IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE VISITATION OF THE PERSONS OF: J.C.B; K/R/B; L.B.B; AND L.A.B, MINORS : PAULA BLOUNT, Appellant, vs. JUSTIN CRAIG BLOUNT, Respondent.	No. 76831 District Court Case No. D-18-571209-O

Appeal from the Eighth Judicial District Court
Family Division, Clark County, Nevada
Honorable Linda Marquis, District Court Judge

Respondent's Answering Brief

Bradley Hofland, Esq.
HOFLAND & TOMSHECK
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
702-895-6760
Attorney for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Constitutional Provision

Statutes

Rules

Other

RULE 26.1 DISCLOSURE STATEMENT

The Appellant herein is an individual. The attorney who has appeared on behalf of the Appellant in this case is BRADLEY J. HOFLAND, ESQ.

Rule 28(b)(2) ROUTING STATEMENT

This matter is presumptively assigned to the Appellate Court pursuant to NRAP 17(b)(11).

ISSUES PRESENTED

1. Whether the lower court properly dismissed Appellant's petition for lack of jurisdiction.
2. Whether the lower court's award of attorney's fees was appropriate.

STATEMENT OF THE CASE

A. Statement of Facts

Justin is the biological father of the four subject minors at issue, to wit: Jeremiah Caleb Blount ("Jeremiah"), born January 19, 2010 (currently 9 years of age); Kaydi Rose Blount ("Kaydi"), born February 19, 2013(currently 5 years of age); Luna Bell Blount ("Luna"), born March 11, 2016 (currently 2 years of age); and Logan Alexander Blount ("Logan"), born December 14, 2017 (currently 1 year of age). (1 JA 36:3-6). The biological mother of Jeremiah and Kaydi was Gretchen Whatoname, a Native American, who passed away in December of 2017[1]. (1 JA 36:6-7; 42:21-22).The biological mother of Luna and Logan is Stephanie Blount; Justin's wife. (1 JA 36:9-10). Paula is Justin's mother and paternal grandmother of the children[2]. (1 JA 8:15-16).

Prior to Gretchen's passing, dissolution proceedings were commenced and corresponding orders entered by The Hualapai Tribal Court, Hualapai Indian Reservation, Peach Springs, Arizona. (1 JA 62-66). Neither party disputed the Hualapai Tribal Court had both personal and subject matter jurisdiction. Paula's

[1] Both Jeremiah and Kaydi are registered members of the Hualapai Tribe. 1JA244.

[2] The parties' history is fraught with tension and considerable conflict because of, but certainly not limited to, Paula's disregard of parental boundaries; her surreptitiously indoctrinating the children (Jeremiah and Kaydi; she admittedly does not have a significant or meaningful relationship with Luna and Logan) with her religious beliefs; her incessant harassment and interference; and her refusal to allow the children and their parents to live in peace. Because of the issues raised on appeal, and for the sake of brevity and relevance, the voluminous facts in support of the above will not be detailed.

earlier endeavor to be awarded custody of Jeremiah and Kaydi was denied. (1 JA 36:17-22) After Gretchen's passing, Paula conspired with Gretchen's parents to hide the children on the Hualapai Indian Reservation as they sought custody of the children. (1 JA 39:2-6). On December 29, 2017, the Tribal Court Judge found their motion to lack merit and denied the requested relief; ruling that custody of the children must be restored to Justin. (1 JA 66).

Thereafter, Justin submitted an Ex Parte Motion for Dismissal and Orders based upon the untimely death of Gretchen. On January 23, 2018, the Honorable Ian W. Morris, Chief Judge of the Hualapai Tribal Court, entered an order restoring legal and physical custody of Jeremiah and Kaydi to Justin, addressing other matters, and expressly *denying* Justin's request to close the case. (1 JA 62-64). That month Justin moved to Las Vegas, Nevada, where he now lives with Stephanie and their four children.[3] (1 JA 39:7-8).

Approximately four (4) months later, on May 18, 2018, Paula filed a Petition for Grandparent Visitation and on June 12, 2018, she filed a motion for temporary orders. (1 JA 1-5; 6-23). Service was not effectuated until June 15, 2018. (1 JA 27). On June 21, 2018, Justin's counsel corresponded with Paula's counsel, detailing the jurisdictional defects and the fact that Paula has no right to petition to

[3] Justin and Stephanie have subsequently filed a Petition for Adoption allowing Stephanie to adopt Jeremiah and Kaydi; the Decree of Adoption has been submitted and is awaiting the lower court's approval.

the court for visitation rights with regard to Luna and Logan, hoping that consideration of the applicable law would lead to their voluntary dismissal of the Petition and motion that had been filed. (1 JA 85-87). Unfortunately, that was not the result. Instead, the parties briefed the issues and thereafter, on July 25, 2018, the lower court denied Paula's motion for visitation as it pertained to the two youngest children, Logan and Luna and dismissed the petition for visitation. (2 JA 308-310). The lower court also found the Hualapai Tribe has continuing exclusive jurisdiction over Jeremiah and Kaydi, was the more convenient forum, and granted Justin's motion to dismiss the petition for visitation as it pertained to them as well. (2 JA 309:23-26; 310:1-4). The lower court's Findings of Fact, Conclusions of Law, and Order from July 25, 2018 Hearing was entered on August 20, 2018. (2 JA 311).

SUMMARY OF THE ARGUMENT

The Findings of Fact, Conclusions of Law, and Order from the July 25, 2018 hearing were supported by the evidence of this case and consistent with applicable precedent. In her appeal, Paula misstates, misapplies and misconstrues selected authority, while disregarding applicable precedent, which when properly reviewed and considered, confirm the propriety of the lower court's decision.

ARGUMENT

I. Standard of review

Subject matter jurisdiction is a question of law subject to de novo review. *Ogawa v. Ogawa*, 125 Nev. 660, 221 P.3d 699 (2009). Additionally, district court orders are to be based on what the orders substantively accomplish, rather than based on the labels used in those orders. *See, e.g., Lee v. GNLV Corp*., 116 Nev. 424, 427, 996 P.2d 416, 418 (2000). The district court's factual findings, however, are given deference and will be upheld if not clearly erroneous and if supported by substantial evidence. *International Fid. Ins. v. State of Nevada*, 122 Nev. 39, 42, 126 P.3d 1133, 1134-35 (2006). The determination whether to exercise jurisdiction under the UCCJEA[4] is within the discretion of the trial court and will not be reversed absent an abuse of that discretion. *Young v. Punturo (On Reconsideration)*, 270 Mich. App. 553, 560, 718 NW2d 366 (2006).

II. Legal Analysis

A. Introduction.

It is significant to note the Findings of Fact, Conclusions of Law, and Order from the July 25, 2018 Hearing that denied Paula visitation with the four minor children and dismissed her action does ***not*** mention, or establish, the lower court's

[4] UCCJEA stands for the Uniform Child Custody Jurisdiction and Enforcement Act and has been adopted by Nevada in NRS 125A et. seq.

decision was predicated upon the ICWA[5] or the UCCJEA. In the case at bar, the lower court properly recognized the sovereign rights of the Hualapai Tribe and the continuing exclusive jurisdiction of the Hualapai Tribal Court. Thus, Paula needlessly dedicates a significant portion of her Opening Brief arguing that ICWA does not apply to grandparent visitation[6] and the misapplication of the UCCJEA.[7]

Also notable is the fact that Paula does ***not*** challenge or contest the underlying *findings* of the lower court; merely its decision. As detailed *infra*, the findings of the lower court were proper and consistent with applicable precedent.

B. The Lower Court's decision of July 25, 2018 was legally sound.

1. The lower court properly declined to exercise jurisdiction because of the Sovereignty[8] of the Hualapai Tribe.

"Indian tribes occupy a unique status under our law."[9] They are domestic dependent nations that exercise inherent sovereign authority over their members and have the power to make their own substantive law on internal matters and to enforce that law in their own forums. They "are not bound by the United States

---

[5] ICWA stands for the Indian Child Welfare Act.
[6] See Paula's Opening Brief, pages 11-13.
[7] See *Id*., pages 5-11.
[8] As defined by Duhaime's Law Dictionary, the definition of Tribal Sovereignty is: "A doctrine which recognizes Indian tribes' inherent powers to self-govern, to determine the structure and internal operations of the governing body itself, and exemption from state law that would otherwise infringe upon this sovereignty."
[9] *Nat'l Farmers Union Ins. Cos. V. Crow Tribe*, 471 U.S. 845, 851, 105 S.Ct. 2447 (1985).

constitution in the exercise of their powers, including their 'judicial powers'".[10] They are not bound by the same parameters as state statutes.

Dissolution proceedings, as well as custodial matters, were commenced before the Hualapai Tribal Court and corresponding orders were entered. With respect to Jeremiah and Kaydi, the Hualapai Tribe exercised jurisdiction over these two children and made multiple custodial determinations. It must be noted that Indian tribes possess the powers of sovereign states.[11] The *Worcester* Court explained that only Congress could abridge tribal sovereignty[12]. Thus, absent congressional legislation to limit those powers, tribes maintain all sovereignty not divested by Congress[13].

In *John*, the court noted that Indian sovereignty stems from tribal governance, which predates the nation's founding[14]. These inherent sovereign powers include "internal functions involving tribal membership and domestic

---

[10] *Means v. Navajo Nation*, 432 F.3d 924, 930 (9th Cir. 2005).
[11] See *Worcester v. Georgia*, 31 U.S. (6 Peters) 515, 559-60 (1832) (noting Indian tribes have historically been recognized as "distinct, independent political communities" which exercise powers of self-government not by virtue of delegation from a superior sovereign, but rather as original, inherent sovereign authority). See also *New Mexico v. Mescalero Apache Tribe*, 462 US 324, 331 (1983) (citation and internal quotation omitted).
[12] See *Id*. at 561.
[13] See *John v Baker*, 982 P.2d 738 (Alaska 1999), cert denied, 2000 Lexis 1434.
[14] *Id*. ("We begin our analysis…with the established principle under federal law that 'Indian tribes retain those fundamental attributes of sovereignty…which have not been divested by Congress….[T]his starting point stems from the fact that tribal governance predates the founding of our nation.'"

affairs."[15] The *John* ruling also maintained that land ownership was not a prerequisite to the protection of tribal self-government and the control of internal relations.[16] There is no question tribes view their power to adjudicate cases involving Native American children as a critical aspect of sovereignty.[17] Thus, this non-infringement doctrine becomes even more pronounced in the context of child custody proceedings.

The Hualapai Tribal Court has inherent sovereignty over the custody and visitation of tribal members/the children of tribal members. This is further recognized by virtue of, and pursuant to, the authority contained under the Constitution of the Hualapai Tribe, approved by the Secretary of the Interior on March 13, 1991, the Hualapai Tribal Court has the power and jurisdiction "to regulate the domestic relations of persons within the jurisdiction of the Tribe."[18] The Hualapai Judiciary also has the express power to "interpret, construe and apply the laws of, or applicable to, the Hualapai Tribe."[19] Also, pursuant to Article VI,

---

[15] *John*, 982 P2d at 751 (citations omitted).
[16] See *Id.* at 752, See also *Montana*, 450 US at 564; *McClanahan v. Ariz. State Tax Comm'n*, 411 U.S. 164, 173.
[17] See The Indian Child Welfare Act Intergovernmental Agreement Between the State of Arizona Through its Department of Child Safety and the Navajo Nation through its Division of Social Services, Navajo Children and Family Services, Purpose and Policy (b) (1), recognizing "[t]here is no resource more vital to the continued existence and integrity of the Navajo Nation than our children."
[18] Constitution of the Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona, Article V(q).
[19] Id., Article VI, Section 3(a).

Section 2, of the Hualapai Constitution that specifically addresses the jurisdiction of the Court, it provides that:

> [t]he tribal courts ***shall*** exercise jurisdiction over all cases and controversies within the jurisdiction of the Tribe, in law and equity, whether civil or criminal in nature, that arise under this document, the laws of and customs of the Tribe, by virtue of the Tribe's inherent sovereignty, or which is vested in the tribal courts by Federal law. (emphasis added).

The Hualapai Tribal Court has made multiple custodial determinations.[20] The Hualapai Tribe has not adopted the UCCJEA, and more importantly, they have not relinquished jurisdiction over Justin or the two eldest children, who are undeniably Indian children as defined in ICWA and recognized as such by the Hualapai Tribe/Tribal Court. Paula has failed to provide ***any*** authority to establish the Hualapai Tribal Court does not have exclusive continuing jurisdiction. Until they do so, if Paula wishes to petition for grandparent visitation, she must do so before the Hualapai Tribal Court. If Paula contends the Hualapai Tribal Court does not have exclusive continuing jurisdiction or lacks jurisdiction to address a petition for grandparent visitation, she must assert that challenge before the Hualapai Tribal Court. Paula has not exhausted available tribal remedies and until she does so Nevada has no jurisdiction over the elder two children.

Any award of visitation to a grandparent, that was not previously afforded when prior custodial orders were made, constitutes a modification of that order.

---

[20] 1JA 62-64; 66.

As noted in *Counts v. Bracken*, 494 So. 2d 1275 (1986), "[a] judgment awarding grandparental visitation rights is a modification of an original custody judgment because it affects custody." Indeed, "[t]o the degree one adds or subtracts from the time and circumstances of a custody degree to enhance or restrict visitation or partial custody, it is a modification of the custody Order."[21] The court in *In re Marriage of Ginsberg*,[22] likewise recognized "the issue of visitation was inherent in a custody modification proceeding."

The general rule is courts which render a custody decree normally retain continuing jurisdiction to modify that decree.[23] States have adopted the UCCJEA to provide the framework to determine when a ***State*** no longer has the exclusive continuing jurisdiction. However, because the UCCJEA is a state enactment which is not binding on tribal courts, the determination of if and when to relinquish jurisdiction is a determination that must be made by the tribal court.

Paula is attempting to avoid appearing before the Hualapai Tribal Court, who has jurisdiction to address a petition for grandparent visitation. Her belief she can simply file such a petition in another jurisdiction is misplaced and improper. When "determining whether a court should entertain a child custody proceeding having interstate implications, the court should first determine whether it has

---

[21] *Agati v. Agati*, 492 A.2d 427 (1985).
[22] 425 N.E.2d 656 (1981).
[23] See e.g. *In re Marriage of Mosier*, 836 P.2d 1158 (1992).

jurisdiction and then determine whether it is appropriate to exercise jurisdiction."[24] Paula is improperly attempting to modify the prior custodial order and the lower court properly found it had no jurisdiction to do so.

Federal Courts have confirmed the importance of dismissing cases in favor of tribal courts. In *Iowa Mutual Ins. Co. v. LaPlante*[25], Justice Marshall's opinion for the majority espoused the policy against placing the federal courts (or in this case, state courts) "in direct competition with the tribal courts, thereby impairing the latter's authority over reservation affairs."[26] Finally, it concluded that "[a]djudication of such matters by any nontribal court also infringes upon tribal law-making authority, because tribal courts are best qualified to interpret and apply tribal law."[27] Before Nevada can assert jurisdiction over the two eldest children, Paula must exhaust her remedies before the Hualapai Tribal Court and the tribal court must be afforded the opportunity to address the question first.[28]

Paula cannot dispossess the Hualapai Court of its jurisdiction over domestic matters, the jurisdiction it has asserted over Justin and the two eldest children, or divest them of the opportunity to address Paula's request for grandparent visitation.

---

[24] *Dorszynski v.Reier*, 578 N.W.2d 457, 461 (1998) citing *Van Norman v. Upperman*, 231 Neb. 524, 436 N.W.2d 834 (1989).
[25] 480 U.S. 9 (1987).
[26] *Id*. at 16.
[27] *Id*.
[28] *National Farmers*, *supra*.

2. The Lower Court properly recognized the distinction between the two oldest (Jeremiah and Kaydi) and two youngest (Luna and Logan) children.

The lower court properly noted that the natural mother of the two younger children is alive and the natural mother of the two older children is not. (2 JA 308-9). Aside from the jurisdictional considerations addressed *infra*, this distinction is critical because NRS§125C.050 provides in relevant part:

> 1. Except as otherwise provided in this section, if a parent of an unmarried minor child:
> (a) Is deceased;
> (b) Is divorced or separated from the parent who has custody of the child;
> (c) Has never been legally married to the other parent of the child, but cohabitated with the other parent and is deceased or is separated from the other parent; or
> (d) Has relinquished his or her parental rights or his or her parental rights have been terminated,
> the district court in the county in which the child resides may grant to the great-grandparents and grandparents of the child and to other children of either parent of the child a reasonable right to visit the child during the child's minority.
> 2. If the child has resided with a person with whom the child has established a meaningful relationship, the district court in the county in which the child resides also may grant to that person a reasonable right to visit the child during the child's minority, regardless of whether the person is related to the child.

Pursuant to the unequivocal language of the statute, Paula has not, and cannot, satisfy the indispensable prerequisite(s) that would afford her standing to even petition a court for visitation with Luna and Logan. Indeed, neither parent of Luna and Logan are deceased, neither parent is divorced or separated from each other, and neither parent has relinquished their parental rights or had them

terminated, which is necessary to petition for visitation rights under NRS §125C.050(1). Further, Luna and Logan have ***never*** resided with Paula and established a meaningful relationship, which is necessary if visitation is being sought pursuant to NRS§125C.050(1)(2). Accordingly, Paula lacks standing to petition the court for visitation with Luna and Logan and the lower court's determination that Paula "has alleged nothing that would allow visitation with Luna or Logan" was proper and supported by the evidence.

3. <u>The lower court had no jurisdiction to modify the custodial order that was rendered by the Hualapai Tribal Court.</u>

Concealing the prior custodial orders from the consideration of the lower court, Paula attempted to modify that custodial determination through a petition for grandparent visitation, citing NRS §125C.050 as authority for her request. However, the lower court lacked jurisdiction based upon the sovereignty of the tribal court and the fact they have continuing jurisdiction and have never relinquished said jurisdiction.

NRS§125A.215 (UCCJEA) provides:

> 1. A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act of 1978, 25 U.S.C. 1901 et seq., is not subject to the provisions of this chapter to the extent that the proceeding is governed by the Indian Child Welfare Act.
> 2. A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying NRS 125A.005 to 125A.395, inclusive.
> 3. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of the provisions of this chapter ***must be recognized*** and

> enforced pursuant to NRS 125A.405 to 125A.585, inclusive. (emphasis added).
>
> NRS §125A.445 also mandates:
>
> A court of this state ***shall*** recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with the provisions of this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of the provisions of this chapter and the determination has not been modified in accordance with the provisions of this chapter. (emphasis added).

In this case, the lower court did just that. The lower court recognized the existing custodial order; the fact the tribal court retained jurisdiction and the fact they have not relinquished jurisdiction. Paula is the one who failed to recognize the prior custodial order or the impact it had on her petition for grandparent visitation.

Additionally, "[a]lthough Indian tribes and nations are not states whose judgments are entitled per se to full faith and credit, ICWA specifically directs that 'every State . . . shall give full faith and credit to the . . . judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the . . . judicial proceedings of any other entity.'" 19 U.S.C.A.§1911 (d) (West 2001). *Searle v. Searle*, 38 P.3d 307 (2001).

Neither party disputes the Hualapai Tribal Court properly exercised jurisdiction over Justin, Jeremiah, and Kaydi or that the Hualapai Tribal Court was the appropriate, and only, court to make initial child custodial determinations. Further, NRS§125A.325 also provides that:

> "a court of this state may ***not*** modify a child custody determination made by a court of another state unless this state has jurisdiction to make an initial determination pursuant to paragraph (a) or (b) of subsection 1 of NRS 125A.305 ***and***:
> 1. The court of the other state determines it no longer has exclusive, continuing jurisdiction pursuant to NRS 125A.315 or that a court of this state would be a more convenient forum pursuant to NRS 125A.365; or
> 2. A court of this state or a court of the other state determines that the child, the childs parents and any person acting as a parent do not presently reside in the other state.

Paula concedes Nevada was not the children's home state as defined in NRS 125A.085 and set forth in paragraph (a) of NRS§125A.305.[29] Moreover, as noted

[29] NRS 125A.305 provides:
1. Except as otherwise provided in NRS 125A.335, a court of this State has jurisdiction to make an initial child custody determination only if:
(a) This State is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within 6 months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;
(b) A court of another state does not have jurisdiction pursuant to paragraph (a) or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum pursuant to NRS 125A.365or 125A.375 and:
(1) The child and the childs parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and
(2) Substantial evidence is available in this State concerning the childs care, protection, training and personal relationships;

supra, the Haulapai Tribe/Tribal Court has retained jurisdiction and has ***not*** declined to exercise jurisdiction. These facts preclude the lower court from having jurisdiction to modify the custody order of the Hualapai Tribal Court.

It is significant to note the Hualapai Tribal Court expressly denied Justin's request to close the case following Gretchen's passing just four months prior to Paula's commencement of proceedings in Nevada. Given the history and interaction the Hualapai Tribal Court had with Jeremiah and Kaydi, coupled with the fact that both maternal and paternal grandparents live in Arizona, substantial evidence was received by the Hualapai tribe concerning the children's care, protection, training and personal relationships, and the Hualapai Tribal Court was under no obligation to relinquish jurisdiction.

Additionally, although Justin, Jeremiah and Kaydi were no longer living in Arizona when Paula initiated her proceedings in Nevada, Nevada lacked jurisdiction to entertain Paula's requests. Notably, Paula ***never*** filed a petition for grandparent visitation. The orders of the Hualapai Courts ***never*** awarded Paula visitation with Jeremiah or Kaydi. Therefore, the lower court's recognition that the

---

(c) All courts having jurisdiction pursuant to paragraph (a) or (b) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child pursuant to NRS 125A.365 or 125A.375; or
(d) No court of any other state would have jurisdiction pursuant to the criteria specified in paragraph (a), (b) or (c).

Hualapai Tribe "exercised jurisdiction over the two older children in two separate proceedings" and that they have "continuing, exclusive jurisdiction over the children"[30], along with the finding that "Nevada does not have jurisdiction in this matter" because "[t]he two oldest children were not present [in Nevada] for the six consecutive months prior to the onset of [Paula's] action"[31], is legally sound and supported by the facts of this case.

Further, because NRS §125A.305 requires Nevada to be the home state "on the date of the commencement of the proceeding", and confirmed in *Friedman v. Eighth Judicial Dist. Court of Nev.*, 127 Nev. 842, 264 P.3d 1161(2011), if the lower court were to have jurisdiction to modify the tribal custody order, whether Justin and the children have now lived in Nevada for 6 consecutive months, or had at the time the matter was heard, is irrelevant for purposes of a jurisdictional determination. Hence, the lower court's next finding was likewise accurate.[32]

To evade the fatal impact the UCCJEA has upon Paula's untimely (and improper) petition for grandparent visitation, Paula argues the UCCJEA does not apply to grandparent visitation, yet argues a contradictory proposition as she cites to NRS§125A.305 in support of her claim Nevada did have jurisdiction. Her interpretation of applicable authority and the facts of this case are infirm.

---

[30] 2 JA 309:4-6
[31] 2 JA 309:7-10.
[32] 2 JA 309:11-13.

In that regard, Paula concedes Nevada was not the home state of the children when she commenced her proceedings. Contrary to Paula's claim, Nevada did not have jurisdiction under NRS§125A.305(1)(b).[33] Initially, Paula fails to acknowledge that the Hualapai Tribal Court has not "declined to exercise jurisdiction on the ground that [Nevada] is the more appropriate forum pursuant to NRS§§125A.365 or 125A.375." In fact, pursuant to the January 24, 2018 order, they declined to close the case. In *Friedman*, this Court noted it would be improper for the "state without home state jurisdiction to conduct the [inconvenient/more appropriate forum] hearing".[34]

Further, NRS §125A.365 requires the district court to consider all relevant factors, including "[t]he familiarity of the court of each state with the facts and issues in the pending litigation. In this case, unlike the Hualapai Tribal Court, the parties have never appeared before the lower court and the lower court has no familiarity with the parties or the children whatsoever. "[S]hort term presence in the state is not enough to establish a significant connection with the state."[35]

---

[33] Paula refers to this as the "significant connection method", see Opening Brief, page 8, line 10.
[34] 264 P.3d 1168.
[35] *See Medill & Medille,* 40 P.3d 1087 (2001).

On the other hand, Paula does not live in Nevada; dissolution and custody proceedings were heard before the Hualapai Tribal Court, the children had lived in Arizona their entire lives; and considerable relevant information pertaining to facts and issues of this case are found in Arizona and known to the Hualapai Tribal Court. It is in Arizona and the Hualapai Tribal Court in particular, rather than Nevada, that possesses the requisite substantial evidence "concerning the child[ren]'s care, protection, training and personal relationships" and they have not determined themselves to be an inconvenient forum.

NRS §125A.215 expressly and unequivocally provides that "[a] child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of the provisions of this chapter ***must be recognized*** and enforced pursuant to NRS §§125A.005 to 125A.585, inclusive." (emphasis added). The Hualapai Tribal Court has retained jurisdiction and declined to close the case when requested by Justin. Thus, contrary to Paula's claim, they retained jurisdiction to modify its orders and most assuredly would have had jurisdiction to entertain Paula's motion had she sought to file in such a petition with the Hualapai Tribal Court rather than prematurely in Nevada.

Lastly, 25 U.S.C. §1911(d) provides:

> The United States, every State, every territory or possession of the United States, and every Indian tribe ***shall*** give full faith and credit to the public acts, records, and ***judicial proceedings*** of any Indian tribe applicable to Indian child custody proceedings to the same extent that

such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity. (emphasis added).

4. The UCCJEA is applicable to petitions for grandparent visitation.

In the case at bar the sovereignty of the Hualapai Tribal Court and their continuing jurisdiction precludes the lower court from having jurisdiction over Paula's petition for grandparent visitation. Even if this case did not involve tribal sovereignty, which it unquestionably does, contrary to Paula's claim, the UCCJEA governs petitions for grandparent visitation. The UCCJEA defines a "child custody determination" as an "order of a court which provides for the …***visitation*** with respect to a child."[36] A "child custody proceeding" is defined, again in relevant part, as "a proceeding in which legal custody, physical custody or ***visitation*** with respect to a child is an issue."[37] Both statutory definitions have exclusions, but ***neither exclude grandparent visitation*** from being recognized as visitation subject to the UCCJEA.

In fact, as noted by the court in *Dorszynski, supra*, grandparent's proceeding to obtain visitation rights "squarely fits the aforesaid definitions." Other courts have likewise confirmed that grandparent visitation is considered a custody issue under the UCCJEA, particularly in the enforcement of grandparent visitation [38] As

---

[36] NRS 125A.045
[37] NRS 125A.055.
[38] *See People ex rel. C.L.T,* 405 P.3d 510 (2017)("The UCCJEA broadly defines a 'child-custody proceeding' to include … grandparent or great-grandparent

noted above in *Counts* "[a] judgment awarding grandparental visitation rights is a modification of an original custody judgment because it affects custody."

However, a court may not review the merits of a petition unless that court is vested with jurisdiction and as noted in *Carlyon v. Baarson*[39], "[a] petition for grandparent visitation ***cannot stand alone***" and "standing to participate in proceedings does ***not*** confer jurisdiction…." (emphasis added). In the absence of a tribal court custody order, NRS§125C.050 may afford Paula standing to petition for grandparental visitation and a venue to have it addressed, but does not automatically provide Nevada with the requisite jurisdictional and residency basis to address the petition.

It is respectfully submitted that since NRS 125C.050 is silent as to the residency requirements, it must be presumed the legislature intended the residency requirements to petition for grandparent visitation would necessarily be the same as all other child custody proceedings, which by definition includes "visitation

---

visitation."); *see also*, *Munari v. Winiarski*, 2013 Ariz . App. Unpub. LEXIS 341; *Schumacher v. Steen*, 2010 Mich. App. LEXIS 1623; *Daniels v. Barnes*, 289 Ga. App. 897, 658 S.E.2d 472 (2008); *G.P. v. A.A.K.*, 841 So. 2d 1252 (Ala. Civ. App. 2002); *Kudler v. Smith*, 643 P.2d 783 (1981); Other cases dealing with the UCCJA reached the same conclusion. *See Noga v. Noga*, 443 N.E.2d 1142 (1982)("We consider that a petition for visitation rights is a child custody determination for the purposes of the UCCJA);*Thomas v. Thomas, 1987 Tenn. App. LEXIS 3115; Matter of Smith*, 840 S.W.2d 268 (1992); *In re Cifarelli*, 611 A.2d 394 (1992); *Lee v. Meeks*, 592 So. 2d 282 (1991); and *In re Gibson*, 573 N.E.2d 1074 (1991).

[39] 2013 Ill. App. Unpub. LEXIS 1958.

with respect to a child".[40] As set forth in NRS 125A *et. seq*., absent an emergency and other circumstances not applicable to this case, the general rule to have jurisdiction over a child custody proceeding requires the child at issue to have resided in Nevada for a period of six months.[41] Jurisdiction to address visitation of children must be consistently applied in all child custody proceedings, which necessarily include petitions for grandparent visitation. *Baarson, supra*. Without jurisdiction to address custody the lower court has no jurisdiction to address visitation. However, when tribal custodial orders have been issued, their rights of sovereignty must be recognized, respected, and maintained.

5. NRS§125C.050 does not enable the lower court to violate the express provisions and corresponding mandates of the UCCJEA (NRS 125 et seq.).

Paula contends that the lower court has jurisdiction to address and award grandparent visitation pursuant to NRS§125C.050, in spite of prior custodial orders having been issued, the very *instant* the child(ren) began living in Nevada[42]. Paula

---

[40] NRS 125A.055.

[41] Because the Hualapai Tribe has not adopted the UCCJEA, they are the only court that can modify their order from child custody proceedings that they have decided and Nevada would not have jurisdiction even if Jeremiah and Kaydi had lived in Nevada for six months prior to the commencement of Paula's action.

[42] As noted by this Court in *Friedman*, Nevada does not become the "home state" until the children have lived here for at least 6 consecutive months. A trial court does not have jurisdiction over a dissolution proceeding absent the requisite 6 week residency prior to filing, but Paula contends a grandparent can petition for visitation if the child(ren) have lived in Nevada for a mere 6 days, hours, or even

completely ignores the prior custody order of the Haulapai Tribal Court, and the fact that ***any*** award of visitation necessarily affects and modifies that order, and incredulously expects the same of this Court. However, the law does not allow such disregard.

The facts of this case and applicable authority prevents Nevada from modifying the Hualapai custodial determination. While NRS §125C.050 allows a grandparent to petition for a right of visitation "in the county in which the child resides", Paula cannot ignore the requisite jurisdictional conditions that must be satisfied prior to the filing of such a petition. Additionally, when a prior custodial order has been issued, ICWA and UCCJEA do not allow her, or the court, to disregard the order.

Paula sought visitation with the children[43] which would by definition impact the underlying custodial order and constitute a modification of that order; but as noted above, the lower court lacked the authority to do so and properly dismissed Paula's petition. NRS§125C.050 cannot be read in such a manner so as to excuse

---

seconds. Such an interpretation not only ignores the mandates and direction set forth in the UCCJEA, it would afford a grandparent the ability to immediately modify an existing custody order the moment a child begins living in Nevada when such an ability is ***not*** afforded a joint or non-custodial parent if they sought to modify a custodial order.

[43] As noted *supra*, Paula sought visitation with all children, including the two youngest offspring of Justin, ***without*** naming their biological mother (and Justin's wife) in the petition or serving her with the underlying petition, and without having the requisite basis for doing so. *See* Section II(1)(A), *supra*.

the satisfaction of jurisdictional prerequisites or as a sanction for the violation of the express mandates of ICWA and the UCCJEA. Doing so would create an impermissible conflict.

Indeed, as this Court noted in *Int'l Game Tech., Inc. v. Second Judicial Dist. Court*, 122 Nev. 132, 152, 127 P.3d 1088, 1102 (2006):

> When interpreting a statute, a court should consider multiple legislative provisions as a whole. The language of a statute should be given its plain meaning ***unless***, in so doing, the spirit of the act is violated….An ambiguous statute, however, which contains language that might be reasonably interpreted in more than one sense or that otherwise does not speak to the issue before the court, may be examined through ***reason and considerations of public policy*** to determine the legislature's intent.

NRS§125C.050 allows certain relatives and other persons to petition for visitation rights, but does ***not*** identify the jurisdictional conditions that must be met; the statute is silent in that regard and must be read with reason and consistent with other statutes. NRS§125C.050 cannot be interpreted as Paula suggests because it would conflict with NRS 125 et seq. "When separate [state] statutes are potentially conflicting, [this court] attempts to construe both statutes in a manner to avoid conflict and promote harmony." *Int'l Game Tech*, 122 Nev. at 156, 127 P.3d at 1105. Additionally, the canon of construction dictates that when ambiguity

exists in statutes affecting the rights of Indians, courts should construe those statutes in favor of Indians.[44]

Courts nationwide have recognized that grandparent visitation orders are enforceable under the UCCJEA. Courts have likewise held petitions for grandparent visitation fall within the parameters of the UCCJEA. Moreover, any order that impacts and changes an underlying custody order is by definition a modification and any proceeding that addresses visitation is considered a child custody proceeding under the UCCJEA. Our legislature has clearly stated when that is appropriate and permissible.[45]

Paula's attempt to distinguish between visitation exercised by grandparents (or other permissible persons) and visitation exercised by a non-custodial parent is disingenuous. ***Any*** visitation is time is time the child(ren) are not with a custodial parent and thus divests that parent of custodial time that would otherwise be spent with the child(ren). Accordingly, if there is a prior custodial order, it must be recognized and enforced; it cannot be modified unless jurisdiction is established pursuant to NRS§125A.325. If there is no prior custodial order, seeking visitation

---

[44] See *Montana v Blackfeet Tribe*, 471 US 759, 766 (1985) ("[Statutes are to be construed liberally in favor of the Indians with ambiguous provisions interpreted to their benefit."). See also *Northern Cheyenne Tribe v Hollowbreast*, 425 US 649, 655 n 7 (1976) (utilizing the canon that "statutes passed for the benefit of the Indians are to be liberally construed and all doubts are to be resolved in their favor").

[45] NRS§125A.325.

from a custodial parent is a custodial proceeding, and must therefore, likewise satisfy the jurisdictional requirements of NRS§125A.305.

The position espoused by Paula would improperly exempt a grandparent from satisfying the jurisdictional requirements necessary to seek visitation rights or the modification of a custodial order that any non-custodial parent would have to satisfy, which is favoritism disallowed by law and would be in violation of the Equal Protection Clause[46] and the laws of the Hualapai Tribal Court. As noted in *Anthony Lee R. v. State*, 113, Nev. 1406, 1414, 952 P.2d 1 (1997), "statutory language should not be read to produce absurd or unreasonable results." Notwithstanding, Paula is asking this Court to do just that. The jurisdiction basis that must exist or be established to seek visitation of a child or children should be consistent, regardless of who is seeking visitation.

Continuing, notwithstanding the fact the lower court lacked jurisdiction over the two older children (Jeremiah and Kaydi), the suggestion posited by Paula that

---

[46] The 14th Amendment provides in relevant part:

> Section 1.
> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

she is entitled to visitation with the two younger children (Luna and Logan) despite the fact that (1) neither parent is deceased; (2) the parents are not divorced or separated; (3) the parties are married; and (4) there has been no termination of parental rights of either parent, is incorrect and, in fact, NRS§125C.050(1) actually precludes Paula from filing such a petition. The other condition that must be met that would enable Paula to file a petition for grandparent visitation (provided the court has jurisdiction) requires the child to have resided with Paula (NRS§125C.050(2)), which she admits has ***not*** happened. Because Paula cannot satisfy the requisite conditions necessary to support a petition for grandparent visitation, the lower court properly dismissed her petition.

Additionally, her argument that she is entitled to visitation with ***all*** the children based upon an isolated excerpt that the court may grant visitation to the grandparents of the child (with whom they have the requisite nexus/relationship) "and to other children" (with whom they do not have the requisite nexus/relationship) is patently absurd. See NRS 125C.050(1)

It would be unreasonable for the legislature to require a grandparent or other person to establish the requisite nexus between a child and the petitioner for purposes of filing a petition and justifying visitation with that child, and then abandon the need for such a relationship with any and all other siblings with whom the grandparent does not have a relationship. It was not the intent of the legislature to unreasonably infringe upon a parent's right to raise their child(ren) or to require

the court to find a sufficient nexus with one child and then subject all other siblings to visitation with an individual they do not, or scarcely, know.[47]

Lastly, even if Paula's distorted interpretation of NRS §125C.050 could be interpreted to forcibly subject all siblings to visitation with a grandparent they do not know as long as the grandparent can establish the requisite nexus with just one of the children, in this case the lower court does not have jurisdiction over the two children Paula claims to have resided with her, to wit: Jeremiah and Kaydi, and thus absent the requisite connection with one child (that is subject to the jurisdiction of the lower court), there is no basis to subject the other children with whom she cannot establish the mandated basis to court ordered visitation.

The law does not allow Paula to solely rely upon NRS §125C.050 and disregard (1) tribal sovereignty; (2) prior custodial orders; (3) the mandates and direction of the UCCJEA as it pertains to both modification of custodial orders and the establishment of jurisdiction over the child(ren); and even the (4) express conditions that must be satisfied to support the filing of a petition for grandparent visitation; including the requisite nexus and residency. In this case, the lower court was not allowed to ignore tribal sovereignty, prior custodial orders, the continuing

---

[47] The lower court noted that Paula has "alleged nothing that would allow visitation with Luna or Logan" (2JA309:2-3) and that Stephanie, the children's natural mother, was not named as a party or served with this action, but contrary to Paula's argument, did ***not*** dismiss the action as a result thereof. (Id, lines1-2).

jurisdiction of the Hualapai Tribal Court, the lack of jurisdiction to modify prior custodial orders and to entertain a petition for grandparent visitation. Each finding of the lower court was supported by the evidence and the court's decision was appropriate and supported by applicable statutory law and legal precedent.

6. The award of attorney's fees to Justin was not an abuse of discretion.

Review of the relevant facts of this case, coupled with implementation of applicable legal authority, establishes that Paula improperly and prematurely filed a petition for grandparent visitation. Thus, the action was properly dismissed and the corresponding findings of the lower court are supported by the evidence in this case and consistent with pertinent precedent and statutory directives.

Justin's counsel endeavored, pursuant to EDCR 5.501, to edify Paula's counsel of the impropriety of the underlying petition and requested she agree to dismiss the action in lieu of going to court; Paula rejected the offer, despite being provided legal authority that warranted the withdrawal of her action and dismissal of her petition.

When Paula filed her underlying petition and motion for temporary orders, she ignored the custodial order that had been entered by the Hualapai Tribal Court and withheld that critical fact from the lower court; however, the law clearly does not allow the lower court to ignore that order. Despite knowing Stephanie was the natural mother of the two younger children, she failed to name her in the petition

or serve her. Despite not having a sufficient nexus with the children as mandated in NRS§125C.050, she nevertheless petitioned for visitation.

When the matter was heard on July 25, 2018, the lower court properly denied Paula's petition and motion and dismissed the action. The lower court also determined an award of attorney's fees to Justin was warranted; directing "a Memorandum of Fees and Costs, and a *Brunzell-Miller*[48] Affidavit and proposed order" be submitted within 10 days.[49] After receiving both the memorandum and Paula's opposition thereto, on August 23, 2018 the lower court entered its Order Awarding Attorney's Fees and Costs.[50]

This Court has repeatedly held "a district court's award of attorneys' fees will not be overturned absent a manifest abuse of discretion."[51] The facts of this case and the evidence presented to the lower court demonstrate the lower court

---

[48] As directed, Justin submitted the Memorandum that "was supported by an analysis of the factors required pursuant to *Brunzell v. Gold Gate National Bank*, 85 Nev. 345, 455 P.2d 31 (1969) to include the qualities of the advocate, the character and difficulty of the work performed, the work actually performed by the attorney, and the result obtained, together with the detailed billing statements, and those factors, together with the billing statements, were reviewed and considered by [the lower court]." (JA318:20-24).

[49] FFCLO, page 3, lines 5-9, JA310.

[50] JA316.

[51] *See e.g. Lawler v. First Nat'l Bank,* 94 Nev. 196, 576 P.2d 1121 (1978); *Davidsohn v. Steffens*, 112 Nev. 136, 911 P.2d 855 (1996); *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 956 P.2d 1382 (1998); *Jones v. Jones*, 2016 Nev. Unpub. LEXIS 551.

considered the required factors and the award was supported by substantial evidence.[52]

Paula's argument that a prerequisite to an award of attorney's fees as a prevailing party under NRS§18.010 is an award of money damages is misleading and inapplicable to the case at bar. Paula's argument pertains to NRS§18.010(2)(a) and ***not*** to NRS§18.010(2)(b)[53]. When attorney's fees are based on the provisions in subsection (a), an award of a money judgment is a prerequisite to an award of attorney's fees; when attorney's fees are based on the provisions in subsection (b), an award of a money judgment is ***not*** necessary. Paula fails to recognize that critical distinction.

---

[52] *See Uniroyal Goodrich Tire Co. v. Mercer*, 111 Nev. 318, 324, 890 P.2d 785, 789 (1995).

[53] NRS§18.010(2) provides:

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

(a) When the prevailing party has not recovered more than $20,000; or

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

NRS§18.010(2)(b) allows the district court to award attorney fees and costs to a prevailing party under certain circumstances if the claim was "brought or maintained without reasonable ground", which is the basis for the award of attorney's fees by the lower court. Paula endeavors to obtain custody of the children were unsuccessful and she never chose to petition for grandparent visitation. Ignoring the custodial order from the Hualapai Tribal Court, ignoring the mandates of the UCCJEA, and despite the lack of the requisite nexus as mandated by NRS§125C.050 and the lack of jurisdiction by courts of Nevada, Paula filed a petition for grandparent visitation. Thereafter, she rejected Justin's request to dismiss her action; needlessly incurring the expense of litigation.

This Court has long recognized a district court has wide discretion in awarding attorney's fees and under the facts of this case the lower court did not abuse that discretion and an award under NRS§18.010(2)(b) was warranted.

Likewise, Paula's conduct supported the award of attorney's fees and costs under EDCR 7.60. In relevant part, an award of attorney's fees and costs is allowed "when an attorney or a party without just cause: (1) Presents to the court a motion or an opposition to a motion which is obviously frivolous, unnecessary or unwarranted." Accordingly, the award of attorney's fees was appropriate and in accordance with EDCR 7.60. Although not specifically referenced by the lower court, as noted in NRS§18.010, NRCP 11 also supports an award of fees, as does

NRS 7.085.[54] In *Watson Rounds, P.C. v. Eighth Judicial Dist. Ct. (Himelfarb & Associates)*, 131 Nev. 783, 784, 358 P.3d 228, 230 (2015), this Court held that NRCP 11 and NRS 7.085 each represent a distinct, independent mechanism for sanctions.

Paula's position on the lower court's award of attorney's fees is unfounded. The lower court was authorized to award attorney's fees under NRS§18.010(2)(b) and EDCR 7.60 and properly did so. EDCR 7.60 was identified in Justin's memorandum that was submitted at the direction of the lower court[55], and noticeably disregarded by Paula in the opposition she filed with the lower court[56].

---

[54] NRS 7.085 provides:

1. If a court finds that an attorney has:

(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or

(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State,

the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

[55] JA 289-300.

[56] JA 301-7.

Paula's contention that the award of attorney's fees under EDCR 7.60 was a violation of due process of law is baseless. The lower court's award of attorney's fees was not an abuse of discretion.

III. Conclusion.

The lower court properly recognized that Paula lacked the requisite nexus with Luna and Logan to petition for grandparent visitation and that the Hualapai Tribal Court entered custodial orders pertaining to Jeremiah and Kaydi. The determination that Nevada lacked jurisdiction to hear Paula's motion was consistent with ICWA and UCCJEA, and properly recognized the sovereignty of Hualapai Tribal Court and its orders. By law, the lower court was required to recognize that order; that any award of visitation would constitute a modification of that order and the lower court lacked jurisdiction to do so; that Paula's motion lacked merit and was unwarranted and needlessly filed; and that an award of attorney's fees was warranted.

Contrary to Paula's representations, the lower court did not err in dismissing the action; as noted *supra*, the findings of the lower court and corresponding decision was supported by the evidence and consistent with applicable legal authority. Further, because the lower court lacked jurisdiction to modify the custodial order from the Hualapai Tribal Court and over Paula's request for grandparent visitation, declining Paula the opportunity to join Justin's wife and mother of his two youngest children, Stephanie, was proper.

Lastly, because Paula initiated a frivolous and baseless action, the lower court had multiple bases for awarding Justin attorney's fees; NRS§18.010(2)(b) and EDCR 7.60 among them. There was no abuse of discretion on behalf of the lower court and this Court should affirm the ruling of the trial court.

DATED this 7th day of February, 2019.

RESPECTFULLY SUBMITTED
/s/ Bradley Hofland

Bradley Hofland, Esq.
HOFLAND & TOMSHECK
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
702-895-6760
Attorneys for Respondent

Certificate of Compliance

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[**X**] This brief has been prepared in a proportionally spaced typeface using **Microsoft Word 2010 Times New Roman 14—point font**.

2. I further certify that this brief ***complies*** with the page or type -volume limitations of NRAP 32(a)(7). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is

10,458 words

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

DATED this 7th day of February, 2019.

/s/ Bradley Hofland, Esq.

Bradley Hofland, Esq.
Counsel for Respondent

Certificate of Service

1. Electronic Service:

I hereby certify that on this day, the 7th day of February, 2019, I submitted for filing and service the foregoing **Respondent's Answering Brief** via the Court's eFlex electronic filing system. According to the electronic service list, notification will be served upon the following:

Bradley Hofland, Esq.
Peter James, Esq.

/s/ Bradley Hofland, Esq.
Bradley Hofland, Esq.