

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

RENELYN BAUTISTA,
Appellant,

vs.

JAMES PICONE,
Respondent.

No. 79534

DOCKETING STATEMENT
CIVIL APPEALS

Electronically Filed
Oct 01 2019 02:08 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District Eighth Department N
County Clark Judge Mathew Harter
District Ct. Case No. D-14-495928-P

2. Attorney filing this docketing statement:

Attorney John D. Jones Telephone 702-869-8801
Firm Black & LoBello
Address 10777 West Twain Ave., #300
Las Vegas, NV 89135

Client(s) Renelyn Bautista

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 Benjamin B. Childs Telephone 702-385-3865
Firm Benjamin B. Childs, Ltd.
Address 318 South Maryland Parkway
Las Vegas, Nevada 89101

Client(s) James Picone

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 type="checkbox"/> Other disposition (specify): _____ |

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:

Renelyn Bautista v. James Picone, S.C. Docket No. 72654

Renelyn Bautista v. James Picone, S.C. Docket No. 72713

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:

James Picone v. Renelyn Bautista, Eighth Judicial Court No. D-14-495928-P, Notice of Entry of Stipulation and Order Resolving Parent-Child Issues filed April 14, 2015.

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

This appeal stems from an award of attorney fees to Respondent following a trial on Appellant's Motion to Change Custody. While Appellant did not appeal the underlying denial of her motion to change custody, the post judgment award of attorney's fees, based upon the facts established at trial, was an abuse of discretion.

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

Whether the District Court abused its discretion in awarding attorney fees to Respondent for fees not incurred as a result of the pro bono nature of his counsel.

Whether the District Court abused its discretion in awarding Respondent all fees incurred in the case even though Appellant was the prevailing party on the majority of the issues.

Whether the District Court abused its discretion in Awarding fees based upon the relative income of the parties by imputing to Appellant the hypothetical income of her husband.

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 of which Appellant is aware.

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:

Assignment to the Court of Appeals is appropriate.

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

Was it a bench or jury trial? Bench

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

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from August 21, 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 August 21, 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 August 26, 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:

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

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input checked="" type="checkbox"/> Other (specify) <u>NRAP 3A(b)(8)</u> | |
-

(b) Explain how each authority provides a basis for appeal from the judgment or order:
This appeal is from a judgment entered for attorney fees following a trial on a motion to change custody.

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

(a) Parties:

James Picone

Renelyn Bautista

(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.

Appellant filed a Motion to Change Custody and a Motion for an Order to Show Cause for failure of Respondent to pay child support. Respondent filed a Motion seeking Child Support from Appellant. All claims were disposed of by written order entered June 18th, 2019. Each party made a claim for attorney fees which were disposed of by Amended Order entered on September 25, 2019.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☒ Yes

☐ No

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

☒ Yes

☐ No

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

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

- 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.

Renelyn Bautista

Name of appellant

John D. Jones

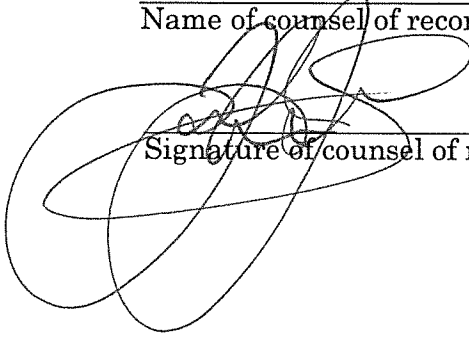
Name of counsel of record

10/01/2019

Date

Clark County, Nevada

State and county where signed


Signature of counsel of record

CERTIFICATE OF SERVICE


I certify that on the 1st day of October, 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.)

Benjamin B. Childs, Esq.
BENJAMIN B. CHILDS, LTD.
318 S. Maryland Parkway
Las Vegas, NV 89101
Email: ben@benchilds.com
Attorney For Respondent
JAMES PICONE

Dated this 1st day of October, 2019


Signature

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition by:
James Picone, Petitioner.

Case No.: D-14-495928-P
Department N

NOTICE OF ENTRY OF DECISION AND ORDER

TO: ALL PARTIES AND/OR THEIR ATTORNEYS

Please take notice that the Court prepared a Decision and Order and that a copy is attached hereto.

☒ I hereby certify that I electronically served, faxed, emailed, or placed in the appropriate attorney folder located in the Clerk of the Court's Office, a copy of the Decision and Order to:

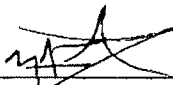
Benjamin B. Childs, Esq.

John D. Jones, Esq.

☐ I hereby certify that I mailed the Decision and Order via first-class mail with postage fully prepaid to:

DATED: 20th day of August, 2019

By:


Mark Fernandez
Judicial Executive Assistant
Department N

Eighth Judicial District Court

Family Division

Clark County, Nevada

JAMES PICONE,

Plaintiff,

vs.

RENELYN BAUTISTA,

Defendant.

Case: D-14-495928-P

Dept: N

DECISION AND ORDER ON AWARD OF ATTORNEY'S FEES¹/COSTS

This matter was set for evidentiary hearing on 05/08/2019. The Decision and Order was entered on 06/18/2019. On 06/09/2019, Plaintiff filed a timely Memorandum of Costs and Expenses for \$1,803.04 and a Motion for Attorney's Fees for \$38,780.00. On 07/08/2019, Defendant filed an Opposition and Countermotion for Attorney's Fees/Costs and accompanying Affidavit of Counsel requesting \$2,809.88 (\$900.00 in attorney's fees and \$1,909.88 in costs). Defendant filed a Reply on 07/09/2019. The matter was then taken under advisement.

I. LEGAL BASIS:

A) Attorney's fees

In *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005), the Court announced: " We take this opportunity to clarify our jurisprudence in family law cases . . . when deciding attorney fee awards." *Id.* at 623. 4 requirements were set forth: 1) Counsel **must** cite a legal basis for attorney's fees; 2) The court **must** evaluate the 4 *Brunzell* factors (Qualities of the advocate, Character of work to be done, Work actually performed, and Results achieved); 3) The court **must** consider any disparity in income under the *Wright* case; and 4) The request **must** be supported by affidavit or other evidence. Further, **NRCP 54(d)(2)** provides:

¹ An award of attorneys fees is discretionary with the trial court. *Fox v. Fox*, 81 Nev. 186, 401 P.2d 53 (1965); *Sargeant v. Sargeant*, 88 Nev. 223, 495 P.2d 618 (1972); *Fletcher v. Fletcher*, 89 Nev. 540, 516 P.2d 103 (1973); *Ellett v. Ellett*, 94 Nev. 34, 573 P.2d 1179 (1978); *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980); *Hybarger v. Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987); *Ford v. Ford*, 105 Nev. 672, 782 P.2d 1304 (1989); *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998); *Blanco v. Blanco*, 129 Nev. 311, 31 P.3d 1170 (2013).

1 (A) **Claim to Be by Motion.** A claim for attorney fees must be made by motion. The
2 district court may decide the motion despite the existence of a pending appeal from the
underlying final judgment.

3 (B) **Timing and Contents of the Motion.** Unless a statute provides otherwise, the
4 motion must be filed no later than 20 days after notice of entry of judgment is served;
5 specify the judgment and the statute, rule, or other grounds entitling the movant to the
6 award; state the amount sought or provide a fair estimate of it; and be supported by
7 counsel's affidavit swearing that the fees were actually and necessarily incurred and were
8 reasonable, documentation concerning the amount of fees claimed, and points and
9 authorities addressing appropriate factors to be considered by the court in deciding the
10 motion. The time for filing the motion may not be extended by the court after it has
11 expired.

12 At the forefront, this Court NOTES that it *did* consider all of the foregoing relevant
13 factors as set forth below. *Logan v. Abe*, 131 Nev. ___, ___, 350 P.3d 1139 (2015) (“[E]xpress
14 findings on each factor are *not* necessary for a district court to properly exercise its discretion.”).
15 *Miller* further holds that attorney’s fees are available to *pro bono* counsel. *Id.*

16 **B. Costs**

17 NRS 18.110(1) states.

18 The party in whose favor judgment is rendered, and who claims costs, must file with the
19 clerk, and serve a copy upon the adverse party, within 5 days after the entry of
20 judgment, or such further time as the court or judge may grant, a memorandum of the
21 items of the costs in the action or proceeding, which memorandum must be verified by
22 the oath of the party, or the party’s attorney or agent, or by the clerk of the party’s
23 attorney, stating that to the best of his or her knowledge and belief the items are correct,
24 and that the costs have been necessarily incurred in the action or proceeding.

25 Pursuant to *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. ___, 345 P.3d 1049, 1054-55 (2015),
26 actual proof of costs incurred must be submitted.

27 **II. ANALYSIS**

28 **A. Costs**

This Court FINDS that Plaintiff’s request for fees is *timely*, that he has submitted
sufficient proofs, and that the costs have necessarily been incurred on behalf of Plaintiff.
Therefore, the amount of \$1,803.04 is GRANTED.

This Court FINDS that Defendant’s request for costs was *untimely* as it was not filed
within the requisite 5 day period and is therefore DENIED.

B. Attorney’s Fees

1) Legal Basis

Plaintiff’s counsel cites to various legal basis, including potential wrongdoing by

1 Defendant's counsel. This Court will not address any wrongdoing by counsel as it is simply
2 unnecessary. Only 1 legal basis is necessary. This Court FINDS the most pointed legal basis is
3 that, given this Court's Decision and Order, it is clear that Plaintiff was the *prevailing party* on
4 the most significant issues (*i.e.*, issues remanded). Pursuant to *Halbrook v. Halbrook*, 114 Nev.
5 1455, 971 P.2d 1262 (1998) and *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998), this Court can
6 award attorney's fees to the *prevailing party* in appropriate post-judgment motions related to
7 child custody. An alternative statutory basis for Plaintiff is NRS 125C.250.

8 As for Defendant's request for attorney's fees, this Court FINDS the most pointed legal
9 basis submitted is NRS 125B.140(2)(c)(2).

10 **2) BRUNZELL Factors**

11 Both counsel specifically address the *Brunzell* factors in their respective requests. Rather
12 than unnecessarily reiterate them, they are incorporated by reference as though fully set forth
13 herein. It is further noted that both counsel submitted full unredacted billing statements in
14 support of the fees incurred since the remand. *Love, supra*.

15 **3) Disparity in Income**

16 The parties filed Financial Disclosure Forms. As Plaintiff points out, to date Defendant
17 still refuses to fill out her household expenses. Further, the amount that she has paid her own
18 attorney is continuously/suspiciously left blank. Yet, Defendant seems to conveniently find the
19 funds to continue litigating/investigating this case *ad nauseam*. Therefore, this Court can only
20 assume that Defendant's household income is *extraordinary*² as proposed by Plaintiff.
21 Regardless, if this Court imputed minimum wage to Defendant or even assumed that she is
22 unemployed, Defendant's own income is meager. Thus, the assignment of his *pro bono* attorney.
23 This Court made the ultimate determination on the incomes that the parties as submitted.³

24 **4) Affidavit or Other Evidence**

25 Plaintiff's request for both costs and attorney's fees are addressed in an affidavit included

26
27 ² See Plaintiff's motion, p. 8, lines 27-30 to p. 9, lines 1-12 (referencing an affidavit from another
28 lawsuit noting Defendant herself is listed as a "managing partner" wherein Defendant's husband claimed
to have lost hundreds of millions of dollars).

³ This Court did not use the presumption set forth in EDCR 5.506(g).

1 in his motion. Defendant's request for attorney's fees was accompanied by a separate Affidavit.

2 **II. CONCLUSION**

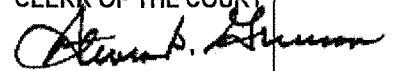
3 Given the foregoing, this Court CONCLUDES that *both requests are reasonable*
4 pursuant to the findings, facts and circumstances of this case. Accordingly, Defendant is
5 GRANTED the full requested amount of **\$900.00** in attorney's fees (based on statutory
6 requirement for non-payment of child support) and Plaintiff is GRANTED the full requested
7 amount of \$38,780.00 (*prevailing party*). Plaintiff's total amount including costs granted above
8 would be **\$40,583.04**.⁴ Accordingly, both counsel can submit a judgment in the amount noted in
9 bold. Because the amount is being reduced to judgment (enforceable by any lawful means
10 available), non-payment will not to be grounds for contempt proceedings before this Court.

11 DATED this 19th day of August, 2019.

12 

13 District Court Judge *mt*
14 Mathew Harter

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24
25 ⁴ This amount includes fees of \$1,520.00 for anticipated future filing of a Reply, *etc.*, which was
26 ultimately done. See p. 22 of Plaintiff's motion (Reply filed 07/09/2019). Further, Defendant in her
27 Opposition (p. 4) claims that "[t]he hours billed are not reasonable by any stretch of the imagination"
28 simply to [1] oppose a motion and [2] to amend an answer was *reasonable*). As noted in the Decision
and Order, this remand affair was spearheaded by Defendant's husband's "catfishing" expedition that
spawned this latest litigation. To reiterate, this Court did *not* believe Defendant had no knowledge as
she claimed. This Court is not finding any other extraneous fault on behalf of Defendant (this award is
not a penalty or sanction), only that Plaintiff was ultimately the *prevailing party*.



DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Petition by:
James Picone, Petitioner.

Case No.: D-14-495928-P
Department N

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TO: ALL PARTIES AND/OR THEIR ATTORNEYS

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Benjamin B. Childs, Esq.

John D. Jones, Esq.

☐ I hereby certify that I mailed the Decision and Order via first-class mail with postage fully prepaid to:

DATED: 21st day of August, 2019

By: /s/ Mark Fernandez

Mark Fernandez
Judicial Executive Assistant
Department N

Eighth Judicial District Court

Family Division

Clark County, Nevada

JAMES PICONE,

Plaintiff,

vs.

RENELYN BAUTISTA,

Defendant.

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Dept: N

AMENDED DECISION AND ORDER ON AWARD OF ATTORNEY'S FEES¹/COSTS

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I. LEGAL BASIS:

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8 reasonable, documentation concerning the amount of fees claimed, and points and
9 authorities addressing appropriate factors to be considered by the court in deciding the
10 motion. The time for filing the motion may not be extended by the court after it has
11 expired.

12 At the forefront, this Court NOTES that it *did* consider all of the foregoing relevant
13 factors as set forth below. *Logan v. Abe*, 131 Nev. ___, ___, 350 P.3d 1139 (2015) (“[E]xpress
14 findings on each factor are *not* necessary for a district court to properly exercise its discretion.”).
15 *Miller* further holds that attorney’s fees are available to *pro bono* counsel. *Id.*

16 **B. Costs**

17 NRS 18.110(1) states.

18 The party in whose favor judgment is rendered, and who claims costs, must file with the
19 clerk, and serve a copy upon the adverse party, within 5 days after the entry of
20 judgment, or such further time as the court or judge may grant, a memorandum of the
21 items of the costs in the action or proceeding, which memorandum must be verified by
22 the oath of the party, or the party’s attorney or agent, or by the clerk of the party’s
23 attorney, stating that to the best of his or her knowledge and belief the items are correct,
24 and that the costs have been necessarily incurred in the action or proceeding.

25 Pursuant to *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. ___, 345 P.3d 1049, 1054-55 (2015),
26 actual proof of costs incurred must be submitted.

27 **II. ANALYSIS**

28 **A. Costs**

This Court FINDS that Plaintiff’s request for fees is *timely*, that he has submitted
sufficient proofs, and that the costs have necessarily been incurred on behalf of Plaintiff.
Therefore, the amount of \$1,803.04 is GRANTED.

This Court FINDS that Defendant’s request for costs was *untimely* as it was not filed
within the requisite 5 day period and is therefore DENIED.

B. Attorney’s Fees

1) Legal Basis

Plaintiff’s counsel cites to various legal basis, including potential wrongdoing by

1 Defendant's counsel. This Court will not address any wrongdoing by counsel as it is simply
2 unnecessary. Only 1 legal basis is necessary. This Court FINDS the most pointed legal basis is
3 that, given this Court's Decision and Order, it is clear that Plaintiff was the *prevailing party* on
4 the most significant issues (*i.e.*, issues remanded). Pursuant to *Halbrook v. Halbrook*, 114 Nev.
5 1455, 971 P.2d 1262 (1998) and *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998), this Court can
6 award attorney's fees to the *prevailing party* in appropriate post-judgment motions related to
7 child custody. "[A] court may award attorney fees to the *prevailing party* [only] if the court finds
8 the opposing party's claim was brought or maintained without reasonable grounds." *Mack-*
9 *Manley v. Manley*, 122 Nev. 849, 859-60, 138 P.3d 525 (2006) (*emphasis added*). This Court
10 further FINDS that Defendant did in fact maintain her claim *without reasonable grounds*. The
11 underlying Decision and Order speaks for itself. Defendant surprisingly continued to hoodwink
12 the Supreme Court of Nevada as the remand involved a non-existent 15 year old girl and an
13 automobile incident involving a biased/suspect witness whereby not a scintilla of evidence was
14 produced at the evidentiary hearing. An alternative statutory basis for Plaintiff is NRS
15 125C.250.

16 As for Defendant's request for attorney's fees, this Court FINDS the most pointed legal
17 basis submitted is NRS 125B.140(2)(c)(2).

18 **2) BRUNZELL Factors**

19 Both counsel specifically address the *Brunzell* factors in their respective requests. Rather
20 than unnecessarily reiterate them, they are incorporated by reference as though fully set forth
21 herein. It is further noted that both counsel submitted full unredacted billing statements in
22 support of the fees incurred since the remand. *Love, supra*.

23 **3) Disparity in Income**

24 The parties filed Financial Disclosure Forms. As Plaintiff points out, to date Defendant
25 still refuses to fill out her household expenses. Further, the amount that she has paid her own
26 attorney is continuously/suspiciously left blank. Yet, Defendant seems to conveniently find the
27 funds to continue litigating/investigating this case *ad nauseam*. Therefore, this Court can only
28

1 assume that Defendant's household income is *extraordinary*² as proposed by Plaintiff.
2 Regardless, if this Court imputed minimum wage to Defendant or even assumed that she is
3 unemployed, Defendant's own income is meager. Thus, the assignment of his *pro bono* attorney.
4 This Court made the ultimate determination on the incomes that the parties as submitted.³

5 **4) Affidavit or Other Evidence**

6 Plaintiff's request for both costs and attorney's fees are addressed in an affidavit included
7 in his motion. Defendant's request for attorney's fees was accompanied by a separate Affidavit.

8 **II. CONCLUSION**

9 Given the foregoing, this Court CONCLUDES that *both requests are reasonable*
10 pursuant to the findings, facts and circumstances of this case. Accordingly, Defendant is
11 GRANTED the full requested amount of **\$900.00** in attorney's fees (based on statutory
12 requirement for non-payment of child support) and Plaintiff is GRANTED the full requested
13 amount of \$38,780.00 (*prevailing party*). Plaintiff's total amount including costs granted above
14 would be **\$40,583.04**.⁴ Accordingly, both counsel can submit a judgment in the amount noted in
15 bold. Because the amount is being reduced to judgment (enforceable by any lawful means
16 available), non-payment will not to be grounds for contempt proceedings before this Court.

17 DATED this 21st day of August, 2019.

18 
19

20 District Court Judge
21 Mathew Harter

22 ² See Plaintiff's motion, p. 8, lines 27-30 to p. 9, lines 1-12 (referencing an affidavit from another
23 lawsuit noting Defendant herself is listed as a "managing partner" wherein Defendant's husband claimed
24 to have lost hundreds of millions of dollars).

25 ³ This Court did not use the presumption set forth in EDCR 5.506(g).

26 ⁴ This amount includes fees of \$1,520.00 for anticipated future filing of a Reply, *etc.*, which was
27 ultimately done. See p. 22 of Plaintiff's motion (Reply filed 07/09/2019). Further, Defendant in her
28 Opposition (p. 4) claims that "[t]he hours billed are not reasonable by any stretch of the imagination"
without any further reasoning. Defendant should review *Kantor v. Kantor*, 116 Nev. 886, 8 P.3d 825
(2000) (Almost 2 decades ago, the Court found the district court's award of \$19,580.00 in attorney's fees
simply to [1] oppose a motion and [2] to amend an answer was *reasonable*). As noted in the Decision
and Order, this remand affair was spearheaded by Defendant's husband's "catfishing" expedition that
spawned this latest litigation. To reiterate, this Court did *not* believe Defendant had no knowledge as
she claimed. This Court is not finding any other extraneous fault on behalf of Defendant (this award is
not a penalty or sanction), only that Plaintiff was ultimately the *prevailing party*.