

Amanda Reynolds,

Appellant,

vs.

The Eighth Judicial District Court of the
State of Nevada, In and For the County
of Clark, and the Honorable Rhonda
Forsberg, District Court Judge,

Respondents,

Alfredo Medellin,

Real Party in Interest.

Supreme Court Number:

District Court Case No.: D-19-590131-
C

Electronically Filed
Jan 03 2020 02:01 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANTS' APPENDIX TO PETITION FOR WRIT OF
MANDAMUS AND/OR WRIT OF PROHIBITION VOLUME I
PAGES 1 THROUGH 105

ON THE APPEAL FROM THE DISTRICT COURT OF CLARK
COUNTY NEVADA, CASE NO. D-19-590131-C DEPT. NO. G

Andrew J. Semprazik, Esq.
Nevada Bar # 15093
Carol Barnes, Esq.
Nevada Bar # 7985
Barnes Law Group
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(702) 382-9011
Attorneys for Appellant,
Amanda Reynolds

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CERTIFICATE OF SERVICE

I hereby certified that the service of the APPELLANTS' APPENDIX TO PETITION FOR WRIT OF MANDAMUS AND/OR WRIT OF PROHIBITION VOLUME I was served on the 3rd day of January 2020, by delivering a true and correct copy thereof in postage paid envelope, addressed to the following:

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION

Honorable Judge Rhonda K. Forsberg
Department G
601 North Pecos Road
Las Vegas, Nevada 89101

ROBERTS STOFFEL FAMILY LAW GROUP

Lynn N. Hughes, Esq.
Attorney of Record for Respondent
4411 South Pecos Road
Las Vegas, Nevada 89121
Attorney for Real Party in Interest



Employee of Barnes Law Group

Steven D. Grierson

1 ANS
Carol Barnes, Esq.
2 Nevada Bar No.: 7985
Andrew J. Semprazik, Esq.
3 Nevada Bar No. 15093
BARNES LAW GROUP, LLC
4 712 S. Jones Boulevard
Las Vegas, Nevada 89107
5 Office (702) 382-9011
Facsimile (702) 382-0241
6 eserviceblg@gmail.com
Attorney for Defendant:
7 Amanda Reynolds

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

9 ALFREDO MEDELLIN

10 Plaintiff,

11 -VS-

12 AMANDA REYNOLDS

13 Defendant.

Case Number: D-19-590131-C
Dept. No: G

AMENDED ANSWER TO COMPLAINT
TO ESTABLISH CUSTODY, CHILD
SUPPORT, VISITATION AND
COUNTERCLAIM

14
15 COMES NOW the Defendant, AMANDA REYNOLDS, by and through her
16 attorney, CAROL BARNES, ESQ., and answers to Plaintiff's Complaint to
17 Confirm Paternity/Custody and UCCJEA Declaration states and alleges as follows:
18

19 1. Defendant admits the allegations contained in Paragraphs 1, 2, 3, 5,
20 and 6 of Plaintiff's Complaint.
21

22 2. Defendant denies the allegations contained in Paragraphs 4, 7, 8, 9,
23 10, 11, 12, 13, and 14 of Plaintiff's Complaint.
24

25 COUNTERCLAIM

26
27 COMES NOW the Defendant, AMANDA REYNOLDS, and hereby claims
28

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1 and alleges against the Plaintiff as follows:

2 1. That for more than six (6) weeks immediately preceding the
3 commencement of this action, Defendant has been, and now is, a bona fide and
4 actual resident and domiciliary of the State of Nevada and has been actually and
5 corporeally present in the State of Nevada for more than six (6) weeks immediately
6 prior to the commencement of this action, and has had and still has the intent to
7 make said State of Nevada her home, residence and domicile for an indefinite
8 period of time.
9

10 2. That the Plaintiff and Defendant have never been married.

11 3. That the Plaintiff is not the biological father of RICARDO LAZZARO
12 MEDELLIN (date of birth September 13, 2012);
13

14 4. Alfredo made a false representation/misrepresentation as to him being
15 the father of Ricardo on Ricardo's birth certificate and the Voluntary
16 Acknowledgement of Paternity of Ricardo;
17

18 5. Alfredo knew that he was not the father of Ricardo which he admitted
19 to in his Opposition, filed on June 11th, 2019, page 2, line 5-6 and his counsel
20 admitted at the June 13th, 2019 hearing;
21

22 6. Alfredo intended for the State of Nevada to rely on his false
23 representation;
24

25 7. The State of Nevada justifiably relied on Alfredo's false
26
27
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1 representation;

2 8. The State of Nevada suffered damage caused by Alfredo's false
3 representation.
4

5 9. The presumption of Plaintiff's paternity of Ricardo is rebutted by
6 Plaintiff's committing of fraud.
7

8 10. That Defendant is fit and proper person to have Sole Legal and Sole
9 Physical Custody of the minor child.

10 11. That Plaintiff pay Defendant's Attorney's Fees and Costs.
11

12 12. That pursuant to NRS 125.510(6), the parties are hereby put on notice
13 of the following: PENALTY FOR VIOLATION OF ORDER: THE
14 ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN
15 VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY "D"
16 FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every
17 person having a limited right of custody to a child or any parent having no right of
18 custody to the child who willfully detains, conceals or removes the child from a
19 parent, guardian or other person having lawful custody or a right of visitation of
20 the child in violation of an order of this court, or removes the child from the
21 jurisdiction of the court without the consent of either the court or all persons who
22 have the right to custody or visitation is subject to being punished for a category
23 "D" felony as provided in NRS 193.130.
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1 The State of Nevada is the habitual residence of the minor child of the
2 Parties hereto. The parties are also put on notice that the terms of the Hague
3 Convention of October 25, 1980, adopted by the 14th Session of the Hague
4 Conference on Private International Law apply if a parent abducts or wrongfully
5 retains a child in a foreign country. The parties are also put on notice of the
6 following provisions in NRS 125.510(8):
7

8
9 If a parent of the child lives in a foreign country or has significant
10 commitments in a foreign country:
11

12 (a) The parties may agree, and the court shall include in the order for
13 custody of the child, that the United States is the country of habitual residence of
14 the child for the purposes of applying the terms of the Hague Convention as set
15 forth in subsection 7.
16

17 (b) Upon motion of one of the parties, the court may order the parent to
18 post a bond if the court determines that the parent poses an imminent risk of
19 wrongfully removing or concealing the child outside of the country of habitual
20 residence. The bond must in an amount determined by the court and may be used
21 only to pay for the cost of locating the child and returning him to his habitual
22 residence if the child is wrongfully removed from or concealed outside the country
23 of habitual residence. The fact that a parent has significant commitments in a
24 foreign country does not create a presumption that the parent poses an imminent
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1 risk of wrongfully removing or concealing the child.

2 That the parties are also put on notice of the following provision of NRS
3 125C.200:
4

5 If custody has been established and the custodial parent or a parent having
6 joint custody intends to move his residence to a place outside of this state and to
7 take the child with him, he must, as soon as possible and before the planned move,
8 attempt to obtain the written consent of the other parent to move the child from the
9 state. If the noncustodial parent or other parent having joint custody refuses to
10 give that consent, the parent planning the move shall, before he leaves the state
11 with the child, petition the court for permission to move the child. The failure of a
12 parent to comply with the provisions of this section may be considered as a factor
13 if a change of custody is requested by the noncustodial parent or other parent
14 having joint custody.
15

16 The Parties shall submit the information required in NRS 125B.055, NRS
17 125.130 and NRS 125.230 on a separate form to the Court and the Welfare
18 Division of the Department of Human Resources within ten (10) days from the date
19 the Decree in this matter is filed. Such information shall be maintained by the
20 Clerk in a confidential manner and not part of the public record. The Parties shall
21 update the information filed with the Court and the Welfare Division of the
22 Department of Human Resources within ten (10) days should any of that
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1 information become inaccurate.

2 WHEREFORE, Defendant prays for Judgment as follows:

3 A. That the Plaintiff and Defendant have never been married.

4 B. That the Plaintiff is not the biological father of RICARDO LAZZARO
5 MEDELLIN (date of birth September 13, 2012);

6 C. Alfredo made a false representation/misrepresentation as to him being
7 the father of Ricardo on Ricardo's birth certificate and the Voluntary
8 Acknowledgement of Paternity of Ricardo;

9 D. Alfredo knew that he was not the father of Ricardo which he admitted
10 to in his Opposition, filed on June 11th, 2019, page 2, line 5-6 and his counsel
11 admitted at the June 13th, 2019 hearing;

12 E. Alfredo intended for the State of Nevada to rely on his false
13 representation;

14 F. The State of Nevada justifiably relied on Alfredo's false
15 representation;

16 G. The State of Nevada suffered damage caused by Alfredo's false
17 representation.

18 H. That presumption of Plaintiff's paternity of Ricardo is rebutted by
19 Plaintiff's committing of fraud.

20 I. That Defendant is fit and proper person to have Sole Legal and Sole
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22 000006

1 Physical Custody of the minor child.

2 J. That Plaintiff pay Defendant's Attorney's Fees and Costs.

3 K. For such other and further relief as the Court may deem just and
4 proper in the premises.
5

6 DATED this 1st day of August 2019.
7

8 BARNES LAW GROUP, LLC

9 

10 Andrew J. Semprazik, Esq.
11 Nevada Bar No. 15093
12 712 S. Jones Boulevard
13 Las Vegas, Nevada 89107
14 (702) 382-9011
15 Attorney for Defendant
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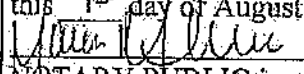
VERIFICATION

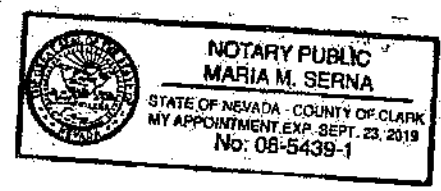
STATE OF NEVADA)
COUNTY OF CLARK)

AMANDA REYNOLDS, first being duly sworn, deposes and says:

That she is the Defendant in the above-entitled action; that she has read the above and foregoing AMENDED ANSWER TO COMPLAINT TO ESTABLISH CUSTODY, CHILD SUPPORT, VISITATION AND COUNTERCLAIM and knows the contents thereof, and that the same is true of her own knowledge, except as to those matters therein stated on information and belief, and as to those matters, she believes them to be true.


AMANDA REYNOLDS

SUBSCRIBED and SWORN to before me
this 15th day of August 2019.

NOTARY PUBLIC in and for said County and State

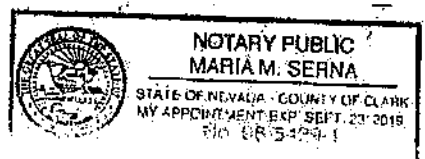


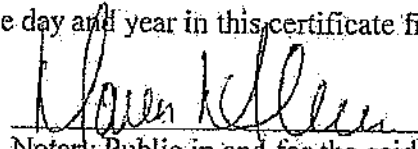
ACKNOWLEDGMENT

STATE OF NEVADA)
COUNTY OF CLARK)

On this 15th day of August 2019, personally appeared before me, a Notary Public, AMANDA REYNOLDS, known to me to be the person described in and who executed the foregoing instrument, ANSWER TO COMPLAINT TO ESTABLISH CUSTODY, CHILD SUPPORT, VISITATION AND COUNTERCLAIM, she acknowledged to me that the instruments were executed freely and voluntarily and for the same uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.




Notary Public in and for the said County and State

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I am an employee of Barnes Law Group, that on the
3 1st August,
4 day of ~~July~~ 2019, I placed a true and correct copy of the **AMENDED**
5 **ANSWER TO COMPLAINT TO ESTABLISH CUSTODY, CHILD**
6 **SUPPORT, VISITATION AND COUNTERCLAIM** to be served as follows:
7

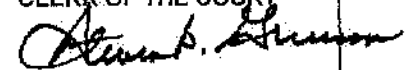
8 Pursuant to EDCR 5.05(a), EDCR 8.05(f), NRCP(5)(b)(2)(D) and
9 Administrative Order 1402 captioned "in the Administrative Matter of Electronic
10 Service in the Eighth Judicial District Court," by mandatory electronic service
11 through the Eighth Judicial District Court's electronic filing system to the
12 attorney(s) at the email address listed below:
13

14 **ROBERTS STOFFEL FAMILY LAW GROUP**

15 Lym N. Hughes, Esq.
16 EMAIL: efile@lvfamilylaw.com

17 
18 _____
19 Employee of Barnes Law Group
20
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1 COMP
2 Lynn N. Hughes, Esq. (6349)
3 **Roberts Stoffel Family Law Group**
4 4411 South Pecos Road
5 Las Vegas, Nevada 89121
6 PH: (702) 474-7007
7 FAX: (702) 474-7477
8 EMAIL: efile@lvfamilylaw.com
9 Attorney for Plaintiff, Alfredo Medellin

CASE NO: D-19-590131-C
Department G

6 **DISTRICT COURT, FAMILY DIVISION**

7 **CLARK COUNTY, NEVADA**

8 ALFREDO MEDELLIN,

9 Plaintiffs,

10 vs.

11 AMANDA REYNOLDS,

12 Defendant.

) Case No:

) Dept No:

13
14 **COMPLAINT TO ESTABLISH CUSTODY,**

15 **CHILD SUPPORT, VISITATION**

16 Now comes ALFREDO MEDELLIN, by and through his attorney, Lynn N.
17 Hughes, Esq. of the Roberts Stoffel Family Law Group, as and for a Complaint to
18 Establish Custody, Child Support, and Visitation against Defendant AMANDA
19 REYNOLDS, and alleges as follows:

20 1. That Plaintiff, for a period of more than six weeks immediately
21 Preceding the filing of this action, have been and now are a bona fide resident of the
22 State of Nevada, County of Clark, and has been actually physically present and
23 domiciled in Nevada for more than six (6) weeks prior to the filing of this action;

24 2. That Defendant, for a period of more than six weeks immediately
25 Preceding the filing of this action, has been and now is a bona fide resident of the
26 State of Nevada, County of Clark, and has been actually present and domiciled in
27 Nevada for more than six (6) weeks prior to the filing of this action;

28 **000010**

1 3. The Parties to this action dated, but never married.

2 4. The Parties have one (1) minor child of their relationship, to wit:
3 Ricardo Medellin ("Ricardo"), born September 13, 2012 (currently 6 years of age).

4 5. Nevada is the habitual state of residence for the child.

5 6. The minor child was born in the State of Nevada, and has been in the
6 State of Nevada in excess of six (6) months prior to the commencement of this
7 action and the State of Nevada is the "home state" of the minor child pursuant to
8 *NRS* § 125A.085 and the State of Nevada has jurisdiction of this matter pursuant to
9 *NRS* § 125A.305.

10 7. There is no dispute that Defendant is the Father of the minor child, he
11 is list on the birth certificate as the father of the child.

12 8. Defendant is believed to be currently abusing drugs and alcohol and
13 has often left the child at home with other children who are not of age to properly
14 supervise the care and control of small children.

15 9. The Plaintiff requests primary legal and primary physical custody of
16 the child because it is not in the best interest of the minor child to allow the
17 Defendant to have joint custody. Defendant should be allowed to have specified
18 supervised visitation.

19 10. Defendant should be ordered to pay child support, pursuant to *NRS* §
20 125B.070 and §125B.080, at the rate of eighteen percent (18%) of her gross
21 monthly income, but not less than the statutory minimum of \$100.00 per month.
22 Defendant's obligation for child support should continue until said child reaches the
23 age of eighteen (18), or, if the child is still attending high school at the age of
24 eighteen (18), until the child reaches the age of nineteen (19) or graduates from
25 high school, or is otherwise emancipated, whichever occurs first.

26 ///

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1 11. In accordance with *NRS* § 125B.085, the Parties should provide health
2 insurance, if available, for the minor child. The minor child is currently covered
3 through health insurance available through the State of Nevada. The obligation to
4 provide health insurance shall continue until said child reaches the age of eighteen
5 (18), or, if the child is still attending high school at the age of eighteen (18), until
6 the child reaches the age of nineteen (19) or graduates from high school, or
7 otherwise emancipates, whichever occurs first.

8 12. The Parties shall equally divide unreimbursed medical expenses for the
9 minor child, including but not limited to medical, surgical, dental, orthodontists,
10 and optical expenses, pursuant to the 30/30 rule (within thirty (30) days of receiving
11 a bill, same shall be submitted to the other Party for review and payment shall be
12 made within thirty (30) days of receipt of said bill).

13 13. Plaintiff should claim the minor child each and every year,
14 commencing in 2019, for the purpose of filing of a Federal Income Tax Return.

15 14. Plaintiff is seeking an award of attorney fees and costs in this matter.
16 If this matter is resolved by way of a Default, Plaintiff's Counsel shall file a
17 Memorandum of Fees and Costs which shall be the basis for the Court's award of
18 attorney fees.

19 **WHEREFORE**, Plaintiff prays for a Judgment:

20 1. The Court shall enter an Order granting the Plaintiff sole legal and
21 physical custody.

22 2. The Court shall enter an Order for child support as set forth herein.

23 3. The Court shall enter an Order for both Parties to provide health
24 insurance coverage, until further Order of the Court or until no longer available
25 pursuant to *NRS* §125B.085, with the premium split between the Parties, and for
26 the Parties to equally share any and all unreimbursed medical expenses.


27 4. The Court shall enter an Order for the Plaintiff to claim the minor child
28 as a deduction on her taxes each and every year.

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1 5. For such other relief the court finds to be just and proper.

2 Dated this 24th day of May 2019.

3
4 **Roberts Stoffel Family Law Group**

5 
6 _____
7 Lynn N. Hughes, Esq. (6349)
8 4411 South Pecos Road
9 Las Vegas, Nevada 89121
10 Attorney for Plaintiff

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The undersigned is the Plaintiff in the above entitled action; he has read the above and foregoing Complaint for Child Custody, Visitation and Support, and knows the contents thereof; the same is true of his own knowledge, except for any matters therein stated upon information and belief, and as to those matters therein stated, he believes them to be true.

STATE OF NEVADA)
COUNTY OF CLARK)
SS

 JENNIFER J. SOUZA
Notary Public, State of Nevada
Appointment No. 04-91773-1
My Appt. Expires Dec 2, 2020

000014

Steven D. Grierson

1 **EX-PARTE**

2 Carol Barnes, Esq.

3 Nevada Bar No.: 7985

4 Andrew Semprazik, Esq.

5 Nevada Bar No.: 15093

6 BARNES LAW GROUP, LLC

7 712 S. Jones Boulevard,

8 Las Vegas, Nevada 89107

9 Office (702) 382-9011

10 Facsimile (702) 382-0241

11 Attorney for Defendant:

12 Amanda Reynolds

13 **DISTRICT COURT**

14 **FAMILY DIVISION**

15 **CLARK COUNTY, NEVADA**

16 ALFREDO MEDELLIN

17 Plaintiff,

Case Number: D-19-590131-C
Dept. No: G

18 -vs-

19 AMANDA REYNOLDS

20 Defendant

21 **DEFENDANT'S EX-PARTE REQUEST TO PRODUCE VOLUNTARY**
22 **ACKNOWLEDGMENT OF PATERNITY**

23 COMES NOW the Defendant, AMANDA REYNOLDS, by and through her
24 attorney of record, Carol Barnes, Esq. of BARNES LAW GROUP, LLC, and
25 hereby requests this Court to order the State of Nevada to release a copy of the
26 voluntary acknowledgment of paternity signed by Amanda Reynolds and Alfredo
27 Medellin regarding Ricardo Medellin to Amanda Reynolds.

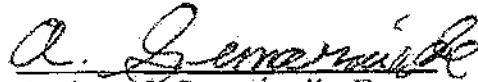
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1 Dated this 18th day of November 2019.

2 BARNES LAW GROUP, LLC

3 

4 Andrew J. Semprazik, Esq.

5 Nevada Bar No. 15093

6 712 S. Jones Boulevard

7 Las Vegas, Nevada 89107

8 (702) 382-9011

9 Attorney for Defendant

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1 NEO

2 Lynn N. Hughes, Esq. (6349)

3 **ROBERTS STOFFEL FAMILY LAW GROUP**

4 4411 South Pecos Road

5 Las Vegas, Nevada 89121

6 PH: (702) 474-7007

7 FAX: (702) 474-7477

8 EMAIL: efile@lvfamilylaw.com

9 Attorney for Alfredo Medellin

10
11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 ALFREDO MEDELLIN

14 v.

15 AMANDA RAYNOLDS

Case No: D-19-590131-C

Dept. No: G

**NOTICE OF ENTRY OF
ORDER CONFIRMING
PATERNITY**

16 PLEASE TAKE NOTICE an Order Confirming Paternity and Denying
17 Defendant's Motion for Summary Judgement was duly entered on the 26th day of
18 November 2019, a copy of which is attached hereto and fully incorporated herein
19 by reference.

20 DATED this 2nd day of December 2019.

21
22 **ROBERTS STOFFEL FAMILY LAW GROUP**

23
24 By: 

Lynn N. Hughes, Esq. (6349)

4411 South Pecos Road

Las Vegas, Nevada 89121

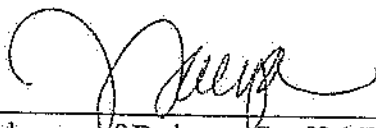
Attorney for Plaintiff, Alfredo Medellin

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Roberts Stoffel Family Law Group, and on the 2nd day of December 2019, I served by and through Wiz-Net electronic service, pursuant Clark County District Court Administrative Order 14-2 for service of documents identified in Rule 9 of the N.E.F.C.R., the foregoing Order Appointing Administrator with Full Authority to Independently Administer The Estate, and for Issuance of Letters of Independent Administration as follows:

Carol Barnes, Esq.,
esearviceblg@gmail.com

By: 
Employee of Roberts Stoffel Family Law Group

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Steven D. Grierson

1 DEC
2 Lynn N. Hughes, Esq. (6349)
3 ROBERTS STOFFEL FAMILY LAW GROUP
4 4411 South Pecos Road
5 Las Vegas, Nevada 89121
6 PH: (702) 474-7007
7 FAX: (702) 474-7477
8 EMAIL: efile@lvfamilylaw.com
9 Attorneys for Plaintiff, Alfredo Medellin

DISTRICT COURT
CLARK COUNTY, NEVADA

9	ALFREDO MEDELLIN,)	Case No: D-19-590131-C
)	Dept.No: G
10	Plaintiff,)	
	vs.)	
11)	Date of Hearing: October 24, 2019
12	AMANDA REYNOLDS,)	Time of Hearing: 9:00 a.m.
)	
13	Defendant.)	

ORDER CONFIRMING PATERNITY

AND DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGEMENT

This matter having come before the Court on Defendant's *Motion to Dismiss for Failure to Join a Necessary Party, Motion for Summary Judgment, Motion to Remove Name from Birth Certificate and Affidavit of Paternity, and Motion for Attorney's Fees and Costs*, and Plaintiff's *Countermotion for Summary Judgment Regarding Paternity* on October 24, 2019 at 9:00 a.m., Plaintiff Alfredo Medellin appearing in person by and through his attorney, Lynn N. Hughes, Esq., and Defendant Amanda Reynolds appearing in person by and through her attorney Andrew Semprazik, Esq.

The Court, having reviewed of the papers and pleadings on file herein:

THE COURT FINDS Plaintiff Alfredo Medellin is identified as the Father on the child's birth certificate. The procedure for removing a parent from the birth certificate is by having the parental rights terminated and having another party take over financial responsibility for the child. That is not the case in this matter.

THE COURT HEREBY ORDERS AND DECREES the Plaintiff, Alfredo Medellin, is the legal father of the child, Ricardo Medellin.

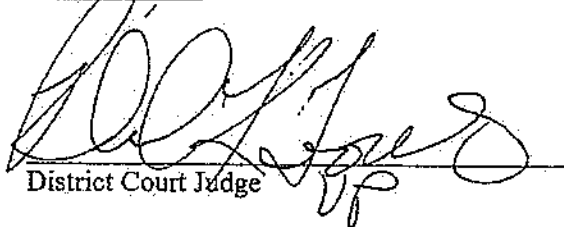
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1 THE COURT FURTHER ORDERS the Defendant's motions are DENIED.

2 THE COURT FURTHER ORDERS the parties shall continue with the temporary joint
3 physical and joint legal custody, as set forth in the prior orders.

4 THE COURT FURTHER ORDERS the calendar call on January 30, 2020 and the
5 Evidentiary Hearing set on February 3, 2020 shall stand, and the issues shall be limited to
6 custody, visitation and child support.

7 IT IS SO ORDERED this November 22, 2019.

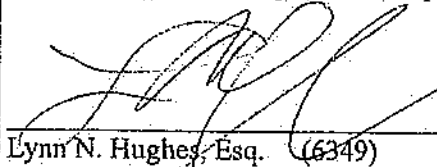
8 
District Court Judge

9 Rhonda K. Forsberg

10 Respectfully submitted:

11 Dated Nov 12th, 2019.

12 Roberts Stoffel Family Law Group

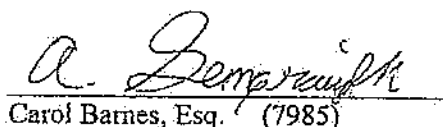
13 
Lynn N. Hughes, Esq. (6349)

14 4411 S. Pecos Road
15 Las Vegas, Nevada 89121
16 Attorneys for Plaintiff

17 Content approved:

18 Dated Nov. 7th, 2019.

19 Barnes Law Group, LLC

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24 Attorneys for Defendant

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9 Office (702) 382-9011

10 Attorney for Defendant:

11 Amanda Reynolds

12 DISTRICT COURT

13 FAMILY DIVISION

14 CLARK COUNTY, NEVADA

15 ALFREDO MEDELLIN

16 Plaintiff,

17 vs.

18 AMANDA REYNOLDS

19 Defendant.

Case Number: D-19-590131-C
Dept No: G

NOTICE OF MOTION AND
MOTION TO DISMISS FOR
FAILURE TO JOIN A NECESSARY
PARTY, MOTION FOR SUMMARY
JUDGMENT, MOTION TO
REMOVE NAME FROM BIRTH
CERTIFICATE AND AFFIDAVIT
OF PATERNITY, AND MOTION
FOR ATTORNEY'S FEES AND
COSTS

Date of Hearing:
Time of Hearing:

ORAL ARGUMENT REQUESTED:
YES

23 YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS
24 MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE
25 UNDER-SIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10)
26 DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A
27 WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN
28 (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE
REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT

1 HEARING PRIOR TO THE SCHEDULED HEARING DATE

2 TO: Plaintiff and his attorney of record;

3
4 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the
5 within motion will come on for hearing on the _____ day of _____
6 2019 at ____ a.m./p.m. Courtroom G of the Family Division of the Eighth Judicial
7 District Court, 601 North Pecos Road, Las Vegas NV 89101, or as soon thereafter
8 as the matter can be heard.
9

10 COMES NOW the Defendant, AMANDA REYNOLDS (Amanda), by and
11 through her attorney of record, Carol M. Barnes., of the BARNES LAW GROUP,
12 and requests that this Honorable Court order as follows:
13

- 14 1. Dismiss the Custody matter for failure to join a necessary party;
15 2. Grant Summary Judgment to Amanda in this Custody matter;
16 3. Order Alfredo's name to be removed from birth certificate of minor child;
17 4. Order Alfredo's name to be removed from affidavit of paternity;
18 5. Order an end to the temporary custody orders;
19 6. Award Amanda Attorney's Fees and Costs.
20
21

22 ///


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1 This motion is made and based upon the papers and pleadings on file herein,
2 the points and authorities incorporated herein, the affidavit of Amanda in support
3 of her motion and such argument and evidence as may be adduced at the hearing.
4

5 Dated this 17th day of August 2019.

6 **BARNES LAW GROUP**

7
8 
9 Andrew Semprazik, Esq.
10 Nevada Bar Number: 15093
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12 Las Vegas, Nevada 89107
13 (702) 382-9011
14 Attorney for Defendant
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I.

STATEMENT OF FACTS

Amanda and Alfredo met as students at Liberty High School in 2004.

Shortly thereafter they began dating but ultimately ended the relationship in 2006 due to Alfredo's anger issues. Amanda became pregnant with her minor child, Ricardo by a man named Tyrell Johnson. Tyrell Johnson informed Amanda at the time that he wasn't ready to be a father. After the third trimester of Amanda's pregnancy with Ricardo, Alfredo re-entered Amanda's life in 2011. Amanda was slightly noticeably pregnant with Ricardo and both parties were well aware that Amanda was pregnant and Alfredo was not the father of Ricardo.

Around 2013, Amanda and Alfredo discussed possibly getting married in the future. They believed their future together was bright. Around this time, Alfredo mentioned they should begin the process of amending Ricardo's birth certificate and adding Alfredo's name despite both knowing he is not Ricardo's father. Amanda agreed to Alfredo's idea and the parties began the process. The parties eventually received the new birth certificate with Alfredo's name on it in 2016 due to technicalities, when Ricardo was three-years old.

After the parties moved in together in 2013, Amanda noticed characteristics of Alfredo she found troubling. His anger issues were still present, as he would throw or punch items in the house whenever he got upset. This frightened Averie,

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1 Amanda's biological daughter from a previous relationship, anytime she observed
2 this, Alfredo also began to stay out to all hours of the night to gamble, leaving
3 Amanda to take care of the children alone. Alfredo's neglect of Amanda continued
4 to grow, he seeming disinterested in her and distracted. Amanda would later
5 discover Alfredo had begun to see another woman, Ashley Forte (Ashley), while
6 still being with Amanda. At this point it was clear a relationship with Alfredo was
7 no longer promising and the relationship ended in 2014.
8

10 Amanda and Alfredo seemed to get along better as friends than lovers. This
11 cordial relationship came to a screeching halt in May of 2016 when Alfredo
12 discovered Amanda was dating her now fiancé, Shine Flores. Alfredo would get
13 upset when he would surreptitiously read Amanda's texts between Amanda and
14 Shine. Amanda thought this behavior was bizarre as Alfredo had moved his
15 girlfriend, Ashley, into his home.
16

18 In 2018, Alfredo's unusual behavior continued to escalate. Alfredo became
19 more controlling and uncooperative with Amanda. Amanda wanted to enroll
20 Ricardo into the same school his sister went to, Cartwright Elementary School.
21 Upon hearing this, Alfredo convinced Amanda that Ricardo should go to Schorr
22 Elementary as that was, he alleged, a STEM Academy and better for Ricardo's
23 education. This school also happened to be near Alfredo's home. Amanda trusted
24 Alfredo's word and enrolled him in Schorr Elementary. Shine later looked up
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1 Schorr Elementary and discovered that Schorr was an average public school with
2 ratings not much better than Cartwright. Because of Alfredo's lies, Ricardo lost the
3 opportunity to go to school with his sister for her final year at the school. In
4 addition, Amanda now had to drive to three different schools across the valley, five
5 days a week, twice a day, to pick up Ricardo, Averie, and Shine's son, Shawn.
6

7 Amanda attempted to have Alfredo agree to Ricardo going to school at
8 Cartwright but Amanda was shut down each time. Amanda also proposed they
9 begin a weekly schedule of exchanging Ricardo instead of randomly switching
10 days between the parties as they had been doing. Alfredo declined this as well.
11 Alfredo finally agreed to a weekly schedule, shortly before filing his action.
12

13 On May 27th, 2019 at 3:30 p.m., Amanda went to pick up Ricardo from
14 Alfredo, Alfredo refused to turn over Ricardo. It should again be noted that
15 Alfredo has no biological relationship with Ricardo, Alfredo knows that he is not
16 the father of Ricardo, and Ricardo knows that that Alfredo is not his father.
17

18 Dismayed that Alfredo refused to return her son to her, Amanda contacted
19 the Las Vegas Metropolitan Police Department (LVMPD) to seek their services in
20 the return of her child. In front of the LVMPD and Amanda, Alfredo rushed
21 Ricardo in the house before he could even speak with his mother. The LVMPD
22 directed Amanda to file a motion since Alfredo was listed on the birth certificate.
23

24 During this time of wrongfully withholding Ricardo from Amanda, Alfredo
25

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1 limited Ricardo's contact with his mother to two telephone calls. Alfredo permitted
2 Amanda to speak to her son for a maximum of three minutes. Amanda would ask
3 numerous times to see her son and each time Alfredo would refuse. Averie would
4 ask her mom when she is seeing Ricardo again to which a heartbroken Amanda
5 had no answer.
6

7
8 Alfredo claimed that he was retaining Ricardo because he was allegedly
9 concerned Amanda was under the influence of drugs. Amanda passed a drug test
10 and received the results on June 7th, 2019 which were sent immediately to
11 opposing counsel. Alfredo still refused to return Ricardo and did not return him
12 until court ordered to do so at the June 13th, 2019 hearing.
13

14 Alfredo continues to exhibit his disregard for Amanda's rights as Ricardo's
15 mother and for the Court itself. Despite being ordered by the Court that Ricardo be
16 enrolled in Cartwright Elementary, Alfredo enrolled Ricardo into Schorr
17 Elementary *again*. In addition, Alfredo changed the CCSD Parent Portal to put that
18 Ricardo is not in Amanda's household. *See, Exhibit A*. This prevented Amanda
19 from being able to enroll Ricardo into Cartwright Elementary as CCSD now
20 showed she was not the parent with decision making over Ricardo's schooling.
21 Despite multiple contacts with Alfredo's counsel, Alfredo still did not change the
22 information. This blatant disregard of the Court's order led Amanda to expend
23 additional time and money in having to obtain all the information CCSD required
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1 to change Ricardo back to being in Amanda's household so he can attend
2 Cartwright. *See, Exhibit B.*

3
4 Alfredo also ignored Amanda's wishes when it came to Ricardo's health.
5 Ricardo had injured his chin when he tripped so Amanda had two nurses and a
6 surgical assistant, she knows come to the house to tend to it. They used medical
7 grade glue and a bandage for it to heal. Amanda informed Alfredo what happened
8 and to not remove the bandage so it can heal properly. *See, Exhibit C.* Alfredo,
9 never notifying Amanda, took Ricardo to see a doctor who removed the bandage
10 and confirmed that there was no infection and used the same glue and bandage that
11 had already been applied to Ricardo. This unilateral action by Alfredo will now
12 lead to scarring.
13

14
15 Alfredo refuses to listen to Amanda's dietary suggestions for Ricardo which
16 has led to many cavities for Ricardo. Alfredo's response was he wouldn't cut down
17 on sugar "unless the dentist tells him to". Ricardo's regular physician
18 recommended orthopedic shoes for Ricardo and when Amanda suggested buying
19 proper fitting shoes, Alfredo belittled her for it. This is a continuing pattern of
20 Alfredo attempting to dictate all legal decisions over Ricardo.
21

22
23 Alfredo has become even more hostile and controlling over Amanda's
24 relationship with Ricardo. Recently Ashley and Amanda had a disagreement over
25 text regarding Ricky's drop off time on Sunday nights. It should be noted that
26

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1 Amanda never threatened anyone, never called anyone names, and never insulted
2 anyone. In response, Alfredo directed that Amanda and her family are to wait until
3 after Alfredo and his family congratulate Ricky on his school play before they
4 approach him. Once again, Amanda is the biological parent and Alfredo never
5 adopted Ricky.

6
7 Alfredo's actions have had a noticeable impact on Ricardo. Ricardo has
8 begun to mimic Alfredo's angry outbursts, leading to yelling and hitting objects
9 when he's angry. Amanda has had to work on Ricardo's temper. In addition,
10 Alfredo's wrongful 18 day withholding of Ricardo has begun to affect Ricardo's
11 relationship with his mother. Typically, Amanda could run to the grocery store or
12 gym for a short period while Ricardo is watched at home. Ricardo now refuses to
13 let Amanda leave the house unless he goes with her. This is all attributable to
14 Alfredo's actions and blatant disregard of Amanda's rights as Ricardo's mother.

15 II.

16 LEGAL ANALYSIS

17 A. Amanda's Motion to Dismiss Should be Granted Due To Alfredo's 18 Failure To Join A Necessary Party

19 Under NRCP 12(b)(6), a motion to dismiss for failure to join a party under
20 Rule 19 may be asserted by motion any time before trial is over.

21 Under NRCP 19(a)(1), a party is necessary if:

22 (A) in that person's absence, the court cannot accord complete

1 relief among existing parties; or

2 (B) that person claims an interest relating to the subject of the action
3 and is so situated that disposing of the action in the person's absence
4 may;

5 (i) as a practical matter impair or impede the person's ability to protect
6 the interest; or

7 (ii) leave an existing party subject to a substantial risk of incurring
8 double, multiple, or otherwise inconsistent obligations because of the
9 interest.

10 To feasibly join a party, that party must be subject to service of process and
11 joinder must not deprive the district court of subject matter jurisdiction. ROSE,
12 LLC v. TREASURE ISLAND, LLC, 135 Nev. Adv. Op. 19 (Nev. Ct. of App.,
13 2019). A party is considered indispensable "only when joinder of that party is not
14 feasible". Blaine Equip. Co. v. State, Purchasing Div., 138 P.3d 820, 822 (2006). If
15 joinder is not feasible, the court must determine, in equity and good conscience,
16 whether the action should proceed or be dismissed. NRCP 19(b) (providing a four-
17 factor test to determine whether a necessary party is indispensable). Humphries v.
18 Eighth Judicial Dist. Court, 312 P.3d 484, 487 (2013).

19
20 The factors the Court reviews to determine whether a necessary party is
21 indispensable are:
22

- 23 (1) the extent to which a judgment rendered in the person's absence
24 might prejudice that person or the existing parties;
25 (2) the extent to which any prejudice could be lessened or avoided
26 by;

27
28 ¹ NRCP 19(b)

1 (A) protective provisions in the judgment;

2 (B) shaping the relief; or

3 (C) other measures;

4 (3) whether a judgment rendered in the person's absence would be
adequate; and

5 (4) whether the plaintiff would have an adequate remedy if the
6 action were dismissed for nonjoinder.

7 Here, Alfredo has failed to name a necessary party to his action and therefore
8 his complaint must be dismissed. Alfredo has not named Ricardo's father, Tyrell
9 Johnson, as a party to this action. Tyrell, as Ricardo's biological father, has an
10 immense interest in this case as his constitutional rights as a parent will be
11 terminated with him never receiving notice they are being taken from him. Alfredo
12 wishes to extinguish Tyrell's rights as the biological father of Ricardo, ending
13 Tyrell's right to make all legal decisions for his biological child. Tyrell is the
14 epitome of a necessary party requiring notice of this action.
15
16

17 In addition to being a necessary party, Tyrell is an indispensable party should
18 Alfredo not be able to serve Tyrell personally. Tyrell will be prejudiced greatly by
19 this action. Continuing the action with Tyrell receiving no notice of it will destroy
20 his constitutional rights over his biological child while never being aware they are
21 being taken from him. This prejudice can not be lessened as this Alfredo is
22 attempting to gain custody over Tyrell's biological child. By granting Alfredo
23 custody rights, Tyrell's rights to determine the upbringing of his child will be
24 destroyed without him having an opportunity to defend them. Once these rights are
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1 gone, they are gone. Making this decision without Tyrell receiving notice of this
2 matter is not adequate as Tyrell's constitutional rights will be terminated
3 unbeknownst to him. Alfredo has an available adequate remedy should this action
4 be dismissed due to nonjoinder. Alfredo is free to provide notice via the newspaper
5 should Alfredo not be able to personally serve Tyrell.
6

7
8 Alfredo's motion must be dismissed for failure to join a necessary party.
9 Tyrell has constitutional rights as the biological parent of Ricardo. Alfredo has not
10 named Tyrell as a party to this action, seeking to terminate his rights as a parent.
11 without informing him. Alfredo's motion must be dismissed.
12

13
14 **B. Summary Judgment Should Be Granted To Amanda**

15 NRCP 12 (c) states in pertinent part as follows:

16 After the pleadings are closed — but early enough not to delay trial
17 — a party may move for judgment on the pleadings.

18 NRCP 56 states in pertinent part as follows:

19
20 (a) A party may move for summary judgment, identifying each claim
21 or defense — or the part of each claim or defense — on which
22 summary judgment is sought. The court shall grant summary
23 judgment if the movant shows that there is no genuine dispute as
24 to any material fact and the movant is entitled to judgment as a
matter of law. The court should state on the record the reasons for
granting or denying the motion.

25 (b) Unless a different time is set by local rule or the court orders
26 otherwise, a party may file a motion for summary judgment at any
27 time until 30 days after the close of all discovery.
28

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1 Summary judgment is appropriate when no genuine issues of material fact
2 remain for trial and the moving party is entitled to judgment as a matter of law. *See*
3 *Bird v. Casa Royale West*, 97 Nev. 67, 624 P.2d 17 (1981). It is well-established
4 that a motion pursuant to NRCp 12(c) is designed to provide a means of disposing
5 of cases when material facts are not in dispute and a judgment on the merits can be
6 achieved by focusing on the content of the pleadings. *See, Duff v. Lewis*, 114 Nev.
7 564, 568, 958 P.2d 82 (1998).
8

10 The substantive law controls which factual disputes are material, and which
11 are irrelevant. *See, Wood v. Safeway*, 121 Nev. 724, 121 P.3d 1026 (2005). A
12 factual dispute is genuine when the evidence is such that a rational trier of fact
13 could return a verdict for the nonmoving party. *Id.*
14

15 Upon motion for summary judgment, the nonmoving party is *not* entitled to
16 build a case on the gossamer threads of whimsy, speculation, and conjecture. *See,*
17 *Wood*, 121 Nev. 724, 121 P.3d 1026. Rather a party opposing summary judgment
18 must set forth specific facts showing that there is a genuine issue for trial.
19

20
21 *There is no Genuine Issue for Trial*

22 Alfredo has admitted multiple times he knows he is not the biological father
23 of Ricardo. *See, Alfredo's Opposition* filed on June 11th, 2019, page 2, lines 5-6.
24 Also, as a matter of law, Alfredo is not the legal parent of Ricardo either. NRS
25 126.021 specifically states:
26

27 3. "Parent and child relationship" means the legal relationship existing
28

1 between a child and his or her natural or adoptive parents incident to
2 which the law confers or imposes rights, privileges, duties and
3 obligations. It includes the mother and child relationship and the father
4 and child relationship.

(emphasis added)

5
6 When Alfredo claimed he was the legal father on the voluntary
7 acknowledgement, he did so knowing he was not the biological father of Ricardo
8 nor was he the adoptive father of Ricardo. No court order made Alfredo the father
9 of Ricardo nor was Ricardo born in a marriage between Amanda and Alfredo.
10 Under Nevada law, in no way did a legal parent-child relationship exist between
11 Alfredo and Ricardo when Alfredo signed the voluntary acknowledgment form.
12

13 Furthermore, no legal parent-child relationship was formed when Alfredo
14 signed the voluntary acknowledgment form. Under NRS 126.053, an
15 acknowledgement of paternity may be challenged on the grounds of fraud, duress,
16 or material mistake of fact.²
17

18 Here, fraud was committed in the signing of the voluntary acknowledgment
19 form. In Nevada, fraudulent misrepresentation occurs when a false representation is
20 made with knowledge or belief that it is false, or with an insufficient basis of
21 information for making the representation, and with intent to induce the plaintiff to
22 act, and the plaintiff relies on the misrepresentation with resulting damages. Jordan
23 v. State Dep't of Motor Vehicles, 110 P. 3d 30, 51 (Nev. 2005).
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1 Although during a child custody matter the plaintiff and defendant are
2 typically the individual parties, fraud was still committed despite the State of
3 Nevada not being a party to this case. A false representation was made claiming
4 that Alfredo was the father of Ricardo. This was known by both parties he was not
5 the father of Ricardo. By claiming he was the father of Ricardo, Alfredo wished to
6 induce the State of Nevada into acknowledging him as the father and putting his
7 name on the birth certificate as the father, which the State of Nevada did so by
8 relying on his false claim. Alfredo's fraudulent representation of being Ricardo's
9 father entwined the State of Nevada in condoning and perpetuating a legal fiction.
10 This fraudulent representation caused damage to the State of Nevada by abusing
11 judicial resources, undermining the faith in the system the State uses in ensuring
12 proper parents are recognized by the State and made the State complicit in cutting
13 off the rights of the biological father. In addition, the Division of Welfare and
14 Supportive Services reiterates the State's belief of the importance of relying on
15 correct information, stating that it is illegal to provide false information on a child's
16 birth certificate, as Alfredo has done.³ See, *Exhibit D*.

21
22 *As a Matter of Law Amanda Must Prevail*

23
24
25 ² NRS 126.053(3)

26 ³ Additionally, Nevada's Division of Health and Human Services equates misrepresentation with fraud stating
27 "...and a paternity issue is raised and challenged with new information, such as...allegations of
28 fraud/misrepresentation..." (Child Support Enforcement Manual, Chapter IV, Parentage 400.3, Sept. 2016).

1 There is no dispute of material fact in this case. Alfredo is not the biological
2 father of Ricardo as he has admitted to several times. Alfredo has not adopted
3 Ricardo. Alfredo convinced Amanda to list his name on the birth certificate of
4 Ricardo when it appeared their relationship was healthy and bright. Alfredo never
5 gained the status as a legal parent as his alleged claim of parentage was committed
6 through fraud. Amanda as the biological mother is free to determine who can be
7 involved in her child's life. The facts of this case require summary judgment to be
8 ordered in favor of Amanda.
9
10
11

12 **C. Alfredo's name Should be Removed from Ricardo's Birth Certificate**
13 **and Affidavit of Paternity and Temporary Orders of Joint Legal and**
14 **Joint Physical Custody Should Cease.**

15 The Due Process Clause of the Fourteenth Amendment protects Amanda's
16 fundamental right to determine Ricardo's associations, without state intrusion, as
17 parents have a Substantive Due Process right to control the upbringing of their
18 child⁴.
19

20 In *Troxel v. Granville*, the United States Supreme Court held that so long as a
21 parent adequately cares for the child (i.e. is fit), there will normally be no reason
22 for the state to inject itself into the private realm of the family to further question
23
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26

27 ⁴ See, *Meyer v. Nebraska* 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925);
28 *Washington v. Glucksberg*, 521 U.S. 702 (1997); *Santosky v. Kramer*, 455 U.S. 755 (1982);

1 the ability of that parent to make the best decisions concerning the rearing of that
2 parent's child.⁵

3
4 Here, Amanda has adequately cared for Ricardo. Alfredo's claim of Amanda's
5 alleged drug use was disproven when Amanda passed her drug test on June 6th,
6 2019. Despite being given these test results, Alfredo still refused to return Ricardo.

7
8 The United States Supreme Court explained that the Due Process Clause does
9 not permit a state to infringe on the fundamental right of parents to make
10 childrearing decisions simply because a state judge believes a better decision could
11 be made⁶. The United States Supreme Court has long recognized that "there is a
12 presumption that fit parents act in the best interest of their children."⁷

13
14 Amanda contends that fit parents get the benefit of the parental presumption in
15 their decision-making as to whom their child associates until a nonparent
16 successfully petitions the court and is awarded NRS 125C.050 visitation⁸. An NRS
17 125C.050 petition is not before this Court.

18
19 Amanda, as the biological parent of Ricardo, is entitled to raise her child as she
20 sees fit. Alfredo's only accusations against Amanda were alleged drug use that has
21 been disproven and a disagreement over the size preference of clothing. This is
22
23

24
25 ⁵ *Troxel v. Granville*, 530 US 57 (2000)

26 ⁶ *Id.* at 68-69

27 ⁷ *Id.* at 68

28 ⁸ *See, Rennels v. Rennels*, 257 P.3d 396, 402 (Nev. 2011).

1 nowhere in the realm of being sufficient to claim she is an unfit mother. Alfredo
2 has not put forth a petition for visitation either. Amanda is entitled to have Alfredo
3 removed from Ricardo's birth certificate and the affidavit of paternity and the
4 temporary custody orders ended. She should not be eternally beholden for a
5 mistake in judgment she made with someone she was dating at the time.
6

7
8 **D. Amanda is Entitled to Attorney's Fees and Costs**

9 NRS 18.010 states as follows:

10 1. The compensation of an attorney and counselor for his or her
11 services is governed by agreement, express or implied, which is not
12 restrained by law.

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

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

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

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

4. Subsections 2 and 3 do not apply to any action arising out of a

1 written instrument or agreement which entitles the prevailing party to an
2 award of reasonable attorney's fees.

3 Here, Alfredo's behavior has required Amanda to file this motion and
4 expend funds just to fend off Alfredo's baseless attacks. In addition, Alfredo's
5 blatant defiance of the Court order required Amanda to spend more funds in
6 rushing to ensure Ricardo is enrolled in the proper school before the school year
7 starts. Amanda is before this court through no fault of her own, solely because
8 Alfredo continues to ignore her rights as Ricardo's mother. She was forced to
9 undergo a drug test and when that showed she was not under the influence of drugs,
10 Alfredo ignored the results and continued to refuse to let her see her son. Alfredo's
11 unreasonable behavior is frivolous, vexatious, and harassing in nature and these
12 actions have forced Amanda to incur substantial legal fees just to ensure she gets
13 something that she is already constitutionally entitled to, the right to raise her child.
14 Amanda requests Alfredo pay for all her attorney's fees and costs.

15
16 *In Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349. 455 P.2d 31,
17 33 (1969), the Nevada Supreme Court readopted well known basic elements which
18 in addition to hourly time schedules kept by the attorney are to be considered in
19 determining the reasonable value of an attorney's service qualities. The factors are
20 as follows:

- 21
22 1. The Qualities of the Advocate; his ability, his training, education,
23 experience, professional standing and skill.

24
25 *Licensed attorney practicing exclusively in Family Law. Graduate*

1 *of William S. Boyd School of Law. Licensed in Nevada in 2019.*

- 2 2. The Character of the Work to be done; its difficulty, its intricacy, its
3 importance, time and skill required, the responsibility imposed and the
4 prominence and character of the parties where they affect the
5 importance of the litigation.

6 *Standard pleadings:*

- 7 3. The work actually performed by the lawyer; the skill, time and attention
8 given to the work.

9 *Work performed is visible in the pleadings.*

- 10 4. The Result: whether the attorney was successful and what
11 benefits were derived.

12 *Remains to be seen*

13 **Conclusion**

14
15 Amanda is Ricardo's biological parent and as such has a constitutionally
16 protected interest in how she raises Ricardo, including who is allowed into his life
17 and when. Alfredo has no biological connection to Ricardo as he has admitted to.
18 The affidavit of paternity that was signed and filed on behalf of Amanda and
19 Alfredo was done so under fraud and therefore, invalid. At the time of the
20 relationship it appeared, as new relationships often do, that the parties would be
21 together forever. Alfredo convinced Amanda to have him claim to be the father of
22 Ricardo and Amanda made the mistake of agreeing to it. A mistake of judgment
23 does not entitle Alfredo to terminate Ricardo's biological father's rights. To hold
24 that a non-related party can terminate a biological parent's constitutionally
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1 protected rights without so much as notice would have a plethora of negative
2 repercussions reverberate throughout custody disputes.

3
4 Amanda has a constitutionally protected right to determine who can enter
5 Ricardo's life and for how long. When a party starts displaying characteristics that
6 are concerning to Amanda, Amanda as the parent has the right to determine that
7 person is no longer allowed to enter her child's life. Alfredo's conduct has become
8 extremely concerning to Amanda and has begun to affect Ricardo. Alfredo
9 withheld Ricardo for eighteen days without valid justification. After his alleged
10 concern of drug use was proven false, Alfredo still refused to return Ricardo back
11 to his mother. In addition, Alfredo severely restricted the amount of contact
12 Amanda could have with her own son, limiting it to mere minutes. Amanda had to
13 hire an attorney and go to court just to be able to see her son again. Since that time,
14 Ricardo gets nervous any time Amanda leaves the house and demands he gets to go
15 along with her. If one were to think that a Court order would get Alfredo to start
16 respecting Amanda's rights as Ricardo's parent, Alfredo's conduct again proved
17 that he does not respect Amanda or this Court. Alfredo, despite the Court ordering
18 Ricardo to be enrolled in the school near Amanda, took it upon himself to enroll
19 Ricardo into the school near his house. Despite reaching out to opposing counsel
20 multiple times to get his client to adhere to the Court order, Amanda had to take it
21 upon herself to have CCSD change Ricardo's school by acquiring the court minutes
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1 of the June 13th, 2019 hearing and speaking multiple times with CCSD
2 administrators,
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4 Not only is Amanda entitled to have Alfredo's action dismissed for failure to
5 join a necessary party, but Amanda is entitled to summary judgment in her favor on
6 this matter. There is no dispute to any material fact. Both parties are aware that
7 Alfredo is not the father of Ricardo. The acknowledgment of paternity was done so
8 by fraud, one of the listed NRS recognized challenges to the acknowledgment.
9 Alfredo has not adopted Ricardo. Alfredo is not the biological father of Ricardo. As
10 there is no dispute to a material fact, Amanda is entitled to summary judgment in
11 her favor.
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14 Amanda's constitutional rights as Ricardo's mother also entitles her to have
15 Alfredo's name removed from Ricardo's birth certificate and affidavit of paternity.
16 Amanda has a constitutional right to determine who can enter her child's life.
17 Alfredo's actions have become increasingly hostile against Amanda and is having
18 negative repercussions on Ricardo. Amanda must not be forever bound to someone
19 who arbitrarily and unjustly keeps her child from her, decides how long she can
20 speak to her child, and defies Court orders and her own requests when it comes to
21 raising her child. Amanda's constitutional rights as the parent of Ricardo can not be
22 usurped by someone who at this point is merely a non-related third party.
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26 WHEREFORE, Defendant prays for Judgment as follows:

27 **000042**
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- 1 A. Dismiss the Custody matter for failure to join a necessary party;
2 B. Grant Summary Judgment to Amanda in this Custody matter;
3 C. Order Alfredo's name to be removed from birth certificate of minor child;
4 D. Order Alfredo's name to be removed from affidavit of paternity;
5 E. Order an end to the temporary custody orders;
6 F. Award Amanda attorney's fees and costs;
7 G. For such other and further relief as the Court may deem just and proper in
8
9 the premises.
10

11
12 **BARNES LAW GROUP**

13
14 
15 Andrew Semprazik, Esq.
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17 712 S. Jones Blvd.
18 Las Vegas, Nevada 89107
19 (702) 382-9011
20 Attorney for Defendant
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COUNTY OF CLARK)

I, AMANDA REYNOLDS, being first duly sworn according to law, deposes
and says:

1. That I am the Defendant in the above-entitled action;

2. That I have read the above and foregoing document: **NOTICE OF MOTION AND MOTION TO DISMISS FOR FAILURE TO JOIN A NECESSARY PARTY, MOTION FOR SUMMARY JUDGMENT, MOTION TO REMOVE NAME FROM BIRTH CERTIFICATE AND AFFIDAVIT OF PATERNITY, AND MOTION FOR ATTORNEY'S FEES AND COSTS** and know the contents thereof, that the same is true of my own knowledge, except for any matters therein stated upon information and belief, and as to those matters therein stated, I believe them to be true;

3. I will not restate the factual assertions and allegations contained in the foregoing here. However, I expressly incorporate same as if set out in their full length in this Affidavit.

Pursuant to NRS 53.045 I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

AMANDA REYNOLDS



1 **OPP**

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9 Attorneys for Plaintiff, Alfredo Medellin

10 **DISTRICT COURT, FAMILY DIVISION**

11 **CLARK COUNTY, NEVADA**

12 **ALFREDO MEDELLIN,**

13 Plaintiff,

14 vs.

15 **AMANDA REYNOLDS,**

16 Defendant.

) Case No: D-19-590131-C

) Dept No: G

) Date of Hearing: October 24, 2019

) Time of Hearing: 9:00 a.m.

17 **PLAINTIFF'S OPPOSITION TO DEFENDANT'S**
18 **MOTION TO DISMISS FOR FAILURE TO JOIN A NECESSARY PARTY,**
19 **MOTION FOR SUMMARY JUDGEMENT,**
20 **MOTION TO REMOVE NAME FROM**
21 **BIRTH CERTIFICATE AND AFFIDAVIT OF PATERNITY, AND**
22 **MOTION FOR ATTORNEY'S FEES AND COST**

23 **AND**

24 **PLAINTIFF'S COUNTERMOTION FOR**
25 **SUMMARY JUDGMENT REGARDING PATERNITY**

26 NOW COMES, Plaintiff Alfredo Medellin, by and through his attorney Lynn
27 N. Hughes, Esq. of the Roberts Stoffel Family Law Group, and files Plaintiff's

28 **000045**

1 Opposition to Defendant's Motion to Dismiss for Failure to Join a Necessary Party,
2 Motion for Summary Judgement, Motion to Remove Name From Birth Certificate
3 and Affidavit of Paternity, and Motion for Attorney's Fees and Cost, and also
4 makes a countermotion for summary judgment, requesting the Court issue an order
5 confirming Alfredo Medellin is the father of Ricardo under the laws and statutes of
6 Nevada.

7 This Opposition is made and based upon the papers and pleadings on file
8 herein, the points and authorities contained herein, the affidavit of Plaintiff, and any
9 oral argument the Court any entertain at the time of the hearing.

10 11 STATEMENT OF FACTS

12 Plaintiff Alfredo Medellin (hereinafter "Father" or "Alfredo") and Defendant
13 Amanda Reynolds (hereinafter "Mother" or "Amanda") had a consensual
14 relationship for a number of years, off and on. Amanda restarted a relationship
15 with Alfredo after having two children without him. One of these children was
16 Ricardo Medellin, born September 13, 2012 (almost 7 years of age). Alfredo does
17 not believe he is the biological father of Ricardo.

18 While the parties were together, Alfredo and Amanda signed voluntary
19 acknowledgement papers, agreeing that Alfredo would be listed as the father of
20 Ricardo. His name was placed upon the birth certificate, and Alfredo has held him
21 out as his child for the child's lifetime. The parties broke up thereafter.

22 Alfredo has been constantly involved in Ricardo's life. Amanda even
23 acknowledged at the beginning of this case that Alfredo had joint physical custody
24 of Ricardo, exchanging custody every other week. It should be noted that the
25 parties have had a great working relationship prior to this legal action, and have
26 been able to get along for the entire seven years of Ricardo's life. Neither party felt
27 the need to file for a custody order to decree prior to this time.

1 ARGUMENT

2 I. Alfredo is the Presumed and Listed Father of Ricardo.

3 Under the Nevada law, Alfredo is presumed to be the father. NRS 126.051
4 lists the presumptions of paternity. Specifically, it states:

5
6 1. A man is presumed to be the natural father of a child if:

7 (a) He and the child's natural mother are or have been
8 married to each other and the child is born during the
9 marriage, or within 285 days after the marriage is terminated
10 by death, annulment, declaration of invalidity or divorce, or
after a decree of separation is entered by a court.

11 (b) He and the child's natural mother were cohabiting for at
12 least 6 months before the period of conception and
13 continued to cohabit through the period of conception.

14 (c) Before the child's birth, he and the child's natural
15 mother have attempted to marry each other by a marriage
16 solemnized in apparent compliance with law, although the
attempted marriage is invalid or could be declared invalid,
17 and:

18 (1) If the attempted marriage could be declared invalid
19 only by a court, the child is born during the attempted
20 marriage, or within 285 days after its termination by
death, annulment, declaration of invalidity or divorce; or

21 (2) If the attempted marriage is invalid without a court
22 order, the child is born within 285 days after the
23 termination of cohabitation.

24 (d) While the child is under the age of majority, he receives
25 the child into his home and openly holds out the child as his
natural child.

26 (emphasis added).

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1 This presumption, while rebuttable, is still affirmative evidence of Alfredo
2 being the father of Ricardo. Alfredo has always held Ricardo out to be his child,
3 has had joint physical custody of Ricardo during his life, has brought Ricardo into
4 his home and openly holds Ricardo out to be his son. Alfredo affirms now and
5 going forward that he is Ricardo's father, whether or not biology is a relevant
6 factor.

7 Beyond the legal presumption of Alfredo being Ricardo's father, Amanda
8 and Alfredo both went to the government authority of the State of Nevada, and
9 voluntarily listed Alfredo as Ricardo's father. Both parties voluntarily signed that
10 paperwork, without any reservation or coercion, etc. NRS 126.053 specifically
11 states:

12 1. After the expiration of the period described in subsection 2, a
13 declaration for the voluntary acknowledgment of paternity
14 developed by the State Board of Health pursuant to NRS 440.283 or
15 a declaration for the voluntary acknowledgment of parentage
16 developed by the State Board of Health pursuant to NRS
17 440.285 shall be deemed to have the same effect as a judgment or
18 order of a court determining the existence of the relationship of
19 parent and child if the declaration is signed in this or any other state
20 by the parents of the child. A declaration for the voluntary
21 acknowledgment of paternity or a declaration for the voluntary
22 acknowledgment of parentage that is signed pursuant to this
23 subsection is not required to be ratified by a court of this State
24 before the declaration is deemed to have the same effect as a
25 judgment or order of a court determining the existence of the
26 relationship of parent and child.

27 2. A person who signs an acknowledgment of paternity or an
28 acknowledgment of parentage in this State may rescind the
acknowledgment:

(a) Within 60 days after the acknowledgment is signed by
both persons; or

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1 (b) Before the date on which an administrative or judicial
2 proceeding relating to the child begins if that person is a
3 party to the proceeding,
4 whichever occurs earlier.

5 3. After the expiration of the period during which an
6 acknowledgment may be rescinded pursuant to subsection 2, the
7 acknowledgment may not be challenged except upon the grounds of
8 fraud, duress or material mistake of fact. The burden of proof is on
9 the person challenging the acknowledgment to establish that the
10 acknowledgment was signed because of fraud, duress or material
11 mistake of fact.

12 (*emphasis added*)

13 Alfredo brought this custody action because he is the father on the birth
14 certificate for Ricardo and is legally Ricardo's Father. The Court should note that
15 Alfredo's parental rights given to him by the execution of the voluntary
16 acknowledgement by both parties have not been terminated or removed at any time
17 by any court. Since he is listed, Alfredo has all the legal parental rights as father of
18 Ricardo. He has always exercised his parental rights, has always been part of
19 Ricardo's life, and will always be a part of his life.

20 **II. Mother Seeks to Enforce the Parental Rights of Some "John Doe" Third**
21 **Person.**

22 Subsection 3 of NRS 126.053 provides that the burden of proof in this issue
23 is placed upon the "person challenging the acknowledgement" to show it was done
24 under fraud, etc. Amanda seeks to enforce the parental rights of a third party,
25 alleging a man by the name of Tyrell Johnson as the actual father. She provides no
26 proof of this paternity, and Mr. Johnson is essentially the same as an unknown
27 "John Doe" to Plaintiff Alfredo Medellin for the purposes of paternity in the matter.

28 000049

1 Mother is stating that Mr. Johnson's rights, or those of any other person who
2 may be the biological father, are being infringed by this matter. However, no
3 individual is before this Court seeking to enforce any alleged parental rights.

4 Amanda argues that Alfredo should have brought in Mr. Johnson as a third
5 party to this action, the alleged biological father of Ricardo. She further argues that
6 since Alfredo failed to name this alleged necessary party, the entire legal paternity
7 action fails. This argument essentially states that since the "real" father of Ricardo
8 is not involved, Alfredo's assertion of parental rights as father is bad and false, and
9 the entire case should be dismissed. Her solution to this issue is to remove
10 Alfredo's rights, and to have Ricardo be entirely fatherless altogether. That
11 solution is not proper, goes against public policy, and is not in the child's best
12 interest.

13 14 **III. All Necessary Parties are Involved in this Case.**

15 Alfredo Medellin is listed as the Father on Ricardo's birth certificate. He
16 was placed there by a voluntary acknowledgment signed by both parents. The
17 revocation period is 60 days under that statute, which has long since expired. As
18 stated in the statute, this is the same effect as a judgement or signed order of the
19 Court. Alfredo was placed on the birth certificate and is the legal father of
20 Ricardo. This has the same legal effect as a judgment or order. (See NRS.
21 126.053). Further, Alfredo's parental rights have not been terminated by a court at
22 any time.

23 This is a custody action to determine the custody and visitation of Ricardo.
24 The necessary parties, both father and mother, are present and able to move forward
25 with the custody action.

26 It should be noted that the way to have Alfredo removed from the birth
27 certificate is to have some party issue a claim of fraud, thereby making some third

1 party take the place of Alfredo. No such person is making any such claim. No such
2 person has ever made such a claim. Mr. Johnson, nor any other John Doe, has
3 made any attempt to make a claim as to paternity in this matter. Mr. Johnson has
4 not asked to spend time with Ricardo, has not provided any support for Ricardo, has
5 not sent birthday or Christmas cards to Ricardo, nor has he ever made any effort to
6 have any relationship with Ricardo at any time.

7 Alfredo knows of no instance where Amanda has sought to have Mr. Johnson
8 act as Ricardo's biological father. This Motion for summary judgment is
9 essentially the first time that Mother has brought this issue forward. It clearly
10 seems to be Amanda's effort to simply remove Alfredo from Ricardo's life so that
11 she does not have to deal with the joint custody arrangement of another parent.

12
13 **IV. The Alleged Biological Father is not a Required Party, nor and**
14 **Indispensable Party.**

15 1. Mr. Johnson, or any other John Doe, is not a required party to this
16 action.

17 Mr. Johnson, nor any other unknown purported father, is not a required party
18 to this matter. In this matter, Mother simply proposes that Mr. Johnson is the
19 natural father of the child, Ricardo. However, no evidence has been brought
20 forward that would establish that fact. To the Plaintiff's knowledge, no paternity
21 test exists showing Mr. Johnson is the father. Therefore, Mother's attempt to state
22 Mr. Johnson is the father of Ricardo is merely speculation on her part.

23 A required party is defined by NRCP Rule 19, which provides:

24 (1) **Required Party.** A person who is subject to service of
25 process and whose joinder will not deprive the court of subject-
26 matter jurisdiction must be joined as a party if:

27 **000051**

1 (A) in that person's absence, the court cannot accord
2 complete relief among existing parties; or

3 (B) that person claims an interest relating to the subject of
4 the action and is so situated that disposing of the action in
5 the person's absence may:

6 (i) as a practical matter impair or impede the person's
7 ability to protect the interest; or

8 (ii) leave an existing party subject to a substantial risk
9 of incurring double, multiple, or otherwise
10 inconsistent obligations because of the interest.

11 A custody order in this matter would not affect Mr. Johnson's interest. Mr.
12 Johnson, if he is the biological father, can always come forward in the years to
13 come and still make his claim as the natural father of Ricardo, should he so desire.
14 An action to establish paternity is not barred until three years after the child reaches
15 the age of majority. See NRS 126.081. There is no bar to Mr. Johnson filing an
16 action for paternity at any time, so his rights will not be precluded by moving
17 forward with the custody action brought by Plaintiff.

18 A custody order from this Court will simply be affirming what has already
19 been determined by the statutes of Nevada. Alfredo Medellin is the listed father
20 and has all of the natural parental rights that go with that designation.

21 2. Mr. Johnson, or any other John Doe, is not an indispensable party to
22 this action.

23 To paraphrase the Nevada Civil Practice Manual, if the Court determines that
24 Mr. Johnson is a required party to the action, the determination of whether a person
25 is an "indispensable" party is required only when the person "cannot be made a
26 party." NRCP 19(b).

27 **000052**

1 (b) **When Joinder Is Not Feasible.** If a person who is required
2 to be joined if feasible cannot be joined, the court must determine
3 whether, in equity and good conscience, the action should
4 proceed among the existing parties or should be dismissed. The
factors for the court to consider include:

5 (1) the extent to which a judgment rendered in the person's
6 absence might prejudice that person or the existing parties;

7 (2) the extent to which any prejudice could be lessened or
8 avoided by:

9 (A) protective provisions in the judgment;

10 (B) shaping the relief; or

11 (C) other measures;

12 (3) whether a judgment rendered in the person's absence
13 would be adequate; and

14 (4) whether the plaintiff would have an adequate remedy if
15 the action were dismissed for nonjoinder.

16
17 Again and as stated above, no action taken by this Court will in any way
18 prejudice Mr. Johnson, should he desire to come to this Court and assert parental
19 rights. He will be allowed to file a paternity action and make his claim of fraud
20 against the Plaintiff. Therefore, a "judgment rendered in the person's absence" will
21 have no effect upon Mr. Johnson or any other "John Doe" who might make a
22 paternity claim for Ricardo. (NRCP 19(b)(1)).

23 However, Plaintiff Alfredo Medellin will not have any adequate remedy from
24 this Court if this action is dismissed due to the nonjoinder of Mr. Johnson or some
25 unknown John Doe. (NRCP 19(b)(4)). Mother's proposed solution of dismissing
26 this action outright and removing Alfredo as the father to Ricardo is alarming and
27 goes against public policy regarding the paternity of the child, as well as the best

1 interest of seven (7) year old Ricardo Medellin. He would have no legal recourse to
2 such an action by the Court.

3
4 **VI. There is no Person or Entity Alleging Fraud in This Matter, Except**
5 **Mother.**

6 There are no persons making the required allegation of fraud before this
7 Court, other than Mother. The state is not here seeking to overturn the voluntary
8 acknowledgement. The District Attorney is not seeking to overturn the
9 acknowledgment and have no father listed on the birth certificate. The State of
10 Nevada's interest in this case is to have the child have a father and to have that
11 father be financially responsible for the child.

12 Plaintiff Alfredo Medellin is not seeking to have his rights terminated. He
13 brought this action specifically to maintain and ensure his parental rights, not to
14 have them taken away by this farcical argument from the Defendant.

15 Mr. Tyrell Johnson is not standing in this court seeking to overturn the
16 acknowledgement as fraudulent, nor is any other person making the claim they are
17 the natural father of Ricardo. No person is stating they were defrauded out of their
18 paternal rights.

19 Mother is the only person making the fraud claim and is essentially doing so
20 on behalf of Mr. Johnson (or some other unknown third person). Mother only
21 makes this argument halfway, claiming that Plaintiff's entire case should be
22 dismissed, and no father should be listed on the birth certificate. She would
23 therefore be the sole parent of Ricardo, not having to deal with any other party as a
24 parent to Ricardo.

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26 **000054**

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CONCLUSION

The district court has broad discretion to allow or deny joinder of parties. See *Cummings v. Charter Hosp. of Las Vegas, Inc.*, 111 Nev. 639, 645, 896 P.2d 1137, 1140 (1995). Clearly, Plaintiff Alfredo Medellin feels that there is no need to bring Mr. Johnson or some other unknown John Doe into this action. This is a typical and uncomplicated custody action between the legal father and the legal mother of the child. Adding a third party is unnecessary and is just Mother throwing mud at the wall to gain some advantage. Wherefore, Plaintiff respectfully requests that Defendant's motion be denied in its entirety.

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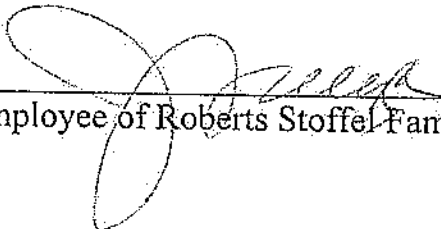
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CERTIFICATE OF SERVICE

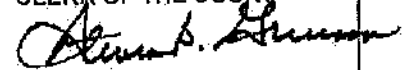
I hereby certify that I am an employee of Roberts Stoffel Family Law Group, and on the ~~28~~ day of ~~Aug~~ 2019, I served by and through Wiz-Net electronic service, pursuant Clark County District Court Administrative Order 14-2 for service of documents identified in Rule 9 of the N.E.F.C.R., Opposition To Defendant's Motion for Pickup Order.

Carol Barnes, Esq.,
eseerviceblg@gmail.com



Employee of Roberts Stoffel Family Law Group

000057



1 **REP**

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4 Andrew Semprazik, Esq.
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10 Attorney for Defendant:
11 Amanda Reynolds

12 **DISTRICT COURT**
13 **FAMILY DIVISION**
14 **CLARK COUNTY, NEVADA**

15 ALFREDO MEDELLIN

16 Plaintiff,

17 vs.

18 AMANDA REYNOLDS

19 Defendant.

Case Number: D-19-590131-C
Dept No: G

**REPLY TO PLAINTIFF'S
OPPOSITION TO DEFENDANT'S
MOTION TO DISMISS FOR
FAILURE TO JOIN A NECESSARY
PARTY, MOTION FOR SUMMARY
JUDGMENT, MOTION TO
REMOVE NAME FROM BIRTH
CERTIFICATE AND AFFIDAVIT
OF PATERNITY, AND MOTION
FOR ATTORNEY'S FEES AND
COSTS and OPPOSITION TO
PLAINTIFF'S COUNTERMOTION
FOR SUMMARY JUDGMENT
REGARDING PATERNITY**

Date of Hearing: October, 24th, 2019
Time of Hearing: 9:00 A.M.

ORAL ARGUMENT REQUESTED:
YES

25 COMES NOW the Defendant, AMANDA REYNOLDS (Amanda), by and
26 through her attorney of record, Andrew Semprazik, Esq. of the BARNES LAW
27

28 **000058**

1 GROUP, and hereby files her Reply to Plaintiff's Opposition to Defendant's
2 Motion to Dismiss for Failure to Join a Necessary Party, Motion for Summary
3 Judgment, Motion to Remove Name from Birth Certificate and Affidavit of
4 Paternity, and Motion for Attorney's Fees and Costs AND Opposition to Plaintiff's
5 Countermotion for Summary Judgment Regarding Paternity.
6

7 Dated this 11th day of September 2019.
8

9 **BARNES LAW GROUP**

10 

11 Andrew Semprazik, Esq.
12 Nevada Bar Number: 15093
13 712 S. Jones Blvd.
14 Las Vegas, Nevada 89107
15 (702) 382-9011
16 Attorney for Defendant

17 **I.**

18 **STATEMENT OF FACTS**

19 Defendant, AMANDA REYNOLDS ("Amanda") hereby incorporates the
20 facts stated in her Answer to Complaint and Counterclaim, filed on June 3rd, 2019
21 and Motion to Dismiss, Et. Al. filed August 12, 2019.
22

23 **II.**

24 **LEGAL ANALYSIS**

25
26 A. Alfredo's Presumption of Being Ricardo's Natural Father Has Been
27 Rebutted and the VAP is Properly Challenged Due to Fraud
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1 Plaintiff cites to NRS 126.051 but misstates what the statute says. Under
2 NRS 126.051, there are several listed ways of presuming that a man is the natural
3 father of a child. The statute does not state this is to be considered a conclusive
4 presumption. In fact, the statute states this presumption can be rebutted by clear
5 and convincing evidence.¹
6

7
8 Here, both parties admit Alfredo is not the natural father of Ricardo. He is
9 not biologically related to Ricardo nor has he undergone a formal adoption process
10 to become the father of Ricardo. There is absolutely no dispute between the parties
11 that Alfredo is not the natural father of Ricardo. The presumption under NRS
12 126.051 that Alfredo attempts to rely on has been fully rebutted by his own
13 admissions.
14

15 Additionally, Alfredo's attempt to rely on NRS 126.053 is terminated by his
16 own admissions. NRS 126.053(3) specifically states that a voluntary
17 acknowledgement of paternity ("VAP") can be challenged on the grounds of
18 "fraud, duress, or material mistake of fact". Both parties have admitted they signed
19 the VAP under full knowledge Alfredo is not the father of Ricardo. This was fraud.
20 The state of Nevada would not have filed the document if either party informed the
21 state at signing, "Alfredo is not the real father of Ricardo but we're signing this
22 document stating he is anyway." The state of Nevada has no interest in
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28 ¹ NRS 126.051(3)

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1 perpetuating fraud. Additionally, there is no doubt fraud occurred when this
2 document was signed and filed as under the "Mother's portion" of the VAP, the
3 mother has to attest that "The man signing this form is the only possible father of
4 this child." Amanda knew Alfredo was not the father of Alfredo when she signed
5 the VAP. Whether the court wishes to view this situation as both parties committed
6 fraud in signing and filing this document or one party committed fraud in signing
7 and filing this document, there is no doubt that fraud was committed in signing and
8 filing this document. Under NRS 125.053(3), this document can be validly
9 challenged due to fraud. Additionally, the Nevada Supreme Court has held that
10 "fraud upon the court" is "fraud which does, or attempts to, subvert the integrity of
11 the court itself".²

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14
15 If the Court were to hold this VAP is still valid despite both parties admitting
16 they know Alfredo is not the father and both lied to get him acknowledged as the
17 father, this would set a troubling precedent. If these actions were given Court
18 approval, there would be no purpose for parties to undergo an adoption proceeding
19 at all. If two parties conspire to lie to the state and say, "this person is the natural
20 parent of my minor child" and they then immediately get all the rights and
21 privileges of being a legal parent, they are effectively getting a defacto adoption.
22 This can not be what the state desires and it in fact is not what the state desires
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26 **000061**

27
28 ² NC-DSH, Inc. v. Garner, 218 P.3d 853, 858 (2009)

1 which is why the state has formal adoption proceedings to allow an unrelated party
2 become a parent to a minor child.³ The state has an interest in their courts having
3 the ability to examine the potential parent(s) in an adoption proceeding and
4 ensuring the best interest of the child is met before granting parental rights over a
5 minor child.⁴ The state is blocked from this required inquiry by permitting
6 individuals to lie to the state and willfully sign voluntary acknowledgments of
7 paternity with full knowledge at least one of the parties is not the actual parent to
8 the child. This cannot be a goal of the state of Nevada.⁵

11 This is not a novel concept. A multitude of courts nationwide have held this
12 same position. In *Alvarado v. Thomson*, the trial court considered the case of a
13 mother who signed a voluntary acknowledgement of paternity with an unrelated
14 third party. Both the mother and the third party knew the third party was not the
15 father of the minor child when they signed the acknowledgment of paternity. Upon
16 a challenge to the acknowledgment of paternity, the trial court held that
17 "[o]btaining a judgment of paternity by falsifying information under oath to the
18 Court establishes fraud upon the Court,"⁶ On appeal, the Court of Appeals of
19
20
21

23
24 ³ NRS 127

25 ⁴ NRS 127.150

26 ⁵ It in fact is not the goal as NRS 440.283(1)(a) reinforces this point stating that the Board shall "Develop a
27 declaration to be signed under penalty of perjury for the voluntary acknowledgment of paternity..."

28 ⁶ *Alvarado v. Thompson*, 375 P. 3d 77, 79 (App. 2016)

000062

1 Arizona confirmed the trial court's decision, holding that fraud upon the court
2 "harms the integrity of the judicial process and is a wrong against the institutions
3 set up to protect and safeguard the public."⁷
4

5 In *McGee v. Gonyo*, a mother acknowledged that she and the defendant
6 knowingly signed the VAP even though defendant was not the father of the minor
7 child.⁸ She acknowledged that the defendant had been "good" with the child but
8 recently the defendant exhibited behavior she found troubling.⁹ The Defendant
9 testified that he began living with mother when she was fourteen weeks pregnant,
10 was present at the child's birth, took an active role in the care of the child, and
11 bought her clothes and gifts.¹⁰ The Supreme Court of Vermont held that "inasmuch
12 as both signatories knowingly misrepresented defendant to be the child's biological
13 father, the VAP in this case was a per se fraud upon the court, and properly set
14 aside on that basis."¹¹ The Court further held that the parties action employed
15 "...the VAP as a *de facto* adoption process, side-stepping the requirements of [the
16 Adoption Act], compliance with which would require notice to all interested
17 persons and the filing of consents to adoption, absent which a hearing would be
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24 ⁷ Id. at 81.

25 ⁸ *McGee v. Gonyo*, 2016 VT 8, 140 A.3d 162

26 ⁹ Id. at 164.

27 ¹⁰ Id. at 163.

28 ¹¹ Id. at 164.

000063

1 held" in which the court considered all of the relevant interests.¹² "This is a classic
2 fraud on the court, depriving the interested parties — including the child, the
3 biological father, and the State as *parens patriae* — their day in court."¹³
4

5 Various courts in the United States have held that when at least one person is
6 signing the voluntary acknowledgment of paternity knowing that a party is not the
7 actual father of the minor child, it is to be considered fraud.¹⁴
8

9 Here, the parties signed a voluntary acknowledgment of paternity by falsely
10 telling the state that Alfredo was Ricardo's father. Both parties knew that Alfredo
11 was not the father of Ricardo when they signed the VAP. Whatever alleged
12 presumption Alfredo claims of being the natural father of Ricardo is rebutted by the
13 fact he has admitted he is not the natural father. Additionally, the VAP that both
14 parties signed is specifically authorized to be challenged due to fraud. Both parties
15 admitted they signed the VAP, attesting that Alfredo is the only possible father
16 with full knowledge that he is in fact not the father. The state of Nevada, in various
17 statutes reiterates the importance of signing a VAP truthfully, stating that parties
18 can be subject to the penalty of perjury. To allow parties to knowingly falsely sign
19 acknowledgments of paternity undermines the whole purpose of the state's role in
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25 ¹² *Id.* at 166.

26 ¹³ *Id.* at 167.

27 ¹⁴ *Jones v. Weller*, 47 Ill.App.3d 492 (3rd Dist. 1977); *In re Estate of Olenick*, 204 Ill.App.3d 291 (1st Dist. 1990); *In*
28 *re Tompkins*, 518 N.E.2d 500 (Ind.Ct. App. 1988); *Seeger v. Seeger*, 780 N.E.2d 855 (Ind.Ct.App. 2002).

1 adoption proceedings.¹⁵ There is no doubt the parties committed fraud when they
2 falsely signed the acknowledgment of paternity. The court must set aside the
3 acknowledgment of paternity.
4

5 **B. Mother is Enforcing Her Rights as Ricardo's Parent**

6 Alfredo correctly notes that a person challenging the acknowledgment of
7 paternity can do so by showing the acknowledgment was filed due to fraud.
8

9 Alfredo mistakenly claims that Amanda is attempting to challenge the
10 acknowledgment of paternity for Tyrell Johnson, Ricardo's biological father. This
11 is inaccurate. Amanda is challenging the acknowledgment of paternity as she is the
12 biological parent of Ricardo. Amanda did not consent to an adoption of Ricardo by
13 Alfredo. As noted above, the state of Nevada provides a specified method for a
14 non-related third party to gain custody rights over a minor child. Alfredo is
15 attempting to subvert this process by asking for custody rights over Amanda's child
16 over the protest of one biological parent and without notice to the other biological
17 parent. This position is extreme and contrary to many public policies, one of which
18 is having a third party undergo formal adoption proceedings to attain custody rights
19 over a child.
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25 ¹⁵ See generally J. Parness, *For Those Not John Edwards: More and Better Paternity Acknowledgments at Birth*, 40
26 U. Balt. L.Rev. 53, 99 (2010) ("[A]cknowledgments for nonmarital children by nongenetic fathers allow
27 circumvention of adoption laws, which seek to assure that when legal parentage is accorded to men and women with
28 no preexisting parental interests, the children's best interests are served").

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1 Amanda made a mistake agreeing to Alfredo's request when the relationship
2 between herself and Alfredo was going well. In Amanda's mind, her and Alfredo's
3 relationship was built to last and she merely agreed to a name change for Ricardo.
4 Unfortunately, Alfredo's actions morphed him into someone she was no longer in
5 love with. Amanda has admitted her mistake. Making a mistake in no way entitles
6 Alfredo to a *de facto* adoption over Ricardo, especially when the mistake at issue
7 involved both parties committing fraud. Amanda is the biological parent in this
8 action and as the biological parent she has constitutional rights regarding her
9 child's life. Lest this Court forget that this action began when Alfredo wrongfully
10 withheld Ricardo for over two weeks from Amanda, a reasoning he still has not
11 stated to this day as to why he did so. His alleged reason was "drug use". Amanda
12 passed a drug test and even after being informed of these results, Alfredo still
13 refused to give Ricardo back to his mother. During this time of wrongfully
14 withholding Ricardo, Alfredo barely let Amanda speak to her own child. This was
15 the culmination of concerning behavior that Alfredo exhibited. Amanda has a right
16 to determine that the situation involving a particular person is no longer beneficial
17 for her and her child.

23 Amanda is surrounded by a loving family and a loving fiancé. Alfredo
24 claims if he is not given custodial rights to Ricardo, Ricardo will "be entirely
25 fatherless". This disregards the fact that Amanda has multiple loving family

27 000066

1 members that love, care, and help support Ricardo. Amanda has a loving fiancé that
2 loves, cares and helps support Ricardo. Amanda clearly loves, cares, and supports
3 Ricardo. Even if Amanda was a single mother, single mothers do amazingly
4 wonderful jobs at raising children. Ricardo is surrounded by loving members of his
5 family, all working together and helping ensure Ricardo is raised in the best
6 environment possible.¹⁶ What Alfredo apparently is seeking is a method to stay in
7 Ricardo's life after the dissolution of his relationship with Amanda. If that is so, the
8 proper method is for him to bring an action for third party visitation and not an
9 attempt to gain custodial rights over Ricardo.
10
11
12

13 **C. All Necessary Parties are Not Present in This Action**

14 Alfredo is attempting to gain custodial rights to a child over the protest of
15 one biological parent of the child and without notice to the other biological parent.
16 This is an extreme position and Nevada's Revised Statutes affirm this position as
17 they require notice when a parent's rights are to be terminated.¹⁷ Alfredo is
18 attempting to get custodial rights to a child that is not his. This is what adoption
19 proceedings are for. When one undergoes adoption proceedings, a termination of a
20 parent's parental rights must occur for the third party to gain custodial rights over
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26 ¹⁶ Additionally, Ricardo will not be "fatherless" as he still has a biological father whose rights have not been
27 terminated.

28 ¹⁷ NRS 128.060

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1 the child. The state requires notice to be given to the parents of the child. No such
2 thing has occurred.

3
4 Alfredo makes the claim that a custody order in this matter "would not affect
5 Mr. Johnson's interest" and Mr. Johnson can "always come forward in the years to
6 come to still make his claim..." This is blatantly ignoring the fact that a custody
7 decision regarding Ricardo without a doubt affects Mr. Johnson's legal rights as the
8 biological father of Ricardo. Nevada's statutes do not recognize that children have
9 three legal parents and there is no Nevada case law to support such a notion. If
10 legal rights are given to Alfredo, Tyrell Johnson loses his. This then opens a
11 Pandora's Box of potential litigation from Tyrell Johnson as Alfredo did not take
12 the required step to provide notice to Tyrell Johnson that Alfredo seeks to terminate
13 his parental rights.¹⁸

14
15 Just as important, there has been no finding of Amanda being an unfit parent
16 allowing her rights as the parent over Ricardo to be diminished. The state requires a
17 party to undergo these steps due to the importance of the rights at stake for the
18 parties involved. Alfredo has done none of these things and is instead looking for
19 an adoption without having to go through the requirements of an adoption
20 proceeding, doing so all under the protest of the biological mother and without
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1 notice to the biological father. This cannot be accepted. Tyrell Johnson is a
2 necessary and an indispensable party to this action. His rights as the father of
3 Ricardo are at stake and he must be provided notice that a third party is attempting
4 to terminate those rights. Alfredo's motion must be dismissed for failure to join a
5 necessary party.
6

7 Opposition to Countermotion

8
9 Alfredo puts forth a motion for summary judgment asking that the Court
10 state he is the father but puts forth very little reasoning the Court should do so.
11 Tellingly, Alfredo does not dispute any actual facts Amanda has put forward.
12

13 The court shall grant summary judgment if the movant shows there is no
14 genuine dispute as to any material fact and the movant is entitled to judgment as a
15 matter of law.¹⁹ The parties here do not dispute any material fact. They both
16 acknowledge that Alfredo is not the father of Ricardo. They both acknowledge they
17 signed the voluntary acknowledgment of paternity knowing Alfredo is not the
18 biological father. They both acknowledge the state allows a voluntary
19 acknowledgment of paternity to be challenged due to fraud. These facts are not in
20 dispute and these facts make up the crux of the case. Summary judgment must be
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25 ¹⁸ Although Alfredo has not asserted an equitable adoption claim, it is important to address that he does not have a
26 claim under the factors stated by the Nevada Supreme Court in *Hermanson v. Hermanson*, 887 P.2d 1241 (1994), as
27 Alfredo was aware the entire time he was not the father of Ricardo and there was never an intent for adoption.

28 ¹⁹ NRCP 56

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1 granted to Amanda. There is no reason to continue to waste the Court's time and
2 resources on a case where both parties agree on the material facts of the case and
3 the statute is clear. Alfredo seems to desire to make an emotional argument as
4 evidenced by a lack of supporting legal authority on his side. But the Court must
5 rule based on the law. Under the law the VAP's are signed under penalty of
6 perjury. The law states a VAP shall be deemed to have the same effect as a
7 judgment. The law allows the Court to set aside a judgment for fraud upon the
8 court.²⁰ The law allows a VAP to be challenged due to fraud. Both parties admit
9 they lied when they signed the VAP which states that "the man signing this form is
10 the only possible father of the child". These facts are not in dispute. Amanda must
11 be granted summary judgment.
12
13
14

15 Conclusion

16 Alfredo is seeking an adoption of Ricardo without having to undergo the
17 statutory requirements of an adoption proceeding. He, as a third-party, wishes to be
18 granted custodial rights to a child that is not his over the protests of one biological
19 parent and without providing notice to the other biological parent. This is a
20 shocking position and is contrary to Nevada's statutes and has no basis in case law.
21 There is no dispute between the parties that Alfredo is not the biological father of
22 Ricardo. He never believed he was. Ricardo knows Alfredo is not his biological
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28 ²⁰ NRCP 60(d)(3)

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1 father. Both parties admit they lied when they signed the VAP, claiming Alfredo
2 was the father of Ricardo. The state can not give its blessing to the actions that
3 these parties have taken. To do so would undermine the point of having formal
4 adoption proceedings and disregard the state's goal in ensuring its interest, the
5 child's interest, and the biological parents' interests are all heard and all parties
6 have their day in court. Various appellate courts around the country have held that
7 what these parties have done is fraud upon the court as the whole judicial system is
8 cut out by two conspiring individuals.

11 If Alfredo's goal is to ensure he has court ordered time with Ricardo, then
12 the proper method is to seek third-party visitation. That motion is not before the
13 Court; instead he is seeking legal and physical custody rights over a child that is
14 not his, over the outcry of one parent, without any finding of being unfit, and
15 without providing notice to the other parent.

21 ///


23 ///

26 ///

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1 Alfredo must adhere the rules and procedures prescribed by Nevada's
2 statutes. He has failed to do so. As such, his motion should be dismissed for failure
3 to join a necessary party and summary judgment must be granted to Amanda as
4 there is no dispute between the parties on any material fact in this case.
5

6 **BARNES LAW GROUP**

7
8 
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COUNTY OF CLARK)

1. That I am the Defendant in the above-entitled action;

2. That I have read the above and foregoing document: **REPLY TO**

3. I will not restate the factual assertions and allegations contained in the

Pursuant to NRS 53.045 I declare under penalty of perjury under the law of

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FILED

DEC 26 2019

Oliver J. Williams
CLERK OF COURT

1 TRANS

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3 COPY

4 EIGHTH JUDICIAL DISTRICT COURT

5 FAMILY DIVISION

6 CLARK COUNTY, NEVADA

7
8 ALFREDO MEDELLIN,) CASE NO. D-19-590131-C
9 Plaintiff,) DEPT. G
10 vs.)
11 AMANDA REYNOLDS,)
12 Defendant.)

13
14
15 BEFORE THE HONORABLE RHONDA K. FORSBERG
16 TRANSCRIPT RE: ALL PENDING MOTIONS
17 THURSDAY, JUNE 13, 2019
18

19 APPEARANCES:

20 The Plaintiff: ALFREDO MEDELLIN
21 For the Plaintiff: LYNN N. HUGHES, ESQ.
22 4411 S. Pecos Rd.
Las Vegas, Nevada 89121

23 The Defendant: AMANDA REYNOLDS
24 For the Defendant: CAROL M. BARNES, ESQ.
25 712 S. Jones Blvd.
Las Vegas, Nevada 89107

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1 LAS VEGAS, NEVADA

THURSDAY, JUNE 13, 2019

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

3 (THE PROCEEDING BEGAN AT 10:45:21.)

4 THE COURT: We're on the record in Case D-19-590131,
5 Alfredo Medellin versus Amanda Reynolds.

6 Did I say that right? I probably massacred your
7 name. I apologize.

8 Counsel, your appearances for the record.

9 MR. HUGHES: Lynn Hughes, Bar Number 6349, on behalf of
10 the plaintiff, who is present.

11 MS. BARNES: Good morning, Your Honor. Carol Barnes, Bar
12 Number 7985, representing the defendant, who's to my left. To
13 my far left, is my associate, Andrew.

14 THE COURT: Okay. Thank you.

15 The parties can have a seat. We are here today on
16 mom's motion for a pickup order and fees; dad's opposition.

17 Counsel, it is your motion if you want to proceed.

18 MS. BARNES: Thank you, Your Honor.

19 Your Honor, 18 days ago, the plaintiff decided that
20 he was not going to turn the child back over to the mother.
21 In the past 18 days, the plaintiff has only allowed the mother
22 to speak to the child on the telephone. Each telephone
23 conversation was less than three minutes. He denied any
24 FaceTime. He alleged that my client is abusing drugs.

25 My client drug tested at ATI. The drug test results

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1 have been provided to the Court. As the Court can see, my
2 client is not on drugs.

3 My client is a fit parent. More concerning, is that
4 the plaintiff is not the biological father...

5 THE COURT: Mm-hm.

6 MS. BARNES: ...of the child. The parties made the
7 determination to place him -- to do a name change of the child
8 and place his name on the birth certificate. They cite to the
9 authority they believe allows him to be a father, NRS 126.053
10 under (1) it says the parents can sign the birth certificate.
11 He is not a parent, never was a parent. And under 126.053
12 (3), that the signing of a birth certificate can be rescinded
13 when it's based on and one of the criteria is fraud. Clearly
14 it's fraud. Both these parties knew...

15 THE COURT: Mm-hm.

16 MS. BARNES: ...that he was not the parent. I -- I don't
17 believe there will be any more question regarding her fitness
18 as a parent. But as to what legal rights does the plaintiff
19 have now? He -- as we sit here right now, he has none. He is
20 not a parent.

21 So we are requesting the immediate return of the
22 child to the mother because the father has seized the child
23 and refused to turn the child over. We would like an order
24 that says that she has sole legal, sole physical custody.

25 Now, my client did initially state that she would be

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1 willing to go to FMC to work out some kind of visitation
2 agreement with the plaintiff because the plaintiff has been
3 involved in this child's...

4 THE COURT: Mm-hm.

5 MS. BARNES: ...life up until this point. At this point
6 in time, my client is rescinding that offer because of the 18
7 days wherein he has -- she has been denied the child. My
8 client is going to allow the plaintiff to see the child in the
9 future. She is not going to cut him out completely from the
10 child's life. But as of right now, she wants to have her
11 child back in her care. She's a deeply concerned about how
12 this has psychologically affected her child.

13 And if the parties cannot come to an agreement, the
14 plaintiff of course can always file under 125C.050 for
15 interested third-party rights. But I do want to stress the
16 fact that that is visitation only. It does not grant him any
17 legal custodial rights. The only decision-making that will
18 take place regarding this child is my client because she is
19 the only parent of the child unless and until the biological
20 father comes before the Court and asks that he be allowed to
21 have some kind of decision-making or visitation rights.

22 I do not know of -- and I was very curious to come
23 before the Court today, because I do not know of any legal
24 authority that would allow the plaintiff to attempt to
25 terminate the biological father's rights or attempt to adopt.

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1 this child over the objection of my client. So if the Court
2 wanted to speak to that, I would be very, very curious.

3 We are seeking attorney's fees. Thank you.

4 THE COURT: Okay. Counsel. Counsel.

5 MR. HUGHES: Wow. Your Honor, I've never heard the law
6 misstated so poorly. Section 126.053 clearly states that a
7 voluntary acknowledgment of paternity is the same as a court
8 order. The two parties, both of them, went down and put him
9 on the birth certificate. His rights have not been
10 terminated.

11 THE COURT: It is a court order, counsel. I've reviewed
12 even the application process for that when it's done. They
13 are -- they actually are swearing that these are the parents.
14 That's what she's stating...

15 MR. HUGHES: They are.

16 THE COURT: ...I believe.

17 MR. HUGHES: Right. And she...

18 THE COURT: She as well. They...

19 MR. HUGHES: ...made that same statement.

20 THE COURT: ...both -- they both swore. And they both
21 committed fraud on the state of Nevada in my opinion,
22 knowingly committed fraud on this -- on the state of Nevada to
23 my -- to what I see, if that's correct if -- 'cause I -- I --
24 my understanding is he clearly knew this was not his
25 biological child.

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1 MR. HUGHES: True. But that's not...
2 THE COURT: Mm-hm.
3 MR. HUGHES: ...the point of that statute. The point of
4 that statute is to have a child...
5 THE COURT: Mm-hm.
6 MR. HUGHES: ...have two parents.
7 THE COURT: Mm-hm.
8 MR. HUGHES: These both went down and voluntarily...
9 THE COURT: Mm-hm.
10 MR. HUGHES: ...said, he's father. He accepted all
11 responsibilities. He committed no fraud. He accepted the
12 responsibilities of being this boy's father, is on the birth
13 certificate. His rights have never been terminated. So to
14 come in now after the fact and say, oh he's not dad, is --
15 that's where the lie is. They both went down and voluntarily
16 made this boy have two parents.
17 THE COURT: Mm-hm.
18 MR. HUGHES: And to come in now...
19 THE COURT: And they both went down and lied to the --
20 lied to the state of Nevada because it says they are --
21 they're his biological parents.
22 MR. HUGHES: Well, that's something they can argue.
23 THE COURT: Mm-hm.
24 MR. HUGHES: But at this point, the -- the presumption
25 is, is he's the father and has to be argued against.

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1 THE COURT: It is the part of the presumption except for
2 you just stated, he knew he wasn't the father. So that's my
3 only concern, counsel, is he admits that he knows that. I'm a
4 little -- it -- this is a troubling case. I mean, I read
5 through -- I -- I did do searching through statutes. My other
6 concern was, where is the biological father?

7 MR. HUGHES: Mm-hm.

8 THE COURT: Why was he not involved in this kid's life?
9 And, you know, there is a lot of issues with that because --
10 'cause technically, I mean, if he gets declared not the father
11 and you're the only parent and something happens to you, he's
12 gonna go to a father he's never seen. That's the part of what
13 you're saying as to the...

14 MR. HUGHES: It is.

15 THE COURT: ...the purpose of signing a -- a -- a
16 certificate -- a birth certificate.

17 MR. HUGHES: And, Your Honor, I've -- I've had this...

18 THE COURT: Mm-hm.

19 MR. HUGHES: ...very situation before...

20 THE COURT: Mm-hm.

21 MR. HUGHES: ...where a parent came in with a DNA test
22 that said, I am the...

23 THE COURT: Mm-hm.

24 MR. HUGHES: ...biological father. But the associated...

25 THE COURT: Mm-hm.

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1 MR. HUGHES: ...the other father and mother had sworn...
2 THE COURT: Mm-hm.
3 MR. HUGHES: ...he's dad. He had the court...
4 THE COURT: Mm-hm.
5 MR. HUGHES: ...order. He can't come in and overturn...
6 THE COURT: Well, the question...
7 MR. HUGHES: ...that prior court order.
8 THE COURT: ...was -- the question that I would have for
9 that -- that case, since I wasn't involved in that...
10 MR. HUGHES: Mm-hm.
11 THE COURT: ...case, of course, would be, did he know?
12 Did he knowingly swear that or did he not knowingly swear that
13 on -- in your previous case? See, that's the -- the crux of
14 it for me is that. So I'm not sure of the answer to that yet,
15 counsel. So I'm not making...
16 MS. BARNES: Or were they...
17 THE COURT: ...a ruling on that.
18 MS. BARNES: ...married? Where's...
19 THE COURT: Mm-hm.
20 MS. BARNES: Was -- was it...
21 THE COURT: Mm-hm.
22 MS. BARNES: ...a marriage...
23 THE COURT: Mm-hm.
24 MS. BARNES: ...wherein there would be the presumption.
25 THE COURT: Mm-hm. Right. I -- I mean, I don't know

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1 what the answer to that is...

2 MR. HUGHES: Well, it...

3 THE COURT: ...counsel. We will certainly -- we will
4 certainly get to the bottom of that.

5 MR. HUGHES: Okay.

6 THE COURT: So with that, though, my question, my
7 concern, though -- right now my concern is we can deal through
8 all the rest, the legal stuff like that, mom and dad. We can
9 get through all of that. And we will. We're gonna set an
10 evidentiary hearing to determine that.

11 But -- but, why is she not -- why are you
12 withholding the child for 18 days?

13 MR. HUGHES: Your Honor...

14 THE COURT: That -- that's my concern is -- is the well-
15 being of this child. Look, you parents can do all the things
16 you want to mess up your kid. But that's one thing you should
17 not be doing is withholding them from -- from the other
18 parent, no matter what.

19 He's been the parent all this time. So really I
20 would expect something until we work this all out, that to
21 happen. So why are -- that's my -- my concern. You said
22 there was drugs. She's provided a drug test.

23 MR. HUGHES: Right.

24 THE COURT: Have you turned over the child now? You've
25 had...

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1 Counsel, when did you provide him with a drug test?
2 MS. BARNES: We did the blood test quite a few days ago.
3 THE COURT: Drug test.
4 MS. BARNES: And, no, we're -- still refuses any
5 FaceTime, still...
6 THE COURT: Okay.
7 MS. BARNES: ...refuses to visitation. And three minutes
8 -- less than three minutes of a telephone call.
9 THE COURT: Okay. Counsel, do you wanna...
10 MR. HUGHES: And...
11 THE COURT: ...address that?
12 MR. HUGHES: And the exhibit was provided to me this
13 morning with their reply brief.
14 THE COURT: Okay.
15 MR. HUGHES: So. At this point, Your Honor, he did what
16 he felt was necessary to protect his son.
17 THE COURT: Okay.
18 MR. HUGHES: And...
19 THE COURT: Mm-hm.
20 MR. HUGHES: ...he filed a case immediately. Because
21 there was no court order when he did this. He wanted to get
22 it up here and get a decision made...
23 THE COURT: Mm-hm.
24 MR. HUGHES: ...in order to protect his son. If the
25 Court feels that going back to the week on, week off that they

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1 had before is appropriate until such time as we come back and
2 do our evidence, then that...

3 THE COURT: Well, my concern with that, counsel, is if
4 they had a week on, week off, now we have 18 days of make-up
5 time.

6 MS. BARNES: Well, and, Your Honor, I also...

7 THE COURT: And I realize it's not -- we were saying,
8 it's not his kid. You're worried about legal rights. But I
9 have to give parental termination of that.

10 MS. BARNES: Yet, June 3rd, the drug test was provided.

11 THE COURT: Mm-hm.

12 MS. BARNES: We called counsel. And counsel didn't
13 return the call -- counsel's office, I should say. But I'm
14 really concerned that we're treating him like a parent right
15 now because there's no way that you can circumvent a
16 biological parent's right by having some other man sign...

17 THE COURT: Counsel, I agree. But I...

18 MR. HUGHES: This is...

19 THE COURT: ...don't see him come before me. That's the
20 problem. Biological dad hasn't come forward to assert his
21 rights.

22 MS. BARNES: Right.

23 THE COURT: You're saying he can't take away somebody
24 else's rights. But that person hasn't come in to assert his
25 rights.

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1 MS. BARNES: True. But she's asserting as the sole
2 parent standing here that she's...

3 THE COURT: Yeah, but she -- she can't assert rights for
4 the other parent that hasn't been involved all this time. He
5 needs to step forward.

6 MS. BARNES: Right.

7 THE COURT: Mm-hm.

8 MS. BARNES: But she wants to assert her rights. And she
9 is the only parent involved in this child's rights. So she's
10 requesting sole legal, sole...

11 THE COURT: Okay.

12 MS. BARNES: ...physical custody.

13 MR. HUGHES: And I disagree with that determination.

14 THE COURT: Temporarily, I'm gonna leave it as -- as a --
15 as a joint legal, joint physical custody situation until we
16 get to the whole evidentiary thing. I think there's a lot of
17 questions, a lot of those issues about -- about whether what
18 the father has committed, how it was done. There's all kinds
19 of issues of fact. I do note that the -- the drug test was
20 negative.

21 My concern, though, dad, is that you withheld this
22 kid for that long. I -- the third -- we're now on the 13th,
23 so ten extra days this kid was withheld. That's not okay.
24 You knew she wasn't using drugs by then. I mean, I know you
25 first didn't. But I assume you saw them. Right, dad? You

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1 saw the drug tests?

2 MR. HUGHES: No. I -- he -- I showed it to him this
3 morning.

4 MS. BARNES: We filed it on June 3rd.

5 THE COURT: Okay. So you were ser- so you e-served
6 counsel?

7 MS. BARNES: Yes.

8 THE COURT: E-served.

9 MS. BARNES: Absolutely.

10 THE COURT: So you were served with it even on the 3rd.
11 So that's another, like I said, ten days that went by that
12 this kid has not been with his mom. And that's not okay with
13 this Court. So even if I had ruled that you were the
14 biological father and I went to that, I would still be upset
15 to that issue. Okay. So you understand that.

16 So right now, I'm going to -- until -- we're gonna
17 set an evidentiary hearing to determine the issue -- tho-
18 those issues. I think there's a lot of questions, counsel. I
19 did the same searching you're doing, I mean, about -- about
20 the other father missing and whether he has rights when he
21 hasn't stepped forward. Like, there's all kinds of issues
22 that we have to deal with in this case. And I agree with you.
23 I -- last night I was up till 1:30 in the morning -- 1:00,
24 1:30 in the morning doing research a lot on this case because
25 it's -- it's, you know, it's not -- it's not that it's

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1 probably completely unique, but it's not common in our courts.
2 Okay? Just putting it that way.

3 So I'm gonna set an evidentiary hearing for that
4 issue to be dealt with. We can also -- I -- I'm gonna -- I'm
5 gonna send you to mediation to try to just see -- if you can.
6 I realize you said you were willing to. But this is the
7 thought.

8 I realize you're angry mom. You have every right to
9 be angry that you have not seen Ricardo all this time. And I
10 would be really livid, as well. Okay? But if we take a deep
11 breath and we step back and we say, does Ricardo love him?
12 Yeah, Ricardo loves him. So I don't want your anger for dad
13 and his bad behavior because he thought you were using drugs
14 mistakenly or whatever reason he had or whether it was -- and
15 -- and I'm sure part of your feeling is, look, no, he was just
16 being vengeful. I get it. I -- I can totally see what you're
17 thinking on that. But at the same time, this has to be about
18 Ricardo right now. No matter what, his family is breaking up.
19 No matter what happens for his -- his little world right now
20 is a little shook up; right?

21 And it was even shook up more, dad, because you
22 unilaterally decided you were gonna sweep in and do this.
23 Because the original motion said, well, there's drugs. But
24 then you were worried about clothing being the right size
25 fitting clothing. I don't care about that. The kid doesn't

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1 care if his -- if his shirt came up a little higher on his
2 neck. I'm not -- the kid's not gonna care about that. You
3 cared about that. And you were using that against mom. So
4 that's my concern.

5 But most importantly, it's for Ricardo. I don't --
6 I want you to consider that when you go to mediation, that no
7 matter what, he's six years old. His entire life, he's who he
8 knows as dad.

9 So I want you to consider that when you go to
10 mediation. I realize you're angry right now. I would -- I
11 would ask you to really, really strongly consider what kind of
12 situation you want for Ricardo and not -- not let your anger,
13 which is justifiable guide your decisions because the little
14 boys is the -- who -- who matters; right. You guys are here
15 because you both love him and you're fighting for him. And --
16 and -- and I appreciate that.

17 So I am gonna send you to family mediation to
18 attempt to see what you can work out. Maybe you can work out
19 everything. Maybe you can come back and say look, I -- I -- I
20 don't know. I don't know what can happen. But I just want
21 you all to remember that little boy's face when you go in
22 there that that's who you -- who -- it matters what he thinks,
23 how he feels.

24 'Cause no matter what, mom, you signed that paper
25 and you said he's dad. And so to the child, he's dad. I

000088

1 mean, he has dad's name. He goes to school. And he, that's
2 my dad. You know, he goes here. He goes there. That's my
3 concern. We've set that kid up to feel like that's dad. So
4 matter what you feel about this and all the legal stuff we're
5 gonna have to navigate through and whether -- how the
6 custodial situation's gonna be, you gotta consider that
7 please, for your son's sake.

8 MS. REYNOLDS: (Indiscernible).

9 THE COURT: 'Cause you -- it's not fair to him. You guys
10 made those -- those decisions. You guys decided to put -- put
11 him on the birth certificate. I didn't. Your counsel didn't.
12 You guys did. So now you have a child that says, that is my
13 dad. So consider that strongly.

14 I'm gonna order you to mediation to -- to see if you
15 can work out an agreement 'cause I think it's always wise. I
16 know counsel on both side are always very, trying to
17 (indiscernible). The fact that your counsel said, look, you
18 were all willing until now you're retracting that. I want you
19 to consider your retraction. I'm not saying that has to be
20 the case. But you understand, I just want you to remember
21 it's Ricardo that we're -- we're faced with. Okay?

22 And I think when you made that offer, that's what --
23 who you were thinking of. But I don't blame you for being
24 ticked off of not seeing your kid, literally a few minutes of
25 conversation.

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1 So, dad, I'm gonna say that he's gonna go with mom
2 for the next, at least, 18 days to make up for the 18 days
3 with you so that she gets some consecrated time. Okay? So
4 then he feels like, oh yeah, I went with mom and went with
5 dad. See this feels more normal -- more normalized. I don't
6 want him to be panicked that he was yanked out from either
7 placed. And right now, what you did makes him feel like he
8 was yanked out from mom. And I'm thinking of -- of -- of
9 Ricardo's feelings, not yours.

10 So the next 18 days, you will definitely have --
11 have the time with him.

12 Other than that, did you guys have a temporary
13 order, post the 18 days until they come back from mediation?
14 Anybody have a proposal for me? I...

15 MS. BARNES: I think you said that you wanted to keep it
16 on the joint physical...

17 THE COURT: I do.

18 MS. BARNES: ...custody schedule.

19 THE COURT: I do.

20 MS. BARNES: So I...

21 THE COURT: So I -- I'm timing the time. What time?

22 MS. BARNES: So what day did you normally exchange when
23 you exchanged?

24 MS. REYNOLDS: Sundays, Mondays.

25 THE COURT: Were you guys...

000090

1 MR. MEDELLIN: Monday mornings.
2 THE COURT: ...doing a week on, week off situation?
3 MS. REYNOLDS: Yes.
4 MR. MEDELLIN: Yes, ma'am.
5 MS. BARNES: We were.
6 MS. REYNOLDS: Yes, we were.
7 THE COURT: Is that okay with him? I -- I mean, my
8 current concern would be that's a long time without the other
9 parent.
10 MR. MEDELLIN: (Indiscernible).
11 THE COURT: It might make it easier because his 18 days
12 might feel like it was long anyways so to him his time frame.
13 MS. REYNOLDS: I had suggested it because I felt that our
14 households are very different...
15 THE COURT: Okay.
16 MS. REYNOLDS: ...from each other. So it created time
17 for us to get comfortable...
18 THE COURT: Okay. So then that...
19 MS. REYNOLDS: ..within our...
20 THE COURT: ...that makes sense.
21 MS. REYNOLDS: ...our rules.
22 THE COURT: Okay. Then I will order that to be the
23 temporary order. I'm not making a ruling as to whether dad is
24 dad or not. But dad will determine that. I'm gonna send you
25 guys to mediation. We're gonna set a return hearing for

000091

1 August 15th at 10:00 a.m.

2 Does counsel have a conflict in her schedule?

3 MR. HUGHES: 10:00 a.m.?

4 THE COURT: Yes.

5 MS. BARNES: I'm in a trial.

6 THE COURT: Trial. Okay. So that won't work.

7 Give that one back to you. Tell 'em what dates.

8 And we'll see if I -- they can get to it.

9 THE CLERK: August 14th, 11:00 a.m.

10 MS. BARNES: Can we go after the 15th...

11 THE COURT: Okay.

12 MS. BARNES: ...because I'm in a trial on the 13th, too.

13 THE COURT: Yeah, and you never know if it's gonna

14 continue a day...

15 MS. BARNES: Yeah.

16 THE COURT: ...and you'll be exhausted. I know.

17 THE CLERK: August 21st, 11:00 a.m.

18 THE COURT: That probably gives you...

19 MS. BARNES: That works.

20 THE COURT: ...time to get into mediation anyways, a

21 little more time. Okay. I -- I -- look, until we determine

22 the rest of the legal standing for -- for dad, I want you guys

23 to try to co-parent because he knows -- that's all he knows is

24 -- as his dad, mom.

25 So, dad, you gotta co-parent, too. It sounds like

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1 you're the ones who didn't co-parent because you were worried.
2 I get it. Worries over. Drug test has been proof. You --
3 you don't have a right to withhold him in -- anymore. He's
4 gonna be with mom for the next 18 days. And it's gonna go
5 week on, week off, starting -- so if it goes 18 days, it might
6 not fall on that. It will be the following. You guys
7 exchange on what date?

8 MS. REYNOLDS: Mondays.

9 THE COURT: Mondays. So the following Monday after the
10 18 days, then dad will have him. That will be my temporary
11 order for...

12 MR. HUGHES: Actually, may I make a suggestion, Your
13 Honor?

14 THE COURT: Okay.

15 MR. HUGHES: It is Father's Day this weekend.

16 THE COURT: It is. Mm-hm.

17 MR. HUGHES: And if we exchanged on Monday morning, they
18 would have him for three weeks. It would be an equal three
19 weeks, both ways. And we would have him for Father's Day.

20 THE COURT: What do you have to say?

21 MS. BARNES: My client just looked at me and shook her
22 head no.

23 THE COURT: Mm-hm.

24 MS. BARNES: She wants her child immediately. She's
25 literally not...

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1 THE COURT: 18 days...

2 MS. BARNES: ...been sleeping.

3 THE COURT: ...is ridiculous.

4 MS. BARNES: Yeah.

5 THE COURT: I understand. I understand. But what about

6 -- what about having dad spend some time on Father's Day even

7 though we -- you -- he's admitted he's not the father and...

8 MS. REYNOLDS: Can I mention that I didn't get to see my

9 son or talk to my son on the phone on Mother's Day?

10 THE COURT: Wow.

11 MR. MEDELLIN: She never requested it.

12 MR. HUGHES: How can that...

13 THE COURT: Wow. That...

14 MR. HUGHES: He didn't take him till...

15 THE COURT: That's sad.

16 MR. HUGHES: He took...

17 THE COURT: No, no.

18 MR. HUGHES: ...him after that.

19 THE COURT: You need to consider that. He need to -- you

20 took him after that?

21 MR. HUGHES: He -- it was just before Memorial Day...

22 THE COURT: Okay.

23 MR. HUGHES: ...that he...

24 THE COURT: So he...

25 MR. HUGHES: ...that he did this.

000094

1 THE COURT: ...took him after that. But he didn't let
2 you guys -- so you guys weren't even...

3 MS. REYNOLDS: No, but on Mother's Day...

4 THE COURT: I understand.

5 MS. REYNOLDS: ...he -- he was in Alfredo's care. And
6 they didn't call me or offer time with me...

7 THE COURT: Mm-hm.

8 MS. REYNOLDS: ...or anything. It was his day to have
9 Ricky. So I...

10 THE COURT: But two wrongs...

11 MS. REYNOLDS: ...let him.

12 THE COURT: ...don't make a right. The child needs to be
13 able to have time with the parents on that. I'm gonna -- I'm
14 gonna order him to be with you for a few hours on Father's
15 Day, only for Ricardo's sake.

16 I'm gonna say what happened on Mother's Day was
17 shame on you, sir. Shame on you, if that was Mother's Day,
18 and you shoulda known better. For six years, I'm sure you
19 helped that kid buy presents and stuff for his mom. And you
20 didn't do that then when you guys were supposed to have a week
21 on, week off. So shame on you. But I'm not gonna punish the
22 kid because of your bad behavior. Okay? So I'm gonna only
23 order, he's gonna have him for four hours on Father's Day. He
24 can -- he can pick him up at noon until 4:00, dad.

25 So that's gonna be my order. But again, shame on

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1 you for -- for not even bothering to offer. You knew that all
2 along for six years you've been providing presents to mom.
3 And now it's the kid that suffered. I don't care about you
4 two and your feeling about it. I care about what you're doing
5 to a six-year-old little boy. So that's what's important to
6 me.

7 So, dad, you're gonna have him for those six hours
8 -- those -- those four hours, even though you withheld him for
9 18 days.

10 MR. HUGHES: (Indiscernible).

11 THE COURT: So that is going to be my order. You're
12 gonna go to mediation and try to work this out. The return
13 date's gonna be on August 21st, 2019.

14 Counsel, at that date, I want a brief from both of
15 you on the issue that we've discussed regarding the -- the
16 fraud of both of them agreeing to sign on a birth certificate.
17 I want a brief from both of you. Okay?

18 MS. BARNES: We have an issue. The following is
19 unilaterally (indiscernible) the father -- strike that. The
20 plaintiff has unilaterally withdrawn the child from the
21 school...

22 MS. REYNOLDS: Original school I had him at.

23 MS. BARNES: That -- that he went -- the original school
24 that she had him at. They're -- they're...

25 THE COURT: Oh.

000096

1 MS. BARNES: A lot of the catalyst of this is they don't
2 agree where the child should attend school.
3 THE COURT: Where did he go to school last year? What
4 were you saying?
5 MS. REYNOLDS: Schorr -- Schorr, on his terms, next to
6 his house for convenience for him.
7 MR. HUGHES: No, Your Honor.
8 MS. BARNES: And she -- she doesn't...
9 THE COURT: Hold on a minute.
10 MS. BARNES: She wants...
11 THE COURT: So he just re- he just (indiscernible) -- he
12 just did that. What happened?
13 MR. HUGHES: No, Your Honor, they agreed to do that.
14 MS. BARNES: She wants the ch- she wants the child to
15 attend the school where all the other children, her other
16 child, the other children in her household...
17 THE COURT: Mm-hm.
18 MS. BARNES: ...are attending school. He does not want
19 that to occur. They do not live close to one another.
20 THE COURT: Well, that's unfortunate.
21 MS. BARNES: She -- and -- and he -- he will be relegated
22 to 125C.050, which gives no decision-making...
23 THE COURT: I'm gonna order he goes...
24 MS. BARNES: She gets to pick.
25 THE COURT: ...mom's school

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1 MS. BARNES: Thank you.

2 THE COURT: I'm gonna order he go to mom's school.

3 MS. REYNOLDS: Thank you.

4 THE COURT: Because you actually are gonna go back to
5 school before this occurs.

6 MS. REYNOLDS: Yes.

7 THE COURT: Okay. So that -- that's gonna be my order
8 temporarily. But, counsel, I want briefs on the other issues
9 that we've...

10 MR. HUGHES: Yes.

11 THE COURT: ...discussed.

12 MS. BARNES: Yes.

13 THE COURT: Ms. Barnes, if you will prepare the order
14 from today.

15 MS. BARNES: Yes. Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. HUGHES: Your Honor, exchange time.

18 THE COURT: I'm gonna reserve the issue on -- oh exchange
19 time. It's gonna be the time that they've been exchanging.
20 You said a time, correct?

21 MS. REYNOLDS: Monday at...

22 MR. HUGHES: No, I meant for today.

23 THE COURT: Oh for today.

24 MR. HUGHES: You're asking the child be returned.

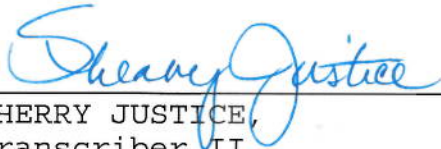
25 THE COURT: Yes. Yes, return today.

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1 Where's he at now, dad?
2 MR. MEDELLIN: At my house.
3 THE COURT: He's at your house with somebody else. I
4 want him to have -- I want her to have him by 3:00 p.m.
5 MR. HUGHES: Thank you.
6 THE COURT: Okay?
7 MS. REYNOLDS: Thank you so much.
8 THE COURT: 3:00 p.m. with mom. Okay.
9 Counsel, prepare the order and submit it to my
10 court. I'm gonna reserve trial -- attorney's fees for our
11 return. Okay?
12 MS. BARNES: Thank you.
13 MS. REYNOLDS: Thank you.
14 THE COURT: Thank you.
15 (THE PROCEEDING ENDED AT 11:06:05.)

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17
18 * * * * *

19
20 ATTEST: I do hereby certify that I have truly and
21 correctly transcribed the video proceedings in the above-
22 entitled case to the best of my ability.

23
24 
25 SHERRY JUSTICE,
 Transcriber II

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FILED

DEC 26 2019

Alfred J. Williams
CLERK OF COURT

1 TRANS

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3 COPY

4 EIGHTH JUDICIAL DISTRICT COURT

5 FAMILY DIVISION

6 CLARK COUNTY, NEVADA

7
8 ALFREDO MEDELLIN,) CASE NO. D-19-590131-C
9 Plaintiff,) DEPT. G
10 vs.)
11 AMANDA REYNOLDS,)
12 Defendant.)
13

14
15 BEFORE THE HONORABLE KATHY HARDCASTLE
16 TRANSCRIPT RE: ALL PENDING MOTIONS
17 THURSDAY, OCTOBER 24, 2019
18

19 APPEARANCES:

20 The Plaintiff: ALFREDO MEDELLIN
21 For the Plaintiff: LYNN N. HUGHES, ESQ.
22 4411 S. Pecos Rd.
Las Vegas, Nevada 89121

23 The Defendant: AMANDA REYNOLDS
24 For the Defendant: CAROL M. BARNES, ESQ.
ANDREW J. SEMPRAZIK, ESQ.
25 712 S. Jones Blvd.
Las Vegas, Nevada 89107

000100

1 LAS VEGAS, NEVADA

THURSDAY, OCTOBER 24, 2019

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

3 (THE PROCEEDING BEGAN AT 09:10:07.)

4 THE COURT: Medellin, is that the one?

5 UNIDENTIFIED SPEAKER: (Indiscernible).

6 THE COURT: All right. D590131, Medellin versus

7 Reynolds. State your appearances, counsel.

8 MR. HUGHES: Lynn Hughes, Bar Number 6349, on behalf of

9 Alfredo Red- Medellin, who's present.

10 MR. SEMPRAZIK: Andrew Semprazik, Bar Number 15093,
11 representing defendant, Amanda Reynolds, to my far left. And
12 my immed- immediate left is...

13 MS. BARNES: Attorney Carol Barnes, Bar Number 7985.

14 THE COURT: All right. And I've read over the -- the
15 matters that are on this morning is the motion to dismiss for
16 failure to join as a necessary party, motion for summary
17 judgment, motion to remove name from birth certificate, an
18 affidavit of paternity, motion for attorney's fees and costs,
19 and the oppositions. They're denied. I don't need argument.
20 That's a ludicrous argument.

21 The statute is very clear. Once their name is on
22 the birth certificate and they've followed the statutes, and
23 the time has run, the only way to remove their name from the
24 birth certificate is by termination of parental rights and
25 having another party, responsible party come in and take over

000101

1 financial responsibility of the child. We don't have that
2 here. So that motion's denied. And this is a long
3 established law.

4 All right. So where we at as far as to modify -- oh
5 as far as child custody and all the other stuff. You've got a
6 future hearing on January 30th for calendar call. And why is
7 it on for paternity whenever he signed the affidavit?

8 MR. HUGHES: That's been the -- the issue.

9 THE COURT: It's the -- it's case...

10 MR. HUGHES: It's...

11 THE COURT: ...law's clear. That's...

12 MR. HUGHES: And...

13 THE COURT: Paternity's established.

14 MR. HUGHES: And, Your Honor, if I can have an order
15 confirming that, that will greatly limit the trial on the --
16 on February 2nd to -- it's...

17 THE COURT: I'll give you an order confirming that.

18 MR. HUGHES: Okay. That will just reduce it to
19 essentially custody and visitation.

20 THE COURT: It's just custody and visitation.

21 MR. HUGHES: Thank you.

22 THE COURT: And...

23 MR. HUGHES: Your Honor...

24 THE COURT: And child support.

25 MR. HUGHES: Yes. We have not had a serious attempt to

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1 settle until this issue has been resolved. So I anticipate we
2 will make efforts to do that now.

3 THE COURT: All right. Do you want a settlement
4 conference? Do you want to go to family mediation sooner?
5 You can do a settlement conference either through, since we've
6 got attorneys on both sides, the judges here have a settlement
7 conference that they do for each other. There's the senior
8 family law settlement conference. The senior judge family law
9 settlement conference. And there are senior judges available
10 downtown. Where we do the settlement conferences in the
11 Phoenix Building right across the street from the RJC.

12 MS. BARNES: We're -- we're gonna take this up on a writ.
13 So we can do that after we hear from the Supreme Court on
14 this.

15 THE COURT: Well, in the meantime, we're gonna be looking
16 at temporary orders to allow visitation.

17 MR. HUGHES: There...

18 MS. BARNES: There are already temporary orders in place.
19 That's already taken care of.

20 MR. HUGHES: There are temporaries in -- in place.

21 THE COURT: That's -- that's already taken care of?

22 MS. BARNES: Yeah.

23 THE COURT: Okay.

24 MR. HUGHES: Share -- shared custody essentially at this
25 point.

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1 THE COURT: Okay.

2 MR. HUGHES: So I don't know that we have anything else

3 then, Your Honor.

4 THE COURT: All right. Well, you're gonna have to go

5 through probably a settlement conference through the supreme

6 court even on a writ.

7 MS. BARNES: Right.

8 THE COURT: Sometimes they require it, so.

9 MS. BARNES: Okay.

10 MR. HUGHES: Thank you, Your Honor.

11 THE COURT: All right.

12 MR. HUGHES: I'll issue an -- or have an order to you

13 shortly.

14 THE COURT: Thank you. So once you file your writ, that

15 will stay the calendar call and trial, possibly.

16 MR. HUGHES: Yes, thank you, Your Honor.

17 (THE PROCEEDING ENDED AT 09:14:07.)

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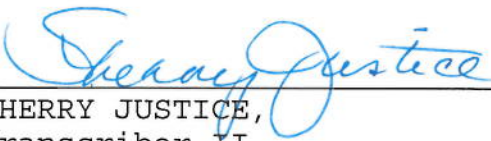
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ATTEST: I do hereby certify that I have truly and
correctly transcribed the video proceedings in the above-
entitled case to the best of my ability.


SHERRY JUSTICE,
Transcriber II

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