

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ANTHONY JACOB MONAHAN,

Appellant,

vs.

AMANDA KAITLYN HOGAN, F/K/A  
AMANDA KAITLYN KING,

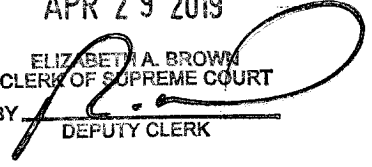
Respondent.

No. 78489

DOCKETING STATEMENT  
CIVIL APPEALS

FILED

APR 29 2019

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY  DEPUTY CLERK

GENERAL INFORMATION

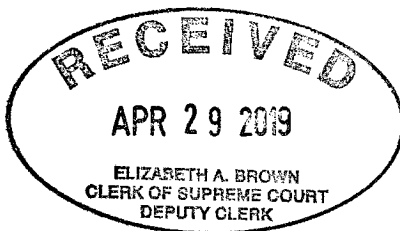
Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for 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.



19-18707

1. Judicial District Third Department II  
County Lyon Judge Hon. Leon A Abersturi  
District Ct. Case No. 12-CV-00418

**2. Attorney filing this docketing statement:**

Attorney Aaron Bushur, Esq. Telephone 775-219-4222  
Firm Aaron Bushur Law  
Address 316 California Ave., #256  
Reno, Nevada 89509

Client(s) Anthony Jacob Monahan

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 Roderic A. Carucci, Esq. Telephone 775-323-0400  
Firm Carucci and Assoc.  
Address 702 Plumas street  
Reno, Nevada 89509

Client(s) Amanda Kaitlyn Hogan

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

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

- |   |   |
|---|---|
| <input 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>Order After Cust. Hearing</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:

No prior or concurrent proceedings

**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

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

Respondent sought to modify custody and relocate with the child from Yerington, Nevada to Fallon, Nevada District Court modified custody and made findings Respondent was not required to obtain court permission for relocation.

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

Appellant disputes the District Court's findings that Respondent was not required to seek court permission to relocate pursuant to NRS 125C.006 and 125C.0065 and/or that the Court exceeded its authority and abused its discretion in finding Respondent net her burden under NRS 125C.007 for relocation. Respondent further contests the sufficiency of the March 1, 2019 Order relating to custody, visitation and support findings and order.

**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

**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: N/A

**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 case is presumptively assigned to the Court of Appeals pursuant to NRAP 17(b)(10)

**14. Trial.** If this action proceeded to trial, how many days did the trial last? n/a

Was it a bench or jury trial? \_\_\_\_\_

**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?

No

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** March 1, 2019

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** March 1, 2019

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** March 29, 2019

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)(1)

### **SUBSTANTIVE APPEALABILITY**

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

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

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

A final judgment/order was entered by the District Court on March 1, 2019 as well as a notice of entry of order that same date and this is a civil/family law case.



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

**(a) Parties:**

ANTHONY JACOB MONAHAN, Plaintiff/Appellant

AMANDA KAITLYN HOGAN, Defendant/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.**

none

**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:**

The District Court did not address a specific visitation and support schedule or ammount.

(b) Specify the parties remaining below:

n/a

(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)):**

Order is independently appealable under NRAP 3A(b)(1)

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

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- 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
- Any other order challenged on appeal
- 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.

Anthony Jacob Monahan

Name of appellant

Aaron Bushur, Esq.

Name of counsel of record

4-26-19

Date



Signature of counsel of record

Nevada, Washoe County

State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 26th day of April, 2019, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Roderic A. Carucci, Esq.  
702 Plumas street  
Reno, Nevada 89509

Dated this 26th day of April, 2019

  
Signature

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Exhibit “1”

Exhibit “1”

Case No.: 15-CV-00418

Dept. No.: II

FILED

2019 MAR -1 PM 1:15

TANYA SCOTT  
COURT ADMIN STAFF  
THIRD JUDICIAL DISTRICT

ANDREA ANDERSEN

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF LYON

\*\*\*

ANTHONY JACOB MONAHAN,

Plaintiff,

v.

AMANDA KAITLYN HOGAN fka,  
AMANDA KAITLYN KING,

Defendant.

ORDER

On October 26, 2015, the Court issued a Stipulation and Order Regarding Child Custody, Support and Visitation. On August 29, 2018, Defendant, hereinafter referred to as the "Mother," in the above matter filed a Motion to Modify Custody. The Court held a hearing on the Motion on December 27, 2018. Plaintiff, hereinafter referred to as the "Father," was represented by LEANN SCHUMANN ESQ. and Defendant was represented by RODRIC A. CARRUCCI ESQ. At the hearing the Court heard testimony and evidence from both sides, and ordered the attorneys to submit briefs on the issue of de facto change of custody. There is one (1) child subject to this action, MALAKAI MONAHAN (DOB: 07/18/2012) hereinafter referred to as the "Child."

FINDINGS OF FACT

Counsel addressed their concerns with the domestic violence issue. Court finds there was no domestic violence and there is no presumption under NRS 125C.0035.

1 The Parties altered the joint custody arrangement established in the October 26, 2015  
2 order. The Father began working out of Yerington. Most recently he was living and working in  
3 Winnemucca. His recent return to live and work in Yerington appears to the Court as a pretext  
4 to keep the Mother from gaining a court order that establishes primary custody in her favor. The  
5 Court did not find his testimony credible that he would continue to work in Yerington.

6 The Father's family provided care for the Child as the Father was out of town. The Child  
7 has strong ties to his paternal relatives. The Court was impressed by the amount of care and love  
8 provided by the paternal relatives.

9 Father was aware and did not object to the Mother relocating to Fallon until she filed the  
10 instant motion. Mother drove the Child to Yerington so he could attend school. She also was  
11 able to procure work in Yerington. Mother has now remarried and her new husband works at the  
12 Fallon Naval Air Station. His commitment requires that he live in a certain area because he is  
13 subject to being called out. He may relocate in several years.

#### 14 FINDINGS OF LAW

15 NRS 125C.0035 (4) states:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 In *Potter v. Potter*, the Nevada Supreme Court held that a district court in determining  
2 whether relocation should be permitted may consider "whether one parent had de facto primary  
3 custody of the child prior to the motion." 121 Nev. 613, 618 (2005). The Court found no case  
4 law overruling this holding after the passage of NRS 125C.006, 125C.0065, 125C.007 and  
5 125C.0035.

6 The Court also found no case law regarding the necessity of any consent being in writing  
7 other than to avoid possible criminal consequences under NRS 200.359. The Court found no case  
8 law as to whether implied consent can exist under the analysis NRS 125C.006, 125C.0065, and  
9 125C.007 require.

10 NRS 125C.006 states:

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

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

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

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

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

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

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

NRS 125C.0065 states:

1. If joint physical custody has been established pursuant to an order,  
judgment or decree of a court and one 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 relocating parent  
desires to take the child with him or her, the relocating parent shall, before  
relocating:

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

(b) If the non-relocating parent refuses to give that consent, petition the court  
for 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:

- (a) Without having reasonable grounds for such refusal; or
- (b) For the purpose of harassing the relocating parent.

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

**NRS 125C.007 states:**

1. In every instance of a petition for permission to relocate with a child that is filed pursuant to NRS 125C.006 or 125C.0065, the relocating parent must demonstrate to the court that:

- (a) There exists a sensible, good-faith reason for the move, and the move is not intended to deprive the non-relocating parent of his or her parenting time;
- (b) The best interests of the child are served by allowing the relocating parent to relocate with the child; and
- (c) The child and the relocating parent will benefit from an actual advantage as a result of the relocation.

2. If a relocating parent demonstrates to the court the provisions set forth in subsection 1, the court must then weigh the following factors and the impact of each on the child, the relocating parent and the non-relocating parent, including, without limitation, the extent to which the compelling interests of the child, the relocating parent and the non-relocating parent are accommodated:

- (a) The extent to which the relocation is likely to improve the quality of life for the child and the relocating parent;
- (b) Whether the motives of the relocating parent are honorable and not designed to frustrate or defeat any visitation rights accorded to the non-relocating parent;
- (c) Whether the relocating parent will comply with any substitute visitation orders issued by the court if permission to relocate is granted;
- (d) Whether the motives of the non-relocating parent are honorable in resisting the petition for permission to relocate or to what extent any opposition to the petition for permission to relocate is intended to secure a financial advantage in the form of ongoing support obligations or otherwise;

(e) Whether there will be a realistic opportunity for the non-relocating parent to maintain a visitation schedule that will adequately foster and preserve the parental relationship between the child and the non-relocating parent if permission to relocate is granted; and

(f) Any other factor necessary to assist the court in determining whether to grant permission to relocate.

3. A parent who desires to relocate with a child pursuant to NRS 125C.006 or 125C.0065 has the burden of proving that relocating with the child is in the best interest of the child.

## Conclusions of Law



1           The Court concludes that the Mother had de facto primary custody of the Child. The de  
2       facto custody agreement is in the best interests of the Child. Pursuant to NRS 125C.0035, the  
3       Court concludes:

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

6           The factor was not argued. However, the Child is not of a sufficient age based upon his  
7       birthdate.

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

9           Not applicable.

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

12           This factor favors the Mother as the Father had moved from Yerington to work and spent  
13       two thirds of his time in Winnemucca. The Mother continued to bring the Child to Yerington  
14       despite the fact that the Father was not present and was in Winnemucca.

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

16           This factor does not favor either Party. Both do not care for each other. The Court  
17       cannot find that the conflict originates from one Party.

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

19           The Father tends to focus on his work and relies upon others to provide care for the  
20       Child. The Mother has difficulty cooperating with the other care givers. This factor favors  
21       neither Party.  
22

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

24           Both parents seem to be emotionally immature, but neither showed any psychological or  
25       physical handicaps that would prevent them from parenting. This factor favors neither Party.  
26

27       (g) The physical, developmental and emotional needs of the child.  
28

1 This factor favors Mother as Father relies upon others to care for the Child.

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

3 The Child has a good relationship with both Parties. However, this factor favors Mother  
4 as the Father relies upon others to care for the Child.

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

6 This factor does not apply in the strict sense of the statute. If it were to apply to relatives  
7 and step-siblings, then it would favor the Father.

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

9 Not applicable.

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

13 Not applicable.

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

16 Not applicable.

17 The Court also concludes that the Father was aware of the Mother's relocation and gave  
18 implied consent to the relocation, although not in writing. The Father's real issues in this case  
19 are that the relocation interferes with his relatives' relationship with the Child and that in the  
20 future the Mother may wish to relocate out of state. The Parties did not litigate the school issue.

21 If NRS 125C.006 and 125C.0065 did apply, the Court concludes that the relocation  
22 complies with the applicable statutes. The Mother presented evidence that the relocation situs  
23 will not substantially impair the ability of the Father to maintain a meaningful relationship with  
24 the Child based upon the de facto custody arrangement in place at the time of the relocation.  
25 Father can exercise visitation as the relocation situs is only one hour away from Yerington and  
26  
27  
28

1 three hours from Winnemucca. The Court can fashion a new schedule that provides for weekend  
2 and summer visitation.

3 The Court appreciated the evidence that Father's counsel put on regarding the impact the  
4 relocation has on the paternal relatives. However, the statute only speaks to a relocation  
5 impacting a parent's relationship. A finding of an impact to a parent's relationship triggers the  
6 requirement to file for permission to relocate and for a court to engage in an analysis under  
7 125C.007. Without a finding of an impact to the parent, the Court does not enter into a best  
8 interests' analysis under 125C.007.

9 Furthermore, if the Court is in error as to the relocation analysis, the Mother has  
10 established she is in compliance with NRS 125C.007. She met her burden under both subsections  
11 (1) and (2).

12 Pursuant to subsection (a), the Court concludes that the Mother had a good faith basis.  
13 She has a new relationship. Her new husband works in Fallon. He provides income to maintain  
14 a stable relationship.

15 Pursuant to subsection (b), the Court concludes that the relocation is in the best interests  
16 of the Child. The Father had been previously awarded joint custody and consented to the Mother  
17 exercising primary custody. As between the Child's parents, the Mother has demonstrated that  
18 she cares for the Child the majority of the time. She tends to the Child's educational needs.  
19 Father has used relatives to care for the Child in lieu of performing them himself. Relocation  
20 provides her more time to spend with the Child and less time for the Child to be cared for by  
21 relatives or others.

22 The Court recognizes that this does not make the Father a bad person. The Court also  
23 recognizes that the Child benefits from having an active extended family. However, the  
24 applicable statutes and Nevada case law do not support denial of relocation on the basis that the  
25 extended family provides support for a child. There was absolutely no showing that the Mother  
26 is unfit.

1 Pursuant to subsection (c), the Court concludes that the Child and Mother will benefit.  
2 The Mother can either take classes or find work in Fallon. The Child will not have to commute  
3 two hours a day. The Child will have more time with his Mother while not being in a vehicle.

4 As to the factors in subsection (2) the Court concludes:

5 (a) The extent to which the relocation is likely to improve the quality of life for  
6 the child and the relocating parent;

7 As stated above, both the Mother and Child will spend less time in a vehicle. The City of  
8 Fallon offers the Mother working and educational opportunities. The Mother will have  
9 additional time to spend with her new husband.

10 The Child will have the same educational opportunities. The Mother will have more time  
11 to engage in extracurricular opportunities with the Child.

12 (b) Whether the motives of the relocating parent are honorable and not designed  
13 to frustrate or defeat any visitation rights accorded to the non-relocating parent;

14 As stated above, the Mother had honorable motives. Mother continued to bring the Child  
15 to the same school after relocating. Mother took no action to prevent the paternal relatives from  
16 seeing the Child. The Court found no evidence that the Mother sought to frustrate the Father  
17 from having a relationship with the Child.

18 (c) Whether the relocating parent will comply with any substitute visitation  
19 orders issued by the court if permission to relocate is granted;

20 The Court found no credible evidence that the Mother would refuse to follow any  
21 subsequent order this Court may issue to establish a visitation order.

22 (d) Whether the motives of the non-relocating parent are honorable in resisting  
23 the petition for permission to relocate or to what extent any opposition to the  
24 petition for permission to relocate is intended to secure a financial advantage in  
25 the form of ongoing support obligations or otherwise;

26 The Father's motives are honorable. His family clearly loves the Child deeply. The  
27 Court believes that the origins of any dispute arise from the fact that the relocation will impact  
28 the paternal relatives' relationship with the Child. The Father appears to the Court as fighting  
the relocation as he does not desire to see those relationships impacted.

(e) Whether there will be a realistic opportunity for the non-relocating parent to  
maintain a visitation schedule that will adequately foster and preserve the parental

1 relationship between the child and the non-relocating parent if permission to  
2 relocate is granted;

3 As state above, the Court concludes that it can create a visitation schedule that will  
4 adequately foster and preserve the parental relationship. The Court agrees with Father that the  
5 Court cannot create a visitation schedule that will preserve relationship the Child now maintains  
6 with the paternal relatives.

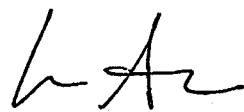
7 (f) Any other factor necessary to assist the court in determining whether to grant  
8 permission to relocate.

9 The Father invited the Court to speculate as to whether the Mother's relationship would  
10 last long and whether the Mother was seeking to establish an advantage should she seek to  
11 relocate out of state in the future if her new husband was relocated. The Court did not accept the  
12 invitation.

13 Based upon the above and good cause appearing, the Court hereby **ADJUDGES and**  
14 **ORDERS** as follows:

- 15 1. The Mother was not required to seek permission to relocate pursuant to either  
16 NRS 125C.006 or 125C.0065.
- 17 2. The Mother has met her burden of proof under NRS 125C.007 to relocate.
- 18 3. The Parties shall meet and confer regarding a visitation schedule. In the event no  
19 agreement can be reached, either party shall request a hearing.
- 20 4. The Child shall finish the school year in his current school.

21 DATED: This 20<sup>th</sup> day of February, 2019.

22   
23 \_\_\_\_\_  
24 Hon. LEON ABERASTURI  
25 DISTRICT JUDGE  
26  
27  
28

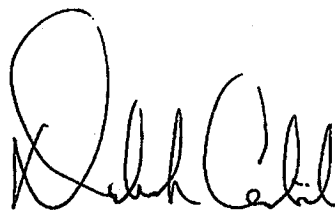
**Certificate of Mailing**

I hereby certify that I, Deborah Carlisle, am an employee of the Third Judicial District Court, and that on this date pursuant to NRCP 5(b), a true copy of the foregoing document was mailed at Yerington, Nevada addressed to:

Johnston Law Offices, P.C.  
LeAnn Schumann, Esq.  
*Deposited in the TJDC mailbox*

Roderic A. Carucci, Esq.  
Carucci and Associates  
702 Plumas Street  
Reno, NV 89509

DATED: This 1<sup>st</sup> day of March, 2019.



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FILED

2019 MAR -1 PM 2:57

TANYA SCHEIDT  
COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

ANDREA ANDERSEN DEPUTY

Case No. 15-CV-00418

Dept. No. II

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

\* \* \*

ANTHONY JACOB MONAHAN,

Plaintiff,

v.

AMANDA KAITLYN HOGAN fka,  
AMANDA KAITLYN KING,

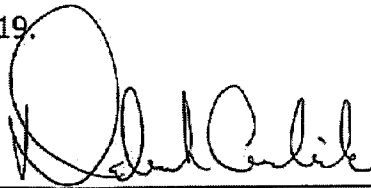
Defendant.

**NOTICE OF ENTRY OF ORDER**

PLEASE TAKE NOTICE that on the 1<sup>st</sup> day of March, 2019, the court entered an  
Order Findings of Fact in this matter, a true and correct copy of which is attached to this notice.

Dated: This 1<sup>st</sup> day of March, 2019.

By



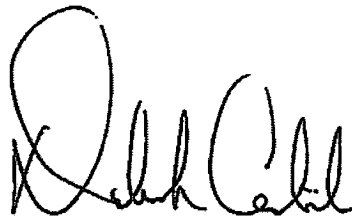
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Reno, NV 89509

DATED: This 1<sup>st</sup> day of March, 2019.



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