleni and Richard were married to each other that Richard was
14 employed by the Clark County Courts as Marshal.
15

16 3. The parties have two remaining minor children, the issue of the
17 marriage, Nicholas Kilgore (hereinafter "Nicholas"), born June 29, 2000, and
18 Richard Boyd Kilgore (hereinafter "Ritchie"), born June 29, 2000.
19

20 4. The stipulated Decree of Divorce in this matter was filed March 13,
21 2013. In the stipulated Decree of Divorce, the parties were ordered to have joint
22 physical and joint legal custody of those two remaining minor children.
23

24 5. In the Decree, the Richard's initial child support obligation for joint
25 physical custody of the two minor children, Nicholas and Ritchie, was set at
26 \$1,275 per month commencing November 1, 2012. As of March 13, 2013, the date
27
28

1 the Decree of Divorce was filed, Richard's child support arrears were \$1,398.
2 However, there was no additional installment payment in the Decree for the arrears
3 on top of the \$1,275.
4

5 6. In the Decree of Divorce, the parties agreed to divide the PERS
6 defined benefit plan in Richard's pursuant to the time rule formula.
7

8 7. The survivor beneficiary was never mentioned in the Decree of
9 Divorce.
10

11 8. After the Decree of Divorce was entered, Richard never made any
12 payments to Eleni for her share of the PERS defined benefit plan in his name.
13

14 9. In early October 2014, Richard was terminated from his position as a
15 Marshal at the Las Vegas Municipal Courts.
16

17 10. On October 14, 2014, Richard filed a Motion to modify child support.
18

19 11. On November 4, 2014, Eleni filed an Opposition and a Countermotion
20 to change custody.
21

22 12. On March 10, 2015, Eleni made a formal request in a Brief filed with
23 the Court that she begin receiving her share of the PERS defined benefit plan in
24 Richard's name because he has reached his first eligibility for retirement.
25

26 13. On March 10, 2015, Eleni also made a formal request in a Brief filed
27 with the Court that she receives the Survivor's Benefit for the PERS defined
28 benefit plan in Richard's name as that item was never addressed in the Decree of

1 Divorce. Eleni additionally made a request to divide the omitted vacation/sick pay
2 that was never addressed in the Decree of Divorce.

3 14. The parties continued to share joint physical custody of Nicholas and
4 Ritchie until July 2015.

5 15. Commencing August 2015, Eleni had primary physical custody of
6 Nicholas. Richard would have to pay child support to Eleni for primary physical
7 custody of Nicholas at 18 percent of his gross monthly income pursuant to NRS
8 125B.070.
9
10
11

12 16. Eleni and Richard continued to maintain joint physical custody of
13 Ritchie. Because Richard was still unemployed, Eleni would have to pay child
14 support to Richard. Eleni would have to pay child support to Richard for Ritchie at
15 18 percent of her income and Richard would have to pay child support to Eleni for
16 Ritchie at 18 percent of his gross monthly income with the person with the higher
17 income paying the difference to the person with the lower income subject to the
18 caps set forth in NRS 125B.070 as set forth in *Wright v. Osburn, infra*, as modified
19 by *Wesley v. Foster, infra*.
20
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22

23 17. Marshal S. Willick, Esq. was qualified as an expert regarding
24 retirement benefits and testified. Mr. Willick testified to the following:
25

- 26 a. Eleni's retirement as a Clark County School District teacher has
27 different standard than does police/fire.
28

- 1 b. Eleni was entitled to receive a portion of the retirement pay in
2 Richard's name upon his first eligibility to retire.
- 3 c. The cases of *Gemma v. Gemma*, *Fondi v. Fondi*, *Sertic v. Sertic*, and
4 *Wolff v. Wolff*, stand for the proposition normal date for receipt of
5 retirement benefits by the nonworking spouse is the first eligibility for
6 retirement regardless if the employee decides to retire
7
8
9 d. That rule was modified slightly in *Henson v. Henson*, the Supreme
10 Court was willing to look at California rule in order actually a flow
11 payments have to be provided for in the underlying court order or file
12 a motion that requesting payment at that time. Under *Henson*, the
13 non-employee spouse's payments begin at the time of the request at
14 the time if the employee spouse could have retired.
15
16
17 e. As a result of *Henson*, eligibility now for the non-employee spouse
18 begins at order or court motion.
19
20
21 f. That there are no retroactive benefits under the current law as the
22 *Henson* opinion does not allow for retroactively.
- 23 g. Absent an order, once the date one files a motion asking for benefits
24 commences the right to receive those retirement benefits. As soon as
25 the Eleni requests Richard is obligated to begin making payments.
26
27
28

1 h. Once the non-employee spouse starts receiving money, the non-
2 employee spouse is taxed on it. Under the current law the receipt of
3 retirement benefit income is treated as normal income.
4

5 i. There was designation of survivor beneficiary in the Decree of
6 Divorce. The lack of the designation of a survivor beneficiary would
7 indicate an omitted asset. The survivor beneficiary is a valuable
8 component of the retirement. There is no other meaning of a
9 survivorship interest of anything other than a property interest. The
10 consequence of Eleni not being designated as a survivor beneficiary is
11 that if Richard dies, and Eleni is not designated as a beneficiary all
12 benefits stop.
13
14
15

16 18. Richard testified that the vacation/sick time was never discussed and
17 was omitted from the Decree of Divorce. Richard further testified on October 17,
18 2014, that he was terminated from the City of Las Vegas. Richard attempted to
19 claim at the evidentiary hearing that he was not eligible to retire without early
20 retirement penalty when he was terminated.
21
22

23 19. Richard testified that if he continued working that Eleni will not
24 receive any monies from PERS directly. Richard further testified that he agreed
25 that pursuant to the terms of the Decree of Divorce that Eleni's interest in the
26 PERS pension in his name was community property.
27
28

1 20. Richard additionally testified that by him continuing to work that he
2 was not allowing Eleni to receive her share of her community property and as long
3 as he kept working, PERS would not pay Eleni.
4

5 21. Richard testified that because will not pay Eleni any monies until he
6 retires he was in sole control as to if and when Eleni would get paid.
7

8 22. Richard was reinstated with the City of Las Vegas effective January
9 2016.
10

11 23. Sonya Hellwinkel testified as the Director of Employee and
12 Production Services for Nevada PERS. Ms. Hellwinkel testified that her duties
13 were to oversee the work completed by pension, respond to subpoena requests for
14 records, and determine if PERS is compliant with PERS policies. Ms. Hellwinkel
15 also testified as to the following:
16

- 17 a. PERS determines whether one is eligible to retire and to determine if
18 an employee is police/fire.
19 b. That she has access to retirement benefit information for PERS
20 employees.
21 c. That she had reviewed the records for Richard and that Richard was
22 enrolled in the system May 8, 1989, and at the time enrolled Richard
23 was part of police/fire and that Richard is still part of police/fire.
24
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- d. Members of police/fire eligible to retire after 20 years at age 50 with an unreduced benefit and that Richard has 20 years in with the State of Nevada.
- e. A review of the records in her possession showed that Richard achieved the 20 year mark in June 2009.
- f. Members of police/fire able to retire with an unreduced benefit at age 50 with 20 years of service, meaning that Richard would not have suffered any early retirement penalty by retiring now.
- g. Richard turned age 50 on April 20, 2011.
- h. Pursuant to Chapter 286, Richard was eligible for an unreduced retirement benefit on April 20, 2011 as he was 50 years of age and had 20 years of service.
- i. However, PERS will not pay a retirement benefit to the nonworking directly prior to the working spouse retiring.
- j. If a working spouse decides to work until the day they die then PERS will never make a payment to the nonworking spouse. If that scenario occurs, the non-working spouse never receives a payment from PERS.
- k. If Richard decided to work until died, no payment would be made by PERS to Eleni for her share of the retirement.

1. The only way for Eleni to get her share the retirement income stream from Richard is for her is to get it from him directly.

m. As long as Richard continues to work, PERS will not make any payments to Eleni. Richard must make payments to Eleni.

n. PERS is unable to pay benefits until Richard retires.

o. Eleni is part of the Clark County School District.

p. As a regular member Eleni would first be eligible to retire at age 60 or after 30 years of service with an unreduced benefit.

q. For 30 years of service Eleni would be first eligible for retirement in 2023 if there were no breaks in service.

24. There were lengthy discussions in the post-trial hearings as to how Richard would pay Eleni her community interest portion of his PERS as Richard was eligible to retire without early retirement penalty when the Decree was entered in March 2013 although Richard presently continues to work full-time and has not yet actually retired. Eleni's portion was of the PERS retirement in Richard's name was calculated to be \$2,455 per month retroactive to March 2015, when Eleni's Motion was filed.

25. For the relevant time period established at trial, the total accrued and owing to Eleni is \$54,003.62 principal plus \$2,572.14 of pre-judgment interest for a grand total of \$56,575.76. Said amount should be reduced to judgment and

1 collectible by any lawful means. However, execution on Richard's paychecks is
2 stayed and instead, due to the financial conditions of the parties explored in-depth
3 at the hearings, Richard should pay Eleni \$350.00 per month from January 2017
4 forward into her Chase bank account. Richard should direct deposit \$175.00 on
5 the 15th and \$175 on the last day of every month.
6

7
8 26. Should any of these Findings of Fact be more properly construed as
9 Conclusions of Law they should be construed as such.
10

11 CONCLUSIONS OF LAW

12 1. NRS 125C.0035 states in pertinent part:

13 1. In any action for determining physical custody of a minor child,
14 the sole consideration of the court is the best interest of the child. If it
15 appears to the court that joint physical custody would be in the best
16 interest of the child, the court may grant physical custody to the parties
jointly.

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

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

21 (a) To both parents jointly pursuant to NRS 125C.0025 or to either
22 parent pursuant to NRS 125C.003. If the court does not enter an order
23 awarding joint physical custody of a child after either parent has applied
for joint physical custody, the court shall state in its decision the reason
for its denial of the parent's application.

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

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

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

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

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

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

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

(d) The level of conflict between the parents.

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

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

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

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

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

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

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

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

2. Discretion should be given to Nicholas as he is of a suitable age and capacity and is able to form an intelligent preference.

3. The parties should continue to share joint physical custody of Ritchie.

4. Richard should pay child support pursuant to NRS 125B.070 for Nicholas at 18 percent of his gross monthly income subject to any caps.

1 5. Child support should be ordered pursuant to NRS 125B.070 and
2 *Wright v. Osburn*,¹ and as modified by *Wesley v. Foster*.²

3 6. Under NRS 123.130, all property acquired after marriage is presumed
4 to be community property unless there is a pre or post-nuptial agreement, the
5 property was acquired by gift, award of personal injury damages or acquired by
6 gift or devise, and the rents issues and profits thereof.

7 7. Under NRS 123.220, all property other than property owned by before
8 marriage, and that acquired by afterwards by gift, bequest, devise, descent or by an
9 award for personal injury damages, with the rents, issues and profits thereof, is
10 community property unless otherwise provided by, an agreement in writing
11 between the spouses, a decree of separate maintenance, or if divided pursuant to
12 NRS 123.259, a spouse being institutionalized.

13 8. Under NRS 125.150(1)(b), community property shall, to be extent
14 practicable, be divided equally.

15 9. The defined benefits plan with Nevada PERS in Richard's name is
16 community property.

17 10. At the time the Decree of Divorce was entered that no compelling
18 reason was put forth for there to be an unequal division of community property.

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27 ¹ 114 Nev. 1367, 970 P.2d 1071 (1998)

28 ² 119 Nev. 110, 65 P.3d 251 (2003)

1 11. The time for appealing the Decree of Divorce passed 30 days after the
2 Notice of Entry of Decree of Divorce was served.

3 12. In *Sertic v. Sertic*,³ the Supreme Court ordered that the "normal
4 distribution of a spousal share of a retirement is to be upon first eligibility for
5 retirement, and that if a worker does not retire at first eligibility, the worker must
6 pay the spouse whatever the spouse would have received if the worker did retire at
7 that time."
8

9 13. NRS 125.150 was amended to include authority a party may file a
10 post-judgment motion to obtain the division of omitted community property assets
11 omitted from the Decree.
12

13 14. The omitted deferred compensation account and the omitted
14 vacation/sick time were never discussed or considered. Eleni should be entitled, as
15 a matter of law, to one-half of the time rule portion of the accumulated vacation
16 and sick pay from the date of marriage through March 13, 2013.
17

18 15. Attorney's fees may be awarded under NRS 125.040, NRS 18.010,
19 and *Brunzell v. Golden Gate National Bank*.⁴
20

21 16. Should any of these Conclusions of Law be more properly construed
22 as being Findings a Fact, they should be construed as such.
23

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27 ³ 111 Nev. 1194, 901 P.2d 148 (1995)

28 ⁴ 85 Nev. 345, 455 P.2d 31 (1969)

ORDERS

THE COURT HEREBY ORDERS as follows:

1. Eleni shall have permanent primary physical custody of Nicholas, born June 29, 2000 effective August 2015.
2. The parties stipulated to joint physical custody of Richard, Jr. born, June 29, 2000.
3. Within 30 days, Nicholas is referred to either Nicholas Ponzo or Keisha Weiford, for reunification with Richard. He shall pay 65 percent of the fees, Eleni shall pay 35 percent of the fees.
4. Nicholas is to go back to his therapist before beginning reunification.
5. Beginning December 2014, Eleni's child support was set at \$970.00 per month based on joint physical custody of both children, using *Wright vs Osborn*, minus \$213.00 per month for health insurance premiums, for a total of \$757.00 per month, through January 2016, for a grand total of \$9,841.00.
6. Beginning January 2016, Richard's child support for Nicholas was set at \$806.00 per month, plus \$266.00 per month for joint physical custody of Richard, Jr., plus \$220.00 per month for health insurance premiums allocable to the minor children, for a total of \$1,292.00 per month.
7. Beginning July 2016, Richard's child support for Nicholas was set at \$820.00 per month, plus \$266.00 per month for joint physical custody of Ritchie.

1 plus \$220.00 per month for health insurance premiums, allocable to the minor
2 children for a total of \$1,306.00 per month. The Court finds that the amount of
3 child support Richard is ordered to pay is in conformance with NRS 125B.070.
4

5 8. Eleni shall provide proof the health insurance costs for the minor children.

6 9. Counsel is to request a District Attorney audit forthwith.

7
8 10. Richard shall receive a credit of \$9,841.00 for December 2014 to December
9 2015.

10
11 11. Richard shall receive a credit of \$2,294, for overpayments of child support
12 for 2016.

13 12. Commencing January 2017 forward, all District Attorney wage withholding
14 shall cease. Richard shall direct deposit one-half of the current child support on
15 the 15th and last day of each month into Eleni's Chase bank account. Eleni shall
16 set up this separate Chase bank account and provide the bank account number to
17 Richard via Our Family Wizard.
18

19
20 13. The parties will equally divide the costs of any Qualified Domestic Relations
21 Orders.
22

23 14. The \$10,000.00 tax debt is washed out.

24
25 15. Eleni shall receive no offset/no value for the fur coat and dresses.

26 16. Eleni shall file an Order to Show Cause to Richard for the non-payment of
27 retirement payment for 2016. Sanctions are to be determined.
28

1 17. Richard shall walk-through an Order to lift the District Attorney's driver's
2 license suspension, as of today there are zero (0) arrears. Eleni shall have 24 hours
3 to review the Order.
4

5 18. Eleni's PERS will not be eligible until 2023, at the earliest. The Court
6 cannot force reciprocal Survivor Beneficiaries unless the parties stipulate to that.
7 Eleni can pay for a Life Insurance Policy for retirement payments and vice versa.
8

9 19. Richard's share of the unreimbursed medical expenses is \$3,202.00.
10

11 20. For the relevant time period established at trial for the PERS retirement
12 benefits in Richard's name that should have been paid to Eleni, the total accrued
13 and owing to Eleni is \$54,003.62 principal plus \$2,572.14 of pre-judgment interest
14 for a grand total of \$56,575.76. Said amount is reduced to judgment and
15 collectible by any lawful means. However, execution on Richard's paychecks is
16 stayed and Richard shall pay Eleni \$350.00 per month from January 2017 forward
17 into her Chase bank account. Richard shall direct deposit \$175.00 on the 15th and
18 \$175 on the last day of every month.
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22 21. Counsel shall have ongoing authority to conduct limited discovery and
23 confer jointly with the PERS representative, currently Ms. Sonya Helwinkle, for
24 ongoing information on Richard's PERS and information when Richard actually
25 retires.
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22. Richard's counsel, shall submit an addendum to the Order from the December 1, 2016, hearing titled "Vacation/Sick Pay Calculation Sheet" delineating the correct amount calculated as to Richard's vacation and sick leave measured at the time of the divorce, not based on the exhibit produced at the trial which showed the amount as of the time that Richard was terminated from employment for misconduct. The Court makes this Addendum to Order *sua sponte* to correct the calculation established at trial. The correct calculation is as follows: Richard's vacation pay of 107 hours plus sick time of 102.35 hours based on an hourly wage of \$41.25 totals \$8,635.70 at the time of divorce. One-half is \$4,317.35 pre-tax and is owed to Eleni. Richard's entire \$8,635.70 was cashed out early and Richard had to pay taxes on the full amount. Therefore, Richard owes Eleni her one-half of \$8,635.70 minus taxes that would have been attributed to Eleni had she gotten paid out her half share at the time of the divorce. Richard and his attorney shall produce proof of how much he was taxed on the \$8,635.70, and half of the taxes shall be taken of Mom's \$4,317.35. The net amount shall then be reduced to judgment and collectible by any lawful means.

23. Attorney's Fees are bifurcated. Counsels are to submit *Brunzell* Briefs for attorney's fees. Attorney Page shall submit his Brief on December 2, 2017 and Attorney Allen shall submit her Brief on December 30, 2017.

24. Counsel shall be notified of a Return Hearing date.

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CHILD CUSTODY NOTICES

NOTICE IS HEREBY GIVEN that the parties are subject to the provisions of NRS 125C.065(1) and NRS 200.359, which provide: "If custody has been established and the custodial parent or a parent having joint custody intends to move his residence to a place outside of this state and to take the child with him, he must, as soon as possible and before the planned move, attempt to obtain the written consent of the other parent to move the child from the state. If the noncustodial parent or other parent having joint custody refuses to give that consent, the parent planning the move shall, before he leaves the state with the child, petition the court for permission to move the child. The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent or other parent having joint custody;" as well as NRS 125C.045(6) which provides:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE, AS A CATEGORY D FELONY, BY UP TO 6 YEARS IN PRISON AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from the parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child, from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not less than \$1,000 nor more than \$5,000, or by both fine and imprisonment.

1 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125C.045, the terms
2 of the Hague Convention of October 25, 1980, adopted by the 14th Session of the
3 Hague Conference on Private International Law are applicable to the parties.
4 Nevada is hereby declared the State, and the United States of America is hereby
5 declared the country, of habitual residence of the child for the purposes of applying
6 the terms of the Hague Convention as set forth above.
7

8 **NOTICE IS HEREBY GIVEN** that under the terms of the Parental
9 Kidnapping Prevention Act, 28 U.S.C. Sec. 1738A, and the Uniform Child
10 Custody Jurisdiction Act, NRS 125A.010 *et seq.*, the courts of Nevada have
11 exclusive modification jurisdiction of the custody visitation and child support
12 terms relating to the child at issue in this case so long as either of the parties, or the
13 child, continues to reside in this jurisdiction.
14

15 **CHILD SUPPORT NOTICES**
16

17 **NOTICE IS HEREBY GIVEN** to both parties that the parent having the
18 child support obligation is subject to NRS 125.450 and NRS 31A.020 through
19 31A.230, inclusive, regarding the immediate withholding or assignment of wages,
20 commissions or bonuses for payment of child support, whether current or
21 delinquent.
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1 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125B.145, either
2 party may request that the Court review the child support obligation every three
3 years or upon changed circumstances
4

5 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125B.140 if an
6 installment of an obligation to pay support for a child becomes delinquent, the
7 Court shall determine interest upon the arrearages at a rate established pursuant to
8 NRS 99.040, from the time each amount became due. Interest shall continue to
9 accrue on the amount ordered until it is paid, and additional attorney's fees must be
10 allowed if required for collection.
11

12 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125B.095, if an
13 installment of an obligation to pay support for a child becomes delinquent in the
14 amount owed for one month's support, a 10% per annum penalty must be added to
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1 the delinquent amount.

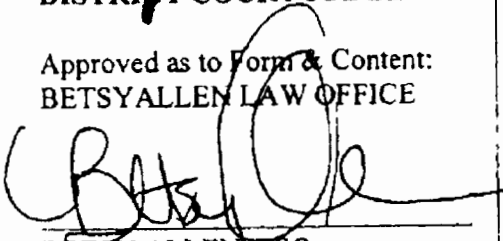
2 DATED this 31 day of July 2017

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5 
6 DISTRICT COURT JUDGE

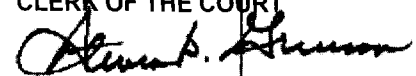
7 Respectfully submitted:
8 PAGE LAW OFFICE

Approved as to Form & Content:
BETSY ALLEN LAW OFFICE

9
10 
11 FRED PAGE, ESQ.
12 Nevada Bar No.: 6080
13 6145 Spring Mountain Road, Suite 201
14 Las Vegas, Nevada 89146
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17 Attorney for Defendant

18
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26 Attorney for Plaintiff

27
28 Kilgore vs. Kilgore



Electronically Filed
Sep 14 2017 02:32 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOA**
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10 *Attorney for Plaintiff*

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

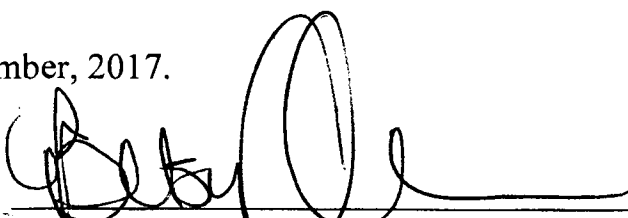
13 RICHARD KILGORE,)
14 Plaintiff,) Case No.: D-12-459171-D
15 vs.) Dept No.: I
16 ELENi KILGORE,)
17 Defendant.)

18 **NOTICE OF APPEAL**

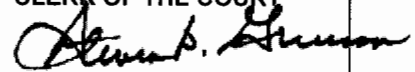
19 NOTICE IS HEREBY GIVEN that Plaintiff, Richard Kilgore, hereby
20 appeals this Court's *Findings of Fact, Conclusions of Law, and Judgment* filed
21 August 2, 2017 to the Supreme Court of Nevada.

22 **AFFIRMATION:** This document does not contain the social security number of
23 any person.

24 DATED the 10th day of September, 2017.



28 **BETSY ALLEN, ESQ.**
Nevada Bar No. 6878



1 **NEO**
2 **FRED 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
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9 E-mail: fpagelawoffices.com
10 *Attorney for Defendant*

11 **DISTRICT COURT, FAMILY DIVISION**

12 **CLARK COUNTY, NEVADA**

13 **RICHARD KILGORE,**

14 Plaintiff,

CASE NO.: D-12-459171-D

DEPT. NO.: I

15 vs.

16 **ELENI KILGORE,**

17 Defendant.

18
19 **NOTICE OF ENTRY OF ORDER FINDINGS OF FACT, CONCLUSIONS**
20 **OF LAW AND ORDER**

21 TO: RICHARD KILGORE, Plaintiff

22 TO: BETSY ALLEN, ESQ., Attorney for Plaintiff

23 YOU AND EACH OF YOU please take notice the Findings of Fact,
24 Conclusions of Law, and Orders from Evidentiary Hearing and Status Check
25 Hearing was entered on the 2nd day of August 2017, of which a true and correct
26
27
28

1 copy is attached hereto:

2 DATED this 21st day of August 2017

3 PAGE LAW OFFICE

4
5 
6 FRED PAGE, ESQ.

7 Nevada Bar No.: 6080

8 6145 Spring Mountain Road, Suite 201

9 Las Vegas, Nevada 89146

10 (702) 469-3278

11 *Attorney for Defendant*

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 21st day of August 2017, the foregoing NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERS FROM EVIDENTIARY HEARING AND STATUS CHECK HEARING was served pursuant to NRCP 5(b) by placing a true and correct copy in the United States mail, postage prepaid, to the following:

Betsy Allen, Esq.
P.O. Box 46991
Las Vegas, Nevada 89114
Attorney for Plaintiff



An employee of Page Law Office