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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

\*\*\*\*\*

GREG ELLIOT PELKOLA,

Appellant,

HEIDI MARIE PELKOLA,

Respondent.

Sup. Ct. No. : 80763

Dist. Ct. No. : D488682

APPELLANT'S APPENDIX

VOLUME 1

DATED this 23rd day of July 2020.

/s/ Melvin R. Grimes

MELVIN R. GRIMES, ESQ.

Nevada Bar No. 12972

THE GRIMES LAW OFFICE

*Attorney for Appellant*

PELKOLA v. PELKOLA

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MOT (FAM)  
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DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*\*

HEIDI MARIE PELKOLA,  
Plaintiff,

vs.

GREG ELLIOT PELKOLA,  
Defendant.

CASE NO.: D-13-488682-D  
DEPT NO.: L

Hearing Date: August 23, 2018  
Hearing Time: 9:00 A.M.

**DEFENDANT'S MOTION FOR AN  
ORDER TO SHOW CAUSE WHY  
SHE SHOULD NOT BE HELD IN  
CONTEMPT AND MOTION TO  
MODIFY CUSTODY**

**ORAL ARGUMENT REQUESTED:      YES   NO**

COMES NOW, Defendant, GREG PELKOLA ("GREG"), by and through his attorney of record MELVIN R. GRIMES, of the Grimes Law Office, and submits this Defendant's Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody.

DATED this 5th day of June 2018.

**THE GRIMES LAW OFFICE**

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Tel: (702) 347-4357  
*Attorney for Defendant*

NOTICE OF MOTION

TO: HEIDI MARIE PELKOLA, Plaintiff:

PLEASE TAKE NOTICE that the undersigned will bring Defendant's Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody on for hearing in Department L of the Family Division of the Eighth Judicial District Court on the 23rd day of August, 2018, at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard.

DATED this 5th day of June 2018.

**THE GRIMES LAW OFFICE**

/s/ Melvin R. Grimes

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Tel: (702) 347-4357

*Attorney for Defendant*

1 **I. MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. INTRODUCTION AND STATEMENT OF FACTS:**

3 Plaintiff HEIDI PELKOLA ("Heidi") and Defendant, GREG PELKOLA  
4 ("Greg") were divorced in Clark County, Nevada by a decree of divorce that was  
5 entered on May 6, 2014. There are 3 minor children born of the marriage: S.M.P.,  
6 born December 2, 2003; J.R.P., born March 4, 2008; D.J.P., born December 9, 2011.  
7 Pursuant to the decree, the parties were awarded Joint Legal Custody and Plaintiff was  
8 awarded Primary Physical Custody subject to Defendant's right of visitation.  
9 Defendant is entitled to visitation over the summer from a week after the release of  
10 school for summer to a week before school commences, which would be May 29<sup>th</sup> to  
11 June 30<sup>th</sup> for the present year, and over spring break from the release of school for the  
12 break to the day before school resumes, March 16<sup>th</sup> to March 25<sup>th</sup> for the present year.

13 The court is reminded, Plaintiff has sought for the last two years an allowance  
14 of teenage discretion for the minor child S.M.P.; each request has been denied. The  
15 court, following an evidentiary hearing denied this request and the denial was reduced  
16 to an order on January 23, 2018; Plaintiff was served a Notice of Entry of this Order  
17 on January 25, 2018.

18 Immediately following the Evidentiary Hearing of December 19, 2017,  
19 Defendant failed to deliver the minor child S.M.P. Defendant was sent a letter on  
20 December 23, 2017 via email demanding the immediate delivery of the child.  
21 Defendant did not acknowledge the letter and did not deliver the child.

22 Defendant filed her motion to set aside the Decision and Order regarding the  
23 December 19, 2017 evidentiary hearing on February 9, 2018. GREG filed his  
24 Opposition on February 16, 2018. Defendant filed her extremely untimely and  
25 improper Reply on March 27, 2018, thirty-four days after the opposition and  
26 countermotion for filed and twenty-eight days late.  
27  
28

1 Defendant was to deliver the three minor children to GREG on March 18, 2018.  
2 Defendant arrived at the designated meeting place but again refused to deliver the  
3 minor child S.M.P.

4 The court rendered a written decision regarding Plaintiff's motion on April 3,  
5 2018 by minute order. The court stated in very clear terms:

6 The children's discretion was overruled at the evidentiary hearing.

7 Therefore, absent new factual, medical, mental health or other competent  
8 evidence occurring since the evidentiary hearing warranting a change in this  
9 order, the children shall visit with Dad according to the current order.

10 Plaintiff refused to deliver the minor child S.M.P. on May 30, 2018. Greg  
11 contacted Plaintiff through counsel that the child was to be delivered no later than  
12 noon on June 1, 2018. This letter was sent to Plaintiff's counsel of record via fax and  
13 electronic service. Plaintiff's counsel has failed to contact Defendant's counsel as of  
14 this writing and the child was not delivered to GREG. The instant motion follows.

15  
16 **B. PLAINTIFF'S EXHIBIT TABLE PURSUANT TO EDCR 5.205**

| <u>Ex. #</u> | <u>Exhibit Title</u>  | <u>Bates Numbers</u> |
|--------------|---|----------------------|
| A            | Parental Alienation Questionnaire and Results   | DEF 1-4              |
| B            | Talking Parents Records   | DEF 5 - 19           |
| C            | CD containing videos of child exchanges for<br>Winter Break 2017, Spring Break 2018, and<br>Summer Break 2018 | DEF 20               |

23  
24 **C. EDCR 5.501 STATEMENT**

25 GREG, through counsel sent a written request to comply with the current orders  
26 on May 31, 2018. Plaintiff's counsel was served the letter on May 31, 2018 via  
27 electronic service. Plaintiff's counsel was also faxed a copy of the letter to the fax  
28 number on record with the Nevada Bar and affixed to her pleadings.

1 No request for resolution has been received by The Grimes Law Office. No  
2 request for an extension has been received by The Grimes Law Office. Plaintiff has  
3 failed to comply with the Order or the demands of the letter. The instant motion  
4 follows.

5 **II. ARGUMENT**

6 **A. PLAINTIFF SHOULD BE ORDERED TO APPEAR AND SHOW**  
7 **CAUSE WHY SHE SHOULD NOT BE HELD IN CONTEMPT**

8 Nevada Revised Statutes 1.210(3) states that "The Court has the power to  
9 compel obedience to its orders" and NRS 22.010(3) states, in pertinent part:  
10 Disobedience or resistance to any lawful writ, order, rule or process issued by the  
11 court or judge at chambers shall be deemed contempt. NRS 22.100 provides, "Upon  
12 the answer and evidence taken, the Court or judge or jury, as the case may be, shall  
13 determine whether the person proceeded against is guilty of the contempt charge; and  
14 if it be found that he is guilty of the contempt, a fine may be imposed on him but not  
15 exceeding \$500.00, or he may be imprisoned not exceeding 25 days except as  
16 provided in NRS 22.110."

17 The court issued an Order on August 26, 2014. The courts Order granted GREG  
18 visitation will all three minor children as follows:

19 Defendant/Dad shall have VISITATION for Christmas on the even years the  
20 first week of the school break, Plaintiff/Mom shall have the second week in  
21 the even years; Parties will then alternate the next year. Plaintiff/Mom shall  
22 have Thanksgiving in the even years, Defendant/Dad the odd years.  
23 Defendant/Dad shall have Spring Break every year, Defendant/Dad shall  
24 have Summer Vacation with the minor children from one (1) week after  
25 school is out to one (1) week before school starts.

26 Plaintiff was served with the Order and was aware of the Order as she used the  
27 Order and ruling to relocate from the State of Nevada.

28 The court issued an Order on January 23, 2018, following an evidentiary



1 hearing, with reiterated the custodial timeshare and further stated:

2 Plaintiff's request for teenage discretion for the parties' daughter shall be  
3 denied. The Parties' daughter shall be subject to the same visitation schedule  
4 as the other minor children.<sup>1</sup>

5 Furthermore, the court ordered compensatory time in stating, "As Compensatory time,  
6 Defendant shall have custody of the all the minor children for the entirety of the  
7 winter break for the next six (6) years."

8 The Plaintiff was served with a copy of this Order on or about January 25,  
9 2018. Plaintiff was aware of the order as she filed a motion to set aside this order and  
10 requested a new trial. This request was subsequently denied.

11 Plaintiff willfully and knowingly violated these orders of the court. Plaintiff  
12 arrived at the exchange point with the two younger children. The younger children  
13 were present and were received by GREG. Plaintiff brought the minor child S.M.P. to  
14 the exchange but refused to comply with the Order of this court and deliver her to  
15 GREG. Each of the three exchanges at issue were video recorded and plainly show the  
16 Plaintiff refusing to facilitate the exchange. In each of the video's Plaintiff stands  
17 silent and refuses to assist with the exchange despite a request for her assistance. In  
18 each of the videos taken at the exchange Plaintiff refuses to even acknowledge the  
19 question of whether she will assist in the facilitation of the exchange.

20 Following each of the exchanges Plaintiff was put on written notice she was not  
21 complying with the Order of the court. Plaintiff acknowledges she knows and  
22 understands the Orders of this court as she has twice sought reconsideration of the  
23 matters from this court.<sup>2</sup> Plaintiff's conduct is therefore willful and knowing.

24 Plaintiff has knowledge of the Order regarding visitation. As Primary Custodian  
25  
26

27 <sup>1</sup> Order of January 23, 2108, page 3, line 26-28.

28 <sup>2</sup> Plaintiff's present Opposition and Countermotion to Defendant's Motion to Rescind again argues for Teenage Discretion and to set aside the current Order. Plaintiff's pleadings make clear she is aware and understands the Orders of this court.

1 Plaintiff has an affirmative duty to reinforce and support a relationship with the non-  
2 custodial parent. Plaintiff willfully and knowingly violated the orders by failing to  
3 deliver the minor child S.M.P to GREG at the proper time and place designated by  
4 this court on three separate occasions. Despite notice she was not in compliance with  
5 the Orders of this court Plaintiff has refused remedy the conduct on at least two  
6 occasions. Based on the foregoing the Court should Issue and Order to Show Cause  
7 why the Plaintiff should not be held in Contempt of Court for her willful and knowing  
8 refusal to comply with the legal Orders of this court. Upon Issue of and Order to  
9 Show Cause this matter should be set for an evidentiary hearing at the earliest possible  
10 date.

11 Should Plaintiff be found in contempt of court pursuant to NRS 22.010 for each  
12 of the three violations of the Order Plaintiff should be sentenced to twenty-five days  
13 in CCDC for each of the violation; Plaintiff should be fined \$500 for each of the three  
14 violations, and Plaintiff should be required to pay any and all attorney's fees  
15 associated with the present motion.

16 **B. THE COURT SHOULD MODIFY CUSTODY AWARDING**  
17 **DEFENDANT PRIMARY PHYSICAL CUSTODY AND SOLE**  
18 **LEGAL CUSTODY OF THE MINOR CHILDREN**

19 A court may make orders for the custody of children; 1(a) During the  
20 pendency of the action, at the final hearing or at any time thereafter during the  
21 minority of any of the children of the marriage, make such an order for the custody,  
22 care, education, maintenance and support of the minor children as appears in their  
23 best interest. NRS 125.510 *See also* NRS 125.230.

24 Modification of primary physical custody is warranted only when (1) there  
25 has been a substantial change in circumstances affecting the welfare of the child, and  
26 (2) the child's best interest is served by the modification. *Ellis v. Carucci*, 123 Nev.  
27 145, 150, 161 P.3d 239, 242 (2007). Under this revised test, the party seeking a  
28 modification of custody bears the burden of satisfying both prongs. *Id.*

Best Interest of the Child is Addressed in NRS 125C.0035(4):

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

- a. The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.
- b. Any nomination of a guardian for the child by a parent.
- c. Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.
- d. The level of conflict between the parents.
- e. The ability of the parents to cooperate to meet the needs of the child.
- f. The mental and physical health of the parents.
- g. The physical, developmental and emotional needs of the child.
- h. The nature of the relationship of the child with each parent.
- i. The ability of the child to maintain a relationship with any sibling.
- j. Any history of parental abuse or neglect of the child or a sibling of the child.
- k. Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.
- l. Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

The Court must act to protect the children from ongoing abuse from Plaintiff. Plaintiff's ongoing abuse is a substantial change in circumstance demanding an immediate change in custody.

Plaintiff's conduct has entered the dangerous realm of pathogenic parenting<sup>3</sup>

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<sup>3</sup> Pathogenic Parenting is not a new syndrome, but rather, a manifestation of standard and well established pathologies. It only uses references to classic works of psychology and none related to parental alienation syndrome. This gives it

(parental alienation) which is a form of child abuse, specifically Child Psychological Abuse. Hostile Aggressive Parenting Organization, a Psychology Organization that publishes articles quarterly on the issue of abuse through parental alienation and Hostile Aggressive Parenting published an easy to use evaluation and questionnaire to assist in determining if HAP or PAS exists in a parent child relationship. *Exhibit A*. GREG, based on observations and behavior of Plaintiff since filing of the divorce answered the questions. *Id.* Plaintiff was determined to be an "Extreme risk of harm to the child." *Id.* at 1. Similarly, the evaluation regarding the children and parental alienation shows "Child is suffering from PAS."

The court is reminded of Plaintiff's continuous filings over the last three years asserting the same or identical claims against GREG, in her desire to terminate his visitation with the children. The court is reminded that every reported injury the children has suffered was reported while in the care and custody of Plaintiff. The court is further reminded of Plaintiff's employment as a health care worker, nurse. The court is further reminded of Plaintiff's erratic behavior and inability to maintain

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tremendous power, making it something that any mental professional operating within their boundaries of competence should already understand, making it a possible violation of state law to not understand it. Refer to the three diagnostic criteria and 12 associated clinical signs.

A parent suffering from a narcissistic or borderline personality disorder can, under unrelenting stress or pressure from divorce, decompensate into persecutory delusions that the other parent is inadequate or abusive. These parents then expel their feelings of inadequacy or abandonment onto their former partner by using the defense mechanisms of projection and splitting. Because of splitting, the ex-spouse must become the ex-parent of the child. Through triangulation, psychological enmeshment with their children, and the formation of a cross generational alliance with their children, they influence their children to share their delusion. This can be done by eliciting criticism from the child about the other parent and then enthusiastically validating it, and by mixing in partially true lies. These parents then use their children as a narcissistic supply (or regulatory-other), creating a role reversal relationship that shows a lack of empathy for their children's own developmental needs.

It is a standard reenactment of childhood trauma with a standard false narrative related to their own childhood, where the child's other parent symbolizes an inadequate or abusive parent, the child symbolizes a victim of the other parent, and the parent using harmful parenting practices symbolizes a good parent ostensibly trying to protect their child. However, in reality, the other parent is neither inadequate nor abusive; but rather, the parent using the harmful parenting practices is abusive. In effect, the parent who fears inadequacy or abandonment is able to project their fears onto the other parent because all can "plainly see" that it is the other parent who is rejected and abandoned by the child.

This results in 3 diagnostic criteria in the child: attachment system suppression, personality disorder traits, and delusional belief. This rises to the level of DSM 5 Child Psychological Abuse, V995.51. The psychological fingerprints of the parent with the personality disorder are on the child.

1 employment. Given the conduct and likelihood of Pathogenic Parenting the court  
2 should be gravely concerned Plaintiff suffers from Munchausen by proxy syndrome  
3 (MBPS).

4 The existence of Parental Alienation and Pathogenic Parenting by the Plaintiff  
5 constitutes a change in circumstances.

6 Defendant must next show that the child's best interest is served with a  
7 change in custody. The Nevada Legislature set forth the non-exclusive factors the  
8 court must consider in NRS 125C.0035(4).

9 **The wishes of the child if the child is of sufficient age and capacity to form an**  
10 **intelligent preference as to his or her physical custody.**

11 There is little question S.M.P. would state she prefers to remain with Plaintiff.  
12 The improper parent child alignment shown in this matter would indicate no other  
13 outcome. However, the two younger children have a bonded and loving relationship  
14 with GREG. Until the most recent losses suffered by the Plaintiff in her onslaught of  
15 pleadings S.M.P. also had a bonded relationship with GREG.

16 The court should not give weight to this factor as S.M.P. is being influenced  
17 by Plaintiff and the younger children lack sufficient maturity to express and  
18 understand the weight of the decision.

19 **Any nomination of a guardian for the child by a parent**

20 This factor is not an issue in the present action.

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

23 Plaintiff's conduct over the last two years make clear she cannot and will not  
24 facilitate and encourage a relationship with GREG. Plaintiff actively undermines the  
25 relationship and disregards the orders of this court.

26 GREG has complied with every Order of this court during the last three years.  
27 When this court demanded supervised visits based on the unfounded assertions by  
28 Plaintiff he complied with every demand placed upon him.

1 GREG is the only parent that will permit and encourage a relationship with  
2 the other parent. This factor must weigh in GREG's favor.

3 **The level of conflict between the parents.**

4 This divorce and custody have been high-conflict since Plaintiff ran off and  
5 attempted to relocate the children without permission of the court or Defendant.  
6 Plaintiff has filed repetitive and redundant motions with the expressed intention of  
7 denying GREG any visitation with the children. There is little question there is an  
8 extremely high level of conflict between the parents with virtually all of the conflict  
9 being caused by Plaintiff. This factor must weigh in favor of GREG.

10 **The ability of the parents to cooperate to meet the needs of the child.**

11 The court need only look to the evidentiary hearing of December 2017 to  
12 make this determination. Plaintiff has refused to place GREG on school records.  
13 Plaintiff refused to disclose the children's medical providers or the dates of  
14 appointments. Plaintiff failed to inform GREG regarding Special Education Services  
15 for the minor child S.M.P.

16 Plaintiff believes she is the sole arbiter of what is best for the children and has  
17 continued to refuse to involve GREG in medical and education decisions. Plaintiff  
18 continues in this conduct despite recent orders of this court. Plaintiff lacks the ability  
19 to cooperate and provide for the children's needs.

20 **The mental and physical health of the parents.**

21 GREG is of sound mind and healthy body. GREG maintains full time  
22 employment. GREG has no addictions. GREG does not suffer from PTSD despite  
23 constant attacks to the contrary from Plaintiff.

24 Plaintiff seems incapable of recognizing her duties as a parent. Plaintiff has  
25 struggled to maintain employment. Plaintiff has been unable to maintain her own  
26 residence for herself and the children; she consistently returns to her current address  
27 of record to live with her mother. Plaintiff's Financial Disclosure form submitted on  
28 December 13, 2017 stated she resigned her position in January 2016 because she

1 “wanted a different shift.” Plaintiff finally reports obtaining employment in  
2 December 2017, almost two years later. The court must be concerned that a nurse  
3 cannot maintain or obtain employment in the present market regarding nursing. Such  
4 inability calls into question the stability and mental health of Plaintiff.

5 **The physical, developmental and emotional needs of the child.**

6 There are three children ages 6, 10, and 14. The children need stability and  
7 healthy relationships with both parents. Plaintiff’s housing has been less stable than  
8 defendant. Plaintiff cannot and will not support a meaningful relationship with  
9 GREG. Plaintiff has involved the children with court proceedings by failing to  
10 deliver all of the children to GREG, and taking these actions with the children all  
11 present.

12 Plaintiff lacks the ability to provide for the children physically because she  
13 cannot maintain employment. Plaintiff cannot provide for the developmental needs  
14 of the children because of her own emotional or mental health issues. Plaintiff will  
15 not provide for the emotional needs of the child specifically where the father is  
16 concerned.

17 **The nature of the relationship of the child with each parent.**

18 Until a year ago the relationship with Greg and the children was strong and  
19 well bonded. The relationship with the younger children remains steadfast. S.M.P.  
20 has refused to speak to her father and to attend visitation with her father since  
21 Plaintiff was unsuccessful in terminating the visitation of GREG.

22 Plaintiff’s relationship seems quite strong with all of the children.

23 The court should deem this as a equal factor for both parents.

24 **The ability of the child to maintain a relationship with any sibling.**

25 Not a factor in the present case.

26 **Any history of parental abuse or neglect of the child or a sibling of the child.**

27 GREG asserts and has provided sufficient evidence to show a prima facie  
28 finding that Plaintiff is engaged in Pathogenic Parenting. Pathogenic Parenting is a

1 form of psychological abuse. The court should hold the Plaintiff is engaging in abuse  
2 of the children and should remove the children from the case and custody of the  
3 Plaintiff.

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

7 Not a factor in the present case.

8 Whether either parent or any other person seeking physical custody has  
9 committed any act of abduction against the child or any other child.

10 The court is reminded Plaintiff disenrolled the children from school and  
11 removed the children from Nevada; notably she removed them to Arizona. GREG  
12 filed a motion to return the children and Plaintiff returned with the children to  
13 Nevada.

14 Plaintiff's actions violated the Joint Preliminary Injunction and the Nevada  
15 Parental Abduction Statute. The court ignored Plaintiff's actions as she returned to  
16 Nevada without the issuance of a pick-up order.

17 Plaintiff has engaged in an act of Parental Abduction with the intent of  
18 withholding the children from GREG.

19 The totality of the evaluation demonstrates the best interest of the children is  
20 served by changing custody to reflect Primary Physical Custody to Defendant.

21 Pursuant to *Ellis*, GREG has shown a substantial change in circumstances and  
22 that modification of custody is in the best interest of the children. 123 Nev. 145. The  
23 court should order a temporary change in custody with Defendant having primary  
24 physical custody of all three minor children. The court should set this matter for an  
25 evidentiary hearing to determine if a permanent change is appropriate.

26 **C. DEFENDANT IS ENTITLED TO AN AWARD OF ATTORNEY'S**  
27 **FEES AND COSTS**

28 Plaintiff's conduct entitles Defendant to an award of attorney's fees under



1 NRS 18.010(2)(b) which states: In addition to the cases where an allowance is  
2 authorized by specific statute, the court may make an allowance of attorney's fees to  
3 a prevailing party Without regard to the recovery sought, when the court finds that  
4 the claim, counterclaim, cross-claim or third-party complaint or defense of the  
5 opposing party was brought or maintained without reasonable ground or to harass  
6 the prevailing party. The court shall liberally construe the provisions of this  
7 paragraph in favor of awarding attorney's fees in all appropriate situations. It is the  
8 intent of the Legislature that the court award attorney's fees pursuant to this  
9 paragraph and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil  
10 Procedure in all appropriate situations to punish for and deter frivolous or vexatious  
11 claims and defenses because such claims and defenses overburden limited judicial  
12 resources, hinder the timely resolution of meritorious claims and increase the costs  
13 of engaging in business and providing professional services to the public.

14 Plaintiff has refused to facilitate exchanges of the minor children with their  
15 father. Plaintiff's conduct is in contravention of the Orders and directives of this  
16 court. Defendant should be permitted to file an Affidavit of Fees and Costs and a  
17 Brunzell Affidavit upon the court ordering an award is appropriate in this matter.

18 **D. The Court Should Modify Child Support to Reflect a the Change of**  
19 **Custody**

20 NRS 125B.145 Review and modification of order for support: Request for  
21 review; jurisdiction; notification of right to request review.

22 1. An order for the support of a child must, upon the filing of a request for  
23 review by:

24 a. The Division of Welfare and Supportive Services of the Department of  
25 Health and Human Services, its designated representative or the district attorney, if  
26 the Division of Welfare and Supportive Services or the district attorney has  
27 jurisdiction in the case; or

28 b. A parent or legal guardian of the child,  
be reviewed by the court at least every 3 years pursuant to this section to  
determine whether the order should be modified or adjusted. Each review conducted  
pursuant to this section must be in response to a separate request.

2. If the court:
  - a. Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.
  - b. Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate; the court shall enter an order modifying or adjusting the previous order for support in accordance with the requirements of NRS 125B.070 and 125B.080.
3. The court shall ensure that:
  - a. Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or
  - b. An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.
4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.
5. As used in this section:
  - a. "Gross monthly income" has the meaning ascribed to it in NRS 125B.070.
  - b. "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

NRS 125b.070 Provides,

1. As used in this section and NRS 125B.080, unless the context otherwise requires:
  - (a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.
  - (b) "Obligation for support" means the sum certain dollar amount determined according to the following schedule:
    - (1) For one child, 18 percent;
    - (2) For two children, 25 percent;
    - (3) For three children, 29 percent;
    - (4) For four children, 31 percent; and
    - (5) For each additional child, an additional 2 percent,

1 of a parent's gross monthly income, but not more than the presumptive  
2 maximum amount per month per child set forth for the parent in subsection 2 for an  
3 obligation for support determined pursuant to subparagraphs (1) to (4), inclusive,  
4 unless the court sets forth findings of fact as to the basis for a different amount  
5 pursuant to subsection 6 of NRS 125B.080.

6 2. For the purposes of paragraph (b) of subsection 1, the presumptive  
7 maximum amount per month per child for an obligation for support, as adjusted  
8 pursuant to subsection 3, is:

9 PRESUMPTIVE MAXIMUM AMOUNT INCOME RANGE

|                        |         |
|------------------------|---------|
| 10 \$0 - \$4,235       | \$681   |
| 11 \$4,235 - \$6,351   | \$749   |
| 12 \$6,351 - \$8,467   | \$820   |
| 13 \$8,467 - \$10,585  | \$886   |
| 14 \$10,585 - \$12,701 | \$955   |
| 15 \$12,701 - \$14,816 | \$1,022 |
| 16 \$14,816 - No Limit | \$1,092 |

17 3. The presumptive maximum amounts set forth in subsection 2 for the  
18 obligation for support must be adjusted on July 1 of each year for the fiscal year  
19 beginning that day and ending June 30 in a rounded dollar amount corresponding to  
20 the percentage of increase or decrease in the Consumer Price Index (All Items)  
21 published by the United States Department of Labor for the preceding calendar year.  
22 On April 1 of each year, the Office of Court Administrator shall determine the  
23 amount of the increase or decrease required by this subsection, establish the adjusted  
24 amounts to take effect on July 1 of that year and notify each district court of the  
25 adjusted amounts.

26 4. As used in this section, "Office of Court Administrator" means the Office  
27 of Court Administrator created pursuant to NRS 1.320.

28 *Rivero* states that, "although a party need not show changed circumstances for  
the district court to review a support order after three years, changed circumstances  
are still required for the district court to modify the order." *Rivero v. Rivero*, 216  
P.3d 213, 125 Nev. 410 (Nev., 2009). Movant must show a change in circumstance  
to modify the support order and that the court cannot modify to conform to NRS  
125B.070 and NRS 125B.080, simply because more than three years passed since its  
last review. *Fernandez v. Fernandez*, 222 P.3d 1031 (Nev., 2010). To prevail on his

1 modification motion on remand, Rivero requires the father to demonstrate changed  
2 circumstances. *Id.* at 1039.

3 The court should modify custody awarding Primary Physical Custody of the  
4 three minor children to GREG. This change necessitates a modification of child  
5 support reflecting the new custodial order.

6 **III. CONCLUSION**

7 WHEREFORE Defendant requests the Court grant the following relief:

- 8 1. That Plaintiff be found Guilty of Contempt of Court and sentenced to 25 days  
9 in Jail and fined \$500 for each offense; or
- 10 2. That Plaintiff be Ordered to present herself at an Evidentiary Hearing that he  
11 might show cause why she is not in Contempt of this Court; and
- 12 3. That Plaintiff be Order to produce the minor child S.M.P. to Defendant  
13 forthwith.
- 14 4. That the Custody be Modified awarding Primary Physical Custody to  
15 Defendant
- 16 5. That Child Support be modified pursuant to statute.
- 17 6. For an Award of Attorney's Fees and Costs relating to the present Motion.

18 DATED this 5th day of June 2018.

19 **THE GRIMES LAW OFFICE**

20  
21 /s/ Melvin R. Grimes  
22 MELVIN R GRIMES, ESQ.  
23 Nevada Bar No. 12972  
24 808 South 7<sup>th</sup> Street  
25 Las Vegas, NV 89101  
26 Tel: (702) 347-4357  
27 *Attorney for Defendant*  
28

**AFFIDAVIT IN SUPPORT OF MOTION**

I, GREG PELKOLA, under penalties of perjury, being first duly sworn, deposes and says:

1. That I am the Movant in the above-entitled action;
2. That I have read the Motion and know the contents thereof; that the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true.
1. That I am familiar with all facts stated in this Motion and I am competent to testify to these facts of my own knowledge, except as to those matters stated herein on information and belief, and, as to such matters, I believe them to be true;
3. That I make this affidavit in support of the foregoing motion;

WHEREFORE, I pray this court for its Defendant's Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody.

FURTHER, YOUR AFFIANT SAYETH NAUGHT.

DATED this 5th day of June, 2018.

Greg Pelkola  
Print Name

/s/ Greg Pelkola  
Sign Name - Original Signature on file and available upon request

**CERTIFICATE OF SERVICE**

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of The Grimes Law Office and that on the 5TH day of June 2018, I caused the foregoing document, Defendant's Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody, to be served as follows:

- ☐ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ By placing the same to be deposited for mailing in the United States Mail, in a sealed envelope with appropriate first class postage attached.
- ☐ Pursuant to EDCR 7.26, to be sent via fax, by duly executed consent for service by electronic means; and/or
- ☒ By hand delivery with signed Receipt of Copy;

to the attorney or party listed below at the address, email address and/or fax number indicated below:

Carol Menninger, Esq.  
3210 W. Charleston Blvd., Suite 1  
Las Vegas, NV 89102  
Cmlaw28@yahoo.com

DATED this 5th day of June 2018.

**THE GRIMES LAW OFFICE**

/s/ Melvin R. Grimes  
MELVIN R GRIMES, ESQ.  
Nevada Bar No. 12972  
808 South 7<sup>th</sup> Street  
Las Vegas, NV 89101  
Tel: (702) 347-4357  
*Attorney for Defendant*

# EXHIBIT A

## Evaluating Hostile Aggressive Parenting

The score was : 1925

(Don't forget to also take the Parental Alienation evaluation form)

### Extreme risk of harm to child (500 or more points)

For extreme risk of harm situations, effective intervention strategies should be employed as quickly as possible to stop the influences of the HAP parent from causing any further harm to the child and hopefully to begin the process or reversing any potential psychological damage already done to the child. Where it has been determined that a child is in the extreme risk of harm category and there is at least one critical risk factor present, removal of custodial and/or access rights to the child must usually be taken away from the HAP parent as quickly as possible in order to bring relief to the situation and to ensure that the child's exposure to HAP influences is significantly and immediately reduced. The complete removal of the HAP parent's custody rights on a temporary basis sends in this situation a strong message that the actions of the HAP will not be tolerated by society. Under conditions of extreme risk of harm to the child, and where one critical risk indicator is present, the following intervention is recommended:

- That the HAP parent's current custody status (sole or joint) be temporarily suspended until such time as it can be determined using the "risk assessment protocol" that the parent no longer poses an extreme risk of harm to the child stemming from HAP and its associated risk factors.
- That the HAP parent's access rights with the child be reviewed and access suspended temporarily should the required criteria for suspending access to the child be met. Supervised access should be considered for parents who are considered as posing an extreme risk of harm to their child.
- That the currently residency arrangements of the child be reviewed and the primary residence of the child be changed on a temporary basis should the required criteria for altering the residency of the child be met.
- That, as the first option, the child should be placed under the care and control of the other parent or another family member where an assessment has determined the child not to be at extreme risk of harm caused by an HAP party.
- That a psychological assessment or parenting assessment or evaluation on the HAP parent should be conducted by a competent professional in an attempt to find the root causes of the HAP behaviours.
- That a plan of care for the child be developed that can reasonably show how the risk of harm from HAP will be reduced prior to any consideration is made to re-establish any parenting or custodial rights.

In most cases involving children at high risk, intervention will not be pleasant to implement and in many cases, may meet severe opposition from the child, especially when it comes to curtailing the child's time with the HAP parent. Although there may be what can be referred to as "short term pain" in reversing the damage done to a child because of HAP, inevitably, the child will benefit from the "long term gain" of appropriate intervention. There are a number of cases on record where children who have been kidnapped from another parent for sometime long periods of time have been successfully re-integrated back with a parent they have not seen for a long period of time. In these cases the courts ordered the kidnapping parents to be jailed and the children physically placed with the parent who the child had not seen for a long period of time, sometimes years. The damage to children caused by HAP or PAS can be reversed if strong measures are taken.

We highly recommend going through this site as well: [UpToParents.org](http://UpToParents.org)





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## Parental Alienation Syndrome (PAS) Evaluation Form

This form has been developed to provide a simple and reliable means in which to reasonably determine the existence of Parental Alienation Syndrome or PAS as it is more commonly referred to. This form is intended to be used in conjunction with the "Risk assessment protocol to evaluate the risk of harm to children caused by Hostile-Aggressive Parenting (HAP)"

- [How to determine the presence of PAS](#)
- [PAS evaluation form](#)
- [Recommended intervention strategies](#)
- [How to help](#)

### Criteria 1

- The child is indicating a fear or hatred of the targeted parent or is claiming to be harassed by attempts by the targeted parent to make contact with him or her. Yes ▼
- The child has denigrated the targeted parent privately to other friends, family or in public. No ▼
- The child appears to be mimicking scenarios or accusations advanced by one of the parents in family court proceedings. No ▼
- The child has created a scene in public which has embarrassed, humiliated or denigrated the targeted parent with the child using untoward language or violence Yes ▼
- The child has made false allegations against the targeted parent or has attempted to have the targeted parent charged criminally by police or has supported such a complaint advanced by the other parent. No ▼
- The child is displaying a severe opposition to contact with a parent or insisting on spending less time or is resisting reasonable attempts to engage in meaningful contact with the targeted parent. Yes ▼
- The child expresses guiltless disregard for the feelings of the targeted parent or other family members who may support the targeted parent. Yes ▼
- The child has attempted suicide or has self mutilated themselves and has indicated that it was because of the targeted parent. No ▼
- The child has written a letter or note to the targeted parent telling the target parent that he/she does not want to see the parent or to have any further contact with the parent. Yes ▼
- The child spits, bites, swears or has displayed other violent opposition to contact with a parent. No ▼
- The child has assaulted, attempted to harm, harmed the target parent. No ▼

### Criteria 2

- There must be at least one person having influence over a child who is engaging in Hostile-aggressive parenting (HAP) directed against the targeted parent. Yes ▼
- The targeted parent has suffered the loss of parenting time with the child due to the interference with access to the child by another parent or family member or due to the refusal of the child to spend scheduled time with the targeted parent or the target parent has care and control of the child for 40% of the time or less. Yes ▼
- There would appear to be no compelling and credible evidence to support the reasons given by the child or the HAP parent to explain why the child is exhibiting one or more of the disorders listed under criteria 1. Some Yes ▼

DEF 2

of the reasons given may appear to be weak, frivolous, contradictory from evidence given by others, exaggerated or in some cases totally fabricated or an extension of another person's thoughts or feelings.

There would appear to be no compelling evidence or other compelling information which would indicate that the child's relationship with the targeted parent was not considered within the limits of a reasonably healthy and normal relationship (for example, no violence or abuse against the child) under the circumstances up until the time that either the parents were separated or until such time as conflict between parents involving the child's issues became an problem.

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## Parental Alienation Syndrome (PAS) Evaluation Form

Child is suffering from PAS.

It is of great importance to seek counselling for this child. It is also of great importance to monitor the HAP parent and seek professional help for the HAP parent.

- [How to determine the presence of PAS](#)
- [PAS evaluation form](#)
- [Recommended intervention strategies](#)
- [How to help](#)

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# EXHIBIT B



## Complete Record of Communications

### Case Information

#### Parents

Greg Elliott Pelkola

Signed up on 12/24/2017 at 11:26:49 PM and provided the following:

Other Parent's Name: Heidi Pelkola

Heidi Marie Pelkola

Signed up on 12/24/2017 at 11:32:13 PM and provided the following:

Other Parent's Name: Greg Pelkola

Report Generated By: Greg Elliott Pelkola on 5/24/2018 at 2:48:16 PM

### Time Zone Information

**\*All times presented in Pacific Standard Time**

\*TalkingParents.com documents and maintains all time information in Coordinated Universal Time (UTC). This is done to ensure accuracy and reliability of all records regardless of a user's location. As a matter of convenience, users have the option of viewing all time information, including the times shown on this complete record, in the time zone of their choice.



Complete Record - Greg Pelkola and Heidi Pelkola  
All times presented in Pacific Standard Time  
Report Generated By: Greg Elliott Pelkola on 5/24/2018 at 2:48:16 PM

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# Certification by TalkingParents.com

This document is a record of regularly conducted business activity compiled, stored, and made available by TalkingParents.com. TalkingParents.com keeps this record in the course of regularly conducted business activity and it is the regular practice of TalkingParents.com to do so. Maintaining such records is indeed the primary function of TalkingParents.com.

This record was made at the time of the occurrence of the matters set forth by it. In other words, this record is automatically compiled in real time as users access and use TalkingParents.com.

This record was kept, and continues to be kept, in the course of the regularly-conducted business activity of TalkingParents.com.

This record was made as a regular practice by TalkingParents.com in the course of the aforementioned regularly-conducted activity.



## New Message Notifications

Our service sends an automatic email notice every time a user has a new message to view at TalkingParents.com. These notices are sent as a courtesy and we cannot verify if they are actually received or viewed. Users can turn these email notices off (or back on) anytime. Our iPhone and Android apps include built-in new message notifications.

## Sign In / Sign Out Record

\*\* The following events are recorded only when a parent clicks the "Sign in" or "Sign out" buttons. As a result, this section may not accurately reflect when a parent was actually using our service. Please always refer to the date and time information in the Conversations section to determine a parent's actual use. \*\*

|                        |                             |
|------------------------|-----------------------------|
| 12/24/2017 11:27:17 PM | - Greg Pelkola logged in.   |
| 12/25/2017 8:16:17 PM  | - Heidi Pelkola logged in.  |
| 12/26/2017 10:36:16 AM | - Greg Pelkola logged in.   |
| 2/18/2018 5:19:34 PM   | - Heidi Pelkola logged in.  |
| 2/27/2018 11:39:36 AM  | - Heidi Pelkola logged in.  |
| 2/27/2018 11:50:53 AM  | - Heidi Pelkola logged in.  |
| 2/28/2018 6:34:34 AM   | - Heidi Pelkola logged in.  |
| 3/3/2018 3:42:19 PM    | - Heidi Pelkola logged in.  |
| 3/3/2018 9:41:00 PM    | - Heidi Pelkola logged in.  |
| 3/4/2018 9:51:34 AM    | - Heidi Pelkola logged in.  |
| 3/4/2018 4:07:49 PM    | - Heidi Pelkola logged in.  |
| 3/5/2018 12:41:21 PM   | - Greg Pelkola logged in.   |
| 3/12/2018 9:57:02 AM   | - Heidi Pelkola logged in.  |
| 3/13/2018 9:18:13 AM   | - Heidi Pelkola logged in.  |
| 3/14/2018 6:29:07 AM   | - Heidi Pelkola logged in.  |
| 3/29/2018 10:58:00 PM  | - Heidi Pelkola logged in.  |
| 4/4/2018 11:55:31 AM   | - Heidi Pelkola logged in.  |
| 4/7/2018 8:53:22 PM    | - Heidi Pelkola logged in.  |
| 5/15/2018 8:33:40 AM   | - Heidi Pelkola logged in.  |
| 5/15/2018 8:36:50 AM   | - Heidi Pelkola logged out. |
| 5/15/2018 8:37:13 AM   | - Heidi Pelkola logged in.  |
| 5/16/2018 8:37:37 AM   | - Heidi Pelkola logged in.  |
| 5/19/2018 9:45:41 AM   | - Heidi Pelkola logged in.  |
| 5/20/2018 8:58:50 AM   | - Heidi Pelkola logged out. |
| 5/20/2018 8:59:01 AM   | - Heidi Pelkola logged in.  |
| 5/20/2018 9:54:03 PM   | - Heidi Pelkola logged in.  |
| 5/20/2018 11:53:36 PM  | - Heidi Pelkola logged in.  |
| 5/22/2018 4:43:55 PM   | - Heidi Pelkola logged in.  |
| 5/23/2018 9:36:43 AM   | - Heidi Pelkola logged in.  |
| 5/23/2018 8:32:30 PM   | - Heidi Pelkola logged in.  |



Complete Record - Greg Pelkola and Heidi Pelkola  
All times presented in Pacific Standard Time  
Report Generated By: Greg Elliott Pelkola on 5/24/2018 at 2:48:16 PM

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# Conversations

All communications are grouped into conversations. Every conversation is assigned a subject by the parent who created it.

Conversations are presented in their entirety with no communications left out and arranged chronologically based on most recent activity.

All communications within a conversation are arranged chronologically, top to bottom, starting with the first communication under that subject.

Conversation headings are outlined in solid black.

Greg Pelkola's communications are outlined in dots.

Heidi Pelkola's communications are outlined in dashes.

## Summer Break

Created by: Greg Pelkola on 05/12/2018 at 12:36:36 PM

- Greg Pelkola on 5/12/2018 at 12:36:36 PM said:
- According to the Sweetwater School calendar, the last day of school is May 22nd. I will be picking up Sara, Justin, and Danny one week later as per the court order.
- Pickup Date: Tuesday, May 29  
2:00 pm at Love's Travel Plaza, Kingman, AZ.
- Heidi Pelkola viewed this subject on 5/15/2018 at 8:34:52 AM
- Heidi Pelkola on 5/15/2018 at 8:42:07 AM said:
- According to order, I get them for one week after school gets out and one week before school starts. That would make pick up Wed May 30th instead of Tuesday. Is 2pm a good time for you on Wednesday?
- Greg Pelkola viewed this subject on 5/15/2018 at 10:24:51 AM
- Greg Pelkola on 5/15/2018 at 11:45:19 AM said:
- Thank you for using talkingparents. According to the court order, one week would run from the day the children are released for summer break, seven days consecutively. Summer break release is Tuesday. Therefore the appropriate day for pickup is the following Tuesday.
- However, in a positive co-parenting spirit I am happy to accomodate your proposed schedule for pickup on Wednesday, May 15th, day 8 of summer break, if the pickup time can be moved to 12:00 pm rather than 2:00 pm.
- Greg Pelkola on 5/15/2018 at 11:48:23 AM said:
- Correction on dates:  
May 30th
- Heidi Pelkola viewed this subject on 5/15/2018 at 11:03:41 PM
- Heidi Pelkola on 5/19/2018 at 10:12:27 AM said:
- Sara has mandatory testing for highschool. I can take her for testing on Wednesday, May 30, 2018. The AM sessions are from 8:00am-12:00pm. Testing takes approximately 1 hour, but I want to allow extra time if she needs it. I will take her to the 8:00 AM time. Are you ok to change the exchange time to 1:30pm on Wednesday May 30th, 2018? If she only needs the 1 hour I will let you know via text to adjust exchange time to be sooner.





Greg Pelkola viewed this subject on 5/19/2018 at 11:56:39 AM

Greg Pelkola on 5/19/2018 at 12:00:29 PM said:

That will be just fine.

To confirm:

Wednesday, May 30th - 1:30pm / Loves Truck Stop Parking Lot.  
Picking up Sara, Justin, and Danny for summer break.

Thank You,  
Greg

Heidi Pelkola viewed this subject on 5/20/2018 at 8:59:08 AM

Heidi Pelkola on 5/20/2018 at 9:00:28 AM said:

Confirmed.  
Thank you

Greg Pelkola viewed this subject on 5/20/2018 at 5:57:16 PM

Greg Pelkola on 5/20/2018 at 5:58:19 PM said:

Justin told me you were ok with call of duty now. Can you confirm that?

Heidi Pelkola viewed this subject on 5/20/2018 at 8:11:28 PM

Heidi Pelkola on 5/20/2018 at 8:16:05 PM said:

No, I am not ok with any call of duty games. The other games from the list you provided previously I am ok with.

Greg Pelkola viewed this subject on 5/20/2018 at 8:19:02 PM

Greg Pelkola on 5/20/2018 at 9:17:54 PM said:

Please be sure to let Justin know that this was your call.

Please provide, as ordered, the rest of your game selection as I did directly after the minute hearing.

Greg Pelkola on 5/20/2018 at 9:20:26 PM said:

I believe that sending mixed signals to our children is not in their best interest. Please try to be more specific to them in the future in order to facilitate healthy social growth.

Thank You

Heidi Pelkola viewed this subject on 5/20/2018 at 11:53:51 PM

Heidi Pelkola on 5/21/2018 at 12:23:03 AM said:

In reply to your text, I have not sent the children mixed signals. I believe the list I sent previously is all of the games they have here, however, I will check in the morning to make sure I did not miss any. Justin knows I have not been in agreement with him playing the Call of Duty games at your house. A GameStop associate told me the Call of duty games are not appropriate for a 10 year old or a 6 year old. Justin told me today that Call of duty games are the only games you play with him. I do not want any of the kids playing Call of duty, as they are not age appropriate and have violence, gore, adult language and drug references. Please note, while you remain hyperfocused on a game list from me (which I have previously provided) I do not have any games like Call of duty in my home.

Thank you.

Greg Pelkola viewed this subject on 5/21/2018 at 12:23:15 AM



Greg Pelkola on 5/21/2018 at 12:12:26 PM said:

Thank you for your response. The hyperfocus you describe is a self description of your issues with the game, as perfectly demonstrated above. Had you requested additional information in regard to which game we played, I would have been more than happy to provide you with the version, the rating, and the parent control settings.

Regardless, we cannot ask a judge to guide us on general parenting styles for each issue that could be resolved, through positive communication.

In the future, please seek the information you require through me. As the adult father I can provide the specifics in all issues you inquire from the children.

I am looking forward to a summer of positive communication and co-parenting informational exchanges. It is in the best interest of our children to facilitate teamwork growth.

Thank You,  
Greg

Heidi Pelkola viewed this subject on 5/22/2018 at 4:44:15 PM

Heidi Pelkola on 5/22/2018 at 5:18:33 PM said:

Greg,

In a quick reply, no version of the Call of duty games is appropriate for our children. They contain violence, gore, adult language and drug references. That is not in the best interest of the children. I previously told you I didn't want them playing Call of duty games and you had them play anyway multiple times. I do not consider you having the kids play Call of duty a "parenting style" I consider it bad judgement on your part. Moving past that, I have sent the kids report cards to you via priority mail with tracking number on my receipt. Included is kids medical bills I paid with receipt included. Please reimburse me your half of the bills as ordered in decree.

Thank you,  
Heidi Pelkola

Greg Pelkola viewed this subject on 5/22/2018 at 5:19:10 PM

## Xbox Games

Created by: Greg Pelkola on 04/03/2018 at 2:32:37 PM

Greg Pelkola on 4/03/2018 at 2:32:37 PM said:

1. Leggo Hobbit: age 10 and Up
2. Shaun White Snowboarding
3. Raving Rabbits
4. Wii Play
5. Pokemon Battle Revolution
6. Spiderman 3
7. Dance Revolution
8. Wii Music
9. Cabela's Survival
10. Crazy Golf
11. Sonic Secret Rings
12. Poke Park II
13. The Strike (fishing game)
14. Redneck Jamboree
15. Lego Starwars
16. Okami
17. Legend of the Gardians
18. Rapala Tournament Fishing
19. Batman
20. Megamind
21. Six Flags Fun Park
22. Batman II
23. Ghost Busters

Here is our list of games. Please take the time you need to review and research the games on this list and reply.

Looking forward to your personal list to do the same.

Greg

Greg Pelkola on 4/03/2018 at 2:35:15 PM said:

Added Games

24. Mini Ninja
25. Plants vs Zombies
26. Transformers Racing Rated E - E means everyone 10 and up.
27. Jet Ski
28. Battleship
29. Monster Jam

Heidi Pelkola viewed this subject on 4/04/2018 at 11:55:40 AM

Greg Pelkola on 4/07/2018 at 12:36:56 PM said:

Hello Heidi,

With all due respect and in a positive tone for co-parenting success; are you going to provide your list of household games as ordered by the judge in the last Minute Hearing?

Heidi Pelkola viewed this subject on 4/07/2018 at 8:53:36 PM

Heidi Pelkola on 4/07/2018 at 8:57:05 PM said:

Yes, I will send you a list when I get a chance. When I make Sara an appointment I will let you know the date.

Greg Pelkola viewed this subject on 4/07/2018 at 9:19:11 PM



Greg Pelkola on 4/07/2018 at 9:20:03 PM said:

Thank you for communicating.

Greg Pelkola on 4/08/2018 at 11:09:03 AM said:

I am sure the boys are hoping we get both lists approved quickly. I imagine they must be bored as they are not allowed to play the games, as per the minute order, until we have both approved them for both homes. The sooner I can approve your games the quicker they can get back to playing.

Thank You  
Greg

Heidi Pelkola viewed this subject on 4/09/2018 at 10:06:51 AM

Heidi Pelkola on 4/09/2018 at 10:21:17 AM said:

Hello,  
As far as I know, the minutes order has not yet been signed by the Judge. I have not yet had a chance to form a complete list of games that the kids would like to play, as I have been picking up extra shifts at work. However, I will send a short list now and may add more to the list as time becomes available for me to do so.

Heidi Pelkola on 4/09/2018 at 10:45:41 AM said:

Games list:  
1. Animal Jam  
2. Xbox 360 f111 Forza Motorsport4  
3. minecraft Xbox 360 edition  
4. Lego avengers  
5. mx vs atv supercross  
6. Lego Marvel super heros  
7. Lego Marvel avengers  
8. Agorio

Greg Pelkola viewed this subject on 4/09/2018 at 10:46:47 AM

Greg Pelkola on 4/09/2018 at 10:51:38 AM said:

Thank you for communicating.

I see no issues with this current list. To be frank, the fact that you are an adult makes having to provide a household list of games fairly silly. Yet here we are.

Looking forward to the rest of your list.

Heidi Pelkola viewed this subject on 4/09/2018 at 11:34:23 AM

Greg Pelkola on 5/20/2018 at 9:23:49 PM said:

It has been over a month. Please provide your list as ordered.

Heidi Pelkola viewed this subject on 5/20/2018 at 9:54:16 PM

Heidi Pelkola on 5/21/2018 at 11:43:43 AM said:

My games list that I previously sent on 4/3/18 is the complete list. I checked this morning to see if there were any games I may have missed listing and did not find any others.

Thank you,  
Heidi Pelkola

Greg Pelkola viewed this subject on 5/21/2018 at 11:44:50 AM

Complete Record - Greg Pelkola and Heidi Pelkola

All times presented in Pacific Standard Time

Report Generated By: Greg Elliott Pelkola on 5/24/2018 at 2:48:16 PM

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Greg Pelkola on 5/21/2018 at 12:02:15 PM said:

Thank you for taking the time to respond.

## Sara's IEP and Medical

Created by: Greg Pelkola on 03/05/2018 at 12:24:48 PM

Greg Pelkola on 3/05/2018 at 12:24:48 PM said:

I have met with administration at Sweet Water Elementary and have provided them with the current court order requiring you to add me to the children's records. They have completed this process.

They have provided Sara's IEP that you were unable or unwilling to provide and I will schedule a meeting with her coordinator.

Please let me know when you will be scheduling an appointment with her medical provider so that we may mutually address her medical needs.

I should have the children's secondary coverage completed by the end of the week.

Heidi Pelkola viewed this subject on 3/12/2018 at 9:57:29 AM

Greg Pelkola on 3/28/2018 at 1:59:50 PM said:

Hello,

I am still waiting for confirmation that you have scheduled an appointment for Sara which includes me as a co-parent. Please follow through with this important step in our shared responsibility to care for her needs. As stated previously, I am available Thursdays and Fridays to attend.

Heidi Pelkola viewed this subject on 3/29/2018 at 10:58:50 PM

Greg Pelkola on 4/02/2018 at 1:49:51 PM said:

I am concerned over your refusal to communicate with me in regard to our daughter's health care. It is in her best interest that we provide a positive co-parenting team for her. Would you like me to make the appointment?

Heidi Pelkola viewed this subject on 4/04/2018 at 12:00:01 PM

## Dan's Car Seat/Booster

Created by: Greg Pelkola on 03/28/2018 at 2:02:06 PM

Greg Pelkola on 3/28/2018 at 2:02:06 PM said:

I noticed that Danny is allowed to ride without a booster. Since he is still only 6 it is important to address his safety needs when riding in your vehicle, or other people's vehicles. Please let me know if you need a booster as I have two and am willing to provide you with one.

Greg

Heidi Pelkola viewed this subject on 3/29/2018 at 10:58:17 PM

## Dr.'s appointment for Daniel

Created by: Heidi Pelkola on 03/13/2018 at 9:36:54 AM

Heidi Pelkola on 3/13/2018 at 9:36:54 AM said:

Greg,

I just made a Dr. Appointment for Daniel for 1:40 pm Arizona time today. It is as Children's Medical group, located at 6780 W. Thunderbird #A101 Peoria, Az. 85381. Phone # is: 1(602)843-1991.

It will be with Dr. Neuwirth. I kept Daniel home from school today again. He's had diarrhea and was vomiting x5 yesterday evening. Temperature was 100.5. It is currently 99.0. He has told me his legs and arms hurt and stomach feels bad. He is able to keep down sips of Gatorade. Please let me know if or how you would like to proceed with his appointment today. I can call you at the start of his appointment if you would like.

Thank you,  
Heidi Pelkola

Greg Pelkola viewed this subject on 3/13/2018 at 9:39:52 AM

Greg Pelkola on 3/13/2018 at 9:41:25 AM said:

Thank you. Yes, call me at the beginning of his appointment.

Heidi Pelkola viewed this subject on 3/13/2018 at 9:49:29 AM

Daniel

Created by: Heidi Pelkola on 03/12/2018 at 10:04:48 AM

Heidi Pelkola on 3/12/2018 at 10:04:48 AM said:

Greg,

I am notifying you that Daniel is sick and I kept him home from school today. He does not have a fever but was vomiting X2 last night. I will keep you updated.

Greg Pelkola viewed this subject on 3/12/2018 at 10:39:28 AM

Greg Pelkola on 3/12/2018 at 4:54:23 PM said:

Thank you for letting me know

Heidi Pelkola viewed this subject on 3/13/2018 at 9:18:23 AM

IRS

Created by: Greg Pelkola on 03/05/2018 at 12:29:22 PM

Greg Pelkola on 3/05/2018 at 12:29:22 PM said:

It is a falsehood that there was an IRS fraud perpetuated at the end of the marriage. Please cease this claim unless you are able to produce evidence such.

With all due respect, the IRS has nothing to do with the best interest of our children. Therefore we should work mutually towards positive co-parenting skills. Negative and false narratives will not help us mutually raise mentally healthy children.

Looking forward to positive communication in the future.

Greg

Heidi Pelkola viewed this subject on 3/12/2018 at 9:58:12 AM



## Please pay your half per decree, part 2

Created by: Heidi Pelkola on 02/27/2018 at 11:57:03 AM

Heidi Pelkola on 2/27/2018 at 11:57:03 AM said:

Your half of the dental bill is \$146.56 and your half of Dr. Bill is \$28.00 for a total of \$174.56. Please reimburse me \$174.56. I will let you know how much their prescriptions are when I pick them up.

Greg Pelkola viewed this subject on 2/27/2018 at 5:50:11 PM

Greg Pelkola on 3/03/2018 at 8:03:55 PM said:

Paid by check #1027 - 03/03/2018

Please mail copies of medical records for Sara's encopresis visits over the last four years.

Did you take care of the HIPPA release forms to include me on the children's medical records as per court order?

Greg

Heidi Pelkola viewed this subject on 3/03/2018 at 9:43:11 PM

Heidi Pelkola on 3/04/2018 at 10:12:49 AM said:

Greg,

I did check soon after court, with the Dr.'s office that I take the kids to concerning the HIPPA release forms. I was told I did not need to sign any release forms, as you were already listed as the father.

In addition, I do not have in my possession Sara's medical records for the last four years. You do however, know her history with encopresis, as you were at the appointment with me when she was diagnosed with encopresis, in Alaska.

Please note, you are also supposed to pay for half of pharmacy costs not covered by insurance. I sent hard copy receipts for pharmacy with the Dr. bill and dental bill.

Heidi

Greg Pelkola viewed this subject on 3/04/2018 at 10:13:50 AM

Greg Pelkola on 3/04/2018 at 10:32:12 AM said:

Thank you for your feedback and use of talkingparent.

I acknowledge receipt of pharmacy receipts on 03/03/2018.

1. Receipt dated 02/27/2018 \$25.56.
2. Receipt dated 03/01/2018 \$11.00.

I will send a check for 50% of total receipts within the customary 30 days. \$18.28

Medical records.

For four years I have had joint legal custody with no input on medical, dental, eyes, or mental health. As per the court order, as primary physical, it is incumbent upon you to provide any documents in these areas. If you are unable to obtain these records, please feel free to schedule a phone conference with me in order to update me on these findings.

In regards to Sara's condition, it would be appropriate to schedule a doctor's appointment for Sara that includes me. This is the order for any and all related medical concerns but this in particular is a medical issue I must be 100% involved in.

My schedule provides that I can be in AZ for her appointment on Thursdays or Fridays.

I am looking forward to meeting her doctor and going over her medical needs with you.

Greg

Heidi Pelkola viewed this subject on 3/04/2018 at 10:46:45 AM

Greg Pelkola on 3/04/2018 at 11:12:38 AM said:

Online banking check scheduled for distribution of \$18.28 on 03/04/2018.  
50% prescription fees

You should receive a check this week.

Thank You  
Greg

Heidi Pelkola viewed this subject on 3/04/2018 at 4:08:15 PM

Please pay your half per decree

Created by: Heidi Pelkola on 02/27/2018 at 11:47:26 AM

Heidi Pelkola on 2/27/2018 at 11:47:26 AM said:

Please reimburse me your half of the kids Dr.'s bill and I also have not received reimbursement from your half of the kid's dental bill I texted to you before.

Greg Pelkola viewed this subject on 2/27/2018 at 5:49:59 PM

Greg Pelkola on 3/03/2018 at 8:04:58 PM said:

Paid check #1027 - 03/03/2018.

Heidi Pelkola viewed this subject on 3/03/2018 at 9:41:51 PM

Weekend Visit and Medical Bills

Created by: Greg Pelkola on 03/01/2018 at 1:00:50 PM





Greg Pelkola on 3/01/2018 at 1:00:50 PM said:

I will be in AZ tomorrow, March 2nd through Saturday evening March 3rd, and would like to spend some time with the kids, particularly to celebrate Justin's birthday early since I may not see him until Spring Break visitation. Please let me know how you would like me to accommodate with your work schedule so that I can also alleviate your mother having to watch them.

Additionally, I will be dropping off my share of the medical/ dental bill. Please have hard copies of the receipts as well as any medical paperwork related to their visit, as per current court order.

Thank You  
Greg

Heidi Pelkola viewed this subject on 3/03/2018 at 3:42:34 PM

## Birth certificates

Created by: Greg Pelkola on 02/27/2018 at 5:51:05 PM

Greg Pelkola on 2/27/2018 at 5:51:05 PM said:

Shellie just ordered certified birth certificates from vital statistics. We are putting the kids on the union insurance as a secondary plan. I will send you a set of insurance cards when they arrive. This will eliminate co-pays and provide additional coverage.

Heidi Pelkola viewed this subject on 2/28/2018 at 6:35:01 AM

Heidi Pelkola on 2/28/2018 at 6:39:19 AM said:

I am not in agreement with that. Tricare standard won't cover anything if there is a secondary insurance. Please just pay your half of bill amounts not covered by insurance.

Greg Pelkola viewed this subject on 2/28/2018 at 10:01:34 AM

Greg Pelkola on 2/28/2018 at 10:13:12 AM said:

Thank you for your feedback. However, I am not in agreement with having our children covered by only one insurance when I am capable of providing secondary coverage. Since I have the option, it is in the best interest of the kids to provide additional coverage. I believe the judge will agree that more is better.

Court Submissable Communication

Greg

Greg Pelkola on 2/28/2018 at 10:15:55 AM said:

Also...

Please follow the court directive to inform me of medical, dental, and eye care appointments prior to the appointments. Also, please follow the court directive to inform me of the outcomes.

Thank you for using talkingparents.com. Until the secondary insurance is established, please follow the protocol of emailing receipts or uploading to talkingparents.

Thank You  
Greg

Heidi Pelkola viewed this subject on 2/28/2018 at 4:56:42 PM

## Spring Break

Created by: Greg Pelkola on 02/18/2018 at 5:17:13 PM



Complete Record - Greg Pelkola and Heidi Pelkola  
All times presented in Pacific Standard Time  
Report Generated By: Greg Elliott Pelkola on 5/24/2018 at 2:48:16 PM

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DEF 17

Greg Pelkola on 2/18/2018 at 5:17:13 PM said:

Spring Break Pickup  
Saturday, March 17th 2:00 pm @ Loves Truck Stop.  
Sara, Justin, Danny

Drop Off  
Sunday, March 25th  
2:00 pm Loves Truck Stop.

Heidi Pelkola viewed this subject on 2/18/2018 at 5:19:51 PM

25 Dec 17

Created by: Greg Pelkola on 12/25/2017 at 6:53:58 PM

Greg Pelkola on 12/25/2017 at 6:53:58 PM said:

Talking Parent Link has been sent to you.  
Since you are not yet registered, I can address your probing concerns here.

1. Boys ate breakfast and lunch. I personally provided healthy meals. They will be eating dinner as well shortly, provided by Kimeron.
2. Kimeron is engaged and providing appropriate supervision. Her whereabouts vary as the boys play upstairs and downstairs. She was not in her room when you called to interrogate otherwise I would not know that my need to follow up your inquiry was required.
3. The boys each recieved two gifts. Sara's gifts are here as well but since you are denying me my court ordered visitation, she will receive them when we meet two Sundays from now.

We are celebrating again when Shellie returns from her grandmother's so if you are concerned over the modest Christmas, please be sure that Christmas is about more than Santa and the children's holiday experience is being addressed.

4. As both boys confirmed, Gunner is at Bill Gardner's home. Should you need additional confirmation I am happy to provide Bill's number so that he can ask Gunner to bark for you.

Please register for talkingparent.com so that I may add this text to our court records of communication.

Heidi Pelkola viewed this subject on 12/25/2017 at 8:16:33 PM

Heidi Pelkola on 12/26/2017 at 9:05:50 AM said:

In reply to your message, I had Sara at the exchange location with her suitcase packed. She would not get out of the vehicle.

Kimeron has autism. As discussed yesterday via phone call, she is not an appropriate person to watch 2 young boys, ages 6 yrs. old and 9 yrs. old, while there is nobody else present in your home.

I am hoping for positive communication from you  
In the future. The negative communication from you is counterproductive.

Greg Pelkola viewed this subject on 12/26/2017 at 10:36:27 AM



... Greg Pelkola on 12/26/2017 at 4:52:02 PM said:

In reply to your message.

Kimeron is a bright, articulate, adult (age 21) with high functioning autism, formerly known as Aspergers Syndrome. She graduated High School with a standard diploma, on time with no accomodations whatsoever for communication or cognition. She tested at an IQ level of 148. Just like our daughter, Kimeron is far above standard IQ.

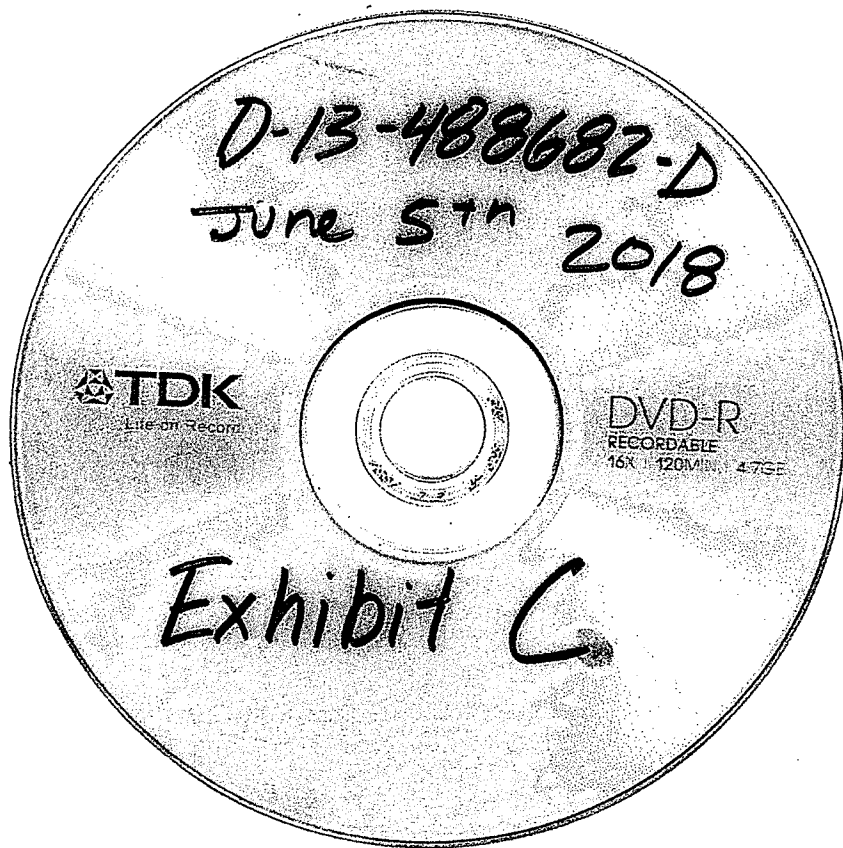
Kimeron completed a 6 month internship with a veterinary ophthalmologist and then chose to become self-employed as a commissioned artist. She is currently in collaboration with 10 top digital artists in the US. A leading digital artist for Disney asked her to contribute. She is professional, accomplished, and perfectly independent other than social anxiety and panic episodes brought on by large crowds. We do not have large crowds in our home.

As an adult and a father, I am more than capable of discerning appropriate care from inappropriate care. I appreciate your concern and input. However, in this case it would be advantageous to our co-parenting success for you to trust that I would never leave our children in the care of a cognitively disabled young woman, even for an hour our two.

Greg Pelkola  
Court Admissible Communication

📧 Heidi Pelkola viewed this subject on 12/26/2017 at 5:08:20 PM

# EXHIBIT C



MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Hedi Marie Pelkeda  
Plaintiff/Petitioner

v. Greg Elliot Pelkeda  
Defendant/Respondent

Case No. D-13-488682-D

Dept. L

MOTION/OPPOSITION  
FEE INFORMATION SHEET

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

|   |  |
|---|--|
| <input type="checkbox"/> \$25           | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  |
| -OR-                                    |  |
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:  |
| <input type="checkbox"/>                | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.   |
| <input type="checkbox"/>                | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.  |
| <input type="checkbox"/>                | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input checked="" type="checkbox"/>     | Other Excluded Motion (must specify) <u>motion for OSC</u>   |

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

|   |  |
|---|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:  |
| <input checked="" type="checkbox"/>     | The Motion/Opposition is being filed in a case that was not initiated by joint petition.   |
| <input type="checkbox"/>                | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$129          | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$57           | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:

☐\$0 ☐\$25 ☐\$57 ☐\$82 ☐\$129 ☐\$154

Party filing Motion/Opposition: The Grimes Law Office for Defendants Date 6/5/18

Signature of Party or Preparer [Signature]

ORIGINAL

*Steven D. Grierson*

OPCM  
CAROL MENNINGER, P.C.  
Carol Menninger, Esq.  
Nevada Bar No: 000100  
3210 W. Charleston, Ste. 1  
Las Vegas, Nevada 89102  
Telephone: (702) 384-1111  
Facsimile: (702) 384-5250  
Email: cmlaw28@yahoo.com  
Attorney for Plaintiff,  
HEIDI MARIE PELKOLA

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

HEIDI MARIE PELKOLA,

Plaintiff,

vs.

GREG ELLIOTT PELKOLA,

Defendant.

CASE NO: D-13-488682-D  
DEPT NO: L

DATE OF HEARING: 8/23/2018  
TIME OF HEARING: 9:00 A.M.

ORAL ARGUMENT  
REQUESTED: YES

"NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION/COUNTERMOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION/COUNTERMOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION/COUNTERMOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT WITHOUT HEARING PRIOR TO THE SCHEDULED HEARING DATE."

Law Offices  
Carol Menninger  
A Professional Corporation  
3210 West Charleston Blvd., Suite #1  
Las Vegas, Nevada 89102  
Tel: (702) 384-1111 Fax: (702) 384-5250

1 PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR AN  
2 ORDER TO SHOW CAUSE WHY SHE SHOULD NOT BE HELD IN  
3 CONTEMPT AND MOTION TO MODIFY CUSTODY  
4 AND  
5 PLAINTIFF'S COUNTER MOTION TO RESOLVE PARENT/CHILD  
6 ISSUES; FOR HER ATTORNEY'S FEES INCURRED HEREIN; AND  
7 RELATED MATTERS

8 COMES NOW the Plaintiff, HEIDI MARIE PELKOLA, by and through her  
9 attorney, Carol Menninger, Esq., and moves this Honorable Court for the following  
10 relief:

- 11 1. Denying the relief sought by Defendant;
- 12 2. That the minor child Sara be interviewed and granted teenage  
13 discretion regarding visitation.
- 14 3. Ordering Defendant to comply with the order for the division of his  
15 military retirement;
- 16 4. For Plaintiff's attorney's fees incurred herein;
- 17 5. For such other and further relief as the court deems just and equitable.

18 ///

19 ///

20 ///

21 ///

22 ///

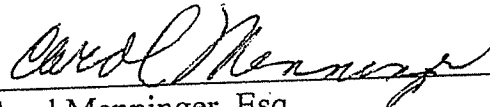


Law Office  
Carol Menninger  
A Professional Corporation  
3210 West Charleston Blvd., Suite #1  
Las Vegas, Nevada 89102  
Tel: (702) 384-1111 Fax: (702) 384-5250

1 This opposition and counter motion is made and based upon all the papers and  
2 pleadings on file, and the attached affidavit and is made in good faith and not to  
3 delay justice.

4 Dated this 12<sup>th</sup> day of June, 2018.

5 Respectfully submitted:

6  
7  
8   
9  
10 Carol Menninger, Esq.  
11 Nevada Bar No: 000100  
12 3210 W. Charleston, Ste. 1  
13 Las Vegas, Nevada 89102  
14 (702) 384-1111  
15 Attorney for Plaintiff,  
16 HEIDI MARIE PELKOLA

17 **I. POINTS AND AUTHORITIES**

18 **RECENT CIRCUMSTANCES**

19 Plaintiff, HEIDI MARIE PELKOLA (hereinafter "HEIDI") and Defendant,  
20 GREG ELLIOTT PELKOLA (hereinafter "GREG") were divorced in Clark County,  
21 Nevada by a Decree of Divorce that was entered on May 6, 2014. There are 3 minor  
22 children born as a result of the marriage, namely, Sara M. Pelkola, born: December  
23 2, 2003, age 14; Justin R. Pelkola, born: March 4, 2008, age 10; and, Daniel J.  
24 Pelkola, born: December 9, 2011, age 6. Pursuant to the Decree, the parties were  
25  
26  
27  
28

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1 awarded joint legal custody of their minor children with HEIDI having primary  
2 physical custody, subject to GREG's right of visitation. Because HEIDI and the  
3 children live in Arizona, GREG was awarded visitation over the summer from June  
4 8th to August 8th and over Spring Break from May 1st to May 10th.  
5

6 Judge Hardcastle presided over the evidentiary hearing, which occurred on  
7 December 19, 2017. After taking testimony and admitting certain exhibits Judge  
8 Hardcastle ordered that GREG's lawyer, Mr. Grimes shall follow up on having the  
9 QDRO prepared by QDRO Masters wherein HEIDI is to receive 45% of the amount  
10 that GREG received in retirement benefits from approximately March of 2014 to  
11 October of 2015. This amount will be the arrears that GREG owes HEIDI. The  
12 QDRO shall further award HEIDI 45% of GREG's current retirement benefits each  
13 month. Judge Hardcastle found no basis for entering a contempt order against  
14 GREG regarding the QDRO and the benefit payments. Judge Hardcastle found no  
15 basis to continue supervised visitation for GREG. Judge Hardcastle ordered that the  
16 prior Court Order relative to GREG's visitation is reinstated. Judge Hardcastle  
17 found that GREG is entitled to make-up visitation days for the days he missed  
18 during the summer of 2017. Those make-up days will be done by awarding GREG  
19 the entirety of the Christmas Vacation this year (2017), which shall conclude the  
20 Sunday prior to school resuming. In addition, GREG was awarded the entire Spring  
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1 Break for the following six (6) years. GREG is to receive summer visitation each  
2 year from one week after school recesses to ten (10) days prior to school resuming  
3 in the fall. The parties' daughter Sara was not allowed teenage discretion. The  
4 parties may enroll in Our Family Wizard or TalkingParents for communication  
5 purposes if they mutually agree. Reasonable attorney's fees were awarded in favor  
6 of GREG against HEIDI. Mr. Grimes is to prepare a Memorandum of Fees and  
7 Costs under the Brunzell Factors, along with supporting documentation. The amount  
8 of attorney's fees awarded shall be offset against the retirement payment arrears.  
9 The parties shall attend mediation prior to filing any future motions relative to child  
10 custody and/or visitation.  
11

12 The order from the December 19, 2017 evidentiary hearing was entered on  
13 January 23, 2018. HEIDI filed a motion to rehear/reconsider the orders issued by  
14 Judge Hardcastle. GREG filed opposition and HEIDI filed a reply. On April 3,  
15 2018 Judge Elliott issued Minutes without a hearing. Both parties were represented  
16 by counsel. Judge Elliott found no basis for a new trial on custodial issues that were  
17 already litigated. However, the Court ordered that the minor children may not  
18 operate a four wheeler or a recreational vehicle without proper safety gear and  
19 proper continuous adult supervision. Judge Elliott found that at the evidentiary  
20 hearing, HEIDI's request for teenage discretion was denied. Therefore, absent new  
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*Law Offices  
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1 factual, medical, mental health or other competent evidence occurring since the  
2 evidentiary hearing warranting a change in this order, the children shall visit with  
3 GREG according to the current order. The Court clarified that the parties stipulated  
4 that GREG's compensatory time is satisfied by him having winter break for six (6)  
5 years, starting in 2017. Additionally, it was ordered that GREG may be allowed to  
6 drink alcohol during his custodial time, but Judge Elliott added that GREG cannot  
7 drink to a point of a legally impaired state while caring for the minor children during  
8 his custodial time. HEIDI was allowed to make one (1) random request for an  
9 alcohol EtG test for GREG during his visitation period. Absent a written agreement,  
10 GREG shall have two (2) hours to complete the test after HEIDI makes such a  
11 request by phone call/voicemail and text. If counsel for either party wants  
12 notification as well, such a provision shall also be included in the order. Counsel to  
13 prepare a separate order authorizing this one random alcohol test per visitation  
14 period which shall designate the range of times of the daytime when a test may be  
15 requested, and which labs will be acceptable for the EtG test. GREG shall be  
16 responsible for the cost of these tests for a period of one (1) year from the date of  
17 this minute order. Thereafter, HEIDI may request the tests per same frequency.  
18 However, she shall reimburse GREG if he is clean; that is, the test shows no  
19 evidence of alcohol use. The parties could also agree in writing to a personal  
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1 handheld breathalyzer that GREG would have which must be utilized within fifteen  
2 (15) minutes of the request for alcohol test and no adulterants may be used and no  
3 alterations or destruction of evidence may be attempted on time, date, photo or test  
4 results as presented in or on documents generated as a result of any such  
5 breathalyzer test. If GREG is ever at or over the legal alcohol limit while with the  
6 minor children, HEIDI may discontinue the visit by picking up the children and  
7 having them return home. GREG may not withhold the minor children for the  
8 pickup and HEIDI may not deny GREG his future visitation, unless GREG is at or  
9 over the legal alcohol limit per breathalyzer test during a visitation period. If GREG  
10 feels that the minor children have been withheld in violation of this order, he may  
11 file a motion with the Court.  
12  
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15

16 Page 3 line 19 of GREG's opposition is incorrect. HEIDI did not fail to  
17 deliver child. HEIDI had all 3 minor children at exchange location in Kingman at  
18 the correct date and time. Sara refused to exit the vehicle to go with GREG. Her  
19 suitcase as well as the boys' suitcase was packed and in the vehicle.  
20

### 21 1. GREG's EDCR 5.501 Statement

22

23 GREG's lawyer states that on May 31, 2018 he sent a letter to HEIDI's lawyer  
24 Carol Menninger, Esq. and then states that HEIDI refused to comply with the  
25 demands in the letter. Ms. Menninger responded to that letter. Please see **Exhibit**  
26

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1 "1", which are the letters of the lawyers to the other. Nothing was resolved because  
2 GREG and his lawyer have made no effort to compromise. However, the exchange  
3 of letters reveal that HEIDI did comply with EDCR 5.501.

4  
5 **2. HEIDI's Opposition to GREG's Request for an Order to Show Cause**

6 **NRS 22.010 Acts or omissions constituting contempts. The following acts**  
7 **or omissions shall be deemed contempts:**

8 3. Disobedience or resistance to any lawful writ, order, rule or process  
9 issued by the court or judge at chambers.

10 Pursuant to NRS22.010 contempt includes acts of disobedience or resistance  
11 to any lawful writ, order, rule or process issued by the court. Any order meant to be  
12 the subject of a contempt proceeding must be clear, unambiguous, and set forth the  
13 details of compliance in clear, specific terms, so the parties will know what duties  
14 or obligations are imposed. *Cunningham v. District Court*, 102 Nev. 551, 729 P.2d  
15 1328 (1986). The moving party carries the burden of demonstrating the other party  
16 had the ability to comply with the order, and the violation of the order was willful.  
17 *Rodriguez v. District Court*, 120 Nev. 789, 102 P.3d 41 (2004). The inability of a  
18 contemnor to obey the order (without fault on their part) is a complete defense and  
19 sufficient to purge them of the contempt charged. *Mccormick v. Sixth Judicial*  
20 *District Court*, 67 Nev. 318, 326; 218 P.2d 939 (1950). However, where the  
21 contemnors have voluntarily or contumaciously brought on themselves the disability  
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1 to obey the order or Decree, such a defense is not available; and the burden of  
2 proving inability to comply is upon the contemnor. Id.

3 Page 6 lines 5,6, and 7 of GREG's Opposition are incorrect.. Judge Hardcastle  
4 stated makeup time for the next 6 spring breaks, not winter breaks for the next 6  
5 years. The order is currently subject to a motion to set aside.  
6

7 GREG's allegation that HEIDI has deliberately refused to comply with the  
8 court's custody order by refusing to turn the children over to him is simply untrue.  
9 HEIDI and the children appeared at the child exchange location in Kingman,  
10 Arizona at the designated time and place. HEIDI has included photos as **Exhibit**  
11  
12  
13 2.

14 GREG admits in his opposition that the two younger children did go with him.  
15 His admission obviously indicates that HEIDI and the children were present for the  
16 child exchange and that she did not interfere with GREG's visitation.  
17

18 Nevertheless, GREG complains that HEIDI refused to "facilitate" the  
19 exchange even though she knows of the custody order. Knowledge of the custody  
20 order is not the issue. Sara refused to get out of the vehicle and go with GREG for  
21 the visit. Sara is 14 years old. She does not have teenage discretion, even though  
22 HEIDI has requested it. HEIDI was not about to physically force Sara to go with  
23 GREG. GREG was careful not to try and drag the child out of the vehicle and  
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1 physically force her into his car. Instead, GREG complains that HEIDI stood by and  
2 said nothing. There is nothing for HEIDI to say that has not already been said to  
3 Sara. If Sara refuses to go with GREG, the unfortunate fact is there's nothing HEIDI  
4 or GREG can do to force Sara to go.

5  
6 HEIDI has never refused to put GREG on the children's school records and  
7 medical records. GREG has been listed as the children's father in the school and  
8 medical records. GREG has had notification of gifted services for Sara and has had  
9 medical providers name and addresses and phone numbers provided by HEIDI.  
10 HEIDI notifies GREG of appointments and GREG has attended appointments via  
11 phone. GREG has received emails and texts about medications for the children.

12  
13 GREG has failed to show that HEIDI deliberately or willfully violated the  
14 court's custody order and therefore his motion for an order to show cause must be  
15 denied.  
16  
17

18  
19 **3. GREG's Request For Sole Legal And Primary**  
20 **Physical Custody Of The Minor Children**

21 **NRS 125C.0045 Court orders; modification or termination of orders;**  
22 **form for orders; court may order parent to post bond if parent resides in or has**  
23 **significant commitments in foreign country.**

24 1. In any action for determining the custody of a minor child, the court may,  
25 except as otherwise provided in this section and NRS 125C.0601 to 125C.0693,  
26 inclusive, and chapter 130 of NRS:

27 (a) During the pendency of the action, at the final hearing or at any time  
28 thereafter during the minority of the child, make such an order for the custody, care,



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1 education, maintenance and support of the minor child as appears in his or her best  
2 interest; and

3 (b) At any time modify or vacate its order, even if custody was determined  
4 pursuant to an action for divorce and the divorce was obtained by default without  
5 an appearance in the action by one of the parties.

6 The party seeking such an order shall submit to the jurisdiction of the court  
7 for the purposes of this subsection. The court may make such an order upon the  
8 application of one of the parties or the legal guardian of the minor.

9 In order to change custody GREG must show he has met the standard of *Ellis*  
10 *v. Carucci*, 167 P3rd 239 (Nev. 2007), which requires him to show (1) there has  
11 been a substantial change in circumstances affecting the welfare of the child, and (2)  
12 the modification serves the best interest of the child.

13 GREG has offered scant evidence to show a substantial change in  
14 circumstance affecting the children's welfare. The only incident that has occurred  
15 since the parties were last in court on April 3, 2018 is the aborted child exchange  
16 regarding the eldest child Sara. Under the circumstances, that incident is scarcely  
17 significant enough to warrant a change in custody.

18 4. In determining the best interest of the child, the court shall consider and  
19 set forth its specific findings concerning, among other things:

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

22 The two older children , Sara and Justin are ages 14 and 10, respectively.  
23 They want to remain living primarily with HEIDI. Sara has not had a bonded  
24

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1 relationship with GREG since well before the parties' divorce. HEIDI previously  
2 requested that the court grant teenage discretion allowing Sara to choose to go on  
3 visitations or not. The court denied request unless new further evidence could be  
4 obtained. The video from HEIDI and recent pictures of Sara at the child exchange  
5 location are further evidence that it is not in Sara's best interest to go on future  
6 visitations. HEIDI requests the court at least interview Sara and grant her teenage  
7 discretion, as GREG has displayed controlling behavior towards Sara, documented  
8 previously by Dr. Kristine Autry. Sara is 14 and is of sufficient age to be able to  
9 decide if she wants to go on visitation or not.

10  
11  
12 **(b) Any nomination of a guardian for the child by a parent.**

13  
14 This factor does not apply.

15  
16 **(c). Which parent is more likely to allow the child to have frequent  
17 associations and a continuing relationship with the noncustodial parent.**

18 HEIDI has demonstrated she is the parent who is more likely to allow GREG  
19 have a relationship with his children. HEIDI has asked for supervised visitations,  
20 not to eliminate all of GREG's visitations but to protect the children. HEIDI has  
21 asked that Sara be granted discretion to choose if she wants to go on visitations and  
22 she would renew her request in this opposition. This factor supports denying  
23 GREG's request to modify legal and physical custody.  
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**(d) The level of conflict between the parents.**

The level of conflict between the parties is high because of GREG's long history of verbal, emotional and physical abuse to HEIDI. GREG has not complied with orders related to the dog, has had Justin handling and shooting firearms over HEIDI'S objection, and, withholding Sara's medication while she is with GREG for visitation. This factor supports denying GREG's request to modify legal and physical custody.

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

The parties have not been able to cooperate to meet the needs of the children. GREG has not cooperated with every order of the court. In fact, the allegation is laughable on its face. He continued to have the dog "Gunner" present when the children have been with him. The dog bit their child Daniel in the face on 2 separate occasions. An order was issued that required GREG to ensure the dog not be present when he has the children for visitation. GREG refused to comply. In addition, both parties were told not to speak in a derogatory manner about the other party to others. GREG and his girlfriend created a Go Fund Me online page filled with derogatory false and defamatory statements, false narratives and mischaracterizations of HEIDI. GREG also refused to comply with order granted at the time of divorce, over 4 years ago, regarding military retirement. HEIDI was

1 awarded 45% of GREG's military retirement at time of disbursement, and while  
2 GREG has been drawing large sums out of retirement fund, HEIDI has received  
3 none of her share of those funds as ordered. This factor supports denying GREG's  
4 request to modify legal and physical custody.  
5

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

7 HEIDI is an excellent mental and physical health. GREG's mental and  
8 physical health is certainly open to question, specially in light of his longstanding  
9 substance abuse issues. There has been no abuse, parental alienation or pathogenic  
10 parenting from HEIDI. GREG continues to mischaracterize HEIDI and even  
11 attempts to "Diagnose" her with mental health issues, parental alienation and  
12 pathogenic parenting and claims HEIDI suffers from "Munchausen By Proxy  
13 Syndrome." GREG and his counsel are not doctors and cannot diagnose anyone.  
14 HEIDI has none of the above. HEIDI was willing to and attempted to complete  
15 child interviews and parental evaluations from Dr. Paglini previously, but GREG  
16 would not comply. It makes no sense that GREG is making false allegations about  
17 HEIDI, when his non-compliance is the reason evaluations could not be done. This  
18 factor supports denying GREG's request to modify legal and physical custody.  
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**(g) The physical, developmental and emotional needs of the child.**

The children have the normal physical, developmental and emotional needs of children their age. Throughout their lives, HEIDI has been the only parent capable of meeting these needs. This factor supports denying GREG's request to modify legal and physical custody.

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

The children have very close and loving relationship with HEIDI. The children, and in particular Sara, has not had a bonded relationship with GREG since well before the parties' divorce. GREG would never permit and encourage children's relationship with HEIDI. He speaks in a derogatory way about HEIDI in front of the children and has yelled at and mocked HEIDI in front of the children and did so during supervised park visits which took place between June 2017 to October 2017. Sara was present for these supervised visits. This factor supports denying GREG's request to modify legal and physical custody.

**(I) The ability of the child to maintain a relationship with any sibling.**

The children have always been raised together as a family. HEIDI submits it is in their best interest that they continue to be raised together as a family. This factor supports denying GREG's request to modify legal and physical custody.

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

3 HEIDI had to cancel an appointment for Sara to see a psychologist, on issues  
4 of Sara not wanting to go on visitations with him, because GREG would not  
5 consent. His actions certainly constitute neglect. HEIDI has not "struggled to  
6 maintain employment." HEIDI is currently employed as a licensed practical nurse  
7 and has been for years. HEIDI is able to provide for the children. HEIDI and  
8 children live in a 4-bedroom house that HEIDI bought on September 29, 2016. She  
9 and the children have lived in the home since then. The children have attended the  
10 same school for the last 4 years, with exception of Daniel age 6. He just completed  
11 kindergarten this year.

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

15 GREG was physically and verbally abusive as well as controlling while the  
16 parties were married and verbally abusive afterwards. While parties were still  
17 married, GREG physically and forcefully threw HEIDI and their child Justin out of  
18 the bed as he screamed and swore at them. GREG has had orders of protection  
19 against him (TPO) for domestic violence. GREG had issues with alcohol during  
20 marriage and likely still does and has had at least one DUI. It is for that reason that  
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1 he is against having ETG testing done. If GREG did not have an issue with alcohol  
2 he should not be opposed to random testing. There is documented proof that  
3 reported injuries took place at GREG's not HEIDI's house. There is a previously  
4 filed medical report that confirms the dog bite happened at GREG's residence and  
5 was witnessed by Sara. Justin's black eye occurred on 2 different occasions also  
6 happened at GREG's home. One (1) black eye happened at GREG's house in the  
7 bathtub. This has been discussed with Justin by the child's school social worker,  
8 Katherine Martinez. In addition, GREG has previously admitted to this in court.  
9 This factor supports denying GREG's request to modify legal and physical custody.  
10  
11

12 **(I) Whether either parent or any other person seeking physical custody has**  
13 **committed any act of abduction against the child or any other child.**  
14

15 HEIDI did not "Abduct" the children from GREG as he repeatedly claims.  
16 He knew and was told by HEIDI they were going to Arizona and GREG consented.  
17 HEIDI removed herself and children to escape the continued physical and verbal  
18 abuse and dysfunction from GREG. GREG made multiple threatening phone calls  
19 to HEIDI and then filed a motion for HEIDI to return the children to Nevada, which  
20 she did, only to have more physical and verbal abuse occur. This factor supports  
21 denying GREG's request to modify legal and physical custody.  
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1 The court should deny GREG's request to modify custody, HEIDI, is a loving,  
2 caring mother who has the children's best interest at heart. There is no change  
3 warranted to modify custody. HEIDI has been the primary care giver to each of the  
4 children since their birth, while GREG was frequently deployed or uninvolved.  
5 HEIDI has a great relationship with each child and frequently takes them to school  
6 events, and other activities. All 3 children have continued to succeed educationally.  
7 The children have friends, a grandmother, an Aunt and uncle in Arizona who love  
8 and care about them as well. The fact is, GREG has not wanted to pay child support  
9 for the 3 minor children which is the real reason he is requesting change in custody.  
10 He does not have the best interest of the children in mind. He has not followed  
11 orders put in place for children's safety. He has not complied with orders regarding  
12 the dog, drinking and military retirement fund. His request to change custody  
13 should therefore be denied.  
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19 HEIDI is requesting that Sara be granted teenage discretion to decide when  
20 and under what circumstances she had visitation with GREG. HEIDI is also  
21 requesting that she be allowed to take Sara to doctor appointments including the  
22 child's psychologist without needing approval from GREG, because he refuses to  
23 consent regarding of the need or circumstances.  
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1 Lastly, it is interesting to note, that GREG is not the writer of the texts on  
2 talking parents texting. His girlfriend is the one scripting the texts for him and has  
3 been for quite some time. GREG does not communicate in that style of writing and  
4 the texts are worded to make GREG appear as cooperative and paint Heidi in a  
5 negative light. The Court must order that communications must come from GREG,  
6 not his girlfriend.  
7  
8

#### 9 4. GREG's Request for a Modification of Child Support

10 NRS125B.145 allows for a review and modification of child support based  
11 on a change in circumstance. GREG has requested that the court modify child  
12 support and order HEIDI to pay him child support pursuant to the guidelines. Child  
13 support will ultimately depend upon the custody arrangement. If GREG's motion  
14 to change custody is denied, then there is no grounds to grant his request for a  
15 review and modification of child support.  
16  
17

#### 18 5. HEIDI'S COUNTER MOTION FOR HER ATTORNEY'S FEES

##### 19 NRS18.010 Award of attorney's fees.

20 2. In addition to the cases where an allowance is authorized by specific  
21 statute, the court may make an allowance of attorney's fees to a prevailing party:  
22

- 23 (a) When he had not recovered more than \$20,000.00; or  
24 (b) Without regard to the recovery sought, when the court finds that the  
25 claim, counterclaim, cross-claim or third-party complaint or defense of the opposing  
26 party was brought without reasonable ground or to harass the prevailing party.  
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1 In *Miller v. Wilfong*, 119 P.3d 727 (2005) the Nevada Supreme Court held  
2 that it is within the trial court's discretion to determine the reasonable amount of  
3 attorney fees under a statute or rule and in exercising that discretion, the court must  
4 evaluate the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev.  
5 345, 455 P.2d 31 (1969).  
6

7 In *Brunzell*, the Nevada Supreme Court held as follows:  
8

9 "From a study of the authorities it would appear such factors may be classified  
10 under four general headings (1) the qualities of the advocate: his ability, his training,  
11 education, experience, professional standing and skill; (2) the character of the work  
12 to be done: its difficulty, its intricacy, its importance, time and skill required, the  
13 responsibility imposed and the prominence and character of the parties where they  
14 affect the importance of the litigation; (3) the work actually performed by the  
15 lawyer: the skill, time and attention given to the work; (4) the result: whether the  
16 attorney was successful and what benefits were derived. Furthermore, good  
17 judgment would dictate that each of these factors be given consideration by the trier  
18 of fact and that no one element should predominate or be given undue weight." *Id*  
19 85 Nev. at 349, 455 P.2d at 33 (citations omitted).  
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Applying these factors to the instant case:

(1) The qualities of the advocate: Carol Menninger, Esq., Is an experienced and highly skilled attorney. She has been practicing law in the state of Nevada for more than 35 years. Ms. Menninger's specialty is family law. She is well known and well respected as a family law practitioner, and has represented thousands of clients in domestic proceedings both in the district court and the Nevada Supreme Court.

(2) The character of the work to be done. The work to be done on this particular matter was the representation of HEIDI in this case.

(3) The work actually performed by the lawyer. Ms. Menninger consulted with HEIDI about the case. Ms. Menninger researched and drafted this opposition and counter motion. Ms. Menninger prepared for the hearing by reviewing the pleadings and other materials and speaking with HEIDI. Ms. Menninger will attend and argue the hearing.

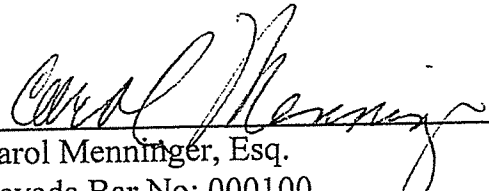
(4) The result: whether the attorney was successful and what benefits were derived. It remains to be seen what will happen at the hearing, however, there is ample grounds to grant HEIDI'S opposition and counter motion in its entirety, as explained in greater detail herein.

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1 HEIDI has incurred fees and costs responding to a frivolous motion. She is  
2 therefore respectfully requests the Court enter an order awarding her attorneys fees,  
3 costs in the sum of \$5,000.00.

4 Dated this 12<sup>th</sup> day of June, 2018.

5  
6 Respectfully submitted:

7  
8   
9 Carol Menninger, Esq.  
10 Nevada Bar No: 000100  
11 3210 W. Charleston, Ste. 1  
12 Las Vegas, Nevada 89102  
13 (702) 384-1111  
14 Attorney for Plaintiff,  
15 HEIDI MARIE PELKOLA

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AFFIDAVIT OF PLAINTIFF, HEIDI MARIE PELKOLA

STATE OF ARIZONA )  
COUNTY OF Maricopa )

SS.



I, HEIDI MARIE PELKOLA, first being duly sworn, depose and say:

1. That Affiant is the Plaintiff in the above-entitled matter. That I have read the foregoing opposition and counter motion, including the points and authorities and any exhibits attached thereto, and the same are true and correct to the best of my knowledge and belief.

2. Based upon the foregoing, I respectfully requests that this Honorable Court grant my foregoing opposition and counter motion.

Heidi Marie Pelkola  
HEIDI MARIE PELKOLA

SUBSCRIBED and SWORN to before me

this 13<sup>th</sup> day of June, 2018.

Petria Estrada MARICOPA ARIZONA  
NOTARY PUBLIC in and for said County and State

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**PROOF OF SERVICE**

I, the undersigned hereby certify that on the 14<sup>th</sup> day of June, 2018, I served Plaintiff's Exhibit Appendix to PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR AN ORDER TO SHOW CAUSE WHY SHE SHOULD NOT BE HELD IN CONTEMPT AND MOTION TO MODIFY CUSTODY AND PLAINTIFF'S COUNTER MOTION TO RESOLVE PARENT/CHILD ISSUES; FOR HER ATTORNEY'S FEES INCURRED HEREIN; AND RELATED MATTERS via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9 to:

Melvin Grimes, Esq. Via email to: [melg@grimes-law.com](mailto:melg@grimes-law.com)

Olivia Nino Via email to: [olivian@grimes-law.com](mailto:olivian@grimes-law.com)

For: THE GRIMES LAW OFFICE  
Attorneys for Defendant, GREG ELLIOT PELKOLA

and that the date and time of the electronic service is in place of the date and place of deposit in the mail.



\_\_\_\_\_  
An employee of Carol Menninger, Esq

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ORIGINAL  
DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

HEIDI MARIE PELKOLA  
Plaintiff/Petitioner

v. GREG ELLIOT PELKOLA  
Defendant/Respondent

Case No. D-13-488682-D

Dept. L

**MOTION/OPOSITION  
FEE INFORMATION SHEET**

**Notice:** Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

**Step 1.** Select either the \$25 or \$0 filing fee in the box below.

|   |  |
|---|--|
| <input type="checkbox"/> \$25           | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  |
| -OR-                                    |  |
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is <u>not</u> subject to the \$25 reopen fee because:   |
| <input type="checkbox"/>                | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.   |
| <input type="checkbox"/>                | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.  |
| <input type="checkbox"/>                | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input checked="" type="checkbox"/>     | Other Excluded Motion (must specify) <u>opposition to OSC</u>  |

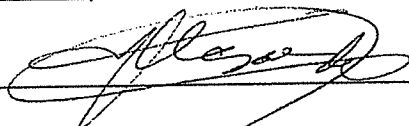
**Step 2.** Select the \$0, \$129 or \$57 filing fee in the box below.

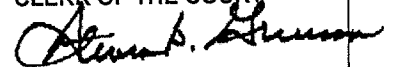
|   |  |
|---|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:  |
| <input checked="" type="checkbox"/>     | The Motion/Opposition is being filed in a case that was not initiated by joint petition.   |
| <input type="checkbox"/>                | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$129          | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$57           | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

**Step 3.** Add the filing fees from Step 1 and Step 2.

|   |   |
|---|---|
| The total filing fee for the motion/opposition I am filing with this form is: |   |
| <input type="checkbox"/> \$0  | <input type="checkbox"/> \$25 <input type="checkbox"/> \$57 <input type="checkbox"/> \$82 <input type="checkbox"/> \$129 <input type="checkbox"/> \$154 |

Party filing Motion/Opposition: Heidi Pelkola Date 6-14-2018

Signature of Party or Preparer 



RPLY (FAM)  
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

\*\*\*\*\*

HEIDI MARIE PELKOLA,

Plaintiff,

vs.

GREG ELLIOT PELKOLA,

Defendant.

CASE NO.: D-13-488682-D  
DEPT NO.: L

Hearing Date: July 19<sup>th</sup> 2018  
Hearing Time: 9:00 a.m.

**ORAL ARGUMENT REQUESTED:**

**YES NO**

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION FOR  
AN ORDER TO SHOW CAUSE WHY SHE SHOULD NOT BE HELD IN  
CONTEMPT AND MOTION TO MODIFY CUSTODY**

**AND**

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION TO  
RESOLVE PARENT/CHILD ISSUES, ATTORNEY'S FEES, AND RELATED  
RELIEF**

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COMES NOW, Defendant, GREG PELKOLA ("GREG"), by and through his attorney of record MELVIN R. GRIMES, of the Grimes Law Office, and submits this Defendant's Reply to Plaintiff's Opposition to Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody and Defendant's Opposition to Plaintiff's Countermotion to Resolve Parent/Child Issues, Attorney's Fees, and Related Relief.

DATED this \_\_\_\_ day of June 2018.

THE GRIMES LAW OFFICE

/s/ Melvin R. Grimes  
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Tel: (702) 347-4357  
*Attorney for Defendant*

1     **I. POINTS AND AUTHORITIES**

2             **STATEMENT OF FACTS AND REBUTTAL ARGUMENT**

3             Plaintiff continues to make it exceedingly clear that she wishes to relitigate the  
4 matters of this divorce and subsequent custody dispute ad nauseum. In order to  
5 preserve the Court's time, Defendant will save the needless recitation of the Court's  
6 previous Orders as they have been briefed quite enough.

7             Plaintiff's assertions that she has cooperated with the Court's Orders regarding  
8 custodial visitation are patently false. The position that she did not fail to deliver the  
9 minor child simply because she was at the pickup location is absurd. This position  
10 flies in the face of the very definition of the word "deliver" which is defined by  
11 Merriam-Webster as "to take and hand over to or leave for another." She may have  
12 brought all three children to the location but she only "delivered" 2 of the children.

13             It is not disputed that Sara refused to get out of the Car in order to go with her  
14 father. However, the Plaintiff conspicuously omits that during the drive from Phoenix  
15 to Kingman, she continually informed Sara that if she didn't want to go all she had to  
16 do was refuse to get out of the car. This is clearly a deliberate and willful refusal to  
17 follow the Court's Order.

18  
19     **II. ARGUMENT**

20             **A. EDCR 5.501 was satisfied prior to filing the instant motion**

21             EDCR 5.501 requires that the moving party attempt to resolve the matter prior to  
22 filing a motion with the Court. As outlined by the Plaintiff in her opposition, Defendant  
23 contacted opposing counsel on numerous occasions to resolve the matter prior to filing  
24 the instant motion.

25             It is unclear what the Plaintiff argues in her opposition as only the moving party  
26 is required to comply with EDCR 5.501 prior to filing a motion with the Court. Further  
27 Defendant's Motion only addressed his compliance with the Rule.  
28

1           **B. Plaintiff should be held in contempt as she willfully and deliberately**  
2           **violated a lawful Order of the Court**

3           As argued above, simply showing up with the children does not comply with the  
4 Court's Order regarding visitation. Plaintiff's interpretation of compliance would  
5 essentially render the ordered timeshare schedule moot as she would only have to show  
6 up then turn around and go home to satisfy the "delivery" requirement.

7           Plaintiff's argument is so outlandish that it is almost impossible to present an  
8 argument. The sum of her argument is that there is nothing that she can do to facilitate  
9 the visitation orders, so the Court should accept the minor child's decisions on visitation  
10 even though teenage discretion has been repeatedly denied. This is nothing more than  
11 an end-run around the Court's Orders.

12           Both parties, in their pleadings, have showed that the Plaintiff has deliberately  
13 and willfully violated the Court's custody Order's. Defendant has alleged the violations  
14 and Plaintiff has admitted as such regardless of her untrue and ultimately ridiculous  
15 excuses. As such, this Court must hold the Plaintiff in contempt in order to protect the  
16 validity of its previous orders.

17           **C. Custody Modification**

18           Plaintiff's best interest of the child analysis is simply a rehashing of past items  
19 which are clearly excluded by either the rules of evidence or *McMonigle* as they have  
20 already been adjudicated numerous times. Additionally, Plaintiff requests teenage  
21 discretion again. This has been denied three times in the last year yet here we are  
22 again litigating the same subject.

23           Plaintiff makes the disingenuous statement that she would be more likely to  
24 allow the Defendant to promote a relationship with the children. Since the onset of the  
25 original divorce, Plaintiff has done everything possible to alienate the children from  
26 their father. When that has failed, she has covertly sabotaged his relationship with the  
27 children through manipulation and pathogenic parenting. Her assertion to the contrary  
28 simply cannot be made in good faith.

1 The rest of Plaintiff's best interest of the child analysis is simply a mix of  
2 baseless allegations and recitations of previously adjudicated issues to include:  
3 unsubstantiated allegations of physical, verbal, and emotional abuse; the dog issue;  
4 the GoFund Me account which has long since been closed; complaints of the  
5 execution of the QDRO which was at the time of filing the opposition resolved with  
6 Plaintiff receiving her portion; speculation as to what Defendant will and wont do  
7 with the children; and a renewed allegation that the Defendant is an alcoholic with  
8 support of a DUI that is nearly 15 years old, previously litigated ad nauseum. Plaintiff  
9 goes as far as stating that "[i]f GREG did not have an issue with alcohol he should not  
10 be opposed to random testing." This statement is shocking to say the least. This  
11 statement essentially voids the Defendant's inherent right to privacy in his person.  
12 Following this line of reasoning, Plaintiff should have no issue with our requests for  
13 her to undergo psychological evaluation at Defendant's requests at her expense.

14 Plaintiff continues with her tirade of baseless accusations in accusing the  
15 Defendant of neglecting his children by requiring that he is included in medical  
16 decisions consistent with the award of Joint Legal Custody which has been ordered.  
17 Yet again, Plaintiff seeks an end-run around the Court's Orders in requesting  
18 permission to exclude the Defendant from medical decisions. This further shows that  
19 the Plaintiff's overall goal is to exclude the Defendant from the children's lives.

20 Plaintiff concludes her ridiculous analysis with accusations regarding the  
21 communication via Talking Parents. Plaintiff asserts, through some means unknown  
22 to Plaintiff, that Defendant's girlfriend rather than he is typing the communications.  
23 Without conceding that this is the case, it wouldn't matter if it was as the Defendant  
24 would be adopting the statements as his own. Certainly, the Plaintiff cannot assume  
25 that the pleadings on file were hand written by the Defendant nevertheless the  
26 communications are adopted as his own. Regardless, there would be no way for the  
27 Court to enforce the Order requested by the Plaintiff. As such, this request should be  
28 denied.

1           **D. Modification of Child Support**

2           Section 4 of the Plaintiff's opposition, page 19 lines 9-17, appears to be the sole  
3 section of sound legal argument. As such, Defendant concedes the legal argument  
4 posed by the Plaintiff with regards to the modification of Child Support. Should this  
5 Court decide not to modify the physical custody in this matter, a change in child  
6 support would not be warranted.

7           **III. OPPOSITION TO PLAINTIFF'S COUNTERCLAIM**

8           **A. Plaintiff is not entitled to Attorney's Fees**

9           It appears that the Plaintiff again relies on this Court granting any relief sought  
10 by the Plaintiff. Plaintiff's request for attorney's fees does not even give a scant  
11 analysis as to why she feels that she is entitled to attorney's fees. Plaintiff simply cites  
12 to some case law and a statute and provides a sum to which she is clearly not entitled  
13 to.

14           This lack of legal analysis clearly outlines the lack of sincere legal work applied  
15 to this opposition and supports that this request should be denied. The lack of  
16 substantive opposition and demand to assert irrelevant and precluded issues brings to  
17 mind the infamous quote of Principal Max Anderson<sup>1</sup>.

18           **IV. CONCLUSION**

19           WHEREFORE Defendant requests the Court grant the following relief:

- 20           1. That the Plaintiff's Countermotion and various requests be denied in its  
21 entirety;  
22           2. That the court issue an Order to Show Cause and set the matter for an  
23 evidentiary hearing;  
24

25  
26  
27           <sup>1</sup> what you've just said is one of the most insanely idiotic things I have ever heard. At no point in your rambling,  
28 incoherent response were you even close to anything that could be considered a rational thought. Everyone in this  
room is now dumber for having listened to it. I award you no points, and may God have mercy on your soul. (Billy  
Madison, Universal Studios, 1995).

3. That Plaintiff be Ordered to present herself at an Evidentiary Hearing that she might show cause why she is not in Contempt of this Court; and
4. That Plaintiff be Order to produce the minor child S.M.P. to Defendant forthwith.
5. That the Custody be Modified awarding Primary Physical Custody to Defendant
6. That Child Support be modified pursuant to statute.
7. For an Award of Attorney's Fees and Costs relating to the present Motion.

DATED this 20<sup>th</sup> day of June 2018.

**THE GRIMES LAW OFFICE**

/s/ Melvin R. Grimes  
MELVIN R GRIMES, ESQ.  
Nevada Bar No. 12972  
808 South 7<sup>th</sup> Street  
Las Vegas, NV 89101  
Tel: (702) 347-4357  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b). I certify that I am an employee of The Grimes Law Office and that on the 20<sup>th</sup> day of June 2018, I caused the foregoing document, Defendant's Reply to Plaintiff's Opposition to Motion for an Order to Show Cause Why She Should Not Be Held in Contempt and Motion to Modify Custody and Defendant's Opposition to Plaintiff's Countermotion to Resolve Parent/Child Issues, Attorney's Fees, and Related Relief, to be served as follows:

- ☒ Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ By placing the same to be deposited for mailing in the United States Mail, in a sealed envelope with appropriate first class postage attached.
- ☐ Pursuant to EDCR 7.26, to be sent via fax, by duly executed consent for service by electronic means; and/or
- ☐ By hand delivery with signed Receipt of Copy;

to the attorney or party listed below at the address, email address and/or fax number indicated below:

Carol Menninger, Esq.  
3210 W. Charleston Blvd., Suite 1  
Las Vegas, NV 89102  
Cmlaw28@yahoo.com

DATED this 20<sup>th</sup> day of June 2018.

**THE GRIMES LAW OFFICE**

/s/ Melvin R. Grimes  
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*Attorney for Defendant*

*Steven D. Grierson*

1 MOT (FAM)  
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9 *Attorney for Defendant*

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*\*

8 HEIDI MARIE PELKOLA,  
9 Plaintiff,

CASE NO.: D-13-488682-D

DEPT: L

11 v.

Hearing Date: 17th January 2018

Hearing Time: 9:00 Am

12 GREG ELLIOT PELKOLA,  
13 Defendant.

**DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR  
ATTORNEY'S FEES AND COSTS**

ORAL ARGUMENT REQUESTED: YES NO

18 NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO  
19 THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE  
20 UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN 10 DAYS OF  
21 THE RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE  
22 WITH THE CLERK OF COURT WITHIN 10 DAYS OF YOUR RECEIPT OF THIS  
23 MOTION MAY RESULT IN THE REQUEST FOR RELIEF BEING GRANTED  
24 BY THE COURT WITHOUT A HEARING PRIOR TO THE SCHEDULED  
25 HEARING DATE.

26 COMES NOW, Defendant, GREG PELKOLA, by and through his attorney,  
27 MELVIN R. GRIMES, ESQ. of THE GRIMES LAW OFFICE, and hereby files this  
28 Defendant's Motion to Modify Physical Custody and for Attorney's Fees and Costs.

///

///



1 This Motion is based on the papers and pleadings on file with this Court, the  
2 Memorandum of Points and Authorities attached hereto, and any Oral Argument this  
3 court may permit.  
4 Respectfully Submitted this 5<sup>th</sup> Day of November 2018.

THE GRIMES LAW OFFICE

  
MELVIN R. GRIMES, ESQ.

Nevada Bar No.: 12972

Melg@grimes-law.com

808 S. 7<sup>th</sup> Street

Las Vegas, NV 89101

P: (702)347-4357

F: (702)224-2160

*Attorney for Defendant*

1 NOTICE OF MOTION

2 TO: HEIDI MARIE PELKOLA, Plaintiff:

3 PLEASE TAKE NOTICE that the undersigned will bring Defendant's Motion  
4 to Modify Custody on for hearing in Department L of the Family Division of the  
5 Eighth Judicial District Court on the 17<sup>th</sup> day of January 2019, ~~2018~~, at the hour of  
6 9:00 Am, or as soon thereafter as counsel may be heard.

7  
8  
9 Respectfully Submitted this 5<sup>th</sup> Day of November 2018.

10 THE GRIMES LAW OFFICE

11 

12 MELVIN R. GRIMES, ESQ.

13 Nevada Bar No.: 12972

14 Melg@grimes-law.com

15 808 S. 7<sup>th</sup> Street

16 Las Vegas, NV 89101

17 P: (702)347-4357

18 F: (702)224-2160

19 *Attorney for Defendant*

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Statement of Facts**

Plaintiff HEIDI PELKOLA ("Heidi") and Defendant, GREG PELKOLA ("Greg") were divorced in Clark County, Nevada by a decree of divorce that was entered on May 6, 2014. There are three (3) minor children born of the marriage: S.M.P., born December 2, 2003; J.R.P., born March 4, 2008; D.J.P., born December 9, 2011. Pursuant to the decree, the parties were awarded Joint Legal Custody and Plaintiff was awarded Primary Physical Custody, subject to Defendant's right of visitation. Defendant is entitled to visitation over the summer from a week after the release of school for summer to a week before school commences, which would be May 29<sup>th</sup> to June 30<sup>th</sup> for the present year, over spring break from the release of school for the break to the day before school resumes, every weekend holiday the minor children have from school, alternating Thanksgiving break, and, more recently awarded, every winter break for the next six (6) years.

The parties have had ongoing struggles regarding the facilitation of court ordered visitation. Recently addressed by the Court was the Plaintiff's unwillingness to actually facilitate custody exchanges. Rather than ensure that exchanges take place seamlessly, Plaintiff would exacerbate the situation by telling the parties eldest child that she would not have to go with the Defendant if she simply refused to get out of the car. Plaintiff was ultimately admonished by the Court for this conduct.

At the last custodial visit with the Defendant, the eldest minor child struggled immensely with the visitation. The minor child assumed a virtually catatonic state while sitting in her room for hours. The Defendant was forced to remove her from her room in order to get her showered. Interestingly enough, any time the Defendant was not in the child's immediate presence she seemed to fully recover from her condition.

The minor child has struggled with psychological and emotional issues since the onset of the party's divorce nearly five years ago. The minor child's condition has been compounded by the conduct of the Plaintiff in that she has, for the last five years,

1 engaged in parental alienation. Plaintiff has regularly spoken terribly about the  
2 Defendant directly to the minor children and created a one or the other condition for  
3 the children in reference to their parents.

4 The Defendant has acted in a manner that has either compounded the ongoing  
5 psychological and emotional issues with the minor child or has failed to address the  
6 issues at hand. As the Court is aware, it has previously been plead that the Plaintiff  
7 suffers from Munchausen by Proxy or something similar and since she has been  
8 required to follow the orders of the Court, the child's mental health has taken a  
9 significant decline. Either way, Plaintiff has shown that she is not fit to care for the  
10 minor children. Plaintiff's ongoing attempts to alienate the children from the  
11 Defendant has now created actual harm to the children and Plaintiff is not fit to care  
12 for said harm.

13 The instant motion to modify physical custody follows.

## 14 II. Legal Argument

### 15 A. Defendant Should be Awarded Primary Physical Custody of the 16 Minor Child

17 A court may make orders for the custody of children; 1(a) During the  
18 pendency of the action, at the final hearing or at any time thereafter during the  
19 minority of any of the children of the marriage, make such an order for the custody,  
20 care, education, maintenance and support of the minor children as appears in their  
21 best interest. NRS 125.510 *See also* NRS 125.230.

22 Pursuant to *Ellis v. Carucci*, a modification of Primary Physical Custody is  
23 only warranted when there is substantial change in circumstances affecting the child  
24 and it serves the child's best interest. 161 P.3d. 239, 242-3 (Nev. 2007).

25 There has been a significant change in circumstances in that the Plaintiff has  
26 inflicted significant mental and emotional damage to the eldest minor child.  
27  
28

1 Currently, the eldest child has regressed to a catatonic state and refuses to speak or  
2 conduct the most basic of personal hygiene. Clearly, the circumstances have changed  
3 thus empowering the Court to modify custody.

4 Additionally, it is believed that the Plaintiff has acted in an intentional  
5 manner to exacerbate the current struggles of the minor child. Plaintiff has cast aside  
6 the needs and wellbeing of the minor child in favor of satisfying her own needs to  
7 both alienate the children from the Defendant and satisfy her own desire to obtain  
8 attention through the emotional injuries that she has inflicted upon the eldest child.

9 The best interest of the child analysis supports that primary physical custody  
10 should be awarded to the Defendant. The minor child is in desperate need of  
11 intervention in the interest of recovering from the psychological and emotional  
12 distress that she now suffers from.

13 In determining the best interest of the minor child, this Court must use the  
14 statutory factors set forth in NRS 125C.0035(4):

- 15 4. In determining the best interest of the child, the court shall consider  
16 and set forth its specific findings concerning, among other things:
- 17 (a) The wishes of the child if the child is of sufficient age and capacity  
18 to form an intelligent preference as to his or her physical custody.
  - 19 (b) Any nomination of a guardian for the child by a parent.
  - 20 (c) Which parent is more likely to allow the child to have frequent  
21 associations and a continuing relationship with the noncustodial parent.
  - 22 (d) The level of conflict between the parents.
  - 23 (e) The ability of the parents to cooperate to meet the needs of the  
24 child.
  - 25 (f) The mental and physical health of the parents.
  - 26 (g) The physical, developmental and emotional needs of the child.
  - 27 (h) The nature of the relationship of the child with each parent.
  - 28 (i) The ability of the child to maintain a relationship with any sibling.
  - (j) Any history of parental abuse or neglect of the child or a sibling of  
the child.

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

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

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

8 The minor children are not of sufficient age or maturity to make an intelligent  
9 decision as to their physical custody. Plaintiff has continually argued that eldest  
10 child, now 15 years old, should be granted teenage discretion; however, this has  
11 been repeatedly denied. Given the current state of the child's mental health, there  
12 can be little argument that she unable to make such an election at this time.

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

14 Not applicable in this case.

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

17 Until recently, when it has become an absolute necessity, the Defendant has  
18 never attempted to interfere with the children's relationship with the Plaintiff or  
19 other family members. The Plaintiff, however, has gone to great lengths to drive a  
20 wedge between the Defendant and the minor children. Belittling the Defendant and  
21 threatening to take the children from the Defendant has become all too common for  
22 the Plaintiff. The children, especially the eldest, are now manifesting issues due to  
23 the past conduct of the Plaintiff.

24 (d) **The level of conflict between the parents.**

25 As the Court is well aware, there is significant conflict between the parties,  
26 but this is due to the Plaintiff's ongoing attempts to separate the Defendant from the  
27 minor children. The Defendant wants nothing more than a strong relationship with  
28 his children and the ability to positively co-parent with the Plaintiff but not at the  
expense of the children's mental health.

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

2           The Defendant wants nothing more than to co-parent with the Plaintiff and  
3 provide the best familial environment possible for the minor children. Plaintiff's idea  
4 of co-parenting is asserting control at every chance and ultimately removing the  
5 Defendant from the children's lives. This has resulted in the shocking regression of  
6 the parties' 15 year old child. Plaintiff's own psychological issues have driven the  
7 eldest child to the breaking point. At present, Plaintiff is not able to provide the  
8 needs of the children.

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

10          Both parents are physically healthy. Plaintiff, however, is believed to struggle  
11 with Munchausen by proxy or some similar disorder which by nature has impacted  
12 the children. It may be that the Plaintiff does not intend to harm the children;  
13 however, she cannot help herself and this Court should not allow her to cause more  
14 damage to the minor children.

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

16          As mentioned above, the eldest child has regressed at an alarming rate. At  
17 present, she is unable to care for herself and has been reduced to a catatonic state,  
18 unwilling to communicate or conduct basic personal hygiene.

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

20          The relationship between the children and the Defendant has been strained in  
21 the past; however, the Defendant is doing everything in his power to repair the  
22 relationship and ensure that he is the best father that he can be to the minor children.  
23 There is little doubt that, with time and intense therapy, the children, under the care  
24 of the Defendant, will be able to recover from the mental wounds inflicted by the  
25 Plaintiff.

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

27          Neither party is proposing that the children be separated.

28       ///

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

3       Aside from the baseless accusations by the Plaintiff intended to further her  
4 attempts to alienate the children from the Plaintiff, there has not been a history of  
5 abuse or neglect.

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

9       Plaintiff has made wild accusations since the onset of the divorce. Plaintiff has  
10 alleged years of continuous abuse, yet she has not presented a shred of evidence in  
11 support of her claims. The parties have had multiple evidentiary hearing regarding  
12 the allegations and Plaintiff was never able to provide a modicum of evidence of  
13 abuse to her or the children.

14       The court should be aware that when Plaintiff attempted to obtain a default  
15 judgment against the Defendant, she had been continuously living in the same house  
16 and sleeping with the Defendant. Further, the morning of the April 17<sup>th</sup> 2014 default  
17 hearing, the Plaintiff engaged in copulation with the Defendant and told him that she  
18 had a doctor's appointment which she had to attend. Because her story seemed  
19 shaky, the Defendant checked the Court calendar to learn that she had been  
20 attempting to ensure that he would not be in attendance at the hearing.

21       The Defendant was unaware of the hearing because the Plaintiff had been  
22 intercepting his mail in order to make sure that he wasn't served with the notice of  
23 hearing. The Defendant had no option other than appear in court with the children  
24 for which he was admonished. The Plaintiff has made it very clear that she is willing  
25 to do whatever it takes to obtain the relief that she feels that she is entitled to  
26 including lying to the Plaintiff and this Court.

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



On January 2, 2014, the Defendant was forced to file a motion with this Court in order to get the minor children returned to the State of Nevada after the Plaintiff absconded with them to Arizona. Although the Defendant pleaded with her to return the children, it was only after she was served with the motion to return the children that she brought the children back to the state. Leading up to the filing of the above-mentioned motion, Plaintiff made it clear that she had disenrolled the children from school and had no intention of returning them to the State of Nevada.

This Court did not have to rule on this matter because the return of the children rendered the issue moot. This is yet another example of the lengths to which the Plaintiff is willing to go in her efforts to completely remove the Defendant from the children's lives.

The above analysis shows that because of the ongoing emotional abuse through parental alienation inflicted by the Plaintiff, it is clearly in the best interest of the children for this Court to order a modification in custody awarding the Defendant Primary Physical Custody. Further, it is imperative for the eldest child to be placed in a healthy environment in which she can receive the intense psychological therapy that is necessary at this point.

**B. The Court Should Modify Child Support to Reflect the Change of Custody**

NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.

1. An order for the support of a child must, upon the filing of a request for review by:
  - a. The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or
  - b. A parent or legal guardian of the child, be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or

adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:

a. Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.

b. Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate; the court shall enter an order modifying or adjusting the previous order for support in accordance with the requirements of NRS 125B.070 and 125B.080.

3. The court shall ensure that:

a. Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or

b. An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.

5. As used in this section:

a. "Gross monthly income" has the meaning ascribed to it in NRS 125B.070.

b. "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

NRS 125b.070 Provides,

1. As used in this section and NRS 125B.080, unless the context otherwise requires:

(a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) "Obligation for support" means the sum certain dollar amount

determined according to the following schedule:

- (1) For one child, 18 percent;
- (2) For two children, 25 percent;
- (3) For three children, 29 percent;
- (4) For four children, 31 percent; and
- (5) For each additional child, an additional 2 percent, of a parent's gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

PRESUMPTIVE MAXIMUM AMOUNT INCOME RANGE

|                     |         |
|---------------------|---------|
| \$0 - \$4,235       | \$681   |
| \$4,235 - \$6,351   | \$749   |
| \$6,351 - \$8,467   | \$820   |
| \$8,467 - \$10,585  | \$886   |
| \$10,585 - \$12,701 | \$955   |
| \$12,701 - \$14,816 | \$1,022 |
| \$14,816 - No Limit | \$1,092 |

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. As used in this section, "Office of Court Administrator" means the

Office of Court Administrator created pursuant to NRS 1.320.

*Rivero* states that, "although a party need not show changed circumstances for the district court to review a support order after three years, changed circumstances are still required for the district court to modify the order." *Rivero v. Rivero*, 216 P.3d 213, 125 Nev. 410 (Nev., 2009). Movant must show a change in circumstance to modify the support order and that the court cannot modify to conform to NRS 125B.070 and NRS 125B.080, simply because more than three years passed since its last review. *Fernandez v. Fernandez*, 222 P.3d 1031 (Nev., 2010). To prevail on his modification motion on remand, *Rivero* requires the father to demonstrate changed circumstances. *Id.* at 1039.

The court should modify custody awarding Primary Physical Custody of the three minor children to GREG. This change necessitates a modification of child support reflecting the new custodial order.

#### C. Defendant Should be Awarded Attorney's Fees and Costs

Chapter 18 of the Nevada Revised Statutes grants courts discretion to award attorney fees "when the court finds that the claim...was brought or maintained without reasonable ground" and permits courts to "punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase" costs. NRS 18.010(2)(b). To justify an award of attorney's fees, the district court must determine whether there were reasonable grounds for the claims asserted. *Bergmann v. Boyce*, 109 Nev. 670, 675, 856 P.2d 560, 563 (1993). The proper inquiry evaluates the frivolousness of the suit at the time it was initiated. *Barozzi v. Benna*, 112 Nev. 635, 639, 918 P.2d 301, 303 (1996).

Plaintiff has gone to great lengths to create a divide between Defendant and the minor children, actively engaging in parental alienation. Defendant has been on the receiving end of endless tirades consisting of personal attacks and threats to take the children away from him for good. Additionally, the Plaintiff has exacerbated the

1 psychological issues with the eldest child to a point that there is no option other than  
2 removing the child from the Plaintiff's care. As such, the Defendant is entitled to  
3 attorney's fees and cost to defend against this action. Defendant seeks permission to  
4 submit an affidavit of fees and costs in defense of the present motion and a *Brunzell*  
5 Affidavit within ten days of the present order.


6 **III. Conclusion**

7 Wherefore Defendant respectfully requests the following relief:

- 8 1. Orders granting the Defendant Primary Physical Custody of the minor  
9 children;  
10 2. That this Court issue an Order requiring the return of the minor children to the  
11 State of Nevada;  
12 3. That the Court Set Child Support consistent with the change in physical  
13 custody;  
14 4. That the Court Award Defendant Attorney's Fees and Costs; and  
15 5. For any other such relief that this court deems just and proper.

16 Respectfully Submitted this 5<sup>th</sup> Day of November 2018.

17  
18 **THE GRIMES LAW OFFICE**

19   
20 MELVIN R. GRIMES, ESQ.

21 Nevada Bar No.: 12972

22 [Melg@grimes-law.com](mailto:Melg@grimes-law.com)

23 808 S. 7<sup>th</sup> Street

24 Las Vegas, NV 89101

25 P: (702)347-4357

26 F: (702)224-2160

27 *Attorney for Defendant*  
28

VERIFICATION

I, GREG PELKOLA, under penalties of perjury, being first duly sworn,  
deposes and says:

That I am the Plaintiff in the above-entitled action; that I have read the  
foregoing Motion and know the contents thereof; that the same is true of my own  
knowledge, except for those matters therein contained stated upon information and  
belief, and as to those matters, I believe them to be true.

DATED this 5<sup>th</sup> day of November 2018

/s/ Greg Pelkola (original signature on file)  
Greg Pelkola

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

Heidi Marie Pelkola  
Plaintiff/Petitioner

v. Greg Elliot Pelkola  
Defendant/Respondent

Case No. D-13-488682-D  
Dept. L

MOTION/OPPOSITION  
FEE INFORMATION SHEET

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

|   |  |
|---|--|
| <input type="checkbox"/> \$25           | The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  |
| -OR-                                    |  |
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:  |
| <input type="checkbox"/>                | The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.   |
| <input type="checkbox"/>                | The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.  |
| <input type="checkbox"/>                | The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____. |
| <input checked="" type="checkbox"/>     | Other Excluded Motion (must specify) <u>Motion to Modify</u> .   |

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

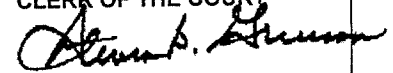
|   |  |
|---|--|
| <input checked="" type="checkbox"/> \$0 | The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:  |
| <input checked="" type="checkbox"/>     | The Motion/Opposition is being filed in a case that was not initiated by joint petition.   |
| <input type="checkbox"/>                | The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$129          | The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.   |
| -OR-                                    |  |
| <input type="checkbox"/> \$57           | The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129. |

Step 3. Add the filing fees from Step 1 and Step 2.

|   |   |
|---|---|
| The total filing fee for the motion/opposition I am filing with this form is: |   |
| <input type="checkbox"/> \$0  | <input type="checkbox"/> \$25 <input type="checkbox"/> \$57 <input type="checkbox"/> \$82 <input type="checkbox"/> \$129 <input type="checkbox"/> \$154 |

Party filing Motion/Opposition: The Grimes Law Office for G.E.P. Date 11/8/2018

Signature of Party or Preparer: [Signature]



NNOP  
MELVIN R. GRIMES, ESQ.  
Nevada Bar No: 12972  
[melg@grimes-law.com](mailto:melg@grimes-law.com)  
THE GRIMES LAW OFFICE  
808 S. 7th Street  
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p: (702) 347-4357  
f: (702) 224-2160  
*Attorney for Defendant*

**DISTRICT COURT  
CLARK COUNTY, NEVADA  
\*\*\*\*\***

HEIDI MARIE PELKOLA,  
  
Plaintiff,  
  
v.

CASE NO.: D-13-488682-D  
  
DEPT: L

GREG ELLIOT PELKOLA,  
  
Defendant.

**NOTICE OF NON-OPPOSITION  
TO DEFENDANT'S MOTION TO  
MODIFY PHYSICAL CUSTODY  
AND FOR ATTORNEY'S FEES  
AND COSTS**

COMES NOW, Defendant, GREGE PELKOLA, by and through his attorney of record, MELVIN R. GRIMES, ESQ. of THE GRIMES LAW OFFICE, and hereby file this Notice of Non-Opposition to Defendant's Motion to Modify Physical Custody and For Attorney's Fees and Costs.

Defendant objects to any future untimely Opposition by the Plaintiff, HEIDI PELKOLA, and ask that his Motion be granted. Defendant, through Counsel, filed his Motion on November 9<sup>th</sup> 2018 and personally served the Plaintiff via E-Service on November 5<sup>th</sup> 2018 pursuant to the Certificate of Service, filed on November 29<sup>th</sup>



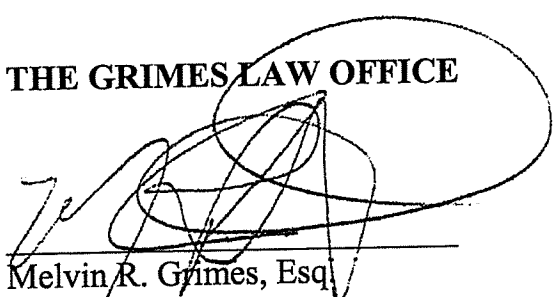
2018. Plaintiff's Opposition was due on or before November 28<sup>th</sup> 2018. To date, no opposition has been filed nor has a request for extension of time been made. Further, no good cause exists for why the Plaintiff has failed to file an Opposition.

EDCR 2.20(e) states: Within (10) days after the service of the motion...the opposing party must serve and file written notice of non-opposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

Accordingly, the Plaintiff hereby objects to the filing of any future Opposition and asks that any such untimely filing act as an admission that the Motion was meritorious and should be granted.

Submitted on this 29<sup>th</sup> day of November, 2018.

THE GRIMES LAW OFFICE



Melvin R. Grimes, Esq.  
Nevada Bar No.12972  
808 South 7<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 347-4357  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of The Grimes Law Office and that on the 29<sup>th</sup> day of November, 2018, I caused the foregoing document, Notice of Non-Opposition to Defendant's Motion to Modify Physical Custody and For Attorney's Fees and Costs:

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

☐ By placing the same to be deposited for mailing in the United States Mail, in a sealed envelope with appropriate first class postage attached;

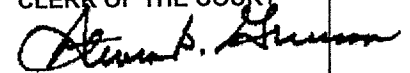
to the attorney or party listed below at the address, email address and/or fax number indicated below:

Gary Zernich, Esq.  
[gzernich@radfordsmith.com](mailto:gzernich@radfordsmith.com)  
*Attorney of Record for Plaintiff*

DATED this 29<sup>th</sup> day of November, 2018.

/s/ Olivia Nino

An Employee of THE GRIMES LAW OFFICE



**OPPS**

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No: 002791

GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702) 990-6448

(702)-990-6456

gzernich@radfordsmith.com

Attorneys for Plaintiff

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

HEIDI MARIE PELKOLA,  
Plaintiff,

v.

GREG ELLIOT PELKOLA,  
Defendant.

CASE NO: D-13-488682-D  
DEPT: L

**FAMILY DIVISION**

**OPPOSITION TO  
DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR  
ATTORNEY'S FEES AND COSTS**


Comes Now, Plaintiff Heidi Pelkola by and through her attorney Gary M. Zernich,  
Esq. of Radford J. Smith, Chartered and files this opposition and countermotion for fees  
and costs. This Opposition is based on the papers and pleadings on file with this court, the

**OPPOSITION**

1 memorandum or points and authorities attached hereto, and any oral argument this court  
2 may permit.

3 Submitted this 10<sup>th</sup> day of December 2018.

4  
5 RADFORD J. SMITH, CHARTERED

6  
7   
8 GARY M. ZERNICH, ESQ.  
9 Nevada Bar No: 007963  
10 2470 St. Rose Parkway, Suite 206  
11 Henderson, Nevada 89074  
12 (702) 990-6448  
13 (702)-990-6456  
14 gzernich@radfordsmith.com  
15 Attorneys for Plaintiff

16 **APPLICABLE LAW**

17 **NRS 125C.0035 Best interests of child: Joint physical custody; preferences; presumptions**  
18 **when court determines parent or person seeking custody is perpetrator of domestic violence**  
19 **or has committed act of abduction against child or any other child.**

20 1. In any action for determining physical custody of a minor child, the sole consideration of  
21 the court is the best interest of the child. If it appears to the court that joint physical custody would  
22 be in the best interest of the child, the court may grant physical custody to the parties jointly.

23 2. Preference must not be given to either parent for the sole reason that the parent is the  
24 mother or the father of the child.

25 3. The court shall award physical custody in the following order of preference unless in a  
26 particular case the best interest of the child requires otherwise:

27 (a) To both parents jointly pursuant to NRS 125C.0025 or to either parent pursuant to NRS  
28 125C.003. If the court does not enter an order awarding joint physical custody of a child after  
either parent has applied for joint physical custody, the court shall state in its decision the reason  
for its denial of the parent's application.

(b) To a person or persons in whose home the child has been living and where the child has  
had a wholesome and stable environment.

2  
**OPPOSITION**

1 (c) To any person related within the fifth degree of consanguinity to the child whom the court  
2 finds suitable and able to provide proper care and guidance for the child, regardless of whether  
3 the relative resides within this State.

4 (d) To any other person or persons whom the court finds suitable and able to provide proper  
5 care and guidance for the child.

6 4. In determining the best interest of the child, the court shall consider and set forth its  
7 specific findings concerning, among other things:

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

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

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

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

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

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

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

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

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

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

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

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

25 5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the  
26 court after an evidentiary hearing and finding by clear and convincing evidence that either parent  
27 or any other person seeking physical custody has engaged in one or more acts of domestic violence  
28 against the child, a parent of the child or any other person residing with the child creates a  
rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the  
domestic violence is not in the best interest of the child. Upon making such a determination, the  
court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence  
occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately  
protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each  
party has engaged in acts of domestic violence, it shall, if possible, then determine which person  
was the primary physical aggressor. In determining which party was the primary physical  
aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those  
prior acts of domestic violence;

(c) The likelihood of future injury;

OPPOSITION

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

↪ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint physical custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking physical custody does not rebut the presumption, the court shall not enter an order for sole or joint physical custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For the purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. If, after a court enters a final order concerning physical custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded sole or joint physical custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning physical custody, reconsider the previous order concerning physical custody pursuant to subsections 7 and 8.

10. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

(b) "Domestic violence" means the commission of any act described in NRS 33.018.

(Added to NRS by 2015, 2583)

OPPOSITION

1 **NRS 125C.0045 Court orders; modification or termination of orders; form for orders;**  
2 **court may order parent to post bond if parent resides in or has significant commitments in**  
3 **foreign country.**

4 1. In any action for determining the custody of a minor child, the court may, except as  
5 otherwise provided in this section and NRS 125C.0601 to 125C.0693, inclusive, and chapter  
6 130 of NRS:

7 (a) During the pendency of the action, at the final hearing or at any time thereafter during the  
8 minority of the child, make such an order for the custody, care, education, maintenance and  
9 support of the minor child as appears in his or her best interest; and

10 (b) At any time modify or vacate its order, even if custody was determined pursuant to an  
11 action for divorce and the divorce was obtained by default without an appearance in the action by  
12 one of the parties.

13 ➔ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of  
14 this subsection. The court may make such an order upon the application of one of the parties or  
15 the legal guardian of the minor.

16 2. Any order for joint custody may be modified or terminated by the court upon the petition  
17 of one or both parents or on the court's own motion if it is shown that the best interest of the child  
18 requires the modification or termination. The court shall state in its decision the reasons for the  
19 order of modification or termination if either parent opposes it.

20 3. Any order for custody of a minor child entered by a court of another state may, subject to  
21 the provisions of NRS 125C.0601 to 125C.0693, inclusive, and to the jurisdictional requirements  
22 in chapter 125A of NRS, be modified at any time to an order of joint custody.

23 4. A party may proceed pursuant to this section without counsel.

24 5. Any order awarding a party a limited right of custody to a child must define that right  
25 with sufficient particularity to ensure that the rights of the parties can be properly enforced and  
26 that the best interest of the child is achieved. The order must include all specific times and other  
27 terms of the limited right of custody. As used in this subsection, "sufficient particularity" means  
28 a statement of the rights in absolute terms and not by the use of the term "reasonable" or other  
similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions  
of chapter 125A of NRS and NRS 125C.0601 to 125C.0693, inclusive, and must contain the  
following language:

*PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR  
DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS  
A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides  
that every person having a limited right of custody to a child or any parent having no right  
of custody to the child who willfully detains, conceals or removes the child from a parent,  
guardian or other person having lawful custody or a right of visitation of the child in  
violation of an order of this court, or removes the child from the jurisdiction of the court  
without the consent of either the court or all persons who have the right to custody or  
visitation is subject to being punished for a category D felony as provided in NRS 193.130.*

OPPOSITION

1 7. In addition to the language required pursuant to subsection 6, all orders authorized by this  
2 section must specify that the terms of the Hague Convention of October 25, 1980, adopted by the  
3 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or  
4 wrongfully retains a child in a foreign country.

5 8. If a parent of the child lives in a foreign country or has significant commitments in a  
6 foreign country:

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

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

18 9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080,  
19 the obligation for care, education, maintenance and support of any minor child created by any  
20 order entered pursuant to this section ceases:

21 (a) Upon the death of the person to whom the order was directed; or

22 (b) When the child reaches 18 years of age if the child is no longer enrolled in high school,  
23 otherwise, when the child reaches 19 years of age.

24 10. As used in this section, a parent has "significant commitments in a foreign country" if  
25 the parent:

26 (a) Is a citizen of a foreign country;

27 (b) Possesses a passport in his or her name from a foreign country;

28 (c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

(Added to NRS by 2015, 2586)



1 INTERVIEWING SARA COULD PROVIDE THE COURT WITH THE  
2 NECESSARY EVIDENCE REGARDING SARA'S RELATIONSHIP WITH GREG  
3 AND WHETHER HEIDI INTERFERES WITH GREG'S RELATIONSHIP WITH  
4 SARA, BUT, THE COURT SHOULD BE AWARE THAT SARA MIGHT NOT  
5 HANDLE THE INTERVIEW WELL

6 Although there are three minor children at issue regarding Greg's request to modify  
7 custody, his basis to modify centers around his relationship with his 15-year-old daughter  
8 Sara. In this regard, he blames his terrible relationship with Sara on Heidi, and despite his  
9 admissions that Sara is in a "catatonic state" when Sara visits with him, Greg insists that it  
10 would be in Sara's best interest to reside primarily with him as compared to with Heidi,  
11 although Sara's relationship with Heidi is top notch.

12 Greg's request to modify custody suffers many shortcomings, potentially the biggest  
13 being that he has no evidence of his allegations regarding Heidi's involvement in the issue  
14 of Sara's relationship with Greg, or of Heidi engaging in alienating behavior. Anything  
15 that Greg has to say that he's allegedly heard from someone other than Heidi is "hearsay".  
16 Statements referenced that came from the children are not reliable without hearing from  
17 the children, and without a proper ability for Heidi to cross exam them to make sure the  
18 statements offered by Greg aren't taken out of context. Nonetheless, at this point, Greg  
19 has not offered any evidence in this regard.

20 Of course, the court might be able to get to the bottom of the issue by interviewing  
21 Sara, or by having her interviewed or by one of the parties calling her as a witness. But  
22 Heidi thinks that would be a poor idea and might cause even more emotional problems for  
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OPPOSITION

1 Sara that she already suffers from. In this regard, getting testimony from Sara, whether by  
2 interview of while on the stand, Heidi does not know how Sara would take that, but is  
3 concerned because Sara is emotionally fragile and possibly suffers from Asperger's  
4 Syndrome (a person with a form of autism that is high functioning but suffers from certain  
5 emotional health issues). However, Heidi says that she (Heidi) "isn't sure" how Sara would  
6 take an interview, because it is possible that if she wants to be interviewed or to voice her  
7 opinion that she would do so without trauma. But Heidi is concerned about taking that  
8 chance and causing emotional trauma to Sara.  
9

10 In this regard, Heidi provides some background for the Court. Sara is a 15-year-old  
11 girl with a high IQ and who gets good grades in school. Even though at home she gets  
12 along well with her siblings and mother (See exhibit One), is generally happy and talkative,  
13 out-side of the house she is introverted, doesn't like eye contact, generally quiet, and  
14 doesn't like change. She is also very stubborn when she "makes a decision", to the point  
15 of "refusal" if it is something that she doesn't want to do. This is quite possibly the reason  
16 that it is almost impossible to convince her to go with Greg during an exchange, and  
17 recently, to convince her to go to class at school (these will be addressed later in the  
18 opposition). This is also a symptom of Asperger's and thus one of the basis for being  
19 evaluated.  
20

21 In 2016, Sara was evaluated by the school for Asperger's Syndrome, and the  
22 evaluation result was positive. However, the diagnosis was from a non-clinical evaluation  
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**OPPOSITION**

1 and since then, up until now, Greg has refused to agree for Sara to go to therapy or for a  
2 further evaluation. However, because of recent developments while at school, the State of  
3 Arizona is going to provide the necessary qualified person to conduct a clinical evaluation  
4 of Sara and whether she suffers from Asperger's Syndrome, and by agreement of the  
5 parties, the parties will try to schedule the evaluation shortly after the Christmas Holiday.  
6 It is Heidi's preference to get the evaluation done as soon as possible, and the State is ready  
7 to proceed on December 11, 2018, but, Greg wants to wait and to be present, so, Heidi will  
8 try to delay the evaluation.  
9

10  
11  
12 Thus, although pursuant to NRS 125C.0035(4)(a) set forth above, one of the factors  
13 for the court to make findings about is the wishes of the child if the child is of sufficient  
14 age and capacity to form an intelligent preference, although generally age 15 is a sufficient  
15 age, and Sara's IQ and school performance would support a finding that she is of sufficient  
16 maturity and intelligence, it is uncertain whether she could handle the interview based upon  
17 her emotional state of mind. The answer to whether Sara can emotionally handle being  
18 involved to this degree wouldn't be known until after the fact, and Heidi doesn't think it is  
19 worth the risk to find out after the fact the involvement traumatized Sara.  
20  
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**OPPOSITION**

1 THE COURT SHOULD NOT MODIFY CUSTODY BECAUSE SARA IS  
2 ALREADY TRAUMATIZED BY BEING IN GREG'S CUSTODY JUST FOR  
3 VISITATION. IT IS NOT IN SARA'S BEST INTEREST TO FORCE HER TO  
4 VISIT GREG IF HER RELATIONSHIP WITH HER FATHER IS SO POOR THAT  
5 SHE GOES INTO A CATATONIC STATE DURING HER VISITS

6 What Greg says in his motion as the basis to modify custody is actually the basis to  
7 "not" modify custody, unless perhaps it is to give Sara teenage discretion regarding  
8 visitation with Greg. Greg says on page 4 that during her last visit with Greg "the eldest  
9 child (that's Sara) struggled immensely with the visitation. The minor child assumed a  
10 virtually catatonic state while sitting in her room for hours. (This could be because Sara  
11 suffers from Asperger's Syndrome). The Defendant was forced to remove her from her  
12 room in order to get her showered. Interestingly enough, any time the Defendant was not  
13 in the child's immediate presence she seemed to fully recover from her condition".  
14

15 This statement alone provides the court reason to be concerned about forcing Sara  
16 to visit Greg. Apparently, Sara refuses to leave her room, perhaps to even get off of the  
17 floor. Apparently, Sara refuses to shower. But not when Greg "isn't" around. Thus, it can  
18 be assumed that it is Sara's relationship with Greg that stresses her out, or sufficiently  
19 bothers her to the point that when Greg is around Sara goes into some pitiful state that Greg  
20 describes a catatonic. And, it is hard to imagine how the situation is made any better by  
21 Greg "forcing" Sara to take a shower, when apparently Sara just wants Greg to leave her  
22 alone.  
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OPPOSITION

1 And, unfortunately Greg blames Heidi on his relationship with Sara, without any  
2 evidence, instead of considering why and how his relationship with Sara is so poor. Greg  
3 only needs to look into the mirror to see where the real problem lays. In this regard, the  
4 court won't fix the problem by "forcing Sara", who is traumatized to the point of being in  
5 a catatonic state when being around Greg, to reside with Greg.  
6

7  
8 Greg states that Heidi created the problem by engaging in parental alienation, but he  
9 has never proven that. Greg states that Heidi suffers from Munchausen by proxy, but a  
10 doctor has never made that diagnosis. Only Greg alleges that, but he isn't qualified to make  
11 such a diagnosis. Heidi is concerned that Greg fills the heads of the children with his  
12 baseless claims and false accusations.  
13

14  
15 The reality is that Sara does just fine while in Heidi's care. The two of them have a  
16 great relationship. Apparently, that bothers Greg. Certainly, Greg wishes to have that  
17 same relationship, and that is one wish that Heidi also wishes for. In that regard, her and  
18 Greg are on the same page. But it is beyond Heidi's ability to make Sara's and Greg's  
19 relationship better, no matter how much she wants it. What Heidi thinks Greg should do is  
20 to go and see a therapist himself and get some guidance on how to try and repair his  
21 relationship with Sara, or quit worrying about the child support that he pays to Heidi, and  
22 instead agree to send Sara to a therapist. Heidi thinks Greg is going about it all wrong, but  
23 it is also beyond her ability to convince Greg of anything, let alone convince him that he  
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**OPPOSITION**

1 only has himself to blame and that he should seek professional help to get a better strategy  
2 to try and get Sara to warm up to him.

3 **THE VISITATION EXCHANGES ARE PAINFULL AND CAUSING**  
4 **EMOTIONAL HARM TO SARA**

5  
6 Heidi was told by the court that if Sara doesn't go with Greg that she, Heidi, could  
7 be held responsible. That she, Heidi, is responsible to make sure that Sara goes with Greg.  
8 But Heidi isn't sure how to accomplish the court's order. There were some past exchanges  
9 that Sara would get out of the car. It had nothing to do with Heidi. Sara refused to get out  
10 on her own volition.  
11

12  
13 Here is Heidi's specific response to this allegation by Greg. Heidi has not been  
14 unwilling to facilitate visitation. The children have been brought to the exchange location  
15 with suitcases packed by Heidi. Although Sara refuses to exit the vehicle willingly, she  
16 has gone for visitations from July 27th, 2018 to August 4th, 2018. She has also during her  
17 fall school break in October 2018. During the fall break exchange, after about an hour of  
18 Heidi's encouragement and attempting to get Sara out of the vehicle to go for the visitation  
19 with her Greg, Heidi felt there was no other choice but to call police to assist in having  
20 Sara exit the vehicle. The policeman arrived and he said he can only talk to Sara, not  
21 physically force her to go. He spoke to her and she still did not exit the vehicle. Only  
22 when the policeman went to talk to Heid, did Sara exited vehicle. It is Heidi's belief that  
23 Sara exited at that point because Sara was afraid that the policeman was to arrest Heidi.  
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**OPPOSITION**

1 However, Sara would still not go to Greg's car. Sara then stood between the two vehicles  
2 and would not voluntarily get into defendant's vehicle, despite Heidi's instruction and  
3 encouragement that Sara should go with Greg. Finally, upon Heidi's accompaniment, arm  
4 in arm, did Sara get into Greg's vehicle. Sara stated: "I don't want to go." The exchange  
5 took over an hour and Heidi's mother witnessed the exchange and took some video with a  
6 cell phone. The video shows Heidi attempting to get Sara out of vehicle and told her  
7 multiple times that she had to go with her dad. And, Heidi denies "ever" telling Sara that  
8 all Sara had to do was to not get out of the car to avoid going with Greg.  
9

10  
11 Of course, Greg blames the situation on Heidi and thinks that Heidi should "force"  
12 Sara to go with him. But Heidi is confused on how far she has to push Sara. Although  
13 apparently Greg wants Heidi to physically drag Sara to his car and to force her inside,  
14 certainly the court doesn't want that. The act of dragging a 15-year-old could be interpreted  
15 as domestic violence. What if Sara resists. Should they struggle. How far should Heidi  
16 go. If she goes "too far" then Greg gets to accuse her of abusing Sara. So, at the age of 15,  
17 Heidi believes that a "hands off" approach is the only way to go. Heidi does not believe it  
18 is in Sara's best interest to be manhandled.  
19  
20  
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22

23 **GREG NEVER INFORMED HEIDI THAT SARA WAS IN A CATATONIC**  
24 **STATE AND SHOULD HAVE. GREG'S NOT SHARING THIS TYPE OF**  
25 **INFORMATION IS A VIOLATION OF LEGAL CUSTODY**  
26

27 If Sara struggled immensely during the last custodial visit, then Heidi didn't know  
28 about it because Greg never alerted Heidi. If Sara was in a "catatonic state while sitting in

1 her room for hours" as defendant's motion claims, then this sounds like possibly a medical  
2 issue and Heidi should have definitely been alerted of such. Heidi was never informed that  
3 the Greg "forced" Sara from room and into the shower. Why didn't Greg take Sara to a  
4 doctor to assess the "catatonic state" and Sar's emotional wellbeing?  
5

6 The court should be very concerned about Sara conduct at Greg's house, and should  
7 know that Sara has never regressed to a catatonic state and refused to speak or conduct  
8 personal hygiene while at her Heid's. She showers and preforms self-care regularly while  
9 in her mother's care. She is active and engaged in conversations with her siblings and  
10 mother. Sara is highly intelligent and has been in gifted classes. She is able to make  
11 decisions.  
12

#### 13 **HEIDI HAS NOT DRIVEN A WEDGE BETWEEN SARA AND GREG**

14  
15 This wedge that Greg refers has been created by Greg's past conduct. Greg has  
16 spoken badly about Heidi in front of children multiple times including at park visits that  
17 took place every other Sunday from June 2017 to October 2017 in Las Vegas where Heidi  
18 was ordered to supervise Greg during the visits. Greg even participated in an online go  
19 fund me page created by his girlfriend, Shellie. The go-fund me page was filled with false  
20 narratives about Heidi in an effort to tarnish her character and mischaracterize her as well  
21 as fund his legal fees. And of course, it was through Greg that Sara became aware of this  
22 conduct. In addition, there has been both physical and verbal abuse to Heidi from Greg,  
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**OPPOSITION**



1 for which Heidi was granted a previous order of protection against Greg, all of which Sara  
2 still remembers.

3 **REGARDING GREG'S OTHER ALLEGATIONS**

4  
5 Much of Greg's motion is filled with alleged facts that have not been proven and  
6 have been addressed in prior hearing. Specifically on April 17th, 2014 Heidi did NOT  
7 engage in copulation with Greg or tell him she had a Dr.'s appointment. Heidi did not take  
8 Greg's mail. Greg was aware of the court date as Heidi had told him. Heidi did not want  
9 to have to do a default, but had no choice as Greg wouldn't cooperate with divorce process.  
10

11  
12 In 2014, the children were not "abducted by Heidi". Greg knew the children and  
13 Heidi were going to Arizona. He had the address and phone number. It was during that  
14 time that Greg had made threatening phone calls to Heidi and threatened to "put a bullet in  
15 the bitch" referring to Heidi. Heidi sought an order of protection in Arizona and it was  
16 granted but was unable to be served as Greg was out of state. And, Heidi did return to  
17 Nevada with the children, but the result was even more abuse from Greg occurred.  
18

19  
20 Heidi has never engaged in threats to take the children away for good. In fact, it is  
21 Greg that has previously threatened that he would go "off grid" with the kids and Heidi  
22 would never talk to or see them again.  
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**OPPOSITION**

SARA REFUSES TO GO TO CLASS, CONINCIDENTIALLY A NEW OCCURANCE THAT STARTED AFTER BEING PULLED FROM CLASS BY CPS

Recently, Greg again called CPS with false allegations against Heidi. Heidi knows it was Greg because he made the call in-front of Sara who heard the call and told Heidi. The result of the call was that the children were again pulled out of their classes at school and questioned by CPS. A home inspection was scheduled, and nobody ever showed up. Sara told Heidi that she heard Greg make phone call to CPS and was "telling them lies". Sara stated that Greg didn't even know when their birthdays were, and he had to look them up on birth certificates to find out. Since Sara was recently pulled out of class to be questioned by CPS, she has voiced that she doesn't want to go back to that school anymore. However, she has more than voiced that opinion but refuses to go. At the school Sara goes to the school office and refuses to leave. Just like refusing to get into Greg's car, she refuses to walk to class. To get her to go, if possible, she would have to be physically taken to class, and of course Heidi, nor school personal, isn't going to force her in that regard. Thus, the only option, and one that the school presently supports, is for Sara to complete her work from home. Presently, Sara is enrolled as a student at Moon Valley High school.

## CONCLUSION

Greg's motion should be denied because Sara is 15 years old and apparently her relationship with Greg is so poor that when she does visit with Greg she goes into a near catatonic state to the point that she is unable to care for herself and conduct basic personal

## OPPOSITION

1 hygiene (page 8) and Greg thinks it is in her best interest to force her to bath herself. To  
2 force Sara to live with Greg sounds like a disaster waiting to happen. Is the court willing  
3 to risk that?  
4

5 **HEIDI SHOULD BE AWARDED ATTORNEY'S FEES**

6 **NRS 18.010 Award of attorney's fees.**

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

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

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

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

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

25 4. Subsections 2 and 3 do not apply to any action arising out of a written instrument or  
26 agreement which entitles the prevailing party to an award of reasonable attorney's fees.

27 [1911 CPA § 434; A 1951, 59] — (NRS A 1957, 129; 1967, 1254; 1969, 435, 667; 1971,  
28 165, 802; 1975, 309; 1977, 774; 1985, 327; 1999, 903; 2003, 3478)

22 This matter should not have been brought before the court. It is ridiculous that Greg  
23 is trying to get a physical custody change when he readily admits that Sara is so distraught  
24 when with him that she goes into a catatonic state and refuses to even take care of basic  
25 personal hygiene, all because of her relationship with Greg, evidenced by Greg's other  
26 statement that when he isn't around Sara almost immediately fully recovers (page 4).  
27  
28

17 **OPPOSITION**

1 If the court is inclined to grant Heidi attorney's fees, then she requests permission  
2 for the award to be based upon her actual bill and thus to have an opportunity to submit a  
3 memorandum of fees and costs along with the requisite Bruznell factors.  
4

5 DATED this 10<sup>th</sup> day of December 2018  
6

7 RADFORD J. SMITH, CHARTERED  
8

9 /s/ Gary M. Zernich

10 GARY M. ZERNICH, ESQ.

11 Nevada Bar No: 007963

12 2470 St. Rose Parkway, Suite 206

13 Henderson, Nevada 89074

14 (702) 990-6448

15 (702)-990-6456

16 gzernich@radfordsmith.com

17 Attorneys for Plaintiff  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

OPPOSITION

1                                    UNSWORN DECLARATION OF HEIDI MARIE PELKOLA

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

5            HEIDI MARIE PELKOLA, being first duly sworn, deposes and says:

- 6            1. I am the Plaintiff in the above-entitled action.
- 7
- 8            2. I make this Affidavit based upon facts within my own knowledge, save and  
9                                    except as to matters alleged upon information and belief and, as to those matters,  
10                                  I believe them to be true.
- 11
- 12           3. I have read the foregoing Opposition and can testify that the facts contained  
13                                  therein are true and correct to the best of my knowledge. I hereby reaffirm and  
14                                  restate said facts as if set forth fully herein.
- 15
- 16           4. Based on the foregoing, I am respectfully requesting that Greg's Motion be  
17                                  denied.
- 18

19           I DECLARE UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE  
20 OF NEVADA THAT THE FOREGOING IS TRUE AND CORRECT.

21

22                                    /s/ Heidi M. Pelkola  
23                                    HEIDI MARIE PELKOLA

24

25

26

27

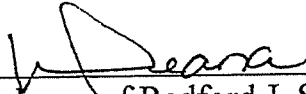
28

**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am readily familiar with the Firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS" on this 10<sup>th</sup> day of December 2018, to all interested parties by way of the Eighth Judicial District Court Electronic Filing System as follows:

Melvin Grimes, Esq.  
THE GRIMES LAW OFFICE  
808 S. 7<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Melg@grimes-law.com

  
An Employee of Radford J. Smith, Chartered

**OPPOSITION**

MOFI

DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

HEIDI MARIE PELKOLA,  
Plaintiff/Petitioner,

vs.

GREG ELLIOT PELKOLA,  
Defendant/Respondent.

CASE NO.: D-13-488682-D  
DEPT. NO.: L

MOTION/OPPOSITION  
FEE INFORMATION SHEET

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

- ☐ \$25 The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.  
-OR-  
☒ \$0 The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:  
☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.  
☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.  
☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on \_\_\_\_\_.  
☐ Other Excluded Motion (must specify) \_\_\_\_\_.

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

- ☒ \$0 The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:  
☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.  
☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.  
-OR-  
☐ \$129 The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.  
-OR-  
☐ \$57 The Motion/Opposition being filed with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Select the \$0, \$129 or \$57 filing fee in the box below.

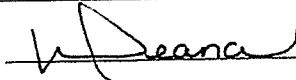
The total filing fee for the motion/opposition I am filing with this form is:

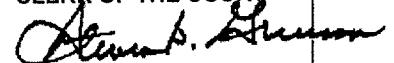
☒ \$0 ☐ \$25 ☐ \$57 ☐ \$82 ☐ \$129 ☐ \$154

Party filing Motion/Opposition: Heidi Marie Pelkola

Date: 12/10/18

Signature of Party or Preparer





EXHS

RADFORD J. SMITH, CHARTERED

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Nevada Bar No: 002791

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*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

HEIDI MARIE PELKOLA,

Plaintiff,

v.

GREG ELLIOT PELKOLA,

Defendant.

CASE NO.: D-13-488682-D

DEPT. NO.: L

**FAMILY DIVISION**

**PLAINTIFF'S APPENDIX OF EXHIBITS TO HER OPPOSITION TO  
DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR  
ATTORNEY'S FEES AND COSTS**

COMES NOW, Plaintiff, HEIDI PELKOLA by and through her attorney Gary M. Zernich,  
Esq. of Radford J. Smith, Chartered, pursuant to Rule 5.205 for the Rules of Practice for

....

....

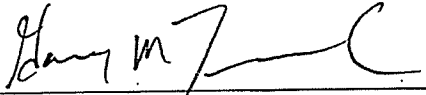
....



The Eighth Judicial District Court of The State of Nevada and hereby submits her separate  
Appendix of Exhibits.

DATED this 11 day of December 2018

RADFORD J. SMITH, CHARTERED



GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

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*Attorney for Plaintiff*

**TABLE OF CONTENTS**

| No. | Exhibit Title  | Bates     |
|-----|--|-----------|
| 1.  | Picture of Sara  | EX0001    |
| 2.  | Picture of Sara and Daniel   | EX0002    |
| 3.  | Picture of Sara  | EX0003    |
| 4.  | Picture of Sara in back of Heidi's Vehicle                         | EX0004    |
| 5.  | Picture of Sara in back of Heidi's Vehicle                         | EX0005    |
| 6.  | Video of Sara refusing to get out of Heidi's vehicle (length 1:27) | EX0006 CD |
| 7.  | Video of Sara refusing visitation (length 3:08)                    | EX0007 CD |
| 8.  | Video of Sara refusing to get out of Heidi's vehicle (length 5:41) | EX0008 CD |

**CERTIFICATE OF SERVICE**

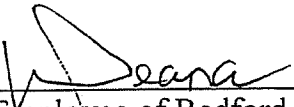
I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am readily familiar with the Firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "PLAINTIFF'S APPENDIX OF EXHIBITS TO HER OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS" on this 11<sup>th</sup> day of December 2018, to all interested parties as follows:

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

☒ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

Melvin Grimes, Esq.  
THE GRIMES LAW OFFICE  
808 S. 7<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Melg@grimes-law.com

  
\_\_\_\_\_  
An Employee of Radford J. Smith, Chartered



EX0001

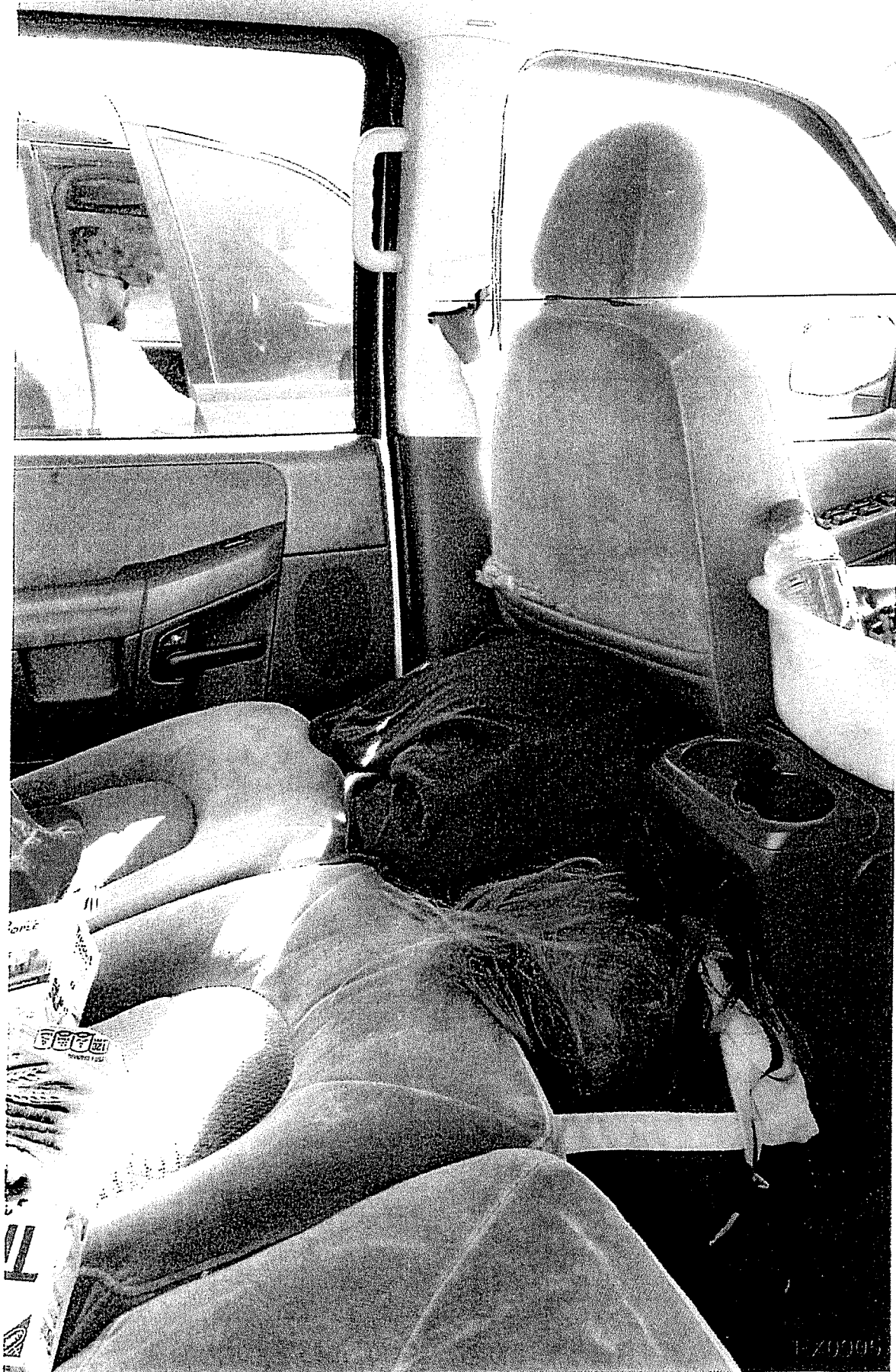


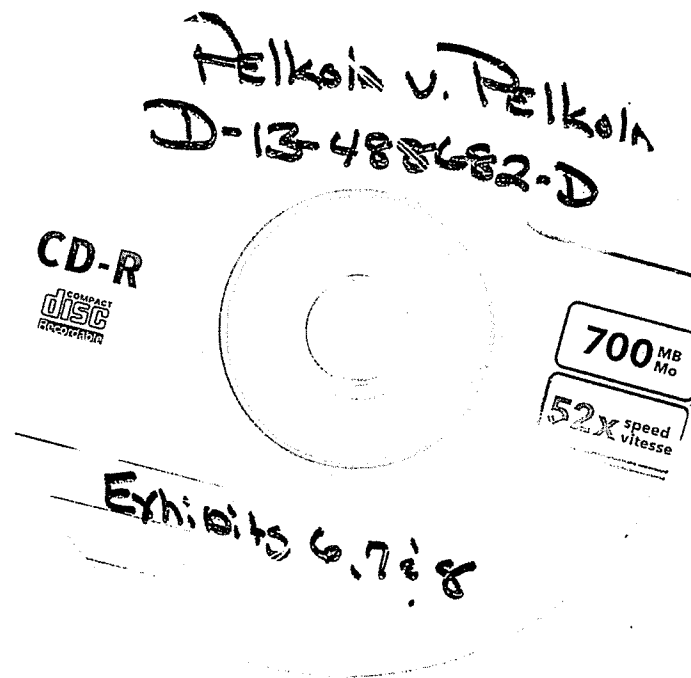
EX0002



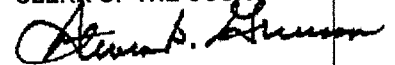












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10 *Attorney for Defendant*

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*\*

11 HEIDI MARIE PELKOLA,  
12 Plaintiff,

13 vs.

14 GREG ELLIOT PELKOLA,  
15 Defendant.

CASE NO.: D-13-488682-D  
DEPT NO.: L

Hearing Date: 01/17/2019  
Hearing Time: 9:00 AM

**DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION TO  
MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND  
COSTS**

18 COMES NOW, Defendant, GREG PELKOLA ("GREG"), by and through his  
19 attorney of record MELVIN R. GRIMES, of the Grimes Law Office, and submits this  
20 Defendant's Reply to Plaintiff's Opposition to Motion to Modify Physical Custody  
21 and for Attorney's Fees and Costs.

22 ///

23 ///

24 ///

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27 ///

28 ///

1 This Reply is made based upon the following Memorandum of Points and  
2 Authorities, the papers and pleadings on file, and any oral argument this Court may  
3 entertain at the time of hearing.

4 DATED this 12 day of December 2018.

THE GRIMES LAW OFFICE

5  
6  
7 /s/ Melvin R. Grimes  
8 MELVIN R GRIMES, ESQ.  
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12 Tel: (702) 347-4357  
13 *Attorney for Defendant*  
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## POINTS AND AUTHORITIES

### **I. Statement of Rebuttal Facts**

This case has been argued in this court ad nauseum. As such, only the relevant history will be included.

While Plaintiff continues in her normal fashion of arguing contradictory positions, she fails to recognize that virtually her entire opposition belies itself. Plaintiff alleges that modification to custody is not in the minor child's best interest as Sara acts out because she has no interest in being with the Defendant but at the same time acknowledges that the minor child engages in the same behavior while in her custody when she doesn't wish to go to school. Plaintiff further acknowledges that she indulges in these wishes by no longer requiring the minor child to attend school.

Additionally, Plaintiff urges this Court to disregard the statements made by the children regarding her parental alienation only to rely on similar conversations with the children to support her baseless accusations regarding the CPS complaints made against her in the State of Arizona.

Further, Plaintiff continues to snub her nose at this Court by again insinuating that Sara suffers from Asperger's Syndrome after the Court made very clear that the child has not been diagnosed with this condition and until a time in which she is, it was not to be mentioned again.

Moreover, Plaintiff makes blatant misrepresentations of the facts of this case. Plaintiff did in fact attempt to obtain a default judgment in this case through fraud and deceit. The Plaintiff stole the Defendant's mail in order to withhold the time of Court hearings, the Plaintiff did abscond with the children, and the Plaintiff continues to allege abuse that throughout the extensive litigation in this case has never been remotely substantiated. Additionally, the Plaintiff now, without a shred of corroborating evidence, alleges that the Defendant not only threatened to "put a bullet in the bitch," but also take the children and go "off grid" insinuating that the Defendant has threatened to abduct the children. To be clear, the only party in this

1 matter that has abducted the children is the Plaintiff. While the Plaintiff may believe  
2 that this was not an abduction because she told the Defendant she was leaving the  
3 state, this is still an abduction as the Plaintiff did not obtain consent of the Defendant  
4 to remove the children nor did she obtain permission from the Court to relocate with  
5 the minor children. These requirements are laid out very clearly in NRS 125C.006 and  
6 NRS 125C.0065.<sup>1</sup>

7 In sum, the Plaintiff has caused almost irreparable harm to the minor children,  
8 Sara in particular, and as argued in Defendant's motion, the only chance of salvaging  
9 the relationship between the Defendant and the minor children is to limit the ability of  
10 the Plaintiff to further engage in parental alienation.

11  
12  
13 <sup>1</sup> NRS 125C.006 Consent required from noncustodial parent to relocate child when primary physical custody  
14 established; petition for permission from court; attorney's fees and costs.

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

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

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

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

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

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

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

27 (Added to NRS by 1987, 1444; A 1999, 737; 2015, 2589) — (Substituted in revision for NRS 125C.200)

28  
NRS 125C.0065 Consent required from non-relocating parent to relocate child when joint physical custody  
established; petition for primary physical custody; attorney's fees and costs.

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

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

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

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

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

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

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

1 Defendant was left with no other option than to file to instant motion. This  
2 Reply follows.

3 **II. Legal Argument**

4 **A. Plaintiff's Opposition is Untimely and Should be Stricken**

5 Defendant, through Counsel, filed his Motion on November 9<sup>th</sup>, 2018 and  
6 personally served the Plaintiff via E-Service on November 5<sup>th</sup>, 2018 pursuant to the  
7 Certificate of Service, filed on November 29<sup>th</sup>, 2018.<sup>2</sup> Plaintiff's Opposition was due  
8 on or before November 28<sup>th</sup>, 2018. No good faith reason for such a delay was ever  
9 presented to Defendant. There was not a curtesy call or email requesting more time to  
10 file the Plaintiff's Opposition. It was only at the last minute that the Plaintiff felt  
11 necessary to file her opposition.

12 It was only after the receipt of Plaintiffs Notice of Non-Opposition that the  
13 Plaintiff opened the properly filed and served motion. To accept the Plaintiff's  
14 Opposition would be incredibly unfair to the Defendant. As such, the Plaintiff's  
15 Opposition must be stricken in the interest of fairness.

16 **B. Plaintiff has Regularly Engaged in Parental Alienation and the**  
17 **Minor Child, Sara, who is Not Fit to Give Testimony, Has Suffered a**  
18 **Complete Deterioration of Her Relationship with the Defendant as a**  
19 **Result**

20 Plaintiff attempts to, as usual, blame the Defendant for the harm that has been  
21 inflicted on his relationship with the minor children as a result of her parental  
22 alienation. As argued in the Defendant's motion, Sara has learned that not only does  
23 she get what she wants when she curls up into a ball but more specifically, that she  
24 will not have to visit with the Defendant if she just simply refuses to get in his car.  
25 The Plaintiff was the source of this idea.

26 Parental alienation does not leave a smoking gun because of the nature of  
27 implementation by the alienating parent. Plaintiff claims that this has never happened  
28

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<sup>2</sup> See Exhibit B Defendant's Certificate of Service and E-File and Serve Envelope

1 because there isn't ample evidence to support such a claim. The evidence is in the  
2 conduct of the children, specifically Sara who due to her age has been harmed the  
3 worst, and the ongoing conduct of the Plaintiff who regularly makes allegations about  
4 the Defendant without a shred a corroborating evidence. While most adults and this  
5 Court in the past have been able to see through the Plaintiff's charades, a child who is  
6 merely a victim of the Plaintiff's conduct is highly susceptible to parental alienation.

7 The Plaintiff's conduct is regularly observed by the other children however, the  
8 Plaintiff now alleges that the children are either lying or the Defendant has taken these  
9 statements out of context. It is difficult to fathom how the instruction to refuse to get  
10 out of the car in order to avoid visitation is taken out of context.

11 Sara, due to her ongoing psychological and emotional struggles, is not fit to be  
12 interviewed regarding these matters. The Plaintiff is well aware of this fact, as noted  
13 in her opposition, however, she treads lightly regarding this matter because she knows  
14 that Sara is the only person or witness will likely to deny that such parental alienation  
15 has taken place in efforts to protect the Plaintiff.

16 Regardless, of what Sara may or may not testify to, it is clear that this child  
17 should not be further thrust into this litigation as she has already been significantly  
18 damaged due to the Plaintiff's inappropriate conduct.

19 Plaintiff continues allege that Sara suffers from Asperger's Syndrome. This has  
20 not been diagnosed by a qualified mental health practitioner. Judge Hardcastle made  
21 clear that this was not to be alleged again without a proper diagnosis which has not  
22 and likely will not happen as it was officially removed from the DSM V in 2013.<sup>3</sup>  
23 While it is possible that Sara could be on the Autism Spectrum, this has yet to be  
24 properly determined or diagnosed. Sara was listed as a child of concern by her  
25 school's behavioral team however, this team did not include a metal health specialist.  
26 To be clear, the Defendant has never refused to consent to a clinical evaluation of the  
27

28 <sup>3</sup> [https://www.autism.com/news\\_dsmV](https://www.autism.com/news_dsmV)

1 minor child. To the contrary, the Defendant has consented only requiring that he be  
2 informed of any evaluations ahead of time so that he can be present for the evaluation  
3 and diagnosis as he is understandably unable to rely on the Plaintiff to provide the  
4 whole story.

5 Plaintiff proceeds to dance around the topic of teenage discretion. The fact that  
6 the Court has denied teenage discretion on numerous occasions aside, the mere  
7 mention of teenage discretion is ludicrous given the ongoing psychological and  
8 emotional challenges that Sara is currently facing. In short, Sara is not fit to testify or  
9 to be interviewed. The Plaintiff should be ordered to refrain from discussing this  
10 matter or continuing to engage in parental alienation in order to protect Sara from  
11 further harm.

12 **C. The Court Must Modify Physical Custody to Preserve any Possibility of**  
13 **Repairing the Damage to the Relationship of Sara and her Father Due to**  
14 **the Parental Alienation of the Plaintiff**

15 Sara has been harmed by the Plaintiff's ongoing parental alienation to the point  
16 that she is unable to function. That the child is fine when she is not in the presence of  
17 the Defendant only serves to show that the symptoms of her condition has been  
18 focused on the Defendant by the Plaintiff. The stress that is caused by being with the  
19 Defendant is due to the ongoing efforts of the Plaintiff to drive a wedge in their  
20 relationship.

21 The only possible way to adequately remedy this situation is to remove the  
22 Plaintiff from the equation and for Sara and the Defendant to engage in intensive  
23 therapy in hopes that the damage inflicted by the Plaintiff can be reversed through the  
24 help of a qualified mental health provider. The Plaintiff poses that she wishes for Sara  
25 to get the healthcare that she desperately needs while at the same time continuing to  
26 inflict the damage which has led to the current circumstances.

27 It is only in the Plaintiff's reality that "Sara does just fine while in Heidi's  
28 care." Currently, by the Plaintiff's admission, Sara does not attend school due to her

1 entering the same catatonic state that she displays while in the Defendant's care.  
2 Additionally, Defendant alleges, in his motion and other pleadings, that the Plaintiff  
3 appears to suffer from Munchausen by Proxy. While Plaintiff may not have a  
4 diagnosis of such, she shows all of the tell-tale signs that this is a real possibility.  
5 Defendant has provided the documentation laying out the symptoms and has raised  
6 this as a concern rather than a fact.

7 Plaintiff alleges that "it is beyond her ability to make Sara's and Greg's  
8 relationship better, no matter how much she wants it." If it weren't for the dire  
9 circumstances regarding Sara's mental health this statement would be laughable. The  
10 Plaintiff has gone to great lengths to engage in parental alienation effectively driving a  
11 wedge between Sara and the Defendant. The only thing that this statement says is that  
12 the Plaintiff is not able to stop herself from engaging in parental alienation. This is the  
13 very basis for a modification of physical custody. Plaintiff is however correct in her  
14 assertion that professional intervention is absolutely necessary to repair the damage  
15 that she has done.

16 **D. The Stress of the Current Visitations is a Direct Result of the Plaintiff's**  
17 **Conduct**

18 Plaintiff alleges that the current visitation exchanges are stressful and cause  
19 emotional harm to Sara. This is conceded by the Defendant however, Plaintiff fails to  
20 recognize that the pain and harm associated with the visitation exchanges are not the  
21 root cause of Sara's harm rather it is a product of the ongoing parental alienation that  
22 the Plaintiff has engaged in over the life of this litigation. Plaintiff's insinuations that  
23 the struggles with the exchanges are not her fault show only that either the Plaintiff is  
24 being less than truthful with the court or, and more likely, Plaintiff is unable to see  
25 that she has created an enormous amount of damage through her conduct.

26 Plaintiff has only now begun to "facilitate" visitation under pain of the court's  
27 previous promise to hold her in contempt if she does not. Plaintiff's idea of facilitating  
28 visitation is attempting to coach Sara on how to avoid going with her father. This is



1 just another example of the Plaintiff's parental alienation. While the Plaintiff rejects  
2 that this is happening, the other minor children informed the Defendant that this  
3 conversation took place on the way to the exchange.

4 Plaintiff cites to Sara's statement that she does not want to go with her father.  
5 The Court is reminded that Plaintiff was admonished in the last hearing that a child  
6 not wanting to comply with the court's orders does not relieve the Plaintiff of her  
7 obligation to ensure that the exchange takes place. The Court likened this to a  
8 situation in which a child would refuse to go to school in which a parent is required to  
9 ensure their attendance. Interestingly enough, it appears that the Plaintiff has opted not  
10 to ensure Sara's attendance to school either. It appears that the Plaintiff either refuses  
11 to act as a parent, which may at times be uncomfortable, or that the Plaintiff is unable  
12 to ensure that Sara is where she needs to be when she needs to be there. Additionally,  
13 in normal form, Plaintiff relies on statements made by Sara while only a few pages  
14 previously in her pleadings, urges the Court to disregard the statements of the other  
15 two minor children outlining her attempts to undermine this Court's orders. In the  
16 interest of fairness, the Court must not allow the Plaintiff to have her cake and eat it  
17 too.

18 The Plaintiff states that she believes in a hands-off approach to parenting which  
19 at this point has led to regular violations of this Court's custody orders and Sara  
20 effectively no longer attending school. To date, Sara has 12 unexcused absences.<sup>4</sup>

#### 21 **E. The Defendant Has Not Violated Legal Custody**

22 Plaintiff brazenly alleges that the Defendant is in violation legal custody by not  
23 notifying her of Sara's condition while in his care. This is simply absurd. First, as  
24 there was no clear emergency there was no reason to contact the Plaintiff. Second, the  
25 Plaintiff has regularly violated legal custody by scheduling mental health evaluations  
26

27  
28 <sup>4</sup> See Exhibit A minor child Sara's current school attendance records.

1 without notifying the Defendant. That the Plaintiff would now claim a violation of  
2 legal custody rights is disingenuous at best. Nevada bars such conduct through the  
3 doctrine of unclean hands.<sup>5</sup> The Court must see that this is little more than a ploy by  
4 the Plaintiff to inflame the current litigation and a continuance in the Plaintiff's  
5 pattern of pointing her finger at the Defendant while completely disregarding her own  
6 conduct.

7 Defendant agrees with Plaintiff that the Court should be "very concerned about  
8 Sara's conduct at Greg's house," but not for the illogical reasons presented by the  
9 Plaintiff. The court should be concerned that the Plaintiff's parental alienation has  
10 manifested in such a way. Plaintiff again alleges that such behavior doesn't happen  
11 under her care while at the same time stating that the same behavior does take place  
12 when she is required to go to school, but of course this is the Defendant's fault if you  
13 ask the Plaintiff.

14 **F. Plaintiff has Continually Attempted to Drive a Wedge Between the**  
15 **Defendant and the Minor Children Sara in Particular**

16 The Plaintiff alleges that the wedge between he and Sara is a result of his past  
17 conduct but the truth is that there is not past conduct on the part of the Defendant  
18 other than his continual fight to ensure that he isn't completely removed from his  
19 children's lives.

20 Plaintiff again relies upon out of court statements from the children in which  
21 she claims that he spoke bad about her. This only continues the pattern that from the  
22 Plaintiff's perspective, the Court should only give weight to the out of court  
23 statements that she agrees with.

24 Plaintiff reaffirms her claims that the Defendant was both physically and  
25 verbally abusive towards her even though there is not a modicum of evidence to  
26

27  
28 <sup>5</sup> The doctrine bars relief to a party who has engaged in improper conduct in the matter in which that party  
is seeking relief. *Gravelle v. Burchett*, 73 Nev. 333, 342, 319 P.2d 140, 145 (1957).

1 support such a claim. It appears clear that as she has done throughout this case, the  
2 Plaintiff is willing to say or do anything to alienate the Defendant from the children be  
3 it through the Court or through psychological manipulation and abuse. To be clear,  
4 parental alienation is a form of emotional and psychological abuse.

5 **G. The Minor Child's Psychological and Emotional Struggles are Present**  
6 **Regardless of Who is Caring for the Minor Child**

7 Plaintiff makes the allegation that the Defendant called CPS on her which  
8 resulted in an interview of the children. Surprisingly enough the Plaintiff relies on out  
9 of court statement by Sara to support this allegation. Regardless of whether the  
10 Defendant made this call or not, the identity of a reporter is kept confidential for a  
11 reason. Simply put, the Plaintiff will likely never know who reported her to CPS. The  
12 only thing that this Court can be sure of is that the Plaintiff's conduct with the  
13 children caused great enough concern for some citizen that they felt the need to ensure  
14 the children's overall safety.

15 The fact that the Plaintiff has no idea who reported her to CPS aside, she has  
16 convinced herself, and most likely anybody else who will listen including the  
17 children, that it was the Defendant. As usual the Plaintiff has convinced herself that  
18 the Defendant is at fault rather than evaluation the situation objectively and evaluating  
19 her condition and ability to provide a healthy environment for the minor children. The  
20 court should note that this CPS investigation is the Plaintiff's reasoning for  
21 withholding Sara from school.

22 **H. Plaintiff is Not Entitled to an Award of Attorney's Fees**

23 The Plaintiff is not entitled to an award of attorney's fees. Her position that this  
24 matter should not have been brought to court essentially means that the Defendant  
25 should not be concerned for the wellbeing of his children and he should sit idly by  
26 while she continues with her attempts to fully alienate him from the children. Sara's  
27 struggles are occurring regardless of who is caring for her. While she assumed a  
28 catatonic state with the Defendant, she has done the same with the Plaintiff which has

1 resulted in her not going to school anymore. In sum, the purpose of NRS 18.010 is not  
2 to effectively scare parents from seeking court intervention regarding the physical,  
3 psychological, and emotional wellbeing of their children. The entirety of Plaintiff's  
4 request for attorney's fees is that this matter is an inconvenience for her.

### 5 **III. Conclusion**

6 Defendant's motion must be granted in order to give the minor children,  
7 primarily Sara. The opportunity to recover from the damage that the Plaintiff has  
8 wrought. The only chance that Sara has to recover and form a healthy relationship  
9 with the Defendant is to remove her from the Plaintiff environment of parental  
10 alienation and immersion into intensive therapy. The Plaintiff cannot create a  
11 maelstrom of destruction only to then stand in the way of the Defendant's attempt to  
12 repair the damage.

13 WHEREFORE Defendant requests the Court grant the following relief:

- 14 1. That the Defendant's Motion to be granted in its entirety;
- 15 2. The Plaintiff's quasi-counterclaim be denied in its entirety; and
- 16 3. For an Award of Attorney's Fees and Costs relating to the present Motion.

17 DATED this 18 day of December 2018.

18 THE GRIMES LAW OFFICE

19  
20 /s/ Melvin R. Grimes

21 MELVIN R GRIMES, ESQ.

22 Nevada Bar No. 12972

23 808 South 7<sup>th</sup> Street

24 Las Vegas, NV 89101

25 Tel: (702) 347-4357

26 *Attorney for Defendant*

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# EXHIBIT A

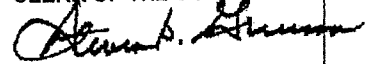
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| Sara Moon Valley High School (923-915-8000) |  |  |  |  |  |  |  |  |  | ATTENDANCE               |  |
| Messages                                    |  |  |  |  |  |  |  |  |  | Log View   Calendar View |  |
| Calendar                                    |  |  |  |  |  |  |  |  |  |                          |  |
| Assessment                                  |  |  |  |  |  |  |  |  |  |                          |  |
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| Class Schedule                              |  |  |  |  |  |  |  |  |  |                          |  |
| Course History                              |  |  |  |  |  |  |  |  |  |                          |  |
| Grade Book                                  |  |  |  |  |  |  |  |  |  |                          |  |
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# EXHIBIT B



CERT  
MELVIN R. GRIMES, ESQ.  
Nevada Bar No.: 12972  
[Melg@grimes-law.com](mailto:Melg@grimes-law.com)  
THE GRIMES LAW OFFICE  
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Las Vegas, NV 89101  
p: (702) 347-4357  
f: (702) 224-2160  
*Attorney for Defendant*

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*\*\*

HEIDI MARIE PELKOLA,  
Plaintiff,

v.

GREG ELLIOT PELKOLA,  
Defendant.

CASE NO.: D-13-488682-D  
DEPT NO.: L

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b). I certify that I am an employee of The Grimes Law Office and that on the 8<sup>th</sup> day of November, 2018, I caused the foregoing documents, **Defendant's Motion to Modify Physical Custody and For Attorney's Fees and Costs** to be served as follows to the attorney or party listed below at the address, email address and/or fax number indicated below:

Gary Zernich, Esq.  
[gzernich@radfordsmith.com](mailto:gzernich@radfordsmith.com)  
*Attorney for Plaintiff*



EMPLOYEE OF THE GRIMES LAW OFFICE



# Attachment 1

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# Case # D-13-488682-D - Heidi Marie Pelkola, Plaintiffvs.Greg Elliott I

## Envelope Information

**Envelope Id**  
3418467

**Submitted Date**  
11/8/2018 2:25 PM PST

**Submitted User Name**  
olivian@grimes-law.com

## Case Information

**Location**  
Department L

**Category**  
Family

**Case Type**  
Divorce - Complaint

**Case Initiation Date**  
11/19/2013

**Case #**  
D-13-488682-D

**Assigned to Judge**  
Elliott, Jennifer

## Filings

**Filing Type**  
EFileAndServe

**Filing Code**  
Motion - MOT (FAM)

**Filing Description**  
Defendant's Motion to Modify Physical  
Custody and for Attorney's Fees and  
Costs

**Filing on Behalf of**  
Greg Elliott Pelkola

**Filing Status**  
Accepted

**Accepted Date**  
11/9/2018 7:27 AM PST

## Lead Document

| File Name                   | Description        | Security              | Download                    |
|-----------------------------|--------------------|-----------------------|-----------------------------|
| doc04863820181108141743.pdf | Motion - MOT (FAM) | Public Filed Document | Original File<br>Court Copy |

## eService Details

| Status | Name           | Firm                        | Served | Date Opened |
|--------|----------------|-----------------------------|--------|-------------|
| Sent   | Sharon A. Hill | Radford J. Smith, Chartered | Yes    | Not Opened  |

| Status | Name                  | Firm                        | Served | Date Opened |
|--------|-----------------------|-----------------------------|--------|-------------|
| Sent   | Carol Menninger, Esq. | Carol Menninger PC          | Yes    | Not Opened  |
| Sent   | Jolene Hoeft          | Radford J. Smith, Chartered | Yes    | Not Opened  |
| Sent   | Gary Zernich          | Radford J. Smith, Chartered | Yes    | Not Opened  |
| Sent   | Deana DePry           | Radford J. Smith, Chartered | Yes    | Not Opened  |
| Sent   | Melvin Grimes         | The Grimes Law Office       | Yes    | Not Opened  |
| Sent   | Olivia Nino           | The Grimes Law Office       | Yes    | Not Opened  |

## Parties with No eService

**Name** **Address**  
Sara Michelle Pelkola

**Name** **Address**  
Justin Ryan Pelkola

**Name** **Address**  
Daniel Jordan Pelkola

## Fees

### Motion - MOT (FAM)

| Description          | Amount        |
|----------------------|---------------|
| Filing Fee           | \$0.00        |
| <b>Filing Total:</b> | <b>\$0.00</b> |

|                        |               |
|------------------------|---------------|
| Total Filing Fee       | \$0.00        |
| E-File Fee             | \$3.50        |
| <b>Envelope Total:</b> | <b>\$3.50</b> |

|                                   |                      |                           |             |
|-----------------------------------|----------------------|---------------------------|-------------|
| <b>Party Responsible for Fees</b> | Greg Elliott Pelkola | <b>Transaction Amount</b> | \$3.50      |
| <b>Payment Account</b>            | Olivia Spark Card    | <b>Transaction Id</b>     | 4230489     |
| <b>Filing Attorney</b>            | Melvin Grimes        | <b>Order Id</b>           | 003418467-1 |
| <b>Transaction Response</b>       | Payment Complete     |                           |             |



EXHS

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No: 002791

GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702) 990-6448

(702) 990-6456

gzernich@radfordsmith.com

*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

HEIDI MARIE PELKOLA,

Plaintiff,

v.

GREG ELLIOT PELKOLA,

Defendant.

CASE NO.: D-13-488682-D

DEPT. NO.: L

**FAMILY DIVISION**

**FIRST SUPPLEMENT TO:  
PLAINTIFF'S APPENDIX OF EXHIBITS TO HER OPPOSITION TO  
DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR  
ATTORNEY'S FEES AND COSTS**

COMES NOW, Plaintiff, HEIDI PELKOLA by and through her attorney Gary M. Zernich,  
Esq. of Radford J. Smith, Chartered, pursuant to Rule 5.205 for the Rules of Practice for

....

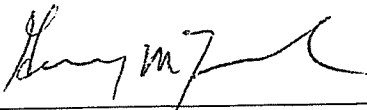
....

.....  
The Eighth Judicial District Court of The State of Nevada and hereby submits her separate  
Appendix of Exhibits (First Supplement).

Note, the supplemented portion is printed in **BOLD**.

DATED this 11 day of December 2018

RADFORD J. SMITH, CHARTERED



GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702) 990-6448

gzernich@radfordsmith.com

*Attorney for Plaintiff*

### TABLE OF CONTENTS

| No. | Exhibit Title  | Bates     |
|-----|--|-----------|
| 1.  | Picture of Sara  | EX0001    |
| 2.  | Picture of Sara and Daniel   | EX0002    |
| 3.  | Picture of Sara  | EX0003    |
| 4.  | Picture of Sara in back of Heidi's Vehicle                         | EX0004    |
| 5.  | Picture of Sara in back of Heidi's Vehicle                         | EX0005    |
| 6.  | Video of Sara refusing to get out of Heidi's vehicle (length 1:27) | EX0006 CD |
| 7.  | Video of Sara refusing visitation (length 3:08)                    | EX0007 CD |

|     |  |             |
|-----|--|-------------|
| 8.  | Video of Sara refusing to get out of Heidi's vehicle (length 5:41) | EX0008 CD   |
| 9.  | Letter Date December 19, 2018 from Sara's School                   | EX0009      |
| 10. | Student Credit Check regarding Sara                                | EX0010      |
| 11. | Portions of Sara's student file from 2017                          | Ex0011-0015 |

**CERTIFICATE OF SERVICE**

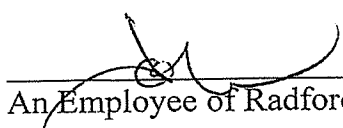
I hereby certify that I am an employee of Radford J. Smith, Chartered ("the Firm"). I am over the age of 18 and not a party to the within action. I am readily familiar with the Firm's practice of collection and processing correspondence for mailing. Under the Firm's practice, mail is to be deposited with the U.S. Postal Service on the same day as stated below, with postage thereon fully prepaid.

I served the foregoing document described as "FIRST SUPPLEMENT TO PLAINTIFF'S APPENDIX OF EXHIBITS TO HER OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS" on this 19 day of December 2018, to all interested parties as follows:

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

☒ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

Melvin Grimes, Esq.  
THE GRIMES LAW OFFICE  
808 S. 7<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Melg@grimes-law.com

  
An Employee of Radford J. Smith, Chartered

MOON VALLEY  
HIGH SCHOOL  
3625 West Cactus Road  
Phoenix, Arizona 85029-3198  
Telephone (623) 915-8000  
Fax (623) 915-8070

Anat Salyer, Principal  
Edwardo Lopez, Operations & Resources  
Jonathan Parker, Student Services  
Kris Hutson, Discipline & Attendance



GOVERNING BOARD  
Patty Kennedy, President  
Andrew Pulcipher, Clerk  
Patti Hussey, Member  
Susan Maland, Member  
Pam Reicks, Member  
SUPERINTENDENT OF SCHOOLS  
Brian Capistran

December 19, 2018

To Whom It May Concern Re: Pelkola, Sara Michelle  
SAIS: 39618856

Student, Sara Michelle Pelkola, date of birth 12/02/2003, is currently attending Moon Valley High School. The school year started 08/06/2018 and will end 05/20/2019. Sara is presently completing first semester finals on campus, although accommodations have been made to assist her with completing course-work at home. She has been a student with Moon Valley High School since enrolling as a freshman, on August 6, 2018. Sara currently resides at 4111 W. Charter Oak Road, Phoenix, AZ 85029 with her mother Heidi M. Pelkola.

Further questions can be directed to Moon Valley High School's records department at (623) 915-8004.

Sincerely,

A handwritten signature in black ink, appearing to read "Lerrie Dixon", followed by a horizontal line.

Lerrie Dixon  
Credentials Secretary  
Moon Valley High School

Moon Valley High School


*Preparing each student for higher education by ensuring that all students reach their full potential in every class.*



# STUDENT CREDIT CHECK

|  |                              |                         |   |  |  |  |
|--|------------------------------|-------------------------|---|--|--|--|
| Student Name<br><b>Pelkola, Sara M.</b>                            |                              |                         | Glendale Union HSD<br>Moon Valley High School |  | Moon Valley High School<br>3625 W Cactus Rd<br>Phoenix, AZ 85029 |  |
| Perm ID<br><b>277601219</b>  | Grade<br><b>09</b>           | Gender<br><b>Female</b> |   |  | December 19, 2018  |  |
| Date Of Birth<br><b>12/02/2003</b>                                 | Phone<br><b>702-498-1359</b> | Diploma Type            |   | Phone<br><b>623-915-8000</b>             | Fax<br><b>623-915-8169</b>                                       |  |
| Home Address<br><b>4111 W Charter Oak Rd<br/>Phoenix, AZ 85029</b> |                              | Leave Date              | Leave Code                                    | Counselor<br><b>El Habach, Denise L.</b> |  |  |

| Crs ID                      | Course Title              | Mark           | Cred Att/Cmp |
|-----------------------------|---------------------------|----------------|--------------|
| Moon Valley High School     |                           |                |              |
| Yr: 2018 Term: S1 Grade: 09 |                           |                |              |
| 61303                       | PHYS ED 1B                | C              | 0.50 / 0.50  |
| Cred Att: 0.50              |                           | Cred Cmt: 0.50 | GPA: 2.0000  |
| Moon Valley High School     |                           |                |              |
| Yr: 2018 Term: S1 Grade: 09 |                           |                |              |
| 61303                       | PHYS ED 1B                |                | 0.50 / 0.00  |
| Cred Att: 0.50              |                           | Cred Cmt:      | GPA:         |
| Moon Valley High School     |                           |                |              |
| Yr: 2018 Term: S1 Grade: 09 |                           |                |              |
| 0627                        | SPANISH 1                 |                | 0.50 / 0.00  |
| 0861                        | Engineering Science 1     |                | 0.50 / 0.00  |
| 0939                        | Honors English 1          |                | 0.50 / 0.00  |
| 1187                        | Hon Algebra 1 Sem 1       |                | 0.50 / 0.00  |
| 1457                        | Honors Int Science 1      |                | 0.50 / 0.00  |
| 1685                        | Distance Learning Support |                | 0.00 / 0.00  |
| Cred Att: 2.50              |                           | Cred Cmt:      | GPA:         |
| Moon Valley High School     |                           |                |              |
| Yr: 2018 Term: S2 Grade: 09 |                           |                |              |
| 0628                        | SPANISH 2                 |                | 0.50 / 0.00  |
| 0862                        | Engineering Science 2     |                | 0.50 / 0.00  |
| 0940                        | Honors English 2          |                | 0.50 / 0.00  |
| 1188                        | Hon Algebra 1 Sem 2       |                | 0.50 / 0.00  |
| 1458                        | Honors Int Science 2      |                | 0.50 / 0.00  |
| 1685                        | Distance Learning Support |                | 0.00 / 0.00  |
| Cred Att: 2.50              |                           | Cred Cmt:      | GPA:         |
| Moon Valley High School     |                           |                |              |
| Yr: 2018 Term: S2 Grade: 09 |                           |                |              |
| CUMULATIVE REQUIREMENTS     |                           |                |              |
| Subject Area                | Reqd                      | Cmp            | Wgt          |
| Elective                    | 6.00                      | 0.00           | 1.00         |
| Language Arts               | 4.00                      | 0.00           | 1.00         |
| Meth                        | 4.00                      | 0.00           | 1.00         |
| Physical Education          | 1.00                      | 0.50           | 0.50         |
| Science                     | 3.00                      | 0.00           | 1.00         |
| Social Studies              | 3.00                      | 0.00           | 3.00         |
| Fine Arts/CTE               | 1.00                      | 0.00           | 1.00         |
| TOTALS                      | 22.00                     | 0.50           | 6.00         |

|  |                          |                          |                   |                                  |            |                          |                                 |   |
|--|--------------------------|--------------------------|-------------------|----------------------------------|------------|--------------------------|---------------------------------|---|
| <b>GPA SUMMARY</b><br><table> <tr> <td><u>Unweighted</u></td> <td><u>Weighted</u></td> </tr> <tr> <td>Cumulative</td> <td>2.0000 Cumulative 2.0000</td> </tr> </table> |                          |                          | <u>Unweighted</u> | <u>Weighted</u>                  | Cumulative | 2.0000 Cumulative 2.0000 | <b>NOTES</b><br>A = Audit Class |  |
| <u>Unweighted</u>  | <u>Weighted</u>          |                          |                   |                                  |            |                          |                                 |   |
| Cumulative   | 2.0000 Cumulative 2.0000 |                          |                   |                                  |            |                          |                                 |   |
|  |                          | Enter Date<br>08/06/2018 | Leave Date        | Graduation Date<br>Class of 2022 |            |                          |                                 |   |

|                          |                             |                          |                             |
|--------------------------|-----------------------------|--------------------------|-----------------------------|
| Name<br>Pelkola, Sara M. | Date of Birth<br>12/02/2003 | Student Number<br>412922 | Document Date<br>02/03/2017 |
|--------------------------|-----------------------------|--------------------------|-----------------------------|

**Parent/Legal Guardian Involvement:**

Share any changes/concerns regarding Sara's needs. Let school officials know if she is avoiding school and/or refusing to get ready for school in the mornings.

**Participation in District and State Assessments**

- ☐ The student should take standardized tests under routine conditions, without any accommodations.
- ☒ The Student should NOT take standardized tests under routine conditions and is eligible for Assessment Accommodations as outlined by the Arizona Department of Education. Identify specific Assessment Accommodations.

**Physical Arrangements of Room:**

Seat next to safe peers that are willing to help Sara when she is 'stuck' - doesn't understand.

**Lesson Presentations:**

- ☒ pairing students to check work/explain

Allowing for supplies to be kept at school

☒ Access to Keyboarding / District / state assessments

**Behaviors:**

- ☒ ignore inappropriate behaviors not drastically outside classroom limits

- ☒ other

Access to social worker (as needed) to work on social skills

**Special Considerations:**

- ☒ suggest parenting programs
- ☒ inservice teacher on student's disability

- ☒ provide social skills group experiences or - consult H
- ☒ other Access to or to proper sensory / anxiety - induced coping strategies
- ☒ provide group/individual counsel (social skills) (self-advocacy)

☒ This student's 504 disability would not cause him/her to violate school rules.

☐ This student's 504 disability could cause him/her to violate school rules. (If this is checked, complete a behavior management disciplinary plan and attach).

**504 Team Signatures:**

| Name                  | Position/Title              |
|-----------------------|-----------------------------|
| Pelkola, Heidi        | Mother                      |
| Armstrong, Elizabeth  | General Ed Teacher          |
| Blank, Robin          | General Ed Teacher          |
| Brown, Martin         | General Ed Teacher          |
| Bruss, Wilma          | General Ed Teacher          |
| Laun, Catherine       | General Ed Teacher          |
| Colton, Sarah         | Occupational Therapist      |
| Bannick-Junge, Laurie | Psychologist                |
| Dashelsky, Randy      | Speech Language Pathologist |
| Denny, Susan          | Speech Language Pathologist |
| Martinez, Katharine   | School Social Worker        |

| Signature                   | Date            |
|-----------------------------|-----------------|
| <u>Heidi Pelkola</u>        | <u>2-3-17</u>   |
| <u>Elizabeth Armstrong</u>  | <u>2-3-2017</u> |
| <u>Robin Blank</u>          | <u>2/3/17</u>   |
| <u>Martin Brown</u>         | <u>2/3/17</u>   |
| <u>Wilma Bruss</u>          | <u>2-3-17</u>   |
| <u>Catherine Laun</u>       | <u>2/3/17</u>   |
| <u>Sarah Colton</u>         | <u>2-3-17</u>   |
| <u>Laurie Bannick-Junge</u> | <u>2-3-17</u>   |
| <u>Susan Denny</u>          | <u>2/3/17</u>   |
| <u>Katharine Martinez</u>   | <u>2/3/17</u>   |

Parent/Legal Guardian Statements (Please Initial):

I received a written notice of my rights and safeguards under Section 504.

☒ Yes ☐ No

Washington Elementary School District  
Special Services Department  
4650 W Sweetwater Av  
Glendale, AZ 85304  
Phone: 602-347-2632  
Fax: 602-347-2709

## Prior Written Notice



504 Evaluation

Student Name: Pelkola, Sara M. Home Phone: 702-498-1359 Date: 02/03/2017  
Date Of Birth: 12/02/2003 Home Address: 4738 W Corrine Dr  
Student No.: 412922 Student State ID: 39618856 Glendale, AZ 85304

|  |                  |                                 |             |                                |
|--|------------------|---------------------------------|-------------|--------------------------------|
| Age<br>13  | Gender<br>Female | Grade<br>07                     | Home School | Attending School<br>Sweetwater |
| Ethnicity<br>White                                 |                  | Primary Language                |             | Home Language<br>English       |
| Parent/Guardian                                    |                  |                                 |             |                                |
| Name<br>Heidi Pelkola                              |                  | Home Phone<br>602-978-4470      | Name        | Home Phone                     |
| Address<br>4738 W Corrine Dr<br>Glendale, AZ 85304 |                  | Work Phone                      | Address     | Work Phone                     |
|  |                  | Emergency Phone<br>702-498-1359 |             | Emergency Phone                |

To be given to parents prior to an action to change or to refuse to initiate the identification, evaluation, educational placement of a child with a disability or provision of FAPE. Notice will be given at the same time the district requests parent consent on such actions requiring consent.

### DESCRIPTION OF ACTIONS PROPOSED OR REFUSED BY THE DISTRICT :

Implement 504 accommodation plan

#### Explanation of why the district proposes or refuses to take the action:

Based upon the 504 evaluation/eligibility profile, Sara is in need of 504 accommodations and supports due to characteristics of autism spectrum disorder impacting her social/behavioral functioning within the school setting.

#### Description of each evaluation procedure, assessment, record or report used as a basis for the proposed or refused action:

Evaluations and information provided by the parent;  
Current classroom-based assessments and observations;  
Teacher and related service providers observations.

#### Description of other options considered and why those options were rejected:

Not developing a 504 plan was considered and deemed inappropriate. Sara is in need of general education supports and accommodations in order to address her social/pragmatic/ and self-advocacy needs.

#### Description of the factors relevant to the actions proposed or refused are:

This is an initial 504 plan for classroom accommodations.

This decision is proposed to be implemented on: 02/03/2017

Parents of a student and the student have protection under procedural safeguards in accordance with Federal Law. Contact the school psychologist or call the Special Education office if you want a copy of the procedural safeguards.

Procedural Safeguards provided to parent(s) LBJ

## Detailed Scores: Comparison across Raters

The following table summarizes the results for each DSM-IV-R symptom scale, as well as any statistically significant ( $p < .10$ ) differences in T-scores between pairs of raters. If a pair of ratings is not noted in the "Statistically Significant Differences" column, then the difference between those two raters did not reach statistical significance.

| Scale   | T-score Guideline    |                     |                      |               | Statistically Significant Differences  |
|---|----------------------|---------------------|----------------------|---------------|--|
|   | P                    | T1                  | T2                   | S             |  |
| ADHD Predominantly Inattentive Type           | 55<br>Average        | 45<br>Average       | 57<br>Average        | 46<br>Average | T2 > S; T2 > T1; P > S; P > T1         |
| ADHD Predominantly Hyperactive-Impulsive Type | 51<br>Average        | 45<br>Average       | 50<br>Average        | 53<br>Average | No significant differences             |
| Conduct Disorder                              | 44<br>Average        | 47<br>Average       | 47<br>Average        | 43<br>Average | No significant differences             |
| Oppositional Defiant Disorder                 | 48<br>Average        | 46<br>Average       | 46<br>Average        | 48<br>Average | No significant differences             |
| Major Depressive Episode                      | 60<br>Elevated       | 44<br>Average       | 61<br>Elevated       | 47<br>Average | T2 > S; T2 > T1; P > S; P > T1         |
| Manic Episode                                 | 53<br>Average        | 45<br>Average       | 45<br>Average        | 55<br>Average | No significant differences             |
| Generalized Anxiety Disorder                  | 71<br>Very Elevated  | 44<br>Average       | 63<br>Elevated       | 47<br>Average | P > S; P > T1; T2 > S; T2 > T1         |
| Separation Anxiety Disorder                   | 90<br>Very Elevated  | 48<br>Average       | 149<br>Very Elevated | 46<br>Average | T2 > P; T2 > T1; T2 > S; P > T1; P > S |
| Social Phobia                                 | 120<br>Very Elevated | 83<br>Very Elevated | 78<br>Very Elevated  | 45<br>Average | P > T1; P > T2; P > S; T1 > S; T2 > S  |
| Obsessive-Compulsive Disorder                 | 45<br>Average        | 48<br>Average       | 48<br>Average        | 48<br>Average | No significant differences             |
| <del>Autistic Disorder</del>                  | 106<br>Very Elevated | 86<br>Very Elevated | 112<br>Very Elevated | -             | T2 > T1; P > T1                        |
| <del>Aspergers Disorder</del>                 | 95<br>Very Elevated  | 87<br>Very Elevated | 87<br>Very Elevated  | -             | No significant differences             |

Autistic  
Disorder  
Aspergers  
Disorder

Sara denies difficulties - self perception

does not do anything with peers/friends outside of school. Her particular interests are animals, specifically cats. She knows everything about cats and the different types of cats. Sara is good at academic subjects/tasks, electronics, computers and enjoys reading.

Ms. Pelkola is aware and concerned that Sara's social/behavioral functioning is not typical compared to other students. She is socially awkward and has difficulty with eye contact and avoid interactions with others. She tends to hide behind her mother when meeting new people.

#### EDUCATIONAL HISTORY:

Sarah attended school kindergarten to second grade at Cozine Elementary. In second grade she was enrolled at Sweetwater School and then was a summer withdrawal at the end of third grade. She started 3<sup>rd</sup> grade at another school and was enrolled at Sweetwater a short time in third grade 1/7 to 1/24/2014. Sarah returned to Sweetwater the start of the 2014-2015 school year (fifth grade) and has been at Sweetwater since. She is currently in the seventh grade and receives gifted services in all three areas.

Gifted testing:

Verbal 98%

Quantitative 94%

Non-verbal 97%

Sara is considered highly gifted since she scored high in all areas. A score of 97% or better is required to get into the gifted program.

Grades: Sara has received all A's the first and second quarter in all subject areas.

#### District Assessments (7<sup>th</sup> grade):

| Math      | Student | Class Average | District Average |
|-----------|---------|---------------|------------------|
| Pre-test  | 65%     | 41%           | 34%              |
| Interim 1 | 75%     | 44%           | 41%              |
| Interim 2 | 75%     | 43.23%        | 46.5%            |

| English/Language Arts | Student | Class Average | District Average |
|-----------------------|---------|---------------|------------------|
| Pre-test              | 82%     | 56%           | 49%              |
| Interim 1             | 93.3%   | 60%           | 49%              |
| Interim 2             | 96.6%   | 66.93%        | 58.55%           |

#### Teacher Reports:

Mrs. Luan (Science Teacher) reported the following regarding Sara's functioning within the general education classroom: *Sara is an excellent student and overall human being. Her limitations are all within the realm of normal socialization/communication. She is very hesitant to communicate with peers and will only communicate with adults when prompted. It is important, I feel, that she is seated next to or near a student that is very positive and easy to be around and also a leader when it comes to communication to be a positive role model for Sara.*

Mrs. Armstrong (English/Language Arts Teacher) reported the following: *She is my top sorcerer on the district reading test. She scored in the 90<sup>th</sup> percentile. The only concerns I have for her is her lack of communication. She will respond when I ask her questions, 99% of the time. And she will sometimes initiate questions. But in situations where maybe a student is bothering her or if there is any type of conflict or misunderstanding, she has a difficult time expressing herself. I need advice on how to work with her on the communication.*

Sara does have two female peers that tend to look out for Sara and help her when she doesn't understand something. They typically sit together at lunch and do engage in conversations amongst the three of them.

### DSM-IV-TR Autistic Disorder

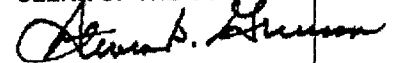
| DSM-IV-TR<br>Symptoms:<br>Criterion A | Item      |              | Criterion Status |                  |               |
|---------------------------------------|-----------|--------------|------------------|------------------|---------------|
|                                       | P         | T            | P                | T1               | T2            |
| A1a.                                  | 2R        | 138R         | May be Indicated | May be Indicated | Not Indicated |
| A1b.                                  | 64        | 118          | May be Indicated | May be Indicated | Not Indicated |
| A1c.                                  | 186R      | 2R           | May be Indicated | Indicated        | Indicated     |
| A1d.                                  | 85 or 77R | 80 or 76R    | Not Indicated    | May be Indicated | Not Indicated |
| A2a.                                  | 2R and 55 | 138R and 15R | Not Indicated    | Not Indicated    | Not Indicated |
| A2b.                                  | 156       | 48           | Indicated        | Not Indicated    | Not Indicated |
| A2c.                                  | 48        | 69           | Not Indicated    | Not Indicated    | Indicated     |
| A2d.                                  | 62        | 92           | Indicated        | Not Indicated    | Not Indicated |
| A3a.                                  | 143       | 18           | Indicated        | Not Indicated    | Indicated     |
| A3b.                                  | 97        | 94           | Indicated        | Not Indicated    | Indicated     |
| A3c.                                  | 188       | 132          | Indicated        | Not Indicated    | Not Indicated |
| A3d.                                  | 164       | 134          | Not Indicated    | Not Indicated    | Not Indicated |

There is no comparable scale on the Self-Report Form.  
R = This item is reverse scored for score calculations.

### DSM-IV-TR Asperger's Disorder

| DSM-IV-TR<br>Symptoms:<br>Criteria A<br>and B | Item      |           | Criterion Status |                  |               |
|---|-----------|-----------|------------------|------------------|---------------|
|   | P         | T         | P                | T1               | T2            |
| A1.   | 2R        | 138R      | May be Indicated | May be Indicated | Not Indicated |
| A2.   | 64        | 118       | May be Indicated | May be Indicated | Not Indicated |
| A3.   | 186R      | 2R        | May be Indicated | Indicated        | Indicated     |
| A4.   | 85 or 77R | 80 or 76R | Not Indicated    | May be Indicated | Not Indicated |
| B1.   | 143       | 18        | Indicated        | Not Indicated    | Indicated     |
| B2.   | 97        | 94        | Indicated        | Not Indicated    | Indicated     |
| B3.   | 188       | 132       | Indicated        | Not Indicated    | Not Indicated |
| B4.   | 164       | 134       | Not Indicated    | Not Indicated    | Not Indicated |

There is no comparable scale on the Self-Report Form.  
R = This item is reverse scored for score calculations.



EXHS

RADFORD J. SMITH, CHARTERED

RADFORD J. SMITH, ESQ.

Nevada Bar No: 002791

GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702) 990-6448

(702) 990-6456

gzernich@radfordsmith.com

*Attorneys for Plaintiff*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

HEIDI MARIE PELKOLA,

Plaintiff,

v.

GREG ELLIOT PELKOLA,

Defendant.

CASE NO.: D-13-488682-D

DEPT. NO.: L

**FAMILY DIVISION**

**SECOND SUPPLEMENT TO PLAINTIFF'S APPENDIX OF EXHIBITS TO HER  
OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL  
CUSTODY AND FOR ATTORNEY'S FEES AND COSTS**

COMES NOW, Plaintiff, HEIDI PELKOLA by and through her attorney Gary M.  
Zernich, Esq. of Radford J. Smith, Chartered, pursuant to Rule 5.205 for the Rules of

....

....

Practice for The Eighth Judicial District Court of The State of Nevada and hereby submits  
her separate Appendix of Exhibits (Second Supplement).

Note, the supplemented portion is printed in **BOLD**.

DATED this 4 day of January 2019.

RADFORD J. SMITH, CHARTERED



GARY M. ZERNICH, ESQ.

Nevada Bar No: 007963

2470 St. Rose Parkway, Suite 206

Henderson, Nevada 89074

(702) 990-6448

gzernich@radfordsmith.com

*Attorney for Plaintiff*

### TABLE OF CONTENTS

| No. | Exhibit Title  | Bates     |
|-----|--|-----------|
| 1.  | Picture of Sara  | EX0001    |
| 2.  | Picture of Sara and Daniel   | EX0002    |
| 3.  | Picture of Sara  | EX0003    |
| 4.  | Picture of Sara in back of Heidi's Vehicle                         | EX0004    |
| 5.  | Picture of Sara in back of Heidi's Vehicle                         | EX0005    |
| 6.  | Video of Sara refusing to get out of Heidi's vehicle (length 1:27) | EX0006 CD |
| 7.  | Video of Sara refusing visitation (length 3:08)                    | EX0007 CD |
| 8.  | Video of Sara refusing to get out of Heidi's vehicle (length 5:41) | EX0008 CD |



|     |   |             |
|-----|---|-------------|
| 9.  | Letter Date December 19, 2018 from Sara's School  | EX0009      |
| 10. | Student Credit Check regarding Sara   | EX0010      |
| 11. | Portions of Sara's student file from 2017   | EX0011-0015 |
| 12. | Video of Sara refusing to get out of Heidi's vehicle on Dec. 21 exchange day (length 2:25)  | EX0016      |
| 13. | Video of Sara refusing to get out of Heidi's vehicle. Banging head on window and locking the door (length 4:47)   | EX0017      |
| 14. | Video of Sara refusing to get out of Heidi's vehicle. (length 2:42)   | EX0018      |
| 15. | Video of Sara refusing to get out of Heidi's vehicle and saying she doesn't want to go. (length 25 sec.)  | EX0019      |
| 16. | Video of Sara refusing to get out of Heidi's vehicle and saying she doesn't want to go. (length 13 sec.)  | EX0020      |
| 17. | Video of Sara outside of the car and struggling with Heidi (length 13 sec.)   | EX0021      |
| 18. | Video of Sara on Dec 22 at Greg's house and Sara out of the car but refusing to go to the house. Sara pushes Heidi away from her. Sara kicks the back of the car. (length 2:27) | EX0022      |
| 19. | Video of Sara on Dec 22 at Greg's house and Sara out of the car and still refusing to go inside. (length 5:00)  | EX0023      |
| 20. | Picture of Sara on Dec 21 taken while she was refusing to get out of the car  | EX0024      |
| 21. | Picture of Greg's car with Greg leaving the exchange without Sara on Dec 21   | EX0025      |

**CERTIFICATE OF SERVICE**

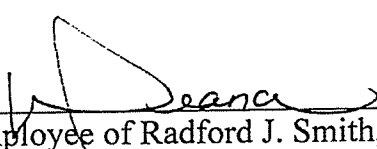
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I served the foregoing document described as "SECOND SUPPLEMENT TO PLAINTIFF'S APPENDIX OF EXHIBITS TO HER OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS" on this 4<sup>th</sup> day of January 2019, to all interested parties as follows:

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

☒ BY MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope addressed as follows;

Melvin Grimes, Esq.  
THE GRIMES LAW OFFICE  
808 S. 7<sup>th</sup> Street  
Las Vegas, Nevada 89101  
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An Employee of Radford J. Smith, Chartered



DISTRICT COURT  
CLARK COUNTY, NEVADA

Divorce - Complaint

## COURT MINUTES

January 17, 2019

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D-13-488682-D      Heidi Marie Pelkola, Plaintiff  
vs.  
Greg Elliott Pelkola, Defendant.

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January 17, 2019      09:00 AM      All Pending Motions

HEARD BY:      Gibson, David, Jr.      COURTROOM: Courtroom 06

COURT CLERK:      Pott, Victoria

## PARTIES PRESENT:

Heidi Marie Pelkola, Plaintiff, Present

Gary M. Zernich, Attorney, Present

Greg Elliott Pelkola, Defendant, Present

Melvin Grimes, Attorney, Present

Sara Michelle Pelkola, Subject Minor, Not Present

Justin Ryan Pelkola, Subject Minor, Not Present

Daniel Jordan Pelkola, Subject Minor, Not Present

## JOURNAL ENTRIES

DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS...PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS...DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO MODIFY PHYSICAL CUSTODY AND FOR ATTORNEY'S FEES AND COSTS

Radford Smith, Bar #2791, present as co-counsel on behalf of Plaintiff.

Court noted, there is a pending Evidentiary Hearing set relative to the QDRO, whether there was contempt relative to Defendant not signing off on the QDRO, and contempt for Plaintiff allegedly not releasing the minor child to Defendant on two occasions.

Court stated it is not going to allow the parties to relitigate prior issues.

Argument by Mr. Grimes and Mr. Zernich regarding obtaining an evaluation of Sara for autism, Plaintiff removing Sara from school, and Defendant's Motion to Modify Custody. Court noted, Sara is the only one at issue today for a change in custody. Court further noted, contrary to Mr. Grimes' understanding, custody is not an issue to be addressed at the upcoming Evidentiary Hearing.

Upon Court's inquiry, Plaintiff stated Sara is attending Google classroom at home. Court stated, it would have no concerns with her not attending a conventional classroom providing she is not credit deficient.

Mr. Grimes stated his intent to file a 16.215 naming all three children as witnesses.

COURT ORDERED, Plaintiff shall schedule an evaluation of the minor child Sara with the State of

Nevada to obtain an evaluation and diagnosis of whether or not Sara has autism. Plaintiff shall provide Defendant with a minimum of 10 days advance notice of the appointment. Upon receipt of the diagnosis, the documentation shall be exchanged and filed with the Court as a confidential (left-side filed) document.

A Status Check is set for 3/12/19 at 1:30 PM to be heard simultaneously with the Evidentiary Hearing. At that time, the Court will address whether or not an Evidentiary Hearing should be set to modify custody relative to Sara only. Defendant's motion to modify custody as to the other two children is DENIED. Teenage discretion will be on the table. In the interim, the parties shall exchange attendance records showing whether or not the school is authorizing Sara to stay home and whether or not her attendance is excused. Parties are admonished to exchange all educational and medical information pursuant to joint legal custody provisions. Sara may continue with on-line learning pending a diagnosis, provided it doesn't result in a credit deficiency. Parties shall continue to document their communications with each other.

The issue of ATTORNEY'S FEES AND SANCTIONS shall be DEFERRED to the Evidentiary Hearing.

Discovery shall close and all documents shall be exchanged by the close of business on 3/5/19.

Mr. Grimes shall prepare the Order from today's hearing; Mr. Zernich shall review and sign off.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

Mar 12, 2019 1:30PM Evidentiary Hearing  
Courtroom 06 Gibson, David, Jr.

Mar 12, 2019 1:30PM Status Check  
Courtroom 06 Gibson, David, Jr.