

NED
LAW OFFICES OF F. PETER JAMES, ESQ.
F. Peter James, Esq.
Nevada Bar No. 10091
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3821 West Charleston Boulevard, Suite 250
Las Vegas, Nevada 89102
702-256-0087
702-256-0145 (fax)
Counsel for Plaintiff

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

WILLIAM DIMONACO,

Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

vs.

**NOTICE OF ENTRY OF DECREE
OF CUSTODY**

ADRIANA DAVINA FERRANDO,

Defendant.

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///

1 Please take notice that the attached Decree of Custody was entered on
2 November 9, 2017.

3 Dated this 9 day of November, 2017

4 

5 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

6 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

7 Las Vegas, Nevada 89102

702-256-0087

8 Counsel for Plaintiff

9

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1 **CERTIFICATE OF SERVICE**

2 I certify that on this 9 day of November, 2017, I caused the above and
3 foregoing document entitled **NOTICE OF ENTRY OF DECREE OF**
4 **CUSTODY** to be served as follows:

5 ☒ pursuant to EDCR 8.05(A), EDCR 8.05(F), NRCP 5(b)(2)(D)
6 and Administrative Order 14-2 captioned "In the Administrative
7 Matter of Mandatory Electronic Service in the Eighth Judicial
8 District Court," by mandatory electronic service through the
9 Eighth Judicial District Court's electronic filing system;

10 ☐ pursuant to EDCR 7.26 / NEFCR 9, to be sent via facsimile /
11 email;

12 to the attorney(s) / party(ies) listed below at the address(es), email address(es),
13 and/or facsimile number(s) indicated below:

14 Steven M. Altig, Esq.
15 601 South 7th Street
16 Las Vegas, Nevada 89101
17 702-385-7227
18 702-385-5351 (fax)
19 steven@adraslaw.com
20 Counsel for Defendant

By: COBrien

An employee of the Law Offices of F. Peter James, Esq., PLLC

ORIGINAL

Electronically Filed
11/9/2017 10:11 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

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

WILLIAM DIMONACO,

Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

DECREE OF CUSTODY

vs.

ADRIANA DAVINA FERRANDO,

Defendant.

Hearing Date: June 21, 2017
Hearing Time: 1:30 p.m.

This matter came before the Court on the 21st day of June, 2017 for a Non-Jury Trial. F. Peter James, Esq. appeared with Plaintiff, William DiMonaco (hereinafter "Dad"). Steven M. Altig, Esq. appeared with Defendant, Adriana Ferrando (hereinafter "Mom"). The Honorable Bryce C. Duckworth presided over the matter.

The parties had numerous stipulations, but requested that the Court decide several matters.

☐ Other
☐ Dismissed - Want of Prosecution
☐ Involuntary (Statutory) Dismissal
☐ Default Judgment
☐ Transferred
☐ Disposed After Trial Start

Non-Trial Dispositions:
☐ Settled/Withdrawn:
☐ Without Judicial Conf/Hrg
☐ With Judicial Conf/Hrg
☐ By ADR

Trial Dispositions:
☒ Judgment Reached by Trial

1 of 13

RECEIVED

OCT 12 2017

**FAMILY COURT
DEPARTMENT Q**

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument, having heard from the parties, having heard from third parties in
3 the courtroom, having heard the stipulations of the parties, being well advised in
4 the premises, and for sufficient cause shown, hereby finds and orders as follows:

5 **THE COURT HEREBY FINDS** that Dad is now and has been an actual
6 bona fide resident of the State of Nevada and has actually been domiciled in the
7 State of Nevada for more than six weeks prior to the commencement of this
8 action.

9 **THE COURT FURTHER FINDS** that it has complete jurisdiction in the
10 premises, both as to the subject matter thereof as well as the parties hereto.

11 **THE COURT FURTHER FINDS** that Dad and Mom were never married
12 to each other.

13 **THE COURT FURTHER FINDS** that Dad and Mom have one child
14 together, to wit: Grayson Ashton DiMonaco-Ferrando (born August 12, 2014
15 (hereinafter "the child"); the parties have no other minor children together, no
16 adopted children together, and, Mom is not currently pregnant with Dad's child.

17 **THE COURT FURTHER FINDS** that Dad is the child's natural father.
18 Mom and Dad signed an affidavit of paternity as to the child, which has not been
19 revoked. Dad is listed as the child's natural father on the child's birth certificate.

1 The child bears Dad's surname. Dad has held the child out to the world as his
2 natural child. Mom does not contest that Dad is the child's natural father.

3 **THE COURT FURTHER FINDS** that the child has resided in the State
4 of Nevada for at least six months prior to the filing of the Complaint. As such,
5 this Court has the necessary UCCJEA jurisdiction to enter orders as to child
6 custody and visitation. Nevada is the child's home state and state of habitual
7 residence.

8 **THE COURT FURTHER FINDS** that the parties have stipulated to
9 having joint legal custody and joint physical custody of the child. This
10 arrangement is in the child's best interest.

11 **THE COURT FURTHER FINDS** that the visitation schedule delineated
12 is in the child's best interest. Mom proposed a visitation schedule that splits
13 weekends. Setting a visitation schedule that splits the weekends is not in the
14 child's best interest. While it may be feasible due to the child not yet being in
15 school, from a planning standpoint, it does not work as the parents would not
16 have full weekends. (Video Record at 14:12:00).

17 **THE COURT FURTHER FINDS** that, under the case law (*Lewis v.*
18 *Hicks and Rodgers v. Rodgers*), a spouse has a community property interest in
19 the other spouses income, which may be used to offset a child support award.
20 (Video Record at 14:15:00, 14:25:00). Dad offered that Mom's husband makes

1 approximately \$120,000.00 per year (\$79,029.00 regular pay + \$20,843.14 in
2 overtime pay + \$20,897.75 in other pay = \$120,769.89 or \$10,064.16 gross
3 monthly income—benefits are not included in this calculation). (See Exhibits
4 filed June 19, 2017 at W DIMONACO 000039; *see also* Video Record at
5 14:23:15, 14:29:20). The Court inquired as to what Dad's girlfriend earns. Dad's
6 counsel stated that his girlfriend contributes \$500 per month to his household and
7 that her actual income is not relevant as they are not married. The Court stated
8 "what is good for the goose is good for the gander." (Video Record at 14:24:50).
9 Dad's girlfriend stated that she makes \$47,000.00 per year salary (which is a
10 gross monthly income of \$3,916.67). (Video Record at 14:30:20). Using a
11 *Wright v. Osburn* calculation to determine child support only imputing Mom's
12 prior income upon her, the child support obligation from Dad to Mom is \$550.00.
13 (Video Record at 14:27:10). Another deviation factor the Court may consider is
14 the relative income of the parties (NRS 125B.080(9)). (Video Record at
15 14:27:20). The total household income of each side is germane to the Court's
16 calculation of child support. (Video Record at 14:28:15). The Court
17 acknowledged that Dad wants further discovery into Mom's household income,
18 but the Court stated it could attempt to determine that issue today and resolve the
19 need for further discovery into this issue. (Video Record at 14:28:35). The
20 household incomes appear to be \$109,400 on Dad's side (Dad and his girlfriend)

1 and \$120,769 on Defendant's side without imputing income on Mom—with an
2 approximate \$11,000 higher income in Mom's household. (Video Record at
3 14:31:25). The Court accepts the offers of proof as to Dad's girlfriend's income
4 and as to Mom's husband's income. (Video Record at 14:32:55). The Court
5 inquired if any party needed further discovery into the household income issue,
6 but the parties stated that they did not need further discovery. (Video Record at
7 14:33:25). The Court inquired of the parties and confirmed that both parties are
8 providing health insurance for the child, which shall continue. (Video Record at
9 14:35:20). The Court is utilizing the deviation factor of relative income of the
10 parties to look at the additional income the parties receive from their significant
11 others. (Video Record at 14:35:35). The Court is imputing \$2,143.72 in gross
12 monthly income upon Mom, which is essentially her 2014 income recomputed to
13 a full yearly figure. This is her earning capacity. (Video Record at 14:35:50).
14 Dad's gross monthly income is \$5,200.00, which makes his obligation \$936.00;
15 whereas, Mom's obligation is \$386.00, which results in a *Wright v. Osburn*
16 calculation of \$550.00. (Video Record at 14:36:30). Based on the relative
17 income of the parties and given the \$10,000 difference in incomes (between
18 Mom's husband by himself and Dad and his girlfriend combined), the Court is
19 going to give a downward deviation in the sum of \$100.00, thus making Dad's
20 child support obligation \$450.00 per month. (Video Record at 14:36:42).

1 **THE COURT FURTHER FINDS** that, as to constructive child support
2 arrears, the law is discretionary as to a reasonable amount—and not that the
3 statutory formula be applied retroactively. Mom alleges that Dad did not pay for
4 September, October, and November 2016 and that Dad did make payments prior
5 to then, albeit not at the amount eventually ordered by the Court. As payments
6 were made up through August 2016, the Court is not going to revisit that issue.
7 The Court will apply the December 2016 child support amount (\$650.00) to
8 September, October, and November 2016. The parties shall work out any
9 overpayments and give credit for the same. (Video Record at 15:01:00 –
10 15:04:45).

11 Therefor,

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,
13 pursuant to stipulation of the parties, Mom and Dad shall have joint legal custody
14 and joint physical custody of the child.

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
16 parties shall have the following regular visitation with the child:

- 17 • Mom shall have regular visitation with the child from Monday at 8:00 am
18 or drop off at school if school is in session until Wednesday at 8:00 am or
19 drop off at school if school is in session;

- 1 • Dad shall have regular visitation with the child from Wednesday at 8:00
2 am or drop off at school if school is in session until Friday at 8:00 am or
3 drop off at school if school is in session; however, if Dad is working on
4 Wednesday, the child shall remain with Mom until Dad gets out of work—
5 this provision is only for Wednesdays; Wednesdays are still days
6 designated to Dad (Video Record at 14:51:20);
- 7 • The parties shall alternate the weekends, which shall be defined as
8 beginning Friday at 8:00 am or drop off at school if school is in session
9 and concluding Monday at 8:00 am or drop off at school if school is in
10 session; For clarity, Mom has the weekend of June 23, 2017.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
12 Court's standard holiday and visitation schedule shall control. A copy of the
13 same is attached hereto as Ex. 1. The parties may agree to deviate from the
14 schedule, as they are free to agree to deviate as to any visitation schedule. (Video
15 Record at 14:57:25). Holiday visitation time shall take precedence over all other
16 visitation time, and vacation visitation time shall take precedence only over
17 regular visitation time. (Video Record at 15:00:12).

18 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
19 either party may designate other parties to drop off / collect the child. The Court
20

1 expects that when a party designates another to collect the child, that parent
2 would notify the other in advance. (Video Record at 14:56:40).

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
4 pursuant to stipulation of the parties, Dad shall provide the transportation of the
5 child for child exchanges. Currently, Dad drives nearby Mom's house on the
6 way to and from his work. (Video Record at 14:55:00). In the event that Dad is
7 unable to provide the transportation, then the parties shall communicate in
8 advance to designate an alternate individual to do the transporting.

9 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
10 125C.0045(6):

11 Penalty for violation of order: The abduction, concealment or
12 detention of a child in violation of this order is punishable as a category D
13 felony as provided in NRS 193.130. NRS 200.359 provides that every
14 person having a limited right of custody to a child or any parent having no
15 right of custody to the child who willfully detains, conceals or removes the
16 child from a parent, guardian or other person having lawful custody or a
17 right of visitation of the child in violation of an order of this court, or
18 removes the child from the jurisdiction of the court without the consent of
19 either the court or all persons who have the right to custody or visitation is
20 subject to being punished for a category D felony as provided in NRS
193.130.

17 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
18 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
19 Private International Law apply if a parent abducts or wrongfully retains a child
20

1 in a foreign country. The parties are also put on notice of the following provisions
2 of NRS 125C.0045(8):

3 If a parent of the child lives in a foreign country or has significant
4 commitments in a foreign country:

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

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

19 **IT IS FURTHER ORDERED** that all parties shall be bound by the
20 provisions of NRS 125C.006, which states:

1. If primary physical custody has been established pursuant to an
order, judgment or decree of a court and the custodial parent intends
to relocate his or her residence to a place outside of this State or to
a place within this State that is at such a distance that would
substantially impair the ability of the other parent to maintain a
meaningful relationship with the child, and the custodial parent
desires to take the child with him or her, the custodial parent shall,
before relocating:

(a) Attempt to obtain the written consent of the noncustodial
parent to relocate with the child; and

1 (b) If the noncustodial parent refuses to give that consent, petition
2 the court for permission to relocate with the child.

3 2. The court may award reasonable attorney's fees and costs to the
4 custodial parent if the court finds that the noncustodial parent
5 refused to consent to the custodial parent's relocation with the child:

6 (a) Without having reasonable grounds for such refusal; or

7 (b) For the purpose of harassing the custodial parent.

8 3. A parent who relocates with a child pursuant to this section without
9 the written consent of the noncustodial parent or the permission of
10 the court is subject to the provisions of NRS 200.359.

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.0065, which states:

13 1. If joint physical custody has been established pursuant to an order,
14 judgment or decree of a court and one parent intends to relocate his
15 or her residence to a place outside of this State or to a place within
16 this State that is at such a distance that would substantially impair
17 the ability of the other parent to maintain a meaningful relationship
18 with the child, and the relocating parent desires to take the child with
19 him or her, the relocating parent shall, before relocating:

20 (a) Attempt to obtain the written consent of the non-relocating
parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent,
petition the court for primary physical custody for the purpose
of relocating.

2. The court may award reasonable attorney's fees and costs to the
relocating parent if the court finds that the non-relocating parent
refused to consent to the relocating parent's relocation with the
child:

1 (a) Without having reasonable grounds for such refusal; or

2 (b) For the purpose of harassing the relocating parent.

3 3. A parent who relocates with a child pursuant to this section before
4 the court enters an order granting the parent primary physical
5 custody of the child and permission to relocate with the child is
6 subject to the provisions of NRS 200.359.

6 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
7 based upon the findings herein, Dad shall pay Mom monthly child support in the
8 amount of \$450.00 effective May 1, 2017.

9 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
10 Dad's child support obligation for the months of September, October, and
11 November 2016 shall be calculated at the rate of \$650.00 per month. The arrears
12 of \$1,950.00 shall be payable at the rate of \$50.00 per month until paid in full.
13 The parties shall work out any overpayments. (Video Record at 15:04:10).

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 both parties shall continue to provide the medical / health insurance for the child.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any
17 of the child's unreimbursed medical, dental, optical, orthodontic, surgical, and
18 other health-related expenses shall be equally divided by the parties pursuant to
19 the 30/30 rule. The 30/30 rule provides that the party paying any unreimbursed
20 medical expenses has thirty (30) days from the date the expense is paid to forward

1 proof of payment to the opposing party. If that party does not timely forward the
2 proof of payment, then the Court may construe that the party waived the right to
3 be reimbursed for that expense. Upon receipt of a timely-forwarded proof of
4 payment of an unreimbursed medical expense, the receiving party has thirty (30)
5 days to reimburse the paying party one-half of the expense or to object to the
6 expense. If the receiving party does not either object to the expense or reimburse
7 the paying party for half of the expense, then that party is subject to sanctions for
8 contempt of court. (*Compare* Complaint for Custody at ¶ 13 *with* Answer at
9 1:23).

10 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and
11 125.007 apply regarding the collection of delinquent child support payments.

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

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 each side shall bear his / her own attorney's fees and costs.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
17 each party shall provide their social security numbers on a separate form to the
18 Court and to the Welfare Division of the Department of Health and Human
19 Services pursuant to NRS 125B.055, NRS 125.130, and/or NRS 125.230. Such
20 information shall be maintained by the Clerk in a confidential manner and shall

1 not be part of the public record. The parties shall update the information filed
2 with the Court and the Welfare Division of the Department of Human Resources
3 within ten (10) days should any of that information become inaccurate.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Mr.
5 James shall prepare the Order with Mr. Altig to countersign.

6 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**


7 Dated this ____ day of October, 2017

8 **NOV 06 2017**

9 
DISTRICT COURT JUDGE  mp

10 Respectfully submitted by:

Approved as to form and content by:

11 
12 LAW OFFICES OF F. PETER JAMES
13 F. Peter James, Esq.
14 Nevada Bar No. 10091
15 3821 W. Charleston Blvd., Suite 250
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702-256-0087
Counsel for Plaintiff

ADRAS & ALTIG
Steven M. Altig, Esq.
Nevada Bar No. 6879
601 South 7th Street
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Counsel for Defendant

EXHIBIT 1

HOLIDAY AND VACATION PLAN

Department Q

The Court encourages parents to communicate regarding holiday and vacation time with their children. The following Holiday and Vacation Plan is a "default" schedule where parents are unable to otherwise agree. Any deviation therefrom should be memorialized in writing with both parents' signatures. Holidays/Special Occasions take precedence over residential time and Vacation time. Unless otherwise ordered, reference to a "school" schedule for the purpose of defining a Holiday or Special Occasion shall be defined by the Clark County, Nevada School District Schedule. (See www.ccsd.net)

THREE DAY HOLIDAYS (Holiday visitation begins when school gets out on the day preceding the holiday weekend (or 3:00 p.m. if the children are not in school) and continues until 9:00 a.m. on the day following the holiday weekend or when the children are scheduled to resume school.)	ODD YEAR	EVEN YEAR
Martin Luther King Day	Mom	Dad
Presidents' Day	Dad	Mom
Memorial Day	Mom	Dad
Labor Day	Dad	Mom
Nevada Admission Day	Mom	Dad

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
Thanksgiving: The holiday visitation shall begin when school gets out on the Wednesday preceding Thanksgiving (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Mom	Dad
Christmas/Winter Break: Winter break shall be divided equally between the parents, with the first half commencing when the children get out of school to begin the Winter Break (or 3:00 p.m. if the children are not in school), and continue until December 26 at 10:00 a.m. The second half shall commence on December 26 at 10:00 a.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).		
First Half	Dad	Mom
Second Half	Mom	Dad

EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin when school gets out on the last day of school (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Dad	Mom

SPECIAL OCCASIONS (Special Occasions begin at 9:00 a.m. on the individual day and continue until 9:00 p.m. on the same day)	ODD YEAR	EVEN YEAR
Mother's Day	Mom	Mom
Father's Day	Dad	Dad
Children's Birthdays	Dad	Mom

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1 st of each year. The dates shall be conveyed to the other party in writing by way of certified mail. If there is a conflict in dates, the parent who designates the vacation first (as verified by the certified mail stamp) will prevail as to the vacation time. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.

ORIGINAL

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Steven D. Grierson
CLERK OF THE COURT

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5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 **DISTRICT COURT, FAMILY DIVISION**
CLARK COUNTY, NEVADA

8 **WILLIAM DIMONACO,**
9
Plaintiff,

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DECREE OF CUSTODY

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Hearing Date: June 21, 2017
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16 (hereinafter "Dad"). Steven M. Altig, Esq. appeared with Defendant, Adriana
17 Ferrando (hereinafter "Mom"). The Honorable Bryce C. Duckworth presided
18 over the matter.

19 The parties had numerous stipulations, but requested that the Court decide
20 several matters.

Non-Trial Dispositions:

- | | |
|--|--|
| <input type="checkbox"/> Other | <input type="checkbox"/> Settled/Withdrawn: |
| <input type="checkbox"/> Dismissed - Want of Prosecution | <input type="checkbox"/> Without Judicial Conf/Hrg |
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| <input type="checkbox"/> Transferred | |

Trial Dispositions:

- ☐ Disposed After Trial Start ☒ Judgment Reached by Trial

1 of 13

RECEIVED

OCT 12 2017

Docket 74696

FAMILY COURT
DEPARTMENT Q

1 The Court, having read the papers and pleadings on file herein, having
2 heard argument, having heard from the parties, having heard from third parties in
3 the courtroom, having heard the stipulations of the parties, being well advised in
4 the premises, and for sufficient cause shown, hereby finds and orders as follows:

5 **THE COURT HEREBY FINDS** that Dad is now and has been an actual
6 bona fide resident of the State of Nevada and has actually been domiciled in the
7 State of Nevada for more than six weeks prior to the commencement of this
8 action.

9 **THE COURT FURTHER FINDS** that it has complete jurisdiction in the
10 premises, both as to the subject matter thereof as well as the parties hereto.

11 **THE COURT FURTHER FINDS** that Dad and Mom were never married
12 to each other.

13 **THE COURT FURTHER FINDS** that Dad and Mom have one child
14 together, to wit: Grayson Ashton DiMonaco-Ferrando (born August 12, 2014
15 (hereinafter "the child"); the parties have no other minor children together, no
16 adopted children together, and, Mom is not currently pregnant with Dad's child.

17 **THE COURT FURTHER FINDS** that Dad is the child's natural father.
18 Mom and Dad signed an affidavit of paternity as to the child, which has not been
19 revoked. Dad is listed as the child's natural father on the child's birth certificate.

1 The child bears Dad's surname. Dad has held the child out to the world as his
2 natural child. Mom does not contest that Dad is the child's natural father.

3 **THE COURT FURTHER FINDS** that the child has resided in the State
4 of Nevada for at least six months prior to the filing of the Complaint. As such,
5 this Court has the necessary UCCJEA jurisdiction to enter orders as to child
6 custody and visitation. Nevada is the child's home state and state of habitual
7 residence.

8 **THE COURT FURTHER FINDS** that the parties have stipulated to
9 having joint legal custody and joint physical custody of the child. This
10 arrangement is in the child's best interest.

11 **THE COURT FURTHER FINDS** that the visitation schedule delineated
12 is in the child's best interest. Mom proposed a visitation schedule that splits
13 weekends. Setting a visitation schedule that splits the weekends is not in the
14 child's best interest. While it may be feasible due to the child not yet being in
15 school, from a planning standpoint, it does not work as the parents would not
16 have full weekends. (Video Record at 14:12:00).

17 **THE COURT FURTHER FINDS** that, under the case law (*Lewis v.*
18 *Hicks and Rodgers v. Rodgers*), a spouse has a community property interest in
19 the other spouses income, which may be used to offset a child support award.
20 (Video Record at 14:15:00, 14:25:00). Dad offered that Mom's husband makes

1 approximately \$120,000.00 per year (\$79,029.00 regular pay + \$20,843.14 in
2 overtime pay + \$20,897.75 in other pay = \$120,769.89 or \$10,064.16 gross
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5 14:23:15, 14:29:20). The Court inquired as to what Dad’s girlfriend earns. Dad’s
6 counsel stated that his girlfriend contributes \$500 per month to his household and
7 that her actual income is not relevant as they are not married. The Court stated
8 “what is good for the goose is good for the gander.” (Video Record at 14:24:50).
9 Dad’s girlfriend stated that she makes \$47,000.00 per year salary (which is a
10 gross monthly income of \$3,916.67). (Video Record at 14:30:20). Using a
11 *Wright v. Osburn* calculation to determine child support only imputing Mom’s
12 prior income upon her, the child support obligation from Dad to Mom is \$550.00.
13 (Video Record at 14:27:10). Another deviation factor the Court may consider is
14 the relative income of the parties (NRS 125B.080(9)). (Video Record at
15 14:27:20). The total household income of each side is germane to the Court’s
16 calculation of child support. (Video Record at 14:28:15). The Court
17 acknowledged that Dad wants further discovery into Mom’s household income,
18 but the Court stated it could attempt to determine that issue today and resolve the
19 need for further discovery into this issue. (Video Record at 14:28:35). The
20 household incomes appear to be \$109,400 on Dad’s side (Dad and his girlfriend)

1 and \$120,769 on Defendant's side without imputing income on Mom—with an
2 approximate \$11,000 higher income in Mom's household. (Video Record at
3 14:31:25). The Court accepts the offers of proof as to Dad's girlfriend's income
4 and as to Mom's husband's income. (Video Record at 14:32:55). The Court
5 inquired if any party needed further discovery into the household income issue,
6 but the parties stated that they did not need further discovery. (Video Record at
7 14:33:25). The Court inquired of the parties and confirmed that both parties are
8 providing health insurance for the child, which shall continue. (Video Record at
9 14:35:20). The Court is utilizing the deviation factor of relative income of the
10 parties to look at the additional income the parties receive from their significant
11 others. (Video Record at 14:35:35). The Court is imputing \$2,143.72 in gross
12 monthly income upon Mom, which is essentially her 2014 income recomputed to
13 a full yearly figure. This is her earning capacity. (Video Record at 14:35:50).
14 Dad's gross monthly income is \$5,200.00, which makes his obligation \$936.00;
15 whereas, Mom's obligation is \$386.00, which results in a *Wright v. Osburn*
16 calculation of \$550.00. (Video Record at 14:36:30). Based on the relative
17 income of the parties and given the \$10,000 difference in incomes (between
18 Mom's husband by himself and Dad and his girlfriend combined), the Court is
19 going to give a downward deviation in the sum of \$100.00, thus making Dad's
20 child support obligation \$450.00 per month. (Video Record at 14:36:42).

1 **THE COURT FURTHER FINDS** that, as to constructive child support
2 arrears, the law is discretionary as to a reasonable amount—and not that the
3 statutory formula be applied retroactively. Mom alleges that Dad did not pay for
4 September, October, and November 2016 and that Dad did make payments prior
5 to then, albeit not at the amount eventually ordered by the Court. As payments
6 were made up through August 2016, the Court is not going to revisit that issue.
7 The Court will apply the December 2016 child support amount (\$650.00) to
8 September, October, and November 2016. The parties shall work out any
9 overpayments and give credit for the same. (Video Record at 15:01:00 –
10 15:04:45).

11 Therefor,

12 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that,
13 pursuant to stipulation of the parties, Mom and Dad shall have joint legal custody
14 and joint physical custody of the child.

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
16 parties shall have the following regular visitation with the child:

- 17 • Mom shall have regular visitation with the child from Monday at 8:00 am
18 or drop off at school if school is in session until Wednesday at 8:00 am or
19 drop off at school if school is in session;

20

- 1 • Dad shall have regular visitation with the child from Wednesday at 8:00
2 am or drop off at school if school is in session until Friday at 8:00 am or
3 drop off at school if school is in session; however, if Dad is working on
4 Wednesday, the child shall remain with Mom until Dad gets out of work—
5 this provision is only for Wednesdays; Wednesdays are still days
6 designated to Dad (Video Record at 14:51:20);
- 7 • The parties shall alternate the weekends, which shall be defined as
8 beginning Friday at 8:00 am or drop off at school if school is in session
9 and concluding Monday at 8:00 am or drop off at school if school is in
10 session; For clarity, Mom has the weekend of June 23, 2017.

11 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the
12 Court's standard holiday and visitation schedule shall control. A copy of the
13 same is attached hereto as Ex. 1. The parties may agree to deviate from the
14 schedule, as they are free to agree to deviate as to any visitation schedule. (Video
15 Record at 14:57:25). Holiday visitation time shall take precedence over all other
16 visitation time, and vacation visitation time shall take precedence only over
17 regular visitation time. (Video Record at 15:00:12).

18 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
19 either party may designate other parties to drop off/ collect the child. The Court
20

1 expects that when a party designates another to collect the child, that parent
2 would notify the other in advance. (Video Record at 14:56:40).

3 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
4 pursuant to stipulation of the parties, Dad shall provide the transportation of the
5 child for child exchanges. Currently, Dad drives nearby Mom's house on the
6 way to and from his work. (Video Record at 14:55:00). In the event that Dad is
7 unable to provide the transportation, then the parties shall communicate in
8 advance to designate an alternate individual to do the transporting.

9 **NOTICE IS HEREBY GIVEN** of the following provision of NRS
10 125C.0045(6):

11 Penalty for violation of order: The abduction, concealment or
12 detention of a child in violation of this order is punishable as a category D
13 felony as provided in NRS 193.130. NRS 200.359 provides that every
14 person having a limited right of custody to a child or any parent having no
15 right of custody to the child who willfully detains, conceals or removes the
16 child from a parent, guardian or other person having lawful custody or a
right of visitation of the child in violation of an order of this court, or
removes the child from the jurisdiction of the court without the consent of
either the court or all persons who have the right to custody or visitation is
subject to being punished for a category D felony as provided in NRS
193.130.

17 **NOTICE IS HEREBY GIVEN** that the terms of the Hague Convention
18 of October 25, 1980, adopted by the 14th Session of the Hague Conference on
19 Private International Law apply if a parent abducts or wrongfully retains a child
20

1 in a foreign country. The parties are also put on notice of the following provisions
2 of NRS 125C.0045(8):

3 If a parent of the child lives in a foreign country or has significant
4 commitments in a foreign country:

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

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

19 **IT IS FURTHER ORDERED** that all parties shall be bound by the
20 provisions of NRS 125C.006, which states:

1. If primary physical custody has been established pursuant to an
order, judgment or decree of a court and the custodial parent intends
to relocate his or her residence to a place outside of this State or to
a place within this State that is at such a distance that would
substantially impair the ability of the other parent to maintain a
meaningful relationship with the child, and the custodial parent
desires to take the child with him or her, the custodial parent shall,
before relocating:

(a) Attempt to obtain the written consent of the noncustodial
parent to relocate with the child; and

1 (b) If the noncustodial parent refuses to give that consent, petition
2 the court for permission to relocate with the child.

3 2. The court may award reasonable attorney's fees and costs to the
4 custodial parent if the court finds that the noncustodial parent
5 refused to consent to the custodial parent's relocation with the child:

6 (a) Without having reasonable grounds for such refusal; or

7 (b) For the purpose of harassing the custodial parent.

8 3. A parent who relocates with a child pursuant to this section without
9 the written consent of the noncustodial parent or the permission of
10 the court is subject to the provisions of NRS 200.359.

11 **IT IS FURTHER ORDERED** that all parties shall be bound by the
12 provisions of NRS 125C.0065, which states:

13 1. If joint physical custody has been established pursuant to an order,
14 judgment or decree of a court and one parent intends to relocate his
15 or her residence to a place outside of this State or to a place within
16 this State that is at such a distance that would substantially impair
17 the ability of the other parent to maintain a meaningful relationship
18 with the child, and the relocating parent desires to take the child with
19 him or her, the relocating parent shall, before relocating:

20 (a) Attempt to obtain the written consent of the non-relocating
parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent,
petition the court for primary physical custody for the purpose
of relocating.

2. The court may award reasonable attorney's fees and costs to the
relocating parent if the court finds that the non-relocating parent
refused to consent to the relocating parent's relocation with the
child:

1 (a) Without having reasonable grounds for such refusal; or

2 (b) For the purpose of harassing the relocating parent.

3 3. A parent who relocates with a child pursuant to this section before
4 the court enters an order granting the parent primary physical
5 custody of the child and permission to relocate with the child is
6 subject to the provisions of NRS 200.359.

7 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that,
8 based upon the findings herein, Dad shall pay Mom monthly child support in the
9 amount of \$450.00 effective May 1, 2017.

10 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
11 Dad's child support obligation for the months of September, October, and
12 November 2016 shall be calculated at the rate of \$650.00 per month. The arrears
13 of \$1,950.00 shall be payable at the rate of \$50.00 per month until paid in full.
14 The parties shall work out any overpayments. (Video Record at 15:04:10).

15 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
16 both parties shall continue to provide the medical / health insurance for the child.

17 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that any
18 of the child's unreimbursed medical, dental, optical, orthodontic, surgical, and
19 other health-related expenses shall be equally divided by the parties pursuant to
20 the 30/30 rule. The 30/30 rule provides that the party paying any unreimbursed
medical expenses has thirty (30) days from the date the expense is paid to forward

1 proof of payment to the opposing party. If that party does not timely forward the
2 proof of payment, then the Court may construe that the party waived the right to
3 be reimbursed for that expense. Upon receipt of a timely-forwarded proof of
4 payment of an unreimbursed medical expense, the receiving party has thirty (30)
5 days to reimburse the paying party one-half of the expense or to object to the
6 expense. If the receiving party does not either object to the expense or reimburse
7 the paying party for half of the expense, then that party is subject to sanctions for
8 contempt of court. (*Compare* Complaint for Custody at ¶ 13 *with* Answer at
9 1:23).

10 **NOTICE IS HEREBY GIVEN** that the provisions of NRS 31A and
11 125.007 apply regarding the collection of delinquent child support payments.

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

14 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
15 each side shall bear his / her own attorney's fees and costs.

16 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that
17 each party shall provide their social security numbers on a separate form to the
18 Court and to the Welfare Division of the Department of Health and Human
19 Services pursuant to NRS 125B.055, NRS 125.130, and/or NRS 125.230. Such
20 information shall be maintained by the Clerk in a confidential manner and shall

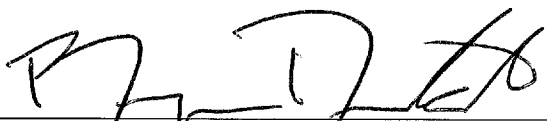

1 not be part of the public record. The parties shall update the information filed
2 with the Court and the Welfare Division of the Department of Human Resources
3 within ten (10) days should any of that information become inaccurate.

4 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Mr.
5 James shall prepare the Order with Mr. Altig to countersign.


6 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

7 Dated this ____ day of October, 2017

8 **NOV 06 2017**

9 
DISTRICT COURT JUDGE  mp
10 Approved as to form and content by:

10 Respectfully submitted by:

11 

12 LAW OFFICES OF F. PETER JAMES
13 F. Peter James, Esq.
14 Nevada Bar No. 10091
3821 W. Charleston Blvd., Suite 250
Las Vegas, Nevada 89102
702-256-0087
15 Counsel for Plaintiff

12 ADRAS & ALTIG
13 Steven M. Altig, Esq.
14 Nevada Bar No. 6879
601 South 7th Street
Las Vegas, Nevada 89101
702-385-7227
15 Counsel for Defendant

EXHIBIT 1

HOLIDAY AND VACATION PLAN

Department Q

The Court encourages parents to communicate regarding holiday and vacation time with their children. The following Holiday and Vacation Plan is a "default" schedule where parents are unable to otherwise agree. Any deviation therefrom should be memorialized in writing with both parents' signatures. Holidays/Special Occasions take precedence over residential time and Vacation time. Unless otherwise ordered, reference to a "school" schedule for the purpose of defining a Holiday or Special Occasion shall be defined by the Clark County, Nevada School District Schedule. (*See www.ccsd.net*)

THREE DAY HOLIDAYS (Holiday visitation begins when school gets out on the day preceding the holiday weekend (or 3:00 p.m. if the children are not in school) and continues until 9:00 a.m. on the day following the holiday weekend or when the children are scheduled to resume school.)	ODD YEAR	EVEN YEAR
Martin Luther King Day	Mom	Dad
Presidents' Day	Dad	Mom
Memorial Day	Mom	Dad
Labor Day	Dad	Mom
Nevada Admission Day	Mom	Dad

EXTENDED HOLIDAYS	ODD YEAR	EVEN YEAR
Thanksgiving: The holiday visitation shall begin when school gets out on the Wednesday preceding Thanksgiving (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Mom	Dad
Christmas/Winter Break: Winter break shall be divided equally between the parents, with the first half commencing when the children get out of school to begin the Winter Break (or 3:00 p.m. if the children are not in school), and continue until December 26 at 10:00 a.m. The second half shall commence on December 26 at 10:00 a.m. and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school).		
First Half	Dad	Mom
Second Half	Mom	Dad

EXTENDED HOLIDAYS, cont'd.	ODD YEAR	EVEN YEAR
Easter/Spring Break: The holiday visitation shall begin when school gets out on the last day of school (or 3:00 p.m. if the children are not in school) and continue until school is scheduled to resume (or 9:00 a.m. if the children are not in school). The parent exercising this time is responsible for all transportation for the children.	Dad	Mom

SPECIAL OCCASIONS (Special Occasions begin at 9:00 a.m. on the individual day and continue until 9:00 p.m. on the same day)	ODD YEAR	EVEN YEAR
Mother's Day	Mom	Mom
Father's Day	Dad	Dad
Children's Birthdays	Dad	Mom

Summer/Track Break Vacations
Each parent shall be entitled to one (1) vacation each year with the children for a period not to exceed two (2) consecutive weeks (unless otherwise agreed to in writing). Each parent shall designate his/her respective vacation plans by May 1 st of each year. The dates shall be conveyed to the other party in writing by way of certified mail. If there is a conflict in dates, the parent who designates the vacation first (as verified by the certified mail stamp) will prevail as to the vacation time. Neither party shall schedule vacation time during the other party's holiday time or during time the children are scheduled to be in school.



CLERK OF THE COURT

1 ANSC
2 STEVEN M. ALTIG, ESQ.
3 Nevada Bar No. 006879
4 Adras & Altig, Attorneys at Law
5 601 S. Seventh Street
6 Las Vegas, Nevada 89101
7 (702) 385-7227
8 Email: steven@adraslaw.com
9 Attorney for Defendant/Counterclaimant

7 DISTRICT COURT
8 FAMILY DIVISION
9 CLARK COUNTY, NEVADA

10 WILLIAM DIMONACO,) CASE NO. D-16-539340-C
11) DEPT. NO. Q
12 Plaintiff/Counterdefendant,)
13 vs.)
14 ADRIANA DAVINA FERRANDO,)
15 Defendant/Counterclaimant.)

16 ANSWER TO COMPLAINT FOR CUSTODY
17 AND COUNTERCLAIM

18 COMES NOW, Defendant/Counterclaimant, ADRIANA DAVINA FERRANDO,
19 [hereinafter, Defendant], by and through her attorney, STEVEN M. ALTIG, ESQ., and for her
20 Answer to the Complaint for Custody on file herein, hereby admits, denies and alleges as
21 follows:
22

23 1. Answering Paragraphs 1, 2, 3, 4, 6, 12, and 13 of the Complaint on file herein this
24 answering Defendant hereby admits each and every allegation contained therein.

25 2. Answering Paragraphs 7, 8, 9, 10, 11, 14, and 15 of the Complaint on file herein
26 this answering Defendant hereby denies each and every allegation contained therein.
27
28

3. Answering Paragraph 5 of the Complaint on file herein this answering Defendant hereby denies that the Plaintiff has held himself out to the world as the child's natural father and the Defendant hereby admits each and every other allegation contained therein.

WHEREFORE, Defendant prays Plaintiff take nothing by way of her Complaint on file herein.

COUNTERCLAIM

COMES NOW Defendant/Counterclaimant, ADRIANA DAVINA FERRANDO [hereinafter, Defendant], by and through his attorney, STEVEN M. ALTIG, ESQ., and for her Counterclaim against Plaintiff/Counterdefendant, WILLIAM DIMONACO [hereinafter, Plaintiff] alleges as follows:

1. That for more than six (6) weeks immediately preceding the commencement of this action, Defendant has been physically present and domiciled in, and an actual bona fide resident of the County of Clark, State of Nevada.

2. That Plaintiff and Defendant were never married.

3. That there is one minor child born the issue of the parties hereto, to wit:
GRAYSON ASHTON DiMonaco-Ferrando born August 12, 2014.

4. That the Plaintiff is the natural father of the parties' minor child.

5. That the Plaintiff has emotionally abandoned the minor child and the Defendant hereby reserves the right to amend this court action to include an allegation for the termination of the Plaintiff's parental rights.

6. That the Defendant is a fit and proper parent to be awarded sole legal custody of the parties' minor child.

7. That the Defendant is a fit and proper parent to be awarded primary physical custody of the parties' minor child subject to the Plaintiff's right of supervised visitation.

8. That child support should be set pursuant to Nevada law.

9. That the Plaintiff should be compelled to pay child support arrears in an amount to be determined by this Court.

1 10. That the Plaintiff should be required to maintain health insurance coverage for the
2 parties' minor child.

3 11. That the parties should share in any unreimbursed medical, dental, optical,
4 orthodontic, and mental health expenses pursuant to the 30/30 rule.

5 12. That the Defendant should be awarded the tax deduction for the child in each and
6 every year.

7 13. That there are expenses associated with the birth of the parties' minor child of
8 which the Plaintiff should be compelled to pay half as well as half of other expenses associated
9 with the child, including but not limited to a crib, clothing, car seats, and other associated
10 expenses for which the Plaintiff agreed to pay.

11 14. That the Plaintiff requested that the Defendant file paperwork to terminate the
12 Plaintiff's parental rights. That the Defendant requested assurances that the Plaintiff wished to
13 pursue that course of action before retaining the services of an attorney. The Plaintiff assured the
14 Defendant that he wished to pursue that course of action and again requested that the Defendant
15 retain the services of an attorney to this end. The Defendant did in fact retain the services of an
16 attorney to prepare the termination of parental rights paperwork. The Plaintiff then refused to
17 sign the paperwork and initiated this legal action. The Plaintiff should be compelled to
18 reimburse the Defendant her fees and costs for the termination action in the approximate amount
19 of \$2,500.00.

20 ///

21 ///

22 ///

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25 ///

26 ///

27 ///

28 ///

15. That the Defendant should be awarded her attorney's fees and costs in this action.

WHEREFORE, Defendant prays for judgment of this Court as follows:

1. That the Court grant the relief as set forth in the Defendant's Counterclaim; and

2. For such other and further relief as to the Court seems just and proper in the
es.

DATED this 2 day of October, 2016.

STEVEN M. ALTIG, ESQ.

Nevada Bar No. 006879

Adras & Altig, Attorneys at Law

601 S. Seventh Street

Las Vegas, Nevada 89101

(702) 385-7227

1 VERIFICATION

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

5 ADRIANA DAVINA FERRANDO, being first duly sworn according to law, deposes
6 and says:

7 That she is the Defendant/Counterclaimant in the above-entitled matter; and that she has
8 read the foregoing Answer to Complaint and Counterclaim and knows the contents thereof, and
9 the same is true of her own knowledge except as to those matters stated therein upon information
10 and belief, and as to those matters she believes them to be true.

12 Executed this 3 day of October, 2016.

13 
14 ADRIANA DAVINA FERRANDO

15 SUBSCRIBED AND SWORN before me

16 On this 3rd day of October, 2016.



18 
19 Notary Public in and for said County and State

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

State of Nevada, County of Clark



Notary Public in and for said County and State

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CERTIFICATE OF E-SERVICE

I hereby certify that I am an employee of Adras & Altig Attorneys at Law, and that on the
4th day of October, 2016, I elected to E-SERVE a true and correct filed stamped copy of
the foregoing Answer to Complaint for Custody and Counterclaim, to the following:

F. Peter James, Esq.
Email: peter@peterjameslaw.com
Attorney for Plaintiff


An Employee of Adras & Altig Attorneys at Law

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY COURT COVER SHEET**

D-16-539340-C

Q

CASE NO. _____ (To be assigned by the Clerk's Office)

Do you or any other party in this case (including any minor child) have any other current case(s) or past case(s) in the Family Court or Juvenile Court in Clark County?

☒ **YES** ☐ **NO**

If yes, complete the other side of this form

PARTY INFORMATION (Please Print)

Plaintiff/Petitioner		Defendant/Respondent/Co-Petitioner/Ward/Decedent	
Last Name: DiMonaco		Last Name: Ferrando	
First Name: William	Middle Name:	First Name: Adriana	Middle Name: Davina
Home Address: 7200 West Washington Street		Home Address: 6917 Leon Avenue	
City, State, Zip: Las Vegas, Nevada 89128		City, State, Zip: Las Vegas, Nevada 89131	
Mailing Address: SAA		Mailing Address: SAA	
City, State, Zip:		City, State, Zip:	
Phone #: 909-996-7321	Date of Birth: March 28, 1986	Phone #: 702-767-9879	Date of Birth: March 2, 1983
Attorney Information		Attorney Information	
Name: F. PETER JAMES	Bar No. 10091	Name:	Bar No:
Address: 3821 WEST CHARLESTON BLVD., SUITE 250		Address:	
City, State, Zip: LAS VEGAS, NEVADA 89102		City, State, Zip:	
Phone #: 702-256-0087		Phone #:	

(Check one box only for the type of case being filed with this cover sheet)

DOMESTIC	OTHER DOMESTIC RELATIONS PETITIONS	GUARDIANSHIP	PROBATE
Marriage Dissolution <input type="checkbox"/> Annulment <input type="checkbox"/> Divorce - No minor child(ren) <input type="checkbox"/> Divorce - With minor child(ren) <input type="checkbox"/> Foreign Decree <input type="checkbox"/> Joint Petition - No minor child(ren) <input type="checkbox"/> Joint Petition - With minor child(ren) <input type="checkbox"/> Separate Maintenance	<input type="checkbox"/> Adoption - Minor <input type="checkbox"/> Adoption - Adult <input checked="" type="checkbox"/> Child Custody (Non-Divorce) <input type="checkbox"/> Mental Health <input type="checkbox"/> Name Change <input type="checkbox"/> Paternity <input type="checkbox"/> Permission to Marry <input type="checkbox"/> Support - Other <input type="checkbox"/> Temporary Protective Order (TPO) <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Visitation (Non-Divorce) <input type="checkbox"/> Other (identify)	Guardianship of an Adult <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate Guardianship of a Minor <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate <input type="checkbox"/> Guardianship Trust	<input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate
MISC. JUVENILE PETITIONS	IV-D CHILD SUPPORT PETITIONS		
<input type="checkbox"/> Work Permit <input type="checkbox"/> Emancipation	<input type="checkbox"/> DA - UIFSA <input type="checkbox"/> Child Support In State IV-D		

List children involved in this case (If more than 3 children, please enter the information on the reverse side)

Last Name	First Name	Middle Name	Date of Birth	Relationship
1. DiMonaco-Ferrando	Grayson	Ashton	Aug. 12, 2014	Son
2.				
3.				

F. PETER JAMES

Printed Name of Preparer


Signature of Preparer

9-8-2016
Date

Supply the following information about any other proceeding (check all that apply):

☒ Divorce ☐ Temporary Protective Orders (TPO) ☐ Custody/Child Support

☐ UIFSA/URES ☐ Paternity ☐ Juvenile Court ☐ Other

Please Print

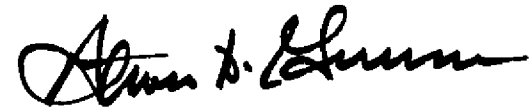
List full name of all adult parties involved			Case number of other proceeding(s)	Approximate date of last order in other proceeding(s)
Last Name	First Name	Middle Name		
1. DiMonaco	William		D-13-479268-Z	May 13, 2013
2.				
3.				
4.				
If children were involved (other than those listed on front page), please provide:				
Last Name	First Name	Middle Name	Date of Birth	Relationship
1. DiMonaco	McKenna	Rose	May 24, 2011	Daughter
2.				
3.				
4.				
5.				
6.				
7.				
8.				

Children involved in this case (continuation from front page)

Last Name	First Name	Middle Name	Date of Birth	Relationship
4.				
5.				
6.				
7.				
8.				

**THIS INFORMATION IS REQUIRED BY
NRS 3.025, NRS 3.223, NRS 3.227, NRS 3.275,
NRS 125.130, NRS 125.230,**

And will be kept in a confidential manner by the Clerk's Office.



CLERK OF THE COURT

1 **COMC**
LAW OFFICES OF F. PETER JAMES, ESQ.
2 F. Peter James, Esq.
Nevada Bar No. 10091
3 Peter@PeterJamesLaw.com
3821 West Charleston Boulevard, Suite 250
4 Las Vegas, Nevada 89102
702-256-0087
5 702-256-0145 (fax)
Counsel for Plaintiff

6
7 **DISTRICT COURT, FAMILY DIVISION**
CLARK COUNTY, NEVADA

8 WILLIAM DIMONACO,
9
Plaintiff,

CASE NO. : D-16-539340-C
DEPT. NO. : Q

COMPLAINT FOR CUSTODY

10 vs.

11 ADRIANA DAVINA FERRANDO,
12
Defendant.

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14 COMES NOW Plaintiff, William DiMonaco, by and through his counsel, F. Peter James,
15 Esq., who, as and for a Complaint for Custody, hereby alleges and requests relief as follows:

- 16 1. That Plaintiff, for a period of more than six weeks immediately preceding the filing of
17 this action, has been and now is an actual, bona fide resident of the State of Nevada,
18 County of Clark, and has been actually physically present and domiciled in Nevada for
19 more than six (6) weeks prior to the filing of this action.
- 20 2. That Plaintiff and Defendant were never married to each other.
- 21 3. That there is one minor child at issue, to wit: Grayson Ashton DiMonaco-Ferrando
22 (born August 12, 2014 (hereinafter "the child")); the parties have no other minor
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1 children together, no adopted children, and, Defendant ("Mom") is not currently
2 pregnant with Plaintiff's child.

3 4. That the child has resided in the State of Nevada since his birth; thus, Nevada is the
4 home state of the child and his state of habitual residence.

5 5. Plaintiff is the natural father of the child. Plaintiff signed an affidavit of paternity as to
6 the child, the same has not been revoked, and Plaintiff is listed as the child's natural
7 father on the child's birth certificate. The child bears Plaintiff's surname. Plaintiff has
8 held the child out to the world as his natural child.

9 6. To Plaintiff's knowledge, custody of the child has not been adjudicated in any other
10 court proceeding.

11 7. The parties are fit and proper persons to be awarded joint legal custody of the child,
12 and should be awarded the same.

13 8. The parties are fit and proper persons to be awarded joint physical custody of the child,
14 and should be awarded the same.

15 9. Defendant has unreasonably restricted Plaintiff's access to the child. Defendant has, in
16 great part, frustrated Plaintiff's efforts to develop a meaningful relationship with the
17 child, though Plaintiff has managed to develop a strong bond with the child nonetheless.

18 10. Child support should be set pursuant to Nevada law, subject to appropriate deviations
19 under NRS 125B.080(9).

20 11. The Court should set a joint physical custody visitation schedule. As Plaintiff has
21 another child from a different relationship, the visitation schedule for the present child
22 should follow that schedule so the children can have more time with each other to bond.

1 12. Plaintiff should maintain the child's health insurance if the same is available through
2 his employer at a reasonable cost.

3 13. The child's unreimbursed medical, dental, optical, orthodontic, and mental health
4 expenses should be equally born by each party subject to the 30/30 rule. The 30/30
5 rule provides that the party paying any unreimbursed medical expenses has thirty (30)
6 days from the date the expense is paid to forward proof of payment to the opposing
7 party. If that party does not timely forward the proof of payment, then that party waives
8 the right to be reimbursed for that expense. Upon receipt of a timely-forwarded proof
9 of payment of an unreimbursed medical expense, the receiving party has thirty (30)
10 days to reimburse the paying party one-half of the expense or to object to the expense.
11 If the receiving party does not either object to the expense or reimburse the paying party
12 for half of the expense, then that party is subject to sanctions for contempt of court.

13 14. The parties should alternate claiming the tax deduction for the child.

14 15. Plaintiff should be awarded attorney's fees and costs.

15 **WHEREFORE**, Plaintiff prays for a Judgment as follows:

- 16 1. That the Court grant the relief requested in this Complaint; and
17 2. For such other relief as the Court finds to be just and proper.

18 Dated this 8 day of September, 2016

19 

20 LAW OFFICES OF F. PETER JAMES

F. Peter James, Esq.

21 Nevada Bar No. 10091

3821 W. Charleston Blvd., Suite 250

22 Las Vegas, Nevada 89102

702-256-0087

23 Counsel for Plaintiff

VERIFICATION

William DiMonaco hereby declares and states as follows:

1. That I am the Plaintiff in the above entitled action.
2. That I have read the foregoing *Complaint for Custody* and know the contents thereof.
3. That the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters I believe them to be true.
4. Those factual averments contained in said document are incorporated herein as if set forth in full.
5. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

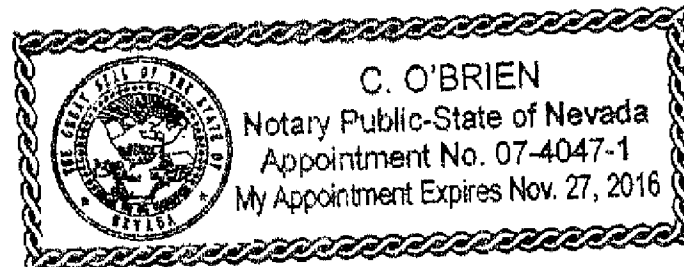


WILLIAM DIMONACO

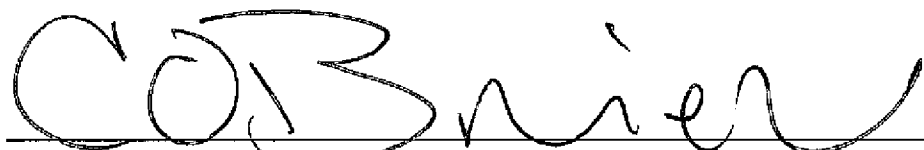
STATE OF NEVADA)

ss:

COUNTY OF CLARK)



Subscribed and Sworn to before me by William DiMonaco
this 8 day of September, 2016



NOTARY PUBLIC in and for said County and State

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

WILLIAM DIMONACO,
Appellant,

v.

ADRIANA FERRANDO,
Respondent.

No. 74696

Electronically Filed
Dec 27 2017 02:16 p.m.

DOCKETING Elizabeth N. Brown
CIVIL APPEALS Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District EIGHTH Department Q

County CLARK Judge DUCKWORTH

District Ct. Case No. D-16-539340-C

2. Attorney filing this docketing statement:

Attorney F. PETER JAMES, ESQ. Telephone 702-256-0087

Firm LAW OFFICE OF F. PETER JAMES, ESQ., PLLC

Address 3821 WEST CHARLESTON BLVD., SUITE 250
LAS VEGAS, NEVADA 89102

Client(s) APPELLANT, WILLIAM DIMONACO

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

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

Attorney STEVEN M. ALTIG, ESQ. Telephone 702-385-7227

Firm ADRAS & ALTIG

Address 601 SOUTH 7TH STREET
LAS VEGAS, NEVADA 89101

Client(s) RESPONDENT, ADRIANA FERRANDO

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

None.

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

None, other than the district court case from which the appeal lies.

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

This is custody action. The parties resolved custody (legal and physical). At trial, the district court resolved the child support and collateral issues.

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

Whether the district court erred in its child support determination--specifically if the district court erred in imputing the income of Appellant's girlfriend upon him in a Lewis v. Hicks / Rodgers v. Rodgers determination.

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

None known.

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

☐ N/A

☐ Yes

☒ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

This matter is presumptively assigned to the Court of Appeals. See NRAP 17(b)(11).

Appellant is not requesting that the Supreme Court retain the case.

14. Trial. If this action proceeded to trial, how many days did the trial last? 1 _____

Was it a bench or jury trial? Bench _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

N/A.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Nov 9, 2017

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

17. Date written notice of entry of judgment or order was served Nov 9, 2017

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Dec 6, 2017

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

N/A.

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

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

NRAP 3A(b)(1) applies to the Decree as it is a final order.

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

(a) Parties:

Plaintiff, William DiMonaco (Appellant)
Defendant, Adriana Ferrando (Respondent)

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

N/A.

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

Each party requested only standard custody matters--legal custody, physical custody, child support, visitation, and health insurance.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

VERIFICATION

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

William DiMonaco

Name of appellant

F. Peter James, Esq.

Name of counsel of record

Dec 26, 2017

Date

/s/ F. Peter James

Signature of counsel of record

Clark County, Nevada

State and county where signed

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Steven Altig, Esq.
Counsel for Respondent