

# IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed  
Apr 27 2020 02:53 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

STEVE EGGLESTON,  
Appellant(s),

vs.

GEORGINA STUART; CLARK COUNTY,  
NEVADA; LISA CALLAHAN; AND  
BRIAN CALLAHAN,  
Respondent(s),

Case No: A-16-748919-C

Docket No: 80838

# RECORD ON APPEAL VOLUME 2

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STEVEN EGGLESTON, PROPER PERSON  
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1 misleading one described in the moving papers. Ms. Butts is on Plaintiff's witness list and now  
2 Plaintiff will add Ms. Hammock, who prior to the current motion was not disclosed as having  
3 any knowledge relevant to this case. This is especially important as Plaintiff in good faith  
4 questions the authenticity and integrity of the documents produced (and destroyed or lost or not  
5 preserved) by the County defendants.

6 10. For example, by email dated August 3, 2018, Plaintiff wrote to defense counsel:

7 "In addition to the points previously made, please consider the following as pertains to the  
8 woefully inadequate production of documents in this case:

9 "1. CC 025 is CPS Referral Summary regarding Laura Rodriguez (not Plaintiff). It  
10 references a date of 12/22/14, 1643346. Is this a mistake? Did you intend to produce a  
document referencing Plaintiff? Please confirm.

11 "2. CC 028 is blank. Please confirm in the Document Response that the document in all its  
12 incantations (original and any copies) is blank, or produce the non-blank document. If you  
13 contend it is blank, why was it numbered and produced? Conversely, please produce the un-  
redacted document.

14 "3. CC 027 appears to be altered and clearly has been redacted in multiple spots.

15 "3a. Missing entirely is the sections that answers the question, "1. What is the extent of child  
16 maltreatment?" When [child] fell into the pool, this was answered and it was concluded  
there was no maltreatment. It's been deleted here. Please produce this deleted (not even  
redacted) section.

17 "3b. Missing entirely is the section that answers the question, "2. What are the circumstances  
18 surrounding the child maltreatment?" When [child] fell into the pool, this was answered and  
19 it was concluded again there was no maltreatment. It's been deleted here. Please produce this  
deleted section (again, not even redacted, but made to look like it does not exist).

20 "3c. Question 5 of this form states: "WHAT ARE THE GENERAL DISCIPLINARY  
21 PRACTICES IN THIS FAMILY?" After a short answer, a second question states:  
22 "What would the source like to see happen?" The entire answer it blacked out and redacted.  
Please produce this unredacted portion.

23 "3d. Other blacked-out redactions are set forth on this page. All need to be produced. Likewise,  
24 There are many other redactions in the produced documents that need to be produced. See CC  
25 003, 004 (which appear to be all the notes related to Plaintiff as related to his interview the day  
before Christmas on 12/24/14 and thus could not possibly be privileged), 008, 009, 010, 011,  
26 012, 013, 015, 017, 019, 020, 022, 023, 028, 029, 032, 034 (another entirely blank document),  
035, 036, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 052, 053, 054, 055, 056, 057,  
061, 062, 064.

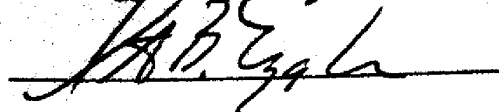
27 "Obviously much of this is being withheld because it vindicates Plaintiff, impeaches  
28 Defendants, or blocks discovery of essential information needed to obtain a fair trial. If all

1 of this information is not produced forthwith, and/or the specific information identified by a  
2 protected specific category (e.g., private phone number or social security number), I will  
3 move to compel and will seek sanctions, including issue preclusion sanction and possibly even  
striking of the Answer given the collective seriousness of the discovery abuses and frivolous  
Motion to Dismiss.”

4 FURTHER AFFIANT SAITH NAUGHT.

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7 Date: August 6, 2018

Steve Eggleston, Plaintiff in pro per

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# EXHIBIT “B”










(-- Judicial Notice -- Will County Cover Sheet)

STATE OF ILLINOIS  
TWELFTH JUDICIAL CIRCUIT COURT  
WILL COUNTY, ILLINOIS

Case: 2015P 000231 Status: Open Case Opened: 03/30/2015  
Title: IN THE MATTER OF THE ESTATE OF vs. RYDER EGGLESTON  
Type: PROBATE File: Guardianship Less than \$15,000.00 Closed: N/A

**DOCKET**

Event Date(s): \*ALL  
Sort Dates: Descending  
Show Entries: \*ALL  
Events: \*ALL  
Ordering Judge(s): \*ALL  
Clerk(s): \*ALL

Event Date Receipt No.	Image	Docket Entry
05/22/2018 048330931-02		Matter set for  Status - Monday, July 23, 2018 @ 9:00am, Courtroom R002, Judge PROBATE
05/22/2018 048330931-01		PC - Annual Report Guardian is present. Attorney Jennifer Lynch present as Guardian Ad Litem. Mr. Steve Eggfeston present. Matter Comes on for presentation of Annual Report and pro se motion to terminate guardianship. Third Annual Report presented and approved. Matter is set for the filing and approval of the 4th Annual Report on 5/28/19. Motion to terminate guardianship is continued for status on 7/23/18.  Status - Tuesday, May 28, 2019 @ 9:00am, Courtroom R002, Judge PROBATE Judge: ALLEN JEFF Reporter: ELECTRONIC RECORDING Clerk: JLBE
05/11/2018 048301579-02		Impounded Document APPEARANCE MEMORANDUM NOTICE OF OBJECTION NOTICE OF RELATED CASES AND PETITION FILED BY STEVE EGGLESTON
05/11/2018 048301579-01		Appearance/Answer (PROBATE)
05/23/2017 046782864-01		Annual Report Filed by Lisa Callahan (Ryder)
05/23/2017 046780262-07		Annual Report Filed by Lisa Callahan (Hunter)
05/23/2017 046780262-06		Supporting Document(s)/Exhibit(s)
05/23/2017 046780262-05		Affidavit of Jennifer M. Lynch
05/23/2017 046780262-04		Petition for Attorney's Fees
05/23/2017 046780262-03		See Order Signed
05/23/2017 046780262-02		See Order Signed
05/23/2017 046780262-01		See Order Signed - copy (original 13P234)
05/23/2017 046780262-00		PC - Annual Report Guardian is present. Attorney Jennifer Lynch present as Guardian Ad Litem. Matter Comes on for presentation of Annual Report. Third Annual Report presented and approved. Motion for termination of guardianship is continued. The matter will be set for filing and order signed and sent to the court for review and approval of the Third Annual Report.  Status - Tuesday, May 28, 2019 @ 9:00am, Courtroom R002, Judge PROBATE Judge: ALLEN JEFF Reporter: ELECTRONIC RECORDING Clerk: JLBE Annual Report Filed - Ryder



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## EXHIBIT “C”

(Judicial Notice – Attorney Emily McFarling Affidavit filed in Will County)

**AFFIDAVIT OF EMILY MCFARLING, ESQ**

STATE OF NEVADA )  
 )  
 COUNTY OF CLARK )

Emily McFarling, Esq., being duly sworn, deposes and says

1 I am an attorney duly licensed to practice law in the States of Nevada, California and  
 2 Arizona I am a Certified Nevada Family Law Specialist I am employed by McFarling  
 3 Law Group I am the attorney representing Steve Eggleston in Nevada

4 On or about January 7, 2015, the Department of Child Protective Services ("CPS") and  
 5 police were dispatched to Mr Eggleston's residence where he, Laura Battistella, their  
 6 minor children, Ryder and Hunter Eggleston, resided

7 Ms Stuart presented guardianship papers for Mr Eggleston to sign on the spot to  
 8 designate Laura's sister, Lisa, as guardian of the minor children

9 I spoke with Georgina Stuart, Senior Family Services Specialist for Child Protective  
 10 Services on January 7, 2015 over the telephone while she and the police were at my  
 11 client's home

12 Ms Stuart specifically told me over the telephone on that day that the investigation was  
 13 pertaining to Laura, but there was concern that Mr Eggleston had been leaving the  
 14 children in Laura's care but there were no direct concerns about Mr Eggleston being an  
 15 unfit parent

16 Ms Stuart specifically told me over the telephone on that day that the plan was for Lisa to  
 17 stay in the Parties' home with the children on a temporary basis Ms Stuart informed me  
 18 that no petition for abuse or neglect would be filed against Mr Eggleston if he signed the  
 19 temporary guardianship consent, but that CPS would keep the investigation case open just  
 20 to see through the process of him getting set up to revoke the guardianship and take back  
 21 full care and control of the children

22 Based upon these representations by Ms Stuart, Mr Eggleston signed a Consent for  
 23 Guardianship, which would expire after six months, allowing Lisa and Brian Callahan to  
 24 be temporary guardians of Ryder and Hunter Eggleston

25 On or about January 21, 2015, I spoke to Georgina Stuart, again on the telephone

26 On January 21, 2015, Ms Stuart informed me that she was working on closing the CPS  
 27 case, but it would take about a week to be officially closed Ms Stuart specifically  
 28 affirmed in response to direct questions on the issue that Mr Eggleston could revoke his  
 guardianship at any time and seek return of his children from Lisa I informed Ms Stuart  
 that Mr Eggleston no longer lived with Laura and had not seen her since January 7, 2015,  
 that he had his own home set up for the children and childcare plans in place Ms Stuart  
 stated that Mr Eggleston's revocation of the guardianship would not trigger any action by  
 CPS Ms Stuart went on to suggest that Mr Eggleston should file for custody and not  
 allow anything other than supervised visitation for Laura

Mr Eggleston filed for custody soon thereafter which is in the process of being finalized  
 with a Decree of Paternity for both children that provides Mr Eggleston sole legal and  
 physical custody

DATED this 21<sup>st</sup> day of May, 2015

  
 Emily McFarling, Esq.



1 FELICIA GALATI, ESQ.  
2 Nevada Bar No. 007341  
3 OLSON, CANNON, GORMLEY  
4 ANGULO & STOBERSKI  
5 9950 West Cheyenne Avenue  
6 Las Vegas, NV 89129  
7 Phone: 702-384-4012  
8 Fax: 702-383-0701  
9 [fgalati@ocgas.com](mailto:fgalati@ocgas.com)  
10 Attorneys for Defendants  
11 CLARK COUNTY and GEORGINA STUART

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 STEVE EGGLESTON,

15 Plaintiff,

16 v.

17 GEORGINA STUART; CLARK COUNTY,  
18 NEVADA; LISA CALLAHAN; BRIAN  
19 CALLAHAN; AND DOES I THROUGH 100,  
20 INCLUSIVE,

21 Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

Date of Hearing: 8/28/18

Time of Hearing: 8 a.m.

22 **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S REPLY TO**  
23 **PLAINTIFF'S OPPOSITION MOTION TO DISMISS; AND PLAINTIFF'S "NRCP**  
24 **REQUEST FOR TIME TO CONDUCT DISCOVERY"**

25 COME NOW Defendants CLARK COUNTY and GEORGINA STUART  
26 ("Defendants"), by and through their attorney FELICIA GALATI, ESQ. of the law firm  
27 OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby submit their Reply to  
28 Plaintiff's Opposition to Motion to Dismiss; and Plaintiff's "NRCP Request for Time to Conduct  
Discovery." This Reply is made and based upon all papers, pleadings and records on file herein,

1 the attached Memorandum of Points and Authorities, and such oral argument, testimony and  
2 evidence as the Court may entertain.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I.**

5 **INTRODUCTION**

6  
7 The only issue before this Court is whether Plaintiff has failed to exhaust his  
8 administrative remedies. He clearly has because he has a Fair Hearing appeal pending before  
9 Clark County Department of Family Services (DFS) regarding matters relating to the allegations  
10 in the First Amended Complaint (FAC). Plaintiff's Opposition completely fails to address the  
11 requirement of exhausting administrative remedies and does not deny that there is a pending  
12 Fair Hearing but, rather, confirms it by indicating what is going on in that matter. As such,  
13 Defendants' Motion must be granted. Plaintiff's alleged discovery issues have nothing to do  
14 with the Motion and should be ignored.  
15

16 **II.**

17 **PROCEDURAL AND FACTUAL BACKGROUND**

18  
19 Plaintiff does not deny any of the facts established by the Affidavit of Paula Hammack  
20 as to the appeal pending before DFS and/or offer any evidence to contradict it. Instead, he tries  
21 to confuse the sole issue before this Court with what he alleges are discovery issues, none of  
22 which are relevant to the Motion. Plaintiff does not and cannot dispute the following, including  
23 because of the very documents he prepared and submitted to DFS and his emails to DFS  
24 regarding the pending appeal:  
25

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1           1.       That on 2/2/15, the Department of Family Services (“DFS”) made a finding of  
2 child maltreatment against Plaintiff.<sup>1</sup>

3           2.       That on 2/12/15, Plaintiff submitted to DFS a request for an appeal of the  
4 substantiated finding in care of his attorney, Ms. McFarling, Esq.<sup>2</sup>

5           3.       That on 8/27/15, DFS issued a Finding of Substantiation upholding the  
6 substantiated finding of physical injury neglect – 14 N plausible risk of physical injury against  
7 Plaintiff as to 4 minor children.<sup>3</sup>

8           4.       That on 9/9/15, Plaintiff requested a Fair Hearing or appeal of that decision in  
9 care of his attorney, Ms. McFarling.<sup>4</sup>

10          5.       That the Fair Hearing was originally scheduled for 8/1/17 at Plaintiff’s  
11 request, but was rescheduled for 9/6/17.<sup>5</sup>

12          6.       That on 8/2/17, Plaintiff requested a continuance of the 9/6/17 Fair  
13 Hearing.<sup>6</sup>

14          7.       That on 8/18/17, DFS advised Plaintiff the Fair Hearing was reset for  
15 10/24/17.<sup>7</sup>

16          8.       That on 10/4/17, Plaintiff requested a second continuance of the 10/24/17  
17 Fair Hearing.<sup>8</sup>

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24 <sup>1</sup> See Affidavit of Paula Hammack (Exhibit A to Motion); Affidavit of Devon Butts (Exhibit B); Substantiation  
25 Letter (Exhibit C). Certain DFS documents are redacted pursuant to NRS 432B.280, which makes that information  
26 confidential.

27 <sup>2</sup> Id.; Plaintiff’s Request for Agency Appeal (DFS) of Substantiated Finding(s) of Abuse and/or Neglect (Exhibit D).

28 <sup>3</sup> Id.; DFS 8/27/15 letter and Finding of Substantiation of Child Abuse and/or Neglect (Exhibit E).

<sup>4</sup> Id.; Plaintiff’s Request for Fair Hearing of Agency Decision (Exhibit F).

<sup>5</sup> Id.; DFS 5/26/17 letter (Exhibit G); DFS 6/9/17 letter (Exhibit H).

<sup>6</sup> Id.; Plaintiff’s 8/2/17 e-mail, p. 2 (Exhibit I).

<sup>7</sup> Id.; DFS 8/18/17 letter (Exhibit J).

<sup>8</sup> Id.; Plaintiff’s 10/4/17 e-mail (Exhibit K).

1           9.       That on 10/16/17, DFS agreed to a continuance of the 10/24/17 Fair Hearing at  
2 Plaintiff's request and DFS asked Plaintiff to advise when he could appear for a Fair Hearing so  
3 it could be rescheduled.<sup>9</sup>

4           10.      Thereafter, Plaintiff failed to contact DFS to reset the 10/24/17 Fair Hearing.<sup>10</sup>

5           11.      That on 7/19/18, not having heard from Plaintiff for 9 months, DFS notified  
6 Plaintiff of a new Fair Hearing date set for 9/11/18.<sup>11</sup>

7           12.      That on 7/20/18, Plaintiff requested a third continuance of the 9/11/18 Fair  
8 Hearing, indicating he would be in Washington, D.C. on 9/11/18.<sup>12</sup>

9           13.      On 7/31/18, DFS corresponded with Plaintiff reminding Plaintiff that the 10/24/17  
10 Fair Hearing was set for 9/11/18, but continued at his request, and reminding Plaintiff that DFS  
11 asked Plaintiff to advise when he could appear for a Fair Hearing so it could be rescheduled, but  
12 he had failed to do so.<sup>13</sup>

13           14.      On 8/17/18, DFS again corresponded with Plaintiff and reiterated what was in its  
14 prior 7/31/18 correspondence to Plaintiff again reminding Plaintiff that the 10/24/17 Fair Hearing  
15 was set for 9/11/18, but continued at his request, and reminding Plaintiff that DFS asked Plaintiff  
16 to advise when he could appear for a Fair Hearing so it could be rescheduled, but he had failed to  
17 do so.<sup>14</sup>

18           15.      To date, Plaintiff has not provided a date to DFS on which the Fair Hearing can  
19 proceed. Ten months have passed since DFS agreed to Plaintiff's second request for  
20 continuance of the 10/24/17 Fair Hearing. Notwithstanding DFS' multiple requests for Plaintiff  
21 to provide DFS a date upon which a Fair Hearing can be rescheduled, Plaintiff has refused to do  
22 so. Thus, the Fair Hearing is still pending at DFS.  
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26 <sup>9</sup> Id.; DFS 10/16/17 e-mail, p. 1 (Exhibit K).

27 <sup>10</sup> See Affidavit of Paula Hammack (Exhibit A to Motion); Affidavit of Devon Butts (Exhibit B).

28 <sup>11</sup> Id.; DFS 7/19/18 letter (Exhibit L).

<sup>12</sup> Id.; Plaintiff's 7/20/18 e-mail (Exhibit M).

<sup>13</sup> See DFS 7/31/18 e-mail (Exhibit N).

<sup>14</sup> See DFS 8/17/18 e-mail (Exhibit O).

1 Based on all of the above, there is no doubt that Plaintiff initiated the appeal process and  
2 the Fair Hearing relating to the allegations and issues in the FAC is pending and has not  
3 occurred yet.

4 **III.**

5 **LEGAL ARGUMENT**

6 **A. Defendants' Motion Is Timely**

7 Plaintiff argues that Defendants' Motion is untimely. However, Plaintiff has cited  
8 absolutely no case law to support that or his request that this Court summarily deny Defendants'  
9 Motion. In any case, Plaintiff asks this Court to treat Defendants' Motion as a motion for  
10 summary judgment and, therefore, this issue is moot because the Motion was filed long before  
11 this case's dispositive motion deadline of 5/1/19.<sup>15</sup>

12 In addition, Defendants asserted in the affirmative defenses to their Answer that  
13 Plaintiffs' complaint fails to state a claim upon which relief can be granted.<sup>16</sup> Therefore,  
14 Defendants did not waive that defense by filling their Answer before the Motion and Plaintiff's  
15 argument must be rejected. See, e.g., Bank of Am., N.A. v. Regency Vill. Owner's Ass'n, Inc.,  
16 2017 WL 2817882, at \*3 note 1, and \*1 (D. Nev. June 29, 2017) ("Rule 12(b)(6) of the Federal  
17 Rules of Civil Procedure mandates that a court dismiss a cause of action that fails to state a  
18 claim upon which relief can be granted." North Star Int'l v. Ariz. Corp. Comm'n, 720 F.2d 578,  
19 581 (9<sup>th</sup> Cir. 1983).) Furthermore, NRCP 12(b) allows the pleader the option of making the  
20 enumerated defenses by motion; and NRCP 12(h)(2) allows a defense of failure to state a claim  
21 upon which relief can be granted to be made in a pleading, by motion or at trial on the merits.  
22 Therefore, the Motion is not untimely. The law is clear that Plaintiff must exhaust his  
23 administrative remedies before proceeding in this Court "and [his] failure to do so renders the  
24 controversy nonjusticiable." Lopez v. Nevada Dep't of Corr., 127 Nev. 1156, 373 P.3d 937  
25 (2011) citing Allstate Ins. Co. v. Thorpe, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007).

26 ///

27  
28 <sup>15</sup> See Scheduling Order, filed on 5/14/18, p. 2.

<sup>16</sup> See Answer (ECF No. 12), p.10.

1 **B. Plaintiff's Reliance On § 1983 Cases Is Misplaced**

2 Plaintiff's reliance on § 1983 cases is misplaced.<sup>17</sup> Leaving aside Plaintiff's  
3 misrepresentations and misstatements about what the cases say and hold, the plain fact is that all  
4 of the cases Plaintiff relies on are cases in which the plaintiffs made only § 1983 claims. That is  
5 not the case here. Plaintiff brings § 1983, intentional infliction of emotional distress, and  
6 defamation, libel and slander claims against Defendants.<sup>18</sup> Therefore, this action should be  
7 dismissed because of the doctrine of exhaustion of administrative remedies.

8 **C. Plaintiff's Intentional Tort / "Pre-Condition" Argument Fails**

9 Plaintiff misunderstands Defendants' argument. Defendants do not argue the "Fair  
10 Hearing" is a condition precedent to this action. Defendants argue this action must be dismissed  
11 because the doctrine of exhaustion of administrative remedies requires that a person exhaust  
12 administrative remedies before proceeding in the district court "and failure to do so renders the  
13 controversy nonjusticiable." Lopez, supra citing Allstate Ins. Co., supra. In any case,  
14 Plaintiff's citation to case law is unavailing.<sup>19</sup>

15 Turner v. Staggs, 89 Nev. 230, 510 P. 2d 879 (1973), is inapposite to this case. There, the  
16 Nevada Supreme Court held that the 6-month notice of claim requirements in NRS 244.245 and  
17 NRS 244.250 violate the equal protection clause. Neither notice of claim requirement is at issue  
18 here. Martinez v. Maruszczak, 123 Nev. 433, 168 P. 3d 720 (2007), too, is inapposite to this case.  
19 There, the Nevada Supreme Court was applying the discretionary-act immunity test under NRS  
20 41.032 and held that defendant doctor was not entitled to that immunity because his diagnostic and  
21 treatment decisions did not include policy considerations and, therefore, he failed to meet the second  
22 criterion of that test. Discretionary-act immunity established by NRS 41.032, is a defense and  
23 can bar an action, but it has nothing do with the Motion, the doctrine of exhaustion of  
24 administrative remedies or Plaintiff's Fair Hearing pending before DFS. Furthermore, contrary  
25 to Plaintiff's argument, Martinez does not hold that NRS 41.032 "does not shield the  
26 government from intentional tort liability. Such treatment would clearly violate the equal

27 <sup>17</sup> See Opposition, pp. 6-7.

28 <sup>18</sup> See FAC.

<sup>19</sup> See Opposition, p. 8.



1 protection guarantees of the United States Constitution.”<sup>20</sup> Neither Turner nor Martinez  
2 supports Plaintiff’s argument. Finally, Plaintiff cannot defeat Defendants’ Motion by  
3 converting it into something it is not.

4 **D. Defendants’ Motion Has Adequate Support And Should Be Granted**

5 Defendants’ Motion has adequate support based on the Affidavit of Paula Hammack.<sup>21</sup>  
6 This Court knows that affidavits are admissible evidence on motions to dismiss and motions for  
7 summary judgment. See, e.g. NRCp 56(c). In addition, Ms. Hammack is the Assistant Director  
8 of Clark County Department of Family Services. As such, she has knowledge of what is going  
9 on at DFS, can attest to any pending matters at DFS and can authenticate any related  
10 documents, including regarding Plaintiff’s pending Fair Hearing. Whether or not Ms.  
11 Hammack is listed on a 16.1 disclosure has nothing to do with anything and does not preclude  
12 her from providing an affidavit to support Defendants’ Motion. In any case, Defendants are  
13 providing another affidavit, from Devon Butts, whom Plaintiff states he has communicated with  
14 and documents confirming what Ms. Hammack has already attested to as the Assistant Director  
15 of DFS. More importantly, Plaintiff listed Ms. Hammack as his sixth witness in his initial 16.1  
16 disclosure produced by him on 4/30/18.<sup>22</sup> Thus, even Plaintiff believes she is competent and  
17 knowledgeable about the case subject matter. Finally, Plaintiff establishes various facts,  
18 including regarding the findings against him based on the fact that he appealed those findings.<sup>23</sup>

19 Also, DFS is a department of a political subdivision and a public entity. Charles v.  
20 Ochs, 1008 WL 846029, at \*1 (D.Nev.) citing Clark K. v. Guinn, 2007 WL 1435428, at \*7  
21 (D.Nev.); Wayment v Holmes, 112 Nev. 232, 237-38, 912 P.2d 816, 819 (1996). It is  
22 statutorily required to keep records. NRS 432B.290(1). Therefore, its records are not hearsay,  
23 including because they consist of factual findings resulting from an investigation made pursuant  
24 to authority granted by law and are subject to the public records exception to the hearsay rule.  
25 NRS 51.155 and NRS 52.085; NRS 432B.315; Allstate Ins. Co. v. Nassiri, 2013 WL 2394116,

26 <sup>20</sup> Id. at 8:17-20.

27 <sup>21</sup> See Exhibit A to Motion.

28 <sup>22</sup> See Plaintiff’s Initial Disclosure, p. 1 (Exhibit P).

<sup>23</sup> See Plaintiff’s Request for Agency Appeal (DFS) of Substantiated Finding(s) of Abuse and/or Neglect (Exhibit D); Plaintiff’s Request for Fair Hearing of Agency Decision (Exhibit F).

1 at \*1-2. Finally, Plaintiff's own statements, including his emails, are not hearsay because they  
2 are party admissions. NRS 51.035(3).

3 It is important to note that Plaintiff does not dispute what Ms. Hammack attested to,  
4 including that there is a Fair Hearing pending before DFS regarding matters relating to the  
5 allegations in the FAC, and has not submitted any admissible evidence to contradict that. To  
6 the contrary, he confirms the existence of the pending Fair Hearing by indicating "[t]he whole,  
7 highly suspect process began with the seven-month delay in the Fair Hearing process. The  
8 County appears to have revved it back up in reaction to plaintiff's lawsuit, hoping to use it to  
9 defeat his rights."<sup>24</sup> Plaintiff thereby establishes the fact of the pending Fair Hearing.

10 Furthermore, Plaintiff's argument is belied by his own papers penned by him. To be  
11 clear, on 2/2/15, DFS made a finding of child maltreatment against Plaintiff.<sup>25</sup> On 2/12/15,  
12 **Plaintiff submitted to DFS a request for an appeal of the substantiated finding** in care of  
13 his attorney, Ms. McFarling.<sup>26</sup> On 8/27/15, DFS issued a Finding of Substantiation upholding  
14 the substantiated finding of physical injury neglect.<sup>27</sup> On 9/9/15, **Plaintiff requested a Fair**  
15 **Hearing or appeal of that decision** in care of his attorney, Ms. McFarling.<sup>28</sup> On 12/30/16,  
16 Plaintiff filed his Complaint. The **Fair Hearing was originally scheduled for 8/1/17 at**  
17 **Plaintiff's request**, but was rescheduled for 9/6/17.<sup>29</sup> On 8/2/17, **Plaintiff requested a**  
18 **continuance of the Fair Hearing**.<sup>30</sup> On 8/10/2017, Plaintiff filed his FAC. On 8/18/17,  
19 DFS advised Plaintiff the Fair Hearing was reset for 10/24/17.<sup>31</sup> On 10/4/17, **Plaintiff**  
20 **requested a second continuance of the Fair Hearing**.<sup>32</sup> On 10/16/17, DFS agreed to a  
21 continuance at Plaintiff's request and DFS asked Plaintiff to advise when he could appear for  
22

23 <sup>24</sup> See Opposition, 9:24.

24 <sup>25</sup> See Affidavit of Paula Hammack (Exhibit A to Motion); Affidavit of Devon Butts (Exhibit B); Substantiation  
Letter (Exhibit C).

25 <sup>26</sup> Id.; Plaintiff's Request for Agency Appeal (DFS) of Substantiated Finding(s) of Abuse and/or Neglect (Exhibit  
D).

26 <sup>27</sup> Id.; DFS 8/27/15 Correspondence and Finding of Substantiation of Child Abuse and/or Neglect (Exhibit E).

27 <sup>28</sup> Id.; Plaintiff's Request for Fair Hearing of Agency Decision (Exhibit F).

27 <sup>29</sup> Id.; DFS 5/26/17 letter (Exhibit G); DFS 6/9/17 letter (Exhibit H).

27 <sup>30</sup> Id.; Plaintiff's 8/2/17 email (Exhibit I).

28 <sup>31</sup> Id.; DFS 8/18/17 letter (Exhibit J).

28 <sup>32</sup> Id.; Plaintiff's 10/4/17 email (Exhibit K).

1 the Fair Hearing so it could be rescheduled.<sup>33</sup> Thereafter, Plaintiff failed to contact DFS to  
2 reset the Fair Hearing.<sup>34</sup> On 7/19/18, not having heard from Plaintiff for 9 months, DFS  
3 notified Plaintiff of a new Fair Hearing date set for 9/11/18.<sup>35</sup> On 7/20/18, **Plaintiff requested**  
4 **a third continuance of the Fair Hearing.**<sup>36</sup> To date, Plaintiff has failed to provide a date to  
5 DFS so the Fair Hearing can be reset to a date on which he is available. It is absolutely clear  
6 that Plaintiff requested the Fair Hearing appeal and despite DFS efforts to conduct the Fair  
7 Hearing, Plaintiff has done nothing, but stall. Plaintiff's conduct speaks for itself. His actions  
8 are not those of a person who wants his appeal timely heard. This Court should ask itself why.  
9 Perhaps Plaintiff is trying to use this action to do discovery to support his Fair Hearing appeal.  
10 He clearly has had no interest in getting the Fair Hearing completed based on 3 continuance  
11 requests and 2 failures to provide an agreeable date for the Fair Hearing after DFS requested he  
12 do so. Plaintiff initiated the appeal process with DFS, he submitted documents to that effect and  
13 in support of his appeal, and he communicated with DFS about it. There is no doubt about that  
14 and Plaintiff has not and cannot dispute it.

15 Plaintiff's argument regarding discovery issues exceeds the scope of the Motion and is  
16 completely irrelevant. To be clear, Plaintiff's discovery complaints are unfounded and not a  
17 matter for this Court at this time.

18 Also, this Court should not consider the Affidavit of Emily McFarling.<sup>37</sup> The Affidavit  
19 is dated 5/21/15 – is over 3 years old – and was obviously not prepared for and/or provided to  
20 be used in this action, which was commenced on 12/30/16 – 223 days later. Defendants wonder  
21 if Ms. McFarling even knows that Plaintiff is using the dated Affidavit in this case.  
22 Furthermore, what Ms. McFarling attests to is completely irrelevant to the issue of whether  
23 Plaintiff has a pending Fair Hearing appeal. Finally, this Court cannot take judicial notice of  
24 Ms. McFarling's Affidavit. NRS 47.130 provides:

25  
26 <sup>33</sup> Id.; DFS 10/16/17 email, p.1 (Exhibit K).

27 <sup>34</sup> Id.

28 <sup>35</sup> Id.; DFS 7/19/18 letter (Exhibit L).

<sup>36</sup> Id.; Plaintiff's 7/20/18 email (Exhibit M).

<sup>37</sup> See Plaintiff's Exhibit C.

1 1. The facts subject to judicial notice are facts in issue or facts from which they may be  
2 inferred.

3 2. A judicially noticed fact must be:

4 (a) Generally known within the territorial jurisdiction of the trial court; or

5 (b) Capable of accurate and ready determination by resort to sources whose accuracy  
6 cannot reasonably be questioned, so the fact is not subject to reasonable dispute.

7 The Affidavit allegedly filed in an Illinois action does not relate to facts in issue on this Motion  
8 or facts from which they may be inferred. Also, the alleged Illinois filing is not generally  
9 known within this territorial jurisdiction or capable of accurate and ready determination by  
10 resort to sources whose accuracy cannot reasonably be questioned, so the fact is not subject to  
11 reasonable dispute. Generally, a Nevada court will not take judicial notice of facts in a different  
12 case, even if connected in some way, unless the party seeking it demonstrates a valid reason for  
13 doing so. In re Amerco Derivative Litig., 127 Nev. 196, 221 n. 9, 252 P.3d 681, 699 n. 9  
14 (2011). Plaintiff has not even tried to do that. Furthermore, the Affidavit allegedly speaks to  
15 issues relating to the substantive findings, not whether there is a pending Fair Hearing.  
16 Therefore, this Court cannot take judicial notice of the Affidavit.

17 **E. Plaintiff's Apparent Request For Discovery Should Be Denied**

18 Plaintiff's Opposition is titled in part "NRCP Request for Time to Conduct Discovery."  
19 However, Plaintiff fails to even cite the relevant Rule for that request or make a substantive  
20 argument to support it. There is absolutely nothing in the body of the Opposition relating to it.  
21 For that reason alone, it should be denied. In any case, the request fails to meet the  
22 requirements of the relevant Rule and case law.  
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24 The Motion pending before this Court is based on the doctrine of exhaustion of  
25 administrative remedies. The only issue is whether Plaintiff has an appeal pending before DFS  
26 regarding matters relating to the allegations in the FAC. He does and, therefore, the Motion  
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1 must be granted. No discovery needs to be done to determine that simple fact and there is no  
2 genuine issue of fact regarding that based on all of the evidence submitted by Defendants, none  
3 of which Plaintiff has contradicted with admissible evidence.

4 Furthermore, Plaintiff has failed to adequately support his request under NRCP 56(f),  
5 which provides:  
6

7 **When Affidavits Are Unavailable.** Should it appear from the affidavits of a  
8 party opposing the motion that **the party cannot for reasons stated present by**  
9 **affidavit facts essential to justify the party's opposition**, the court may refuse  
10 the application for judgment or may order a continuance to permit affidavits to be  
obtained or depositions to be taken or discovery to be had or may make such other  
order as is just.

11 (Emphasis added.) A motion for a continuance under NRCP 56(f) is appropriate only when the  
12 movant specifically expresses how further discovery will lead to the creation of a genuine issue  
13 of material fact. Bakerink v. Orthopaedic Associates, Ltd., 94 Nev. 428, 431, 581 P.2d 9, 11  
14 (1978) ("Rule 56(f), NRCP, provides that a court may, in its discretion, refuse an application for  
15 summary judgment or order a continuance, '[s]hould it appear from the affidavits of a party  
16 opposing the motion that he cannot for reasons stated present by affidavit facts essential to  
17 justify his opposition....' **There is nothing in the record before this court which would**  
18 **support a finding that the district court abused its discretion in this instance. Appellant**  
19 **made no attempt to identify in his affidavit what facts might be obtained, in addition to**  
20 **the records, depositions, and affidavits already on file, that were essential to justify his**  
21 **opposition.**") (emphasis added). In Bakerink, the appellant's affidavit indicated he needed to  
22 obtain responses to certain interrogatories and take defendants' depositions, and submitted no  
23 affidavit or other document, outside the general allegations of his pleadings. Id. at 430 and 10-  
24 11. That was not enough, and the Nevada Supreme Court affirmed the summary judgment  
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1 order and dismissal of the complaint with prejudice. The affidavit must identify what additional  
2 discovery would enable Plaintiff to oppose the motion. Id.

3 **Rule 56(f) is not a shield that can be raised to block a motion for summary**  
4 **judgment without even the slightest showing by the opposing party that his**  
5 **opposition is meritorious. A party invoking its protections must do so in good**  
6 **faith by affirmatively demonstrating why he cannot respond to a movant's**  
7 **affidavits as otherwise required by Rule 56(e) and how postponement of a**  
8 **ruling on the motion will enable him, by discovery or other means, to rebut**  
9 **the movant's showing of the absence of a genuine issue of fact. Where, as**  
10 **here, a party fails to carry his burden under Rule 56(f), postponement of a**  
11 **ruling on a motion for summary judgment is unjustified.**

12 Id. at 431, 11 citing Willmar Poultry Co. v. Morton-Norwich Products, 520 F.2d 289, 297 (8<sup>th</sup>  
13 Cir. 1975), cert. denied, 424 U.S. 915, 96 S.Ct. 1116, 47 L.Ed.2d 320 (1975) (emphasis added).

14 The mere fact that additional discovery could be conducted does not preclude the granting of  
15 summary judgment. Rather, this Court has no authority to grant an NRCP 56(f) request if the  
16 party seeking such a continuance fails to identify what additional discovery is necessary to  
17 oppose the motion for summary judgment. Moreover, it is not for this Court to speculate about  
18 what evidence a party may or may not discover with additional discovery. **It is the**  
19 **responsibility of the parties to identify what additional facts might be obtained that are**  
20 **essential to justify opposition.** Aviation Ventures, 121 Nev. 113, 118, 110 P.3d 59, 62. **The**  
21 **movant must not only state what specific discovery he wants to undertake, but also what**  
22 **he expects that discovery to yield that would generate genuine issues of material fact to**  
23 **defendant summary judgment.** NRCP 56(f); Francis v. Wynn Las Vegas, 127 Nev. 657, 669,  
24 262 P.3d 705, 714 (2011). Finally, if the further discovery would be futile, the motion should  
25 be denied. Feliciano v. Am. W. Homes, Inc., 128 Nev. 895, 381 P.3d 611, "Order of  
26 Affirmance", \*2, n. 5. (Nevada Supreme Court Case No. 56012, Jul. 27, 2012) (The plaintiff  
27 "requested the continuance so that she could depose American West's principals in an effort to  
28

1 uncover evidence supporting her willful-misconduct allegation. Given the unlikelihood that  
2 these depositions would have produced evidence of American West's intent to harm Feliciano,  
3 the district court was within its discretion in determining that a continuance would have  
4 been futile.”)

5  
6 Plaintiff's Affidavit and Opposition say nothing about what discovery he needs to do to  
7 oppose the Motion and do not even attempt to identify what specific facts might be obtained  
8 that are essential to justify the opposition to the Motion. Therefore, this Court has no authority  
9 to consider or grant Plaintiffs' NRCP 56(f) unarticulated request because Plaintiff has failed to  
10 identify what specific facts might be obtained that are essential to justify the opposition, as  
11 required by Aviation Ventures, supra, and what they expect the discovery to yield that would  
12 generate genuine issues of material fact to defendant summary judgment, and this Court cannot  
13 speculate about what evidence they may or may not discover. NRCP 56(f); Francis, supra.  
14 Finally, any discovery on this issue is futile because it will not change the fact that Plaintiff has  
15 a pending Fair Hearing appeal at DFS. Therefore, Plaintiffs' request should be denied.  
16

17  
18 It is obvious that Plaintiff is using this action to conduct discovery in support of his  
19 pending Fair Hearing appeal, including because he filed this action (12/30/16) after he requested  
20 a Fair Hearing or appeal (9/9/15), has delayed the Fair Hearing three times by requesting  
21 continuances and failed to provide DFS with an agreeable date for the Fair Hearing after DFS  
22 twice asked him to do so, and refuses to dismiss this action so he can exhaust his administrative  
23 remedies. Plaintiff's Witness List for the Fair Hearing and his NRCP 16.1 initial disclosure both  
24 list some of the same witnesses. Nineteen of the thirty-one specifically identified witnesses  
25 listed in Plaintiff's Witness List for the Fair Hearing (61%) are also on Plaintiff's NRCP 16.1  
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1 Initial Disclosure.<sup>38</sup> Pursuant to Lopez and Allstate Ins. Co., Plaintiff must exhaust his  
2 administrative remedies and, therefore, this action must be dismissed.

3  
4 IV.

5 CONCLUSION

6 Defendants respectfully request this Court dismiss Plaintiff's action because Plaintiff has  
7 failed to exhaust his administrative remedies.

8 DATED this 21<sup>st</sup> day of August, 2018.

9 OLSON, CANNON, GORMLEY  
ANGULO & STOBERSKI

10 /s/ Felicia Galati, Esq.

11 \_\_\_\_\_  
FELICIA GALATI, ESQ.  
12 Nevada Bar No. 007341  
9950 West Cheyenne Avenue  
13 Las Vegas, Nevada 89129  
Attorneys for Defendants  
14 CLARK COUNTY and  
15 GEORGINA STUART  
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<sup>38</sup> See Plaintiff's Fair Hearing Witness List (Exhibit Q); Plaintiff's Initial Disclosure (Exhibit P).



**CERTIFICATE OF SERVICE**

On the 21<sup>st</sup> day of August, 2018, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S REPLY TO PLAINTIFF'S OPPOSITION MOTION TO DISMISS; AND PLAINTIFF'S "NRCP REQUEST FOR TIME TO CONDUCT DISCOVERY"** to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order (Administrative Order 14-2) effective June 1, 2014, via U.S. Mail and via e-mail:

Steve Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, Post Code: ba4 4nx  
+44 7801 931682  
[Theeggman411@gmail.com](mailto:Theeggman411@gmail.com)  
Plaintiff in Pro Per

*/s/Jane Hollingsworth*

---

An Employee of Olson, Cannon, Gormley  
Angulo & Stoberksi

# **EXHIBIT B**

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**AFFIDAVIT OF DEVON BUTTS**

STATE OF NEVADA        )  
                                  ) ss:  
COUNTY OF CLARK        )

DEVON BUTTS, being first duly sworn, deposes and states:

1. I am employed as a Family Services Supervisor in the Legal Unity of Clark County Department of Family Services. I make this Affidavit in support of Defendants Clark County and Georgina Stuart’s Reply to Plaintiff’s Opposition to Motion to Dismiss, etc. (“Reply”) in Eggleston v. Clark County, Case No. A-16-748919-C.

2. On 2/2/15, the Department of Family Services (“DFS”) made a finding of child maltreatment against Plaintiff. Attached to Defendant’s Reply as Exhibit C is a true and correct copy of the Substantiation Letter sent to Plaintiff with that finding redacted pursuant to NRS 432B.280.

3. On 2/12/15, Plaintiff submitted a request for an appeal of the substantiated finding in care of his attorney, Ms. McFarling, to the DFS. Attached to Defendant’s Reply as Exhibit D is a true and correct copy of Plaintiff’s Request for Agency Appeal (DFS) of Substantiated Finding(s) of Abuse and/or Neglect.

4. On 8/27/15, DFS/the Appeals Unit Manager issued a Finding of Substantiation upholding the substantiated finding of physical injury neglect – 14 N plausible risk of physical injury against Plaintiff as to 4 minor children. Attached to Defendant’s Reply as Exhibit E is a true and correct copy of that Finding redacted pursuant to NRS 432B.280.

5. On 9/9/15, Plaintiff requested a Fair Hearing or appeal of that decision in care of his attorney, Ms. McFarling. Attached to Defendant’s Reply as Exhibit F is a true and correct copy of Plaintiff’s Request for Fair Hearing of Agency Decision.

6. The Fair Hearing was originally scheduled for 8/1/17 at Plaintiff’s request, but was rescheduled for 9/6/17. Attached to Defendant’s Reply as Exhibit G and H, respectively, are a true and correct copy of DFS 5/26/17 letter regarding the 8/1/17 Fair Hearing date and a true and correct copy of DFS 6/9/17 letter rescheduling that Fair Hearing.

1           7. On 8/2/17, Plaintiff requested a continuance of the 9/6/17 Fair Hearing. Attached  
2 to Defendant's Reply as Exhibit I is a true and correct copy of Plaintiff's 8/2/17 email requesting  
3 that continuance.

4           8. On 8/18/17, DFS advised Plaintiff the Fair Hearing was reset for 10/24/17.  
5 Attached to Defendant's Reply as Exhibit J is a true and correct copy of DFS 8/18/17  
6 correspondence noticing that Fair Hearing date.

7           9. On 10/4/17, Plaintiff requested a second continuance of the 10/24/17 Fair Hearing.  
8 Attached to Defendant's Reply as Exhibit K is a true and correct copy of Plaintiff's 10/4/17 email  
9 requesting a second continuance.

10           10. On 10/16/17, DFS agreed to a continuance of the 10/24/17 Fair Hearing at Plaintiff's  
11 request and DFS asked Plaintiff to advise when he could appear for a Fair Hearing so it could be  
12 rescheduled. Attached to Defendant's Reply as Exhibit K is a true and correct copy of DFS 10/16/17  
13 email agreeing to the above continuance and requesting Plaintiff advise when he could appear for the  
14 Fair Hearing so it could be rescheduled.

15           11. Thereafter, Plaintiff failed to contact DFS to reset the 10/24/17 Fair Hearing.

16           12. On 7/19/18, not having heard from Plaintiff for 9 months, DFS notified Plaintiff of a  
17 new Fair Hearing date set for 9/11/18. Attached to Defendant's Reply as Exhibit L is a true and  
18 correct copy of DFS 7/19/18 correspondence setting the Fair Hearing.

19           13. On 7/20/18, Plaintiff requested a third continuance of the 9/11/18 Fair Hearing,  
20 indicating he would be in Washington, D.C. on that date. Attached to Defendant's Reply as Exhibit  
21 M is a true and correct copy of Plaintiff's 7/20/18 email.

22           14. On 7/31/18, DFS corresponded with Plaintiff reminding Plaintiff that the 10/24/17 Fair  
23 Hearing was set for 9/11/18, but continued at his request, and reminding Plaintiff that DFS asked  
24 Plaintiff to advise when he could appear for a Fair Hearing so it could be rescheduled, but he had  
25 failed to do so. Attached to Defendant's Reply as Exhibit N is a true and correct copy of DFS  
26 7/31/18 email regarding the above.

27           15. On 8/17/18, DFS again corresponded with Plaintiff and reiterated what was in its prior  
28 7/31/18 correspondence to Plaintiff again reminding Plaintiff that the 10/24/17 Fair Hearing was set  
for 9/11/18, but continued at his request, and reminding Plaintiff that DFS asked Plaintiff to advise

1 when he could appear for a Fair Hearing so it could be rescheduled, but he had failed to do so.  
2 Attached to Defendant's Reply as Exhibit O is a true and correct copy of DFS 8/17/18 email  
3 regarding the above.


4 16. Attached to Defendant's Reply as Exhibit Q is a true and correct copy of Plaintiff's Fair  
5 Hearing Witness List.

6 17. To date, Plaintiff has not provided a date to DFS on which the Fair Hearing can  
7 proceed. Ten months have passed since DFS agreed to Plaintiff's second request for continuance  
8 of the 10/24/17 Fair Hearing. Notwithstanding DFS' multiple requests for Plaintiff to provide DFS  
9 a date upon which a Fair Hearing can be rescheduled, Plaintiff has refused to do so. Thus, the Fair  
10 Hearing is still pending at DFS.


11 18. This affidavit is made in good faith and not for the purpose of undue advantage.

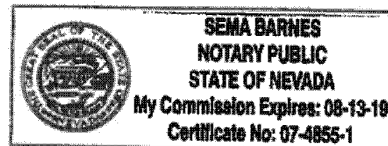
12 FURTHER AFFIANT SAITH NAUGHT.

13 CLARK COUNTY DEPARTMENT OF FAMILY  
14 SERVICES, ADMINISTRATIVE SERVICES DIVISION

15   
16 DEVON BUTTS

17 SUBSCRIBED AND SWORN to under penalty of  
18 perjury by Devon Butts on this 20<sup>th</sup> day  
19 of August, 2018.

20   
21 NOTARY PUBLIC in and for said  
22 County and State.



# **EXHIBIT C**



**CLARK COUNTY  
DEPARTMENT OF FAMILY SERVICES**

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

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**SUBSTANTIATION LETTER**

February 2, 2015

Steven Eggeston  
8962 Slippery Rock  
Las Vegas, Nevada 89123

Report Number: 1643346

Dear Mr. Rodriguez:

On December 22, 2014, the Clark County Department of Family Services, Child Protective Services Division, received a report alleging Physical Injury Neglect, 14N Physical Risk of minor [REDACTED], minor [REDACTED], minor son 2 [REDACTED], and minor son 1 [REDACTED]. Based upon the Division's investigation of the report, it has been determined there is credible evidence that Physical Injury Neglect, 14N Physical Risk as defined in NRS 432.B has occurred and has been substantiated.

Pursuant to NRS 432.B.310, the Division is required to submit identifying data to the State Central Registry for each investigation substantiated for abuse or neglect of a child.

If you have any questions about your case, please contact me at 702-455-7906.

Attached is the process you must follow in order to appeal the child maltreatment finding.

Sincerely,

---

GEORGINA STUART  
Case Manager, Child Protective Services

Certified Mail Tracking Number

DISTRIBUTION:  
Original to Client  
File

Revised 7/23/10 SAD, 9/29/10 AMJ, 1/16/14 VM,  
6/26/14 VM

1 of 6



## CLARK COUNTY DEPARTMENT OF FAMILY SERVICES

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

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### APPEAL OF SUBSTANTIATED ABUSE AND/OR NEGLECT FINDINGS

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#### Purpose:

The purpose of the appeal process is to afford individuals who have substantiated findings of abuse and/or neglect against a child(ren) an opportunity to challenge the substantiation by requesting an administrative review. The right of appeal is required pursuant to federal statute<sup>1</sup> and the Nevada Revised Statute (NRS) 432B and Nevada Administrative Code (NAC) 432B.170. This requirement is to afford you a right to due process, which is the right to receive notice of an adverse determination against you and give you an opportunity to respond in an orderly proceeding.

If a substantiated finding(s) of child abuse and/or neglect is reversed following an administrative appeal, all reference to the perpetrator's identity previously submitted to the Central Registry<sup>2</sup> is removed.

**An administrative reviewed is not available in cases that have been substantiated by the court in either a civil or criminal proceeding.**

This document explains the procedures followed by Clark County Department of Family Services (DFS) in carrying out federal and state provisions governing the administrative appeal of substantiated findings of child abuse and/neglect.

#### Definitions:

**"Abuse or Neglect of a child"**<sup>3</sup>: "Physical or mental injury of a non-accidental nature; sexual abuse or sexual exploitation; or negligent treatment or maltreatment as set forth in NRS 432B.140 . . . caused or allowed by a person responsible for his welfare under circumstances which indicate that the child's health or welfare is harmed or threatened with harm." [Emphasis Added]

**Appeal:** Means the opportunity afforded to an individual who has a substantiated finding of abuse and/or neglect documented by an agency which provides child welfare services to challenge such finding(s).

**Central Registry**<sup>4</sup>: The statewide database maintained by the State of Nevada, Division of Child and Family Services of substantiated reports of child abuse and neglect. Substantiated reports are retained in the Central Registry until the youngest victim turns 28 years of age if the child's age at the time of the report is known; or until the report is 10 years old when the age of the youngest victim is unknown.

**Court Substantiated:** A court has found by a preponderance of evidence that the child was in need of protection due to abuse or neglect following a hearing pursuant to NRS 432B.530.

**Substantiated:** Means that a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists (NAC 432B.170(7)(a))

---

<sup>1</sup> Federal Child Abuse and Neglect Prevention and Treatment Act (CAPTA), Section 106(b)(2)(A)(xi)(II)

<sup>2</sup> NRS 432B.290 specifies access to the Central Registry

<sup>3</sup> NRS 432B.020

<sup>4</sup> NRS 432.0999 to NRS 432.130 inclusive

Revised 7/23/10 SAD, 9/29/10 AMJ, 1/16/14 VM,  
6/26/14 VM



### Procedural Steps:

The administrative appeal process provides one agency appeal (DFS) and an opportunity for the agency's final determination to be reviewed by independent Hearing Officer (Fair Hearing). The only individual(s) that can request an agency appeal and/or a Fair Hearing is the person named in DFS a substantiated finding(s) of child abuse and/or neglect or in a decision to uphold or overturn such finding(s). Anyone else requesting reconsideration of DFS' decision will not be granted a hearing.

An agency appeal and/or a Fair Hearing may involve the review of the case record, investigative process and DFS' substantiation criteria. The purpose of these hearings is not to re-investigate the allegations, but to ensure the appropriateness of substantiated decision

### *Agency Appeal (DFS)*

- I. Upon receipt of this Notice of Right of Appeal of Substantiated Investigation you need to complete the attached Request for Agency (DFS) Appeal of Substantiated Finding(s) of Abuse and/or Neglect and return it to DFS. You may return it electronically, by fax or through the United States Postal Service.
- II. The form must be returned within 15 days after the date on the certified mail receipt attached to this letter. Failure to return the form within the required time period will result in your permanently giving up your right of appeal.
- III. DFS will notify you of its receipt of your appeal request and schedule a review of your case.
- IV. You have the right to submit any documentation that you believe challenges DFS' substantiated finding at any time prior to the scheduled review of your case.
- V. A committee comprised of DFS management level, supervisory, investigative and quality assurance staff that has had no direct involvement with the case at the caseworker and/or supervisory level or the decision to substantiate will review your case. Only the actual file and any written documentation you submit will be reviewed. No oral testimony will be heard during the review.
- VI. Upon completion of DFS' review, the substantiated finding(s) will be upheld or overturned (reversed). You will receive written notification of the determination.
- VII. DFS' decision to uphold or overturn a substantiation is the agency's final determination. However, if you disagree with DFS' decision, you may request a Fair Hearing.

### *Fair Hearing*

A Fair Hearing affords an individual who has a substantiated finding(s) of child abuse and/or neglect upheld by DFS the opportunity to testify on their own behalf and present witnesses and other evidence in opposition to DFS' decision.

You have the right to retain and be represented by an attorney at the Fair Hearing. DFS is represented by the District Attorney at all Fair Hearings and may present witnesses and other evidence in support of DFS' decision.

The Fair Hearing officer may uphold or overturn DFS' decision. The Fair Hearing Officer will inform you, DFS and District Attorney of the decision in writing. The decision of the Hearing Officer is the final step in the administrative appeal process.

In order to request a Fair Hearing, you must complete the following:

- I. DFS' written decision will include a Fair Hearing Request Form. You may request a Fair Hearing by submitting that form within 15 days after the date on the certified mail receipt attached to written decision.
- II. Please list the reason(s) why you believe DFS' decision is incorrect and include any additional information to your claim.
- III. If there are witnesses that you want to testify at the Fair Hearing, you must submit a witness list stating their names. If you are planning to question a specific DFS worker(s), their name(s) must also appear on your witness list.
- IV. The DFS will notify you of its receipt of your request and schedule a Fair Hearing.
- V. You will be notified of the date, time and location of the Fair Hearing at least 10 days prior to the date of the hearing.
- VI. If you are unable to appear on the Fair Hearing date you are given, you must submit a written request to have the hearing rescheduled. Request for rescheduling are not accepted by telephone.
- VII. Following the Fair Hearing, you will receive the Hearing Officer's written decision by certified mail. Instructions regarding additional actions that you can take for further review of the decision will be sent together with the decision.

All requests for agency appeals or Fair Hearings must be sent to:

**CLARK COUNTY DEPARTMENT OF FAMILY SERVICES**  
**121 S. Martin Luther King Blvd., Suite 159**  
**LAS VEGAS, NV. 89106**  
**ATTN: APPEALS UNIT**

You may also send request either electronically to [DFSAppeals@ClarkCountyNV.gov](mailto:DFSAppeals@ClarkCountyNV.gov) or by fax to 702-455-5665



**CLARK COUNTY  
DEPARTMENT OF FAMILY SERVICES**

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

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**REQUEST FOR AGENCY APPEAL (DFS) OF SUBSTANTIATED  
FINDING(S) OF ABUSE AND/OR NEGLECT**

**Person(s) Requesting Agency Appeal:** \_\_\_\_\_  
(Please Print)

**Report Number Listed on Notification Letter:** \_\_\_\_\_

**Case Number Listed on Notification Letter:** \_\_\_\_\_

**Date Listed on Notification Letter:** \_\_\_\_\_

**Address of Person(s) Requesting Fair Hearing:** \_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Name of Caseworker:** \_\_\_\_\_

**The reasons why you believe the finding(s) of abuse and/or neglect is incorrect:**

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---

---

**Additional information to support your claim (additional pages may be attached):**

---

---

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\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**



**CLARK COUNTY  
DEPARTMENT OF FAMILY SERVICES**

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

---

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**REQUEST FOR FAIR HEARING OF AGENCY DECISION**

**Person(s) Requesting Fair Hearing:** \_\_\_\_\_  
(Please Print)

**Report Number Listed on Notification Letter:** \_\_\_\_\_

**Case Number listed on Notification Letter:** \_\_\_\_\_

**Date Listed on Notification Letter:** \_\_\_\_\_

**Address of Person(s) Fair Hearing:** \_\_\_\_\_

\_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**Name of Caseworker:** \_\_\_\_\_

**The reasons why you believe the agency decision is incorrect:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Additional information to support your claim:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

# **EXHIBIT D**



CLARK COUNTY  
DEPARTMENT OF FAMILY SERVICES

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

Received  
FEB 12 2015

DFS Appeals

REQUEST FOR AGENCY APPEAL (DFS) OF SUBSTANTIATED  
FINDING(S) OF ABUSE AND/OR NEGLECT

Person(s) Requesting Agency Appeal: Steven Eggleston

(Please Print)

Report Number Listed on Notification Letter: 1643346

Case Number Listed on Notification Letter: N/A 1362581 (12-22-14)

Date Listed on Notification Letter: February 2, 2015

Address of Person(s) Requesting Fair Hearing: C/O Emily McFarling, Esq. 6230 W. Desert Inn Rd.  
Las Vegas, NV 89146

Phone Number: (702) 565-4335

Name of Caseworker: Georgina Stuart

The reasons why you believe the finding(s) of abuse and/or neglect is incorrect:

I have not neglected or abused my children in any way, and am a fit and proper person to care for them  
and have them in my custody. I am employed, and do not use drugs nor abuse alcohol.

Although my children's mother has used drugs and alcohol in the past few months, I never allowed her  
to harm the children.

Additional information to support your claim (additional pages may be attached):

I understand that my children's mother may not be a fit and proper person to care for our children,  
however, I do not understand why your findings are against me.

Signature

Date

Revised 7/23/10 SAD, 9/29/10 AMJ, 1/16/14 VM,  
6/26/14 VM

5 of 6

14N  
minor son 1  
minor  
minor

G. Stuart  
L. McLaughlin  
CRS SB

# **EXHIBIT E**



**COPY**

## Department of Family Services

121 S. Martin Luther King Blvd • Las Vegas NV 89106-4309  
(702) 455-7200 • Fax (702) 385-2999 • Hotline (702) 399-0081

**Tim Burch – Interim Director**  
Paula Hammack, Assistant Director • Michael Knight, Assistant Director

August 27, 2015

Emily McFarling, Esq.  
6230W. Desert Inn Rd.  
Las Vegas, NV 89146

Client: Steven Eggleston

Case No. 1362581  
Report No. 1643346

Dear Emily McFarling, Esq.:

The DFS Internal Agency Appeals Committee has examined the case file, information provided by you and other pertinent documents related to the above report.

Please find enclosed the Review of Record and Finding of Substantiation of Child Abuse and/or Neglect.

The Panel has **UPHELD** the child maltreatment finding regarding, your client, Steven Eggleston. You have **15** calendar days from the date of the postmark of this letter to request, in writing, a Fair Hearing.

Please contact the Appeals Unit at 702-455-8160 or at [DFSAppeals@ClarkCountyNV.gov](mailto:DFSAppeals@ClarkCountyNV.gov) if you have any questions.

Sincerely,

Peggy Johnson  
On behalf of:  
DFS Appeals Unit

91 7199 9991 7034 9204 9600

Enclosure

<p>Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al (702) 671-4578.</p> <p>Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at (702) 671-4578.</p>
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**COPY**

## Department of Family Services

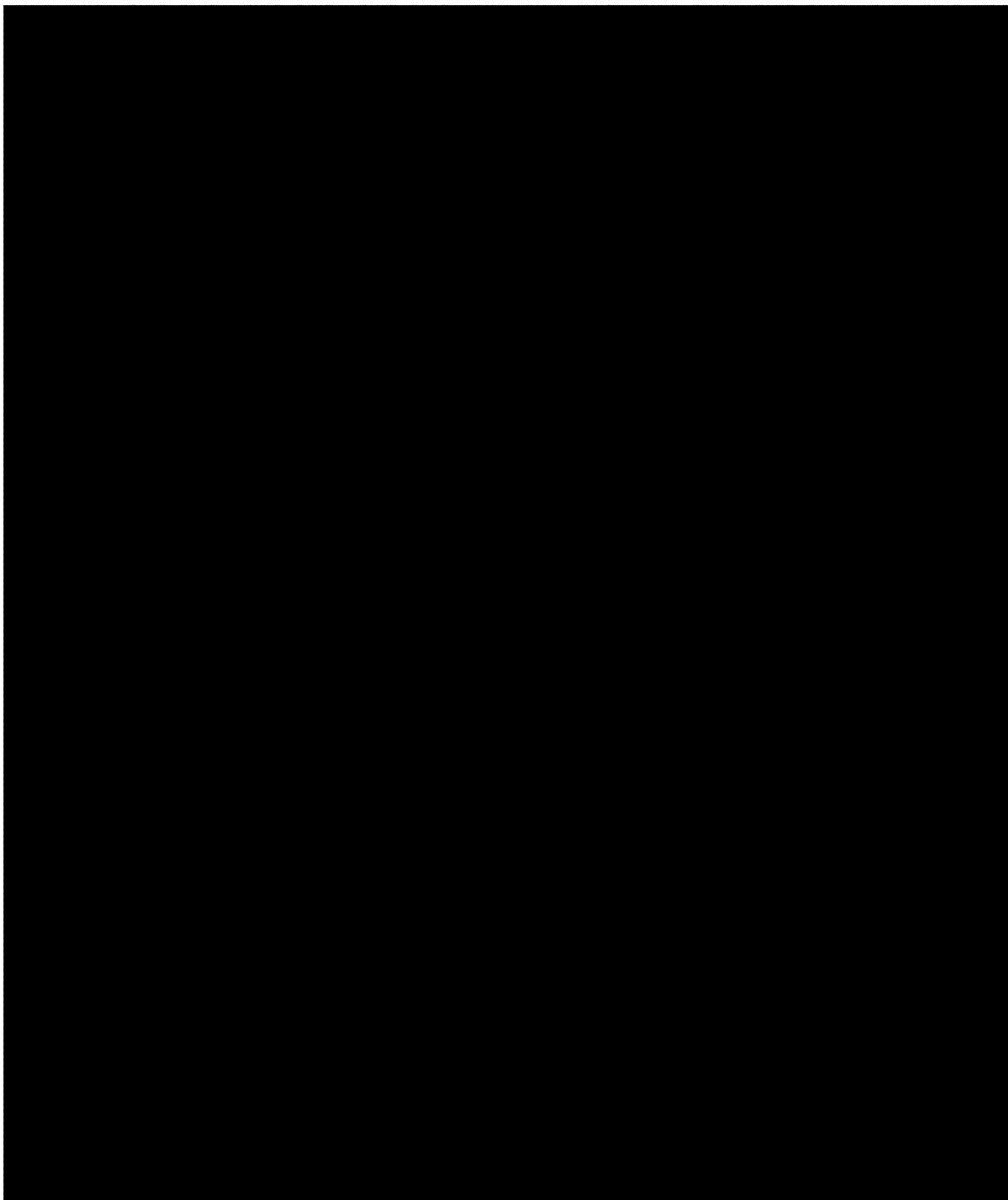
121 S Martin Luther King Blvd • Las Vegas NV 89106-4309  
(702) 455-7200 • Fax (702) 385-2999 • Hotline (702) 399-0081

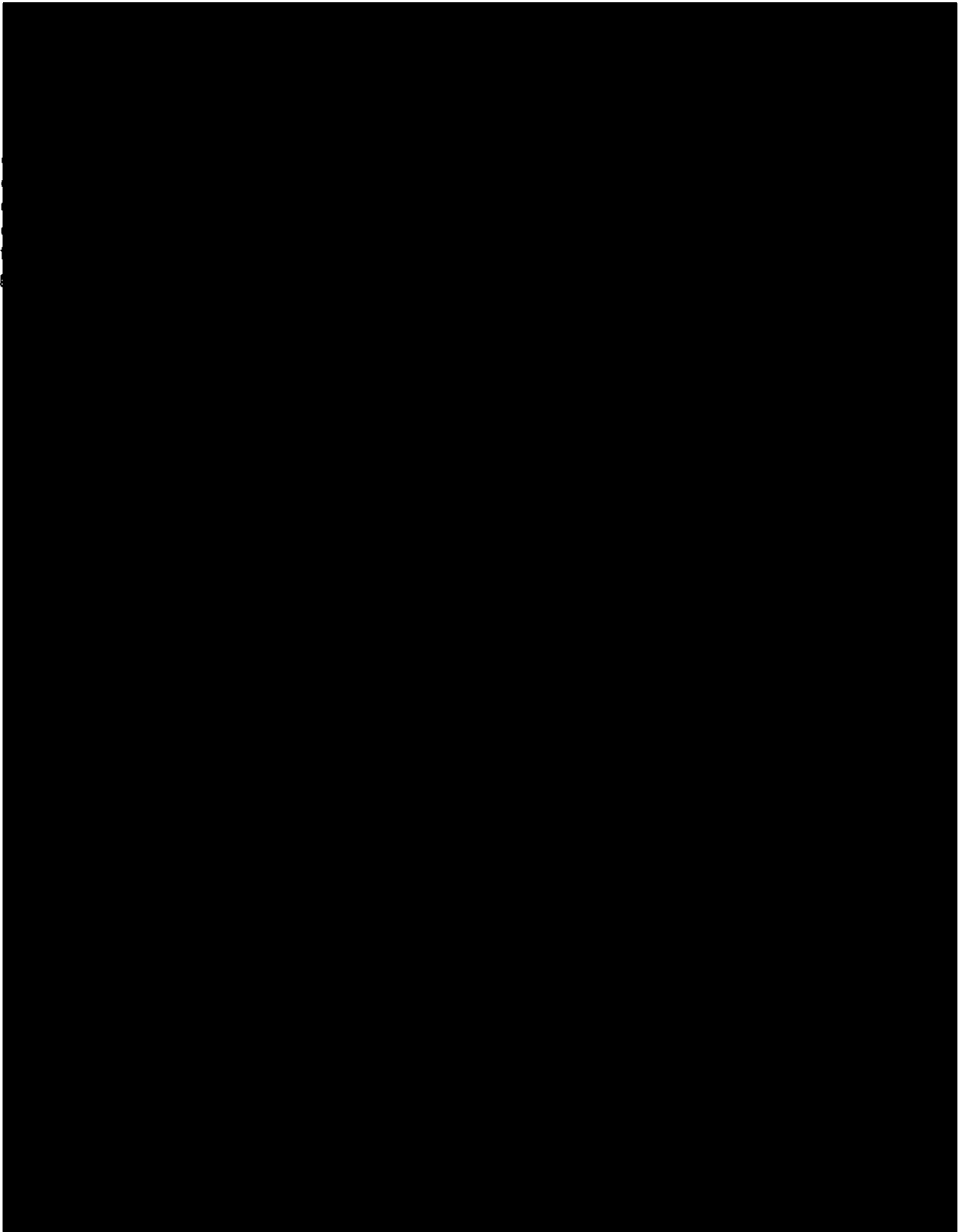
**Timothy Burch, Interim Director**

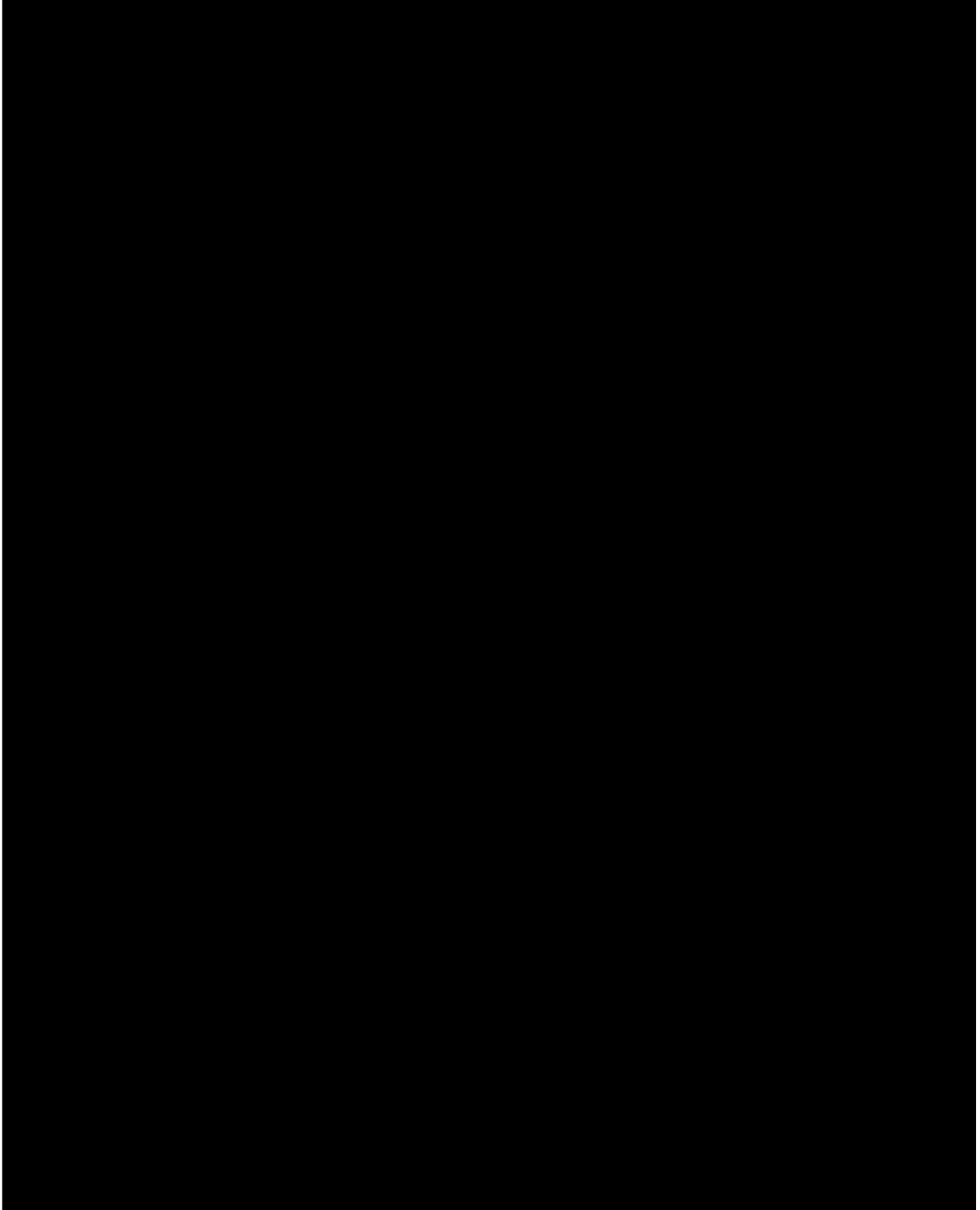
**Paula Hammack, Assistant Director   Michael Knight, Assistant Director**

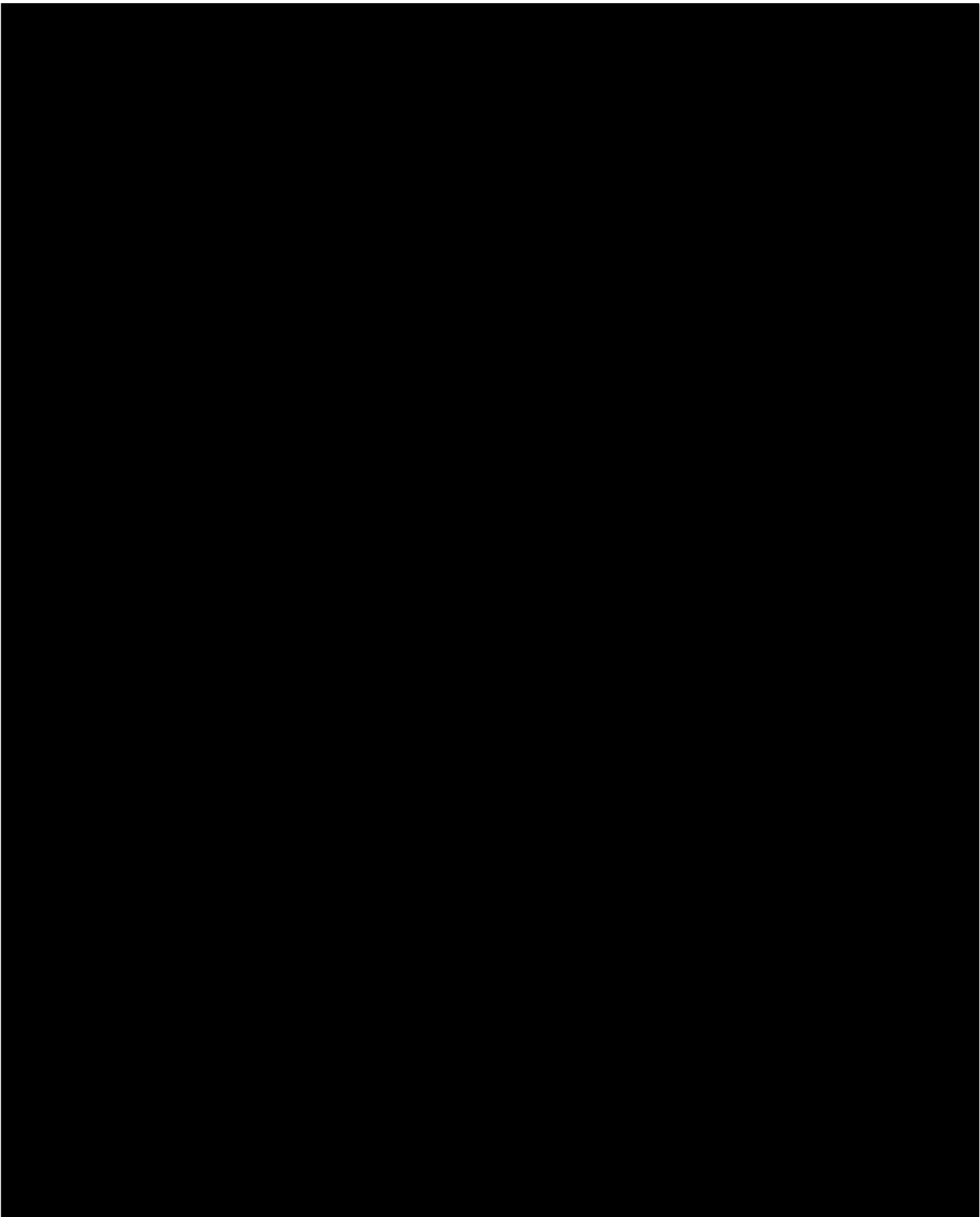
Unity Case # 1362581

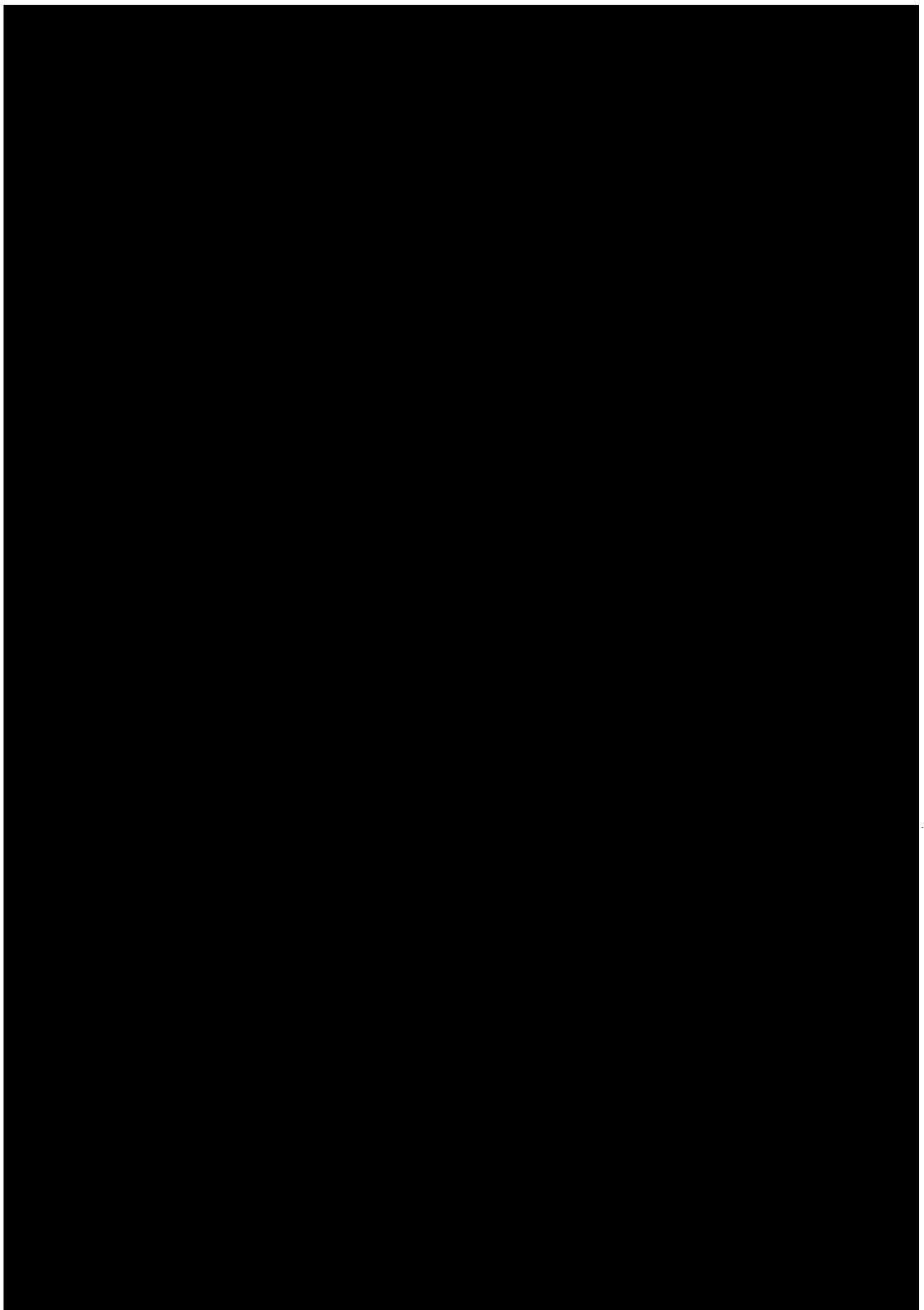
Report # 1643346

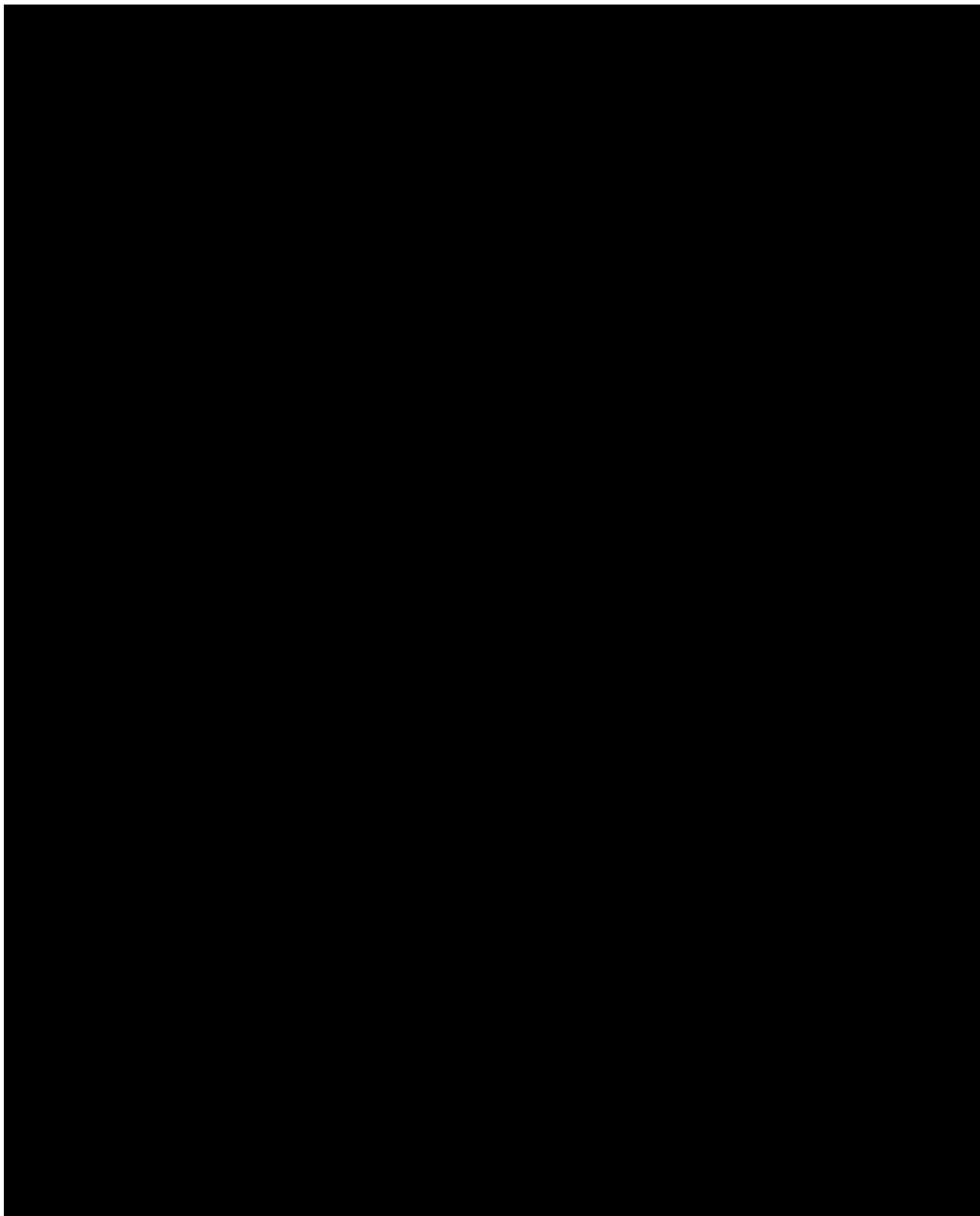


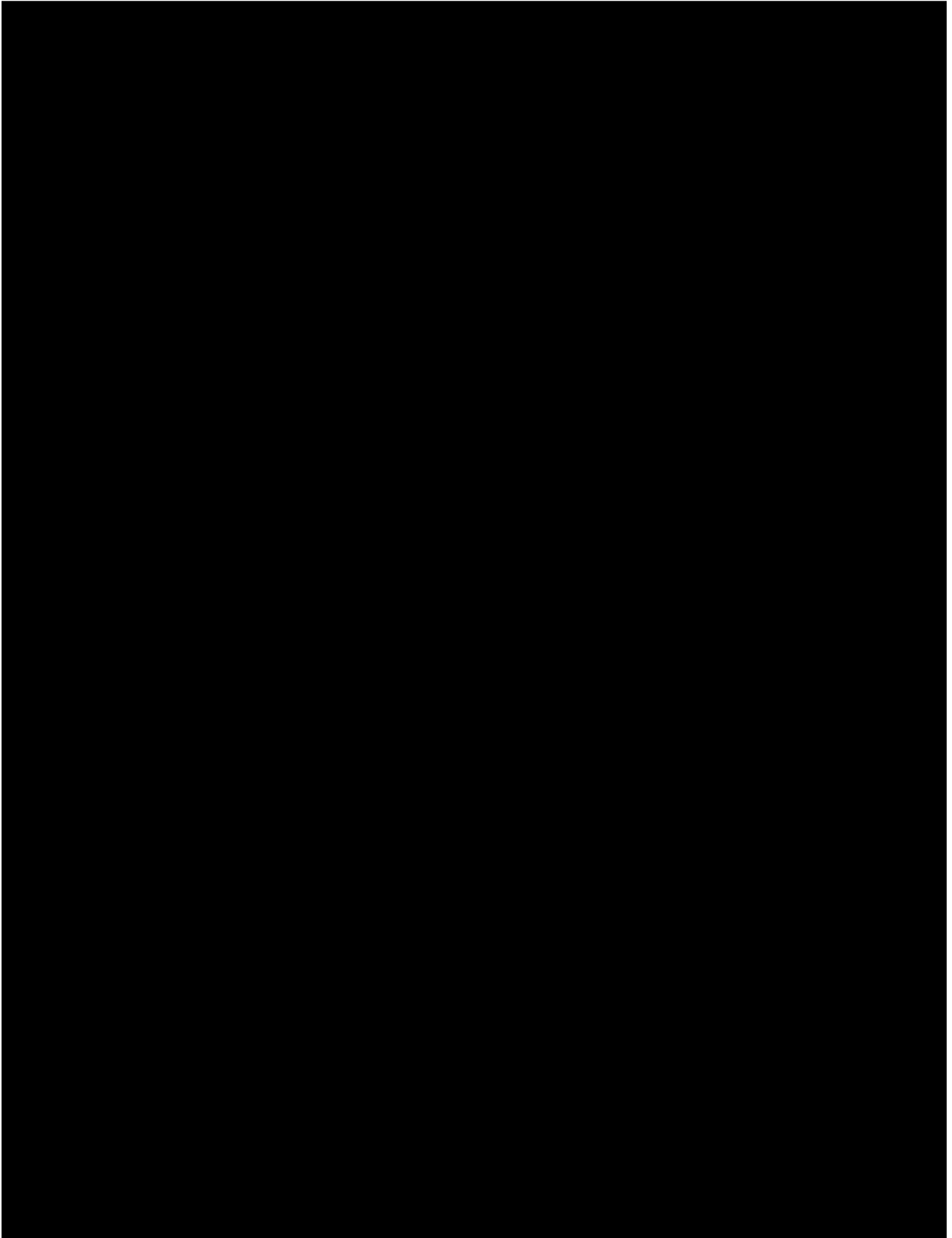


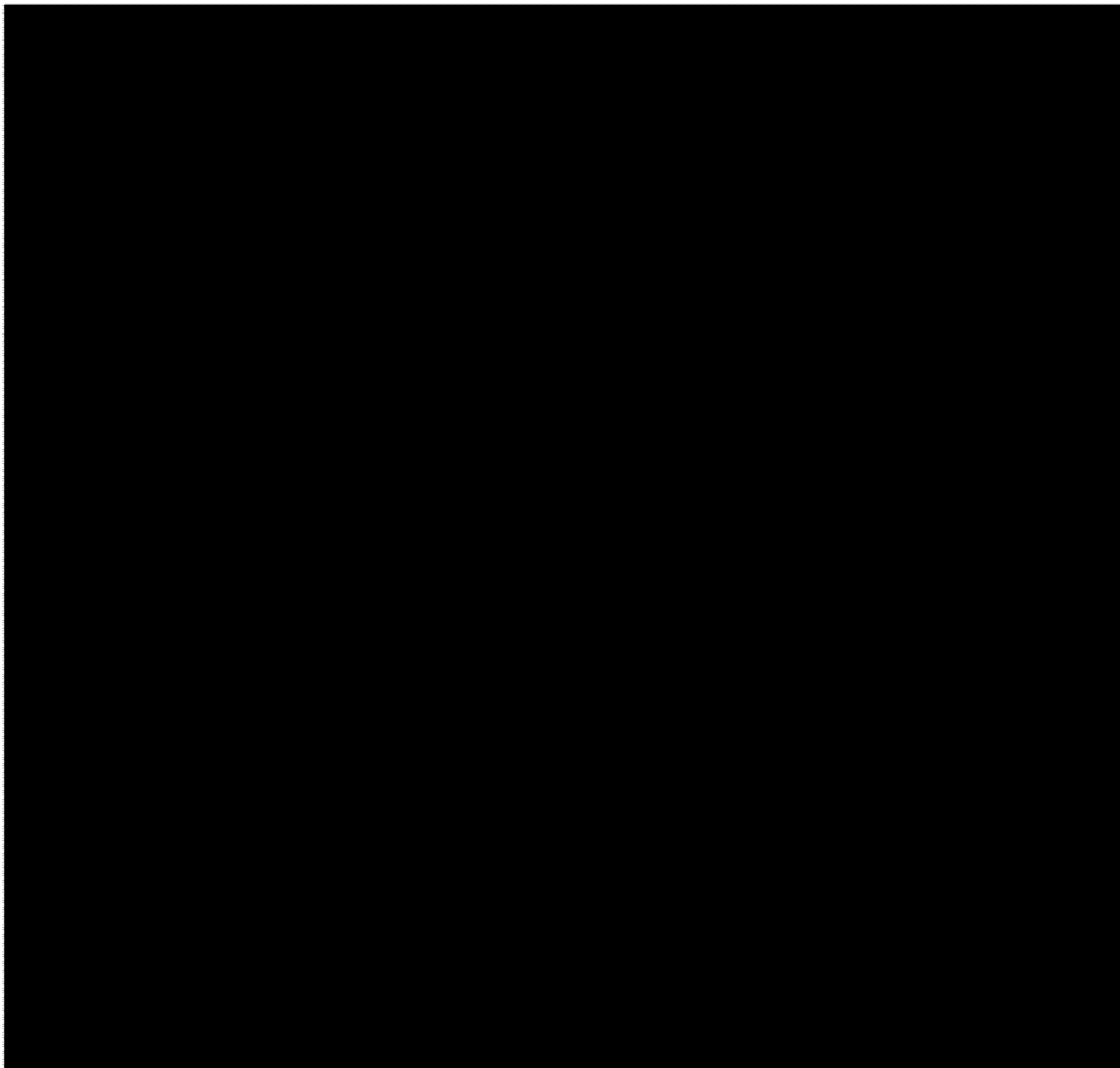












Clark County Department of Family Services

By   
MARI D. PARLADE, ESQUIRE  
Appeals Unit - Manager  
Child Welfare Services Division

Date 8/27/15



# **EXHIBIT F**



**CLARK COUNTY  
DEPARTMENT OF FAMILY SERVICES**

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

Received  
SEP 1 2015  
DFS Appeals

**REQUEST FOR FAIR HEARING OF AGENCY DECISION**

**Person(s) Requesting Fair Hearing:** Steven Eggleston

(Please Print)

**Report Number Listed on Notification Letter:** 1643346

**Case Number listed on Notification Letter:** 1362581

**Date Listed on Notification Letter:** 08/27/15

**Address of Person(s) Fair Hearing:** C/O McFarling Law Group; 6230 W, Desert Inn Rd.  
Las Vegas, NV 89146.

**Phone Number:** 702-565-4335

**Name of Caseworker:** Georgina Stuart

**The reasons why you believe the agency decision is incorrect:**

The facts do not support the panel's findings.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Additional information to support your claim:**

The undersigned intends to call witnesses during the hearing. See witness list attached hereto.  
\_\_\_\_\_  
\_\_\_\_\_

Signature

Steven B. Eggleston

Date

9/9/15

# **EXHIBIT G**



# **EXHIBIT H**



## Department of Family Services

121 S. Martin Luther King Blvd • Las Vegas NV 89106-4309  
(702) 455-8160 • Fax (702) 455-5665 • Intake (702) 399-0081

**Paula Hammack, Acting Director**  
Jill Marano, Assistant Director  
Ebony Washington, Acting Assistant Director

June 9, 2017

Mr. Steven Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, post code: BA4 4NX  
ENGLAND

Case Number: 1362581  
Report Number: 1643346

Dear Mr. Eggleston:

The Department has received your written Request for Fair Hearing of Agency Decision as it pertains to the above-referenced case and report number. In accordance with NRS 233B, an Appeal Hearing has been scheduled to review your case on:

Date: Wednesday, September 6, 2017  
Time: 10:30 a.m.  
Location: 121 S. Martin Luther King Blvd, Las Vegas, NV 89106

You may bring witnesses to this Hearing. A written list of witnesses must be submitted to this department, and received by the undersigned no later than ten working days prior to your Hearing date. Only witnesses on this list will be permitted to appear as witnesses at the Hearing. We will also provide you with our list of witnesses if anyone other than the caseworker will be testifying. Also please note that you have the right to legal counsel. DFS does not provide legal counsel for appellants.

You are required to attend the hearing. If you do not attend the hearing, you abandon your rights to an appeal, and the action of the agency will be implemented.

Should you have any questions, please contact Appeals Unit at 702-455-8160 or [dfsappeals@clarkcountynv.gov](mailto:dfsappeals@clarkcountynv.gov)

Sincerely,

  
Devon Butts  
CCDFS Legal Unit Supervisor

Hearing Officer: Christine Kelleher  
District Attorney: Emily Dorman

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al (702) 671-4578.  
Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at (702) 671-4578.

# **EXHIBIT I**

✓  
**Leslie Reynolds**

---

**From:** Devon Butts  
**Sent:** Friday, August 11, 2017 12:01 PM  
**To:** Leslie Reynolds  
**Subject:** FW: Appeal Hearing of Steven Eggleston, Case #: 1362581  
**Attachments:** 2 Continued FH letter 08092017.doc  
  
**Importance:** High  
  
**Categories:** DEVON

Below is the email I sent to Mr. Eggleston and the date and time it was sent. Please add a note to the appeals log that reflects this. I also attached the letter to this email.

I added a case note in Unity to reflect this.

THANKS!

Devon Butts, Family Services Supervisor  
Legal Unit  
Department of Family Services  
121 S. Martin Luther King Blvd, Las Vegas, NV 89106  
Office: (702) 455-4639  
Fax: (702) 455-5665

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**From:** Devon Butts  
**Sent:** Friday, August 11, 2017 11:58 AM  
**To:** 'Steve Eggleston'  
**Subject:** RE: Appeal Hearing of Steven Eggleston, Case #: 1362581

Mr. Steven Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Plilton, England, post code: BA4 4NX

*Via E-Mail [theeggman411@gmail.com](mailto:theeggman411@gmail.com)  
and International Federal Express*

Case No. 1362581  
Report No. 1643346

Dear Mr. Eggleston:

We received your request on August 2, 2017 for a continuance on your Fair Hearing scheduled for September 6, 2017. As we indicated in our letter dated May 26, 2017, Fair Hearings are scheduled on Tuesday and



Wednesdays; and appellants are not provided with the opportunity to select their Fair Hearing date; rather, the date is selected based on the Fair Hearing Officer's availability. As such, your Fair Hearing will be rescheduled around the Fair Hearing Officer's availability. Once we have confirmation of the Fair Hearing date, we will provide that date to you in an e-mail as well as a hard copy letter.

With regard to your concern regarding not receiving file materials, please reference the e-mail from June 2, 2017, for the procedure you need to follow to request those materials.

This letter will also be sent via International Federal Express on August 14, 2017.

Sincerely,

Devon Butts, Family Services Supervisor  
Legal Unit  
Department of Family Services  
121 S. Martin Luther King Blvd. Las Vegas, NV 89106  
Office: (702) 455-4639  
Fax: (702) 455.5665

This email is privileged, confidential and/or exempt from disclosure. If you are not the intended recipient and disclosure, copying, distribution or use of this email (including any reliance thereon) is prohibited. If you receive this email in error, please immediately contact the sender and delete the material in its entirety.

**From:** theeggman411@gmail.com [mailto:theeggman411@gmail.com] **On Behalf Of** Steve Eggleston  
**Sent:** Wednesday, August 02, 2017 1:05 PM  
**To:** Devon Butts  
**Subject:** Re: Appeal Hearing of Steven Eggleston, Case #: 1362581

Hi Ms. Butts! It has come to my attention that an important witness has an unavoidable conflict on the rescheduled hearing date of September 6, 2017. Also, there are other circumstances that preclude me from getting a fair trial on that date. Also, I have yet to receive any file materials from anyone. Not a single piece of paper or note as to the basis for the report under issue. Having not received anything, with the hearing a month away, precludes me from identifying rebuttal witnesses, etc., and thus further compromises my ability to receive a fair hearing. My sons, after all, were abducted to Chicago where they and other witnesses reside. Rather than detail the other reasons as well, I'd like to request a rescheduling of the hearing to a later date that avoids these problems. Can you please provide me with some alternative hearing dates later in the year? Thank you. Sincerely, Steve Eggleston

# **EXHIBIT J**



# Department of Family Services

121 S. Martin Luther King Blvd • Las Vegas NV 89106-4309  
(702) 455-8160 • Fax (702) 455-5665 • Intake (702) 399-0081

**Paula Hammack, Acting Director**  
Jill Marano, Assistant Director  
Eboni Washington, Acting Assistant Director

August 18, 2017

Mr. Steven Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, post code: ba4 4nx

Via E-Mail theeggman411@gmail.com  
and International Federal Express

Case No. 1362581  
Report No. 1643346

Dear Mr. Eggleston:

The Department has received your written Request for Fair Hearing of Agency Decision as it pertains to the above-referenced case and report number. In accordance with NRS 233B, an Appeal Hearing has been scheduled to review your case on:

Date: Tuesday, October 24, 2017  
Time: 10:30 a.m.  
Location: 121 S. Martin Luther King Blvd, Las Vegas, NV 89106

You may bring witnesses to this Hearing. A written list of witnesses must be submitted to this department, and received by the undersigned no later than ten working days prior to your Hearing date. Only witnesses on this list will be permitted to appear as witnesses at the Hearing. We will also provide you with our list of witnesses if anyone other than the caseworker will be testifying. Also please note that you have the right to legal counsel. DFS does not provide legal counsel for appellants.

**You are required to attend the hearing. If you do not attend the hearing, you abandon your rights to an appeal, and the action of the agency will be implemented.**

Should you have any questions, please contact Appeals Unit at 702-455-8160 or [dfsappeals@clarkcountynv.gov](mailto:dfsappeals@clarkcountynv.gov)

Sincerely,

Leslie Reynolds  
Legal Office Specialist  
CCDFS Legal Unit/Appeals

CC: Hearing Officer: Christine Kelleher  
District Attorney: Amity Dorman

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al (702) 671-4578.  
Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at (702) 671-4578.

# **EXHIBIT K**

**From:** DFS Appeals  
**Sent:** Monday, October 16, 2017 1:06 PM  
**To:** 'Steve Eggleston'  
**Subject:** RE: Fair Hearing

10/16/17  
heard back

Mr. Eggleston,

We will agree to a continuance based on your unavailability to leave the country. Please provide proof of when you will be able to leave the country so we can reschedule the hearing in due course. This hearing will not be continued until after the conclusion of any pending litigation.

Additionally this will assist in your concerns about the time you need to address the discovery that has been provided to you and any forthcoming discovery.

Thank you,

Devon Butts, Family Services Supervisor  
Legal Unit  
Department of Family Services  
121 S. Martin Luther King Blvd. Las Vegas, NV 89106  
Office: (702) 455-4639  
Fax: (702) 455.5665

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**From:** Steve Eggleston [mailto:theeggman411@gmail.com]  
**Sent:** Wednesday, October 04, 2017 1:49 AM  
**To:** DFS Appeals  
**Cc:** Lisa Callahan  
**Subject:** Re: Fair Hearing

10/4/17

Dear Ms. Reynolds,

I send this email in relation to the upcoming DFS Appeals hearing.

First, to my surprise, British Immigration still has not processed my Visa Application. During the processing, I am unable to leave England, where I reside with my British wife, because they keep my Passport during in-country Visa applications. Thus I must again ask for the hearing to be continued to a later day.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Accordingly, I am formally requesting that this hearing be continued until after the resolution of the civil rights lawsuit currently pending in Clark County District Court, of which I'm sure you are aware, and until after full documents and witnesses have been identified, produced and made available.

Please advise.

Sincerely submitted, Steve Eggleston, falsely accused "perpetrator" and father of minor son 1 and minor son 2

On Fri, Aug 18, 2017 at 11:51 PM, DFS Appeals <[DFSAppeals@clarkcountynv.gov](mailto:DFSAppeals@clarkcountynv.gov)> wrote:  
Please be advised that your Fair Hearing has been scheduled. Attached is a Notice of Fair Hearing for your review and records. Please mark your calendar and plan to be present. Thank you!



Case No. 1362581  
Report No. 1643346

Leslie Reynolds, Legal Office Specialist  
Department of Family Services-Legal Unit  
121 S. Martin Luther King Dr., Ste. 159  
Las Vegas, NV 89106—4309  
Office Phone: (702) 455-6920  
Fax: (702) 455-5665  
Leslie.Reynolds@clarkcountynv.gov

--

Steve Eggleston, J.D., aka The Eggman  
Mobile:  
+44 (0)7801931682 (calls from U.S.)  
Land: +44 (0)1749899341 (calls from U.S.)  
Primary: TheEggman411@gmail.com  
Secondary: Steve@EggmanGlobal.com  
www.linkedin.com/SteveEgglestonakaTheEggman

Founder/CEO,  
Eggman Global Artists

Founder/CEO, Eggman Global Consultants  
Co-Founder/CEO, TECH for Humankind  
Partner, ABA Booking Agency  
www.EggmanGlobal.com  
Facebook.com/EggmanGlobal  
Twitter.com/EggmanGlobal

Founder/CEO, Eggman Global Books  
Author, "Conflicted," a Trip Splatter Novel  
2nd Edition Street Date: 01/10/16  
EggmanGlobalBooks.com  
Facebook.com/SteveEgglestonLegalDufflers

The Eggman Theme Song:  
www.youtube.com/watch?v=3ALRjH11s9w

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# **EXHIBIT L**



## Department of Family Services

121 S. Martin Luther King Blvd • Las Vegas NV 89106-4309  
(702)455-7200 • Fax (702) 385-2999 • Hotline (702) 399-0081

**Kevin Schiller, Acting Director**  
Paula Hammack, Assistant Director  
Jill Marano, Assistant Director  
Ebony Washington, Assistant Director

July 19, 2018

Mr. Steven Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, post code: BA4 4NX

Via E-Mail theeggman411@gmail.com  
and International Federal Express

Case No. 1362581  
Report No. 1643346

Dear Mr. Eggleston:

The Department has received your written Request for an Administrative Hearing of Agency Decision as it pertains to the above-referenced case and report number.

Be advised that this Hearing was originally scheduled for August 1, 2017 per your request; which was rescheduled to September 6, 2017. On August 2, 2017, you requested to continue the September 6, 2017 Hearing. In response thereto, DFS advised you on August 18, 2017, that the Hearing set for September 6, 2017 was scheduled for October 24, 2017. On October 4, 2017, you advised DFS that you were unable to attend the October 24, 2017 Hearing and stated that you were "formally requesting that this hearing be continued until after the resolution of the civil rights lawsuit currently pending in Clark County District Court, of which I'm sure you are aware, and until after full documents and witnesses have been identified, produced and made available." On October 16, 2017, DFS advised you that "this hearing will not be continued until after the conclusion of any pending litigation".

Therefore, in accordance with NRS 233B, an Administrative Hearing has been scheduled to review your case on:

**Date: Tuesday, September 11, 2018**

**Time: 10:30 a.m.**

**Location: 121 S. Martin Luther King Blvd, Las Vegas, NV 89106**

You may bring witnesses to this Hearing. A written list of witnesses must be submitted to this department, and received by the undersigned no later than ten working days prior to your Hearing date. Only witnesses on this list will be permitted to appear as witnesses at the Hearing. We will also provide you with our list of witnesses if anyone other than the caseworker will be testifying. Also please note that you have the right to legal counsel. DFS does not provide legal counsel for appellants.

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al (702) 671-4578.  
Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at (702) 671-4578.

Mr. Steven Eggleston  
July 19, 2018  
Page 2

**You are required to attend the hearing. If you do not attend the hearing, you abandon your rights to an appeal, and the action of the agency will be implemented.**

Should you have any questions, please contact Appeals Unit at 702-455-8160 or [dfsappeals@clarkcountynv.gov](mailto:dfsappeals@clarkcountynv.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "DwE Butts". The signature is stylized with a large, looped "D" and "B".

Devon Butts  
CCDFS Legal Unit Supervisor

CC: Hearing Officer: Christine Kelleher  
District Attorney: Amity Dorman

# **EXHIBIT M**

**From:** Steve Eggleston  
**To:** Devon Butts  
**Subject:** Re: Fair Hearing Notice for S. Eggleston  
**Date:** Friday, July 20, 2018 11:23:33 AM

---

Hi Ms. Butts, thank you for your letter. However, I am surprised not to receive the customary selection of four dates. I have a conflict on September 11, 2018, as it is the 16th Anniversary of 9/11. My father was a B-52 Bomber Pilot, I am a graduate of the University of Maryland, and I have many friends affected. I will be in the Capitol for various events (Washington D.C.) that day. Please provide me a list of alternate dates, ideally in early October to prevent other conflicts of which the County is already aware. Again, thank you. Steve Eggleston

On Thu, Jul 19, 2018 at 5:19 PM, Devon Butts <[StokesD@clarkcountynv.gov](mailto:StokesD@clarkcountynv.gov)> wrote:

July 19, 2018

Mr. Steven Eggleston

Goose Hall, Bourne Farm, East Town Road

Pilton, England, post code: BA4 4NX

[theeggman411@gmail.com](mailto:theeggman411@gmail.com)

Via E-Mail

and  
International  
Federal  
Express

Case No. 1362581

Report No. 1643346

Dear Mr. Eggleston:

The Department has received your written Request for an Administrative Hearing of Agency Decision as it pertains to the above-referenced case and report number.

Be advised that this Hearing was originally scheduled for August 1, 2017 per your request; which was rescheduled to September 6, 2017. On August 2, 2017, you requested to continue the September 6, 2017 Hearing. In response thereto, DFS advised you on August 18, 2017, that the Hearing set for September 6, 2017 was scheduled for October 24, 2017. On October 4, 2017, you advised DFS that you were unable to attend the October 24, 2017 Hearing and stated that you were "formally requesting that this hearing be continued until after the resolution of the civil rights lawsuit currently pending in Clark County District Court, of which I'm sure you are aware, and until after full documents and witnesses have been

identified, produced and made available." On October 16, 2017, DFS advised you that "this hearing will not be continued until after the conclusion of any pending litigation".

Therefore, in accordance with NRS 233B, an Administrative Hearing has been scheduled to review your case on:

**Date: Tuesday, September 11, 2018**

**Time: 10:30 a.m.**

**Location: 121 S. Martin Luther King Blvd, Las Vegas, NV 89106**

You may bring witnesses to this Hearing. A written list of witnesses must be submitted to this department, and received by the undersigned no later than ten working days prior to your Fair Hearing date. Only witnesses on this list will be permitted to appear as witnesses at the Hearing. We will also provide you with our list of witnesses if anyone other than the caseworker will be testifying. Also please note that you have the right to legal counsel. DFS does not provide legal counsel for appellants.

You are required to attend the hearing. If you do not attend the hearing, you abandon your rights to an appeal, and the action of the agency will be implemented.

Should you have any questions, please contact Appeals Unit at 702-455-8160 or [dfsappeals@clarkcountynv.gov](mailto:dfsappeals@clarkcountynv.gov)

Please note a hardcopy letter of the attached Fair Hearing Notice is being mailed to you as well.

Sincerely,

Devon Butts, Family Services Supervisor

Legal Unit

Department of Family Services

121 S. Martin Luther King Blvd, Las Vegas, NV 89106

Office: (702) 455-4639

Fax: (702) 455.5665

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--  
Steve Eggleston, J.D., aka The Eggman  
Mobile: **+44 (0)7801931682**  
[TheEggmanJJD@gmail.com](mailto:TheEggmanJJD@gmail.com)  
[SteveEgglestonWrites.com](http://SteveEgglestonWrites.com)

Founder, CEO, Eggman Global  
[www.EggmanGlobal.com](http://www.EggmanGlobal.com)  
[Facebook.com/EggmanGlobal](https://www.facebook.com/EggmanGlobal)  
[Twitter.com/EggmanGlobal](https://www.twitter.com/EggmanGlobal)

The Eggman Theme Song:  
[www.youtube.com/watch?v=1vtR1h1x9w](http://www.youtube.com/watch?v=1vtR1h1x9w)

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# **EXHIBIT N**

**From:** Devon Butts  
**To:** "Steve Eggleston"  
**Subject:** RE: Fair Hearing Notice for S. Eggleston  
**Date:** Tuesday, July 31, 2018 1:30:00 PM

---

Mr. Eggleston,

Your Fair Hearing was scheduled for September 11, 2018. On October 4, 2017, you requested a continuance. On October 16, 2017 we advised you that we are agreeable with that and asked you to provide dates so the Fair Hearing could be reset, but you have failed to do so. This is your third request for a continuance. Please provide dates so the Fair Hearing can be reset. Also, please be advised that we cannot provide legal advice. Thank you.

Devon Butts, Family Services Supervisor  
Legal Unit  
Department of Family Services  
121 S. Martin Luther King Blvd. Las Vegas, NV 89106  
Office: (702) 455-4639  
Fax: (702) 455.5665

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# **EXHIBIT O**

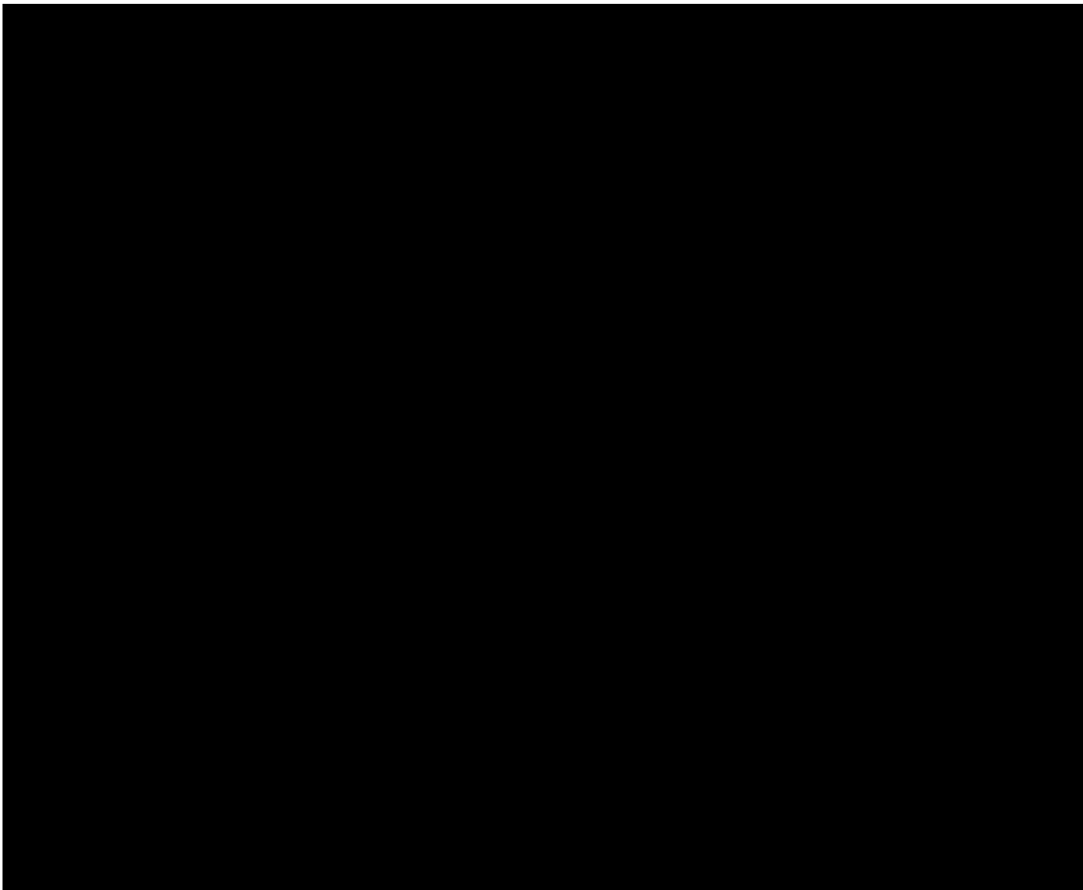
**From:** Devon Butts  
**To:** Steve Eggleston (theegoman411@gmail.com)  
**Bcc:** Mari Parlane  
**Subject:** RE: Fair Hearing Notice for S. Eggleston  
**Date:** Friday, August 17, 2018 2:13:00 PM

---

As I stated in my email to you dated 7/31/18, please be advised that your Fair Hearing was scheduled for September 11, 2018. On October 4, 2017, you requested a continuance. On October 16, 2017 we advised you that we are agreeable with that and asked you to provide dates so the Fair Hearing could be reset, but you have failed to do so. This is your third request for a continuance. Please provide dates so the Fair Hearing can be reset. Also, please be advised that we cannot provide you or any other appellant legal advice. Should you seek to speak with the Clark County Ombudsman, please visit: <http://www.clarkcountynv.gov/countymanager/ombudsman/Pages/default.aspx>

Devon Butts, Family Services Supervisor  
Legal Unit  
Department of Family Services  
121 S. Martin Luther King Blvd. Las Vegas, NV 89106  
Office: (702) 455-4639  
Fax: (702) 455.5665

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# **EXHIBIT P**

1 Steve Eggleston, Plaintiff, In Pro Per  
2 Goose Hall, Bourne Farm, East Town Road  
3 Pilton, England, Post Code: ba4 4nx  
+44 7801 931682  
TheEggman411@gmail.com

4 DISTRICT COURT  
5 CLARK COUNTY, NEVADA  
6

7 STEVE EGGLESTON,

8 Plaintiff,

9 -vs-

10 GEORGINA STUART; DEPARTMENT OF  
11 FAMILY SERVICES, CHILD SUPPORT  
12 SERVICES, CLARK COUNTY, NEVADA;  
LISA CALLAHAN; BRIAN CALLAHAN;  
AND DOES 1 THROUGH 100, INCLUSIVE,

13 Defendants.  
14

CASE NO. A-16-748919-C  
DEPT NO. VIII

**Plaintiff's 16.1(a)(1) Initial Disclosures**

15 INITIAL DISCLOSURES – (A) WITNESSES

- 16 1. Steve Eggleston, Goose Hall, Bourne Hall, East Town Lane, Pilton, England ba4  
17 4nx  
18  
19 2. Dana Amma Day, plaintiff's wife, c/o plaintiff  
20  
21 3. Georgina Stuart, c/o defense counsel  
22 4. Tisa Evans, MEd. Ombudsman for DFS and CCSS, 2432 Martin Luther King  
23 Blvd., North Las Vegas, NV 89032, Phone 702-455-1046, Toll free: 1-866-780-  
9541, Fax: 702-868-2544  
24 5. Timothy Burch, Interim Director DFS, same  
25  
26 6. Paula Hammack, Assistant Director DFS, same

27 PAGE 1 OF 13  
28

- 1 7. Michael Knight, Assistant Director DFS, same
- 2 8. Mari D, Parlade, Esq., Appeals Unit – Manager, same
- 3
- 4 9. Officer Dinkelk, 223 Lead St., Henderson, NV 89015
- 5 10. Officer Chris Trzaska, same
- 6
- 7 11. Janet Wagner, CPS Intake Worker, c/o defense counsel
- 8 12. Leroy Avaya, name appearing in Fair Hearing File, address unknown
- 9
- 10 13. Sheri Hensel, Sr. Family Services Specialist, c/o defense counsel
- 11 14. Vicki Hammond, Family Services Assistant, c/o defense counsel
- 12
- 13 15. Ga-Nesha Hamilton, Family Services Spec II, c/o defense counsel
- 14
- 15 16. Nadine Lazarre-Nelson, Office Specialist, c/o defense counsel
- 16 17. Boys Town attendants at Meeting of 12/31/14, personnel involved with family
- 17 and custodian of records of Boys Town, names and addresses currently unknown
- 18
- 19 18. Mary Atteberry or Ateberry, Family Services Specialist Supervisor, c/o defense
- 20 counsel
- 21
- 22 19. Sharon Savage, DFS south office, c/o defense counsel
- 23
- 24 20. Clint Holder, DFS south office, c/o defense counsel
- 25 21. Shelly, Social worker Sunrise Hospital, 3186 S Maryland Pkwy, Las Vegas, NV
- 26
- 27
- 28



1 89109, 702-731-8000

2 22. Mathew Forrey, Henderson PD, 223 Lead St., Henderson, NV 89015, 702-267,  
3 5000

4  
5 23. Gina Pearl, CPS Intake Worker, c/o defense counsel

6 24. Custodian of Records, American Toxicology, person or persons able to establish  
7 admissibility of Steve Eggleston test results, 3160 W. Sahara Ave., Las Vegas,  
8 NV 89102, 702-248-2800

9  
10 25. Custodian of Records DFS, CPS, Clark County, Mohave Mental Health Safety  
11 Services personnel involved with family and custodian of records, c/o defense  
12 counsel

13  
14 26. Lisa Callahan, defendant, 300 Ashley Dr., New Lenox, IL 60451, 815-685-0625

15 27. Brian Callahan, defendant, same

16  
17 28. James Rodriguez, ex-husband of Laura Rodriguez, last known address, 5775,  
18 Connecticut Street, Merrillville, IN 46410

19  
20 29. Laura Battistella, homeless, address and phone unknown

21 30. minor son 1 c/o Callahans

22  
23 31. minor son 2 c/o Callahans

24 32. Alexis Rodriguez, Chicago area, 708-296-5983

25  
26 33. Selena Rodriguez, c/o Callahans, 815-685-0007

27 PAGE 3 OF 13

- 1 34. minor [REDACTED], c/o Callahans
- 2 35. minor [REDACTED] Jr., c/o Callahans
- 3
- 4 36. Ken Battistella, Sr., Ozarks, 702-400-2515
- 5 37. Bonnie Wojdyla, Ozarks, 702-575-9999
- 6
- 7 38. Cindy Landeen, 651-343-4747, Minneapolis, MN
- 8 39. John Neyer, 252-717-0683, Atlanta, GA
- 9
- 10 40. Jay Warsinke, Burbank, CA 818-505-1836
- 11 41. John and Shirley (neighbors), last name to be provided, 8989 Slippery Rock Way,
- 12 Las Vegas, NV 89123
- 13
- 14 42. Jon Gordon, Rancho Mirage, California, 760-409-8122.
- 15
- 16 43. Peg Kasterg, 720-498-3374, 4595 Balsam Street, Wheat Ridge, CO 80033
- 17
- 18 44. Kyle Kastberg, Las Vegas, NV
- 19 45. Sunrise Hospital Custodian of Records, 3186 S Maryland Pkwy, Las Vegas, NV
- 20 89109, 702-731-8000
- 21
- 22 46. Nicole McIntyre-Hoggard, Clark County Intake Worker, c/o defense counsel
- 23
- 24 47. Danni Earl Smith, Las Vegas, 702-612-6780
- 25 48. Diane Kallay (witness to [REDACTED] falling in pool), 716-909-2646
- 26
- 27 49. Steve Thompson, 774-449-8410, 15 Hillbrook Drive, West Brookfield, MA
- 28

1  
2 01585

3  
4 50. Bobby Ferreri, 702-596-3219, 2495 Village View Drive, Henderson, NV 89074

5 51. Vince Casas, 702-407-5956, last known address same as Ferreri

6  
7 52. Sheri Hensel, Sr. Family Services Specialist

8 53. Emily McFarling, Esq, 6230 WE. Desert Inn Rd., Las Vegas, NV 89146

9  
10 54. Witnesses pertinent to Clark County DHS's history of malfeasance in matters of  
11 children protection and DFS/CPS churning.

12 55. minor and minor school teachers

13  
14 56. All the children's paediatricians, doctors and GPs

15  
16 57. Brian Knaff (arranged for Mayor to propose to Laura), 702-256-9811, 7335 Edna,  
17 Las Vegas, NV 89117

18 58. Shea Arender, 318-282-4532, 2700 South, Las Vegas Blvd., Las Vegas NV 89109

19  
20 59. Jay Gabriel Cavazos, 313-355-9376, Detroit, MI

21 60. Retired Judge Gerald Bakarich, Sacramento, California

22  
23 61. Duncan Faurer, Los Angeles, 702-234-7906

24  
25 62. Jan LaBuda, Florida, 352- 422-7393

26 63. James Grover, Los Angeles, CA, 310-591-6207

27  
28 PAGE 5 OF 13

1 64. Helga White, 530-885-4433, 310, Bridgeview Dr., Auburn, CA 95603

2 65. Kevin Barker, Clyde, North Carolina, 828-348-0405

3  
4 66. Officer Charles Yannis, P# 6024  
Las Vegas Metropolitan Police Department  
400 S. Martin Luther King Boulevard  
5 Las Vegas, NV 89106  
6 702-828-3111

7 Officer Yannis is expected to testify regarding his knowledge of the incident that  
8 occurred on January 7, 2017 regarding the guardianship of the Eggleston Boys.

9 67. Officer Armando Leija, (Retired) P# 2020  
Las Vegas Metropolitan Police Department  
400 S. Martin Luther King Boulevard  
10 Las Vegas, NV 89106  
11 702-828-3111

12 Officer Leija is expected to testify regarding his knowledge of the incident that occurred  
13 on January 7, 2017 regarding the guardianship of the Eggleston Boys.

14 68. Chief of Police Tom Sulley  
Orland Hills Police Department  
16039 S. 94<sup>th</sup> Ave.  
15 Orland Hills, IL 60487  
16 708-349-3132

17 Chief Sulley is expected to testify regarding his knowledge of the welfare check he  
18 performed at the Callahan home in January, 2015.

19 69. Peggy Johnson  
20 Legal Office Assistant II  
Department of Family Services  
21 c/o Ofelia L. Monje  
Clark County District Attorney's Office - Civil Division  
22 500 Grand Central Parkway, 5th Floor  
Las Vegas, NV 89155  
23 Phone 702-455-4761

24 70. Lisa Gibson  
25 Family Services Supervisor  
Department of Family Services  
26 c/o Ofelia L. Monje  
Clark County District Attorney's Office - Civil Division  
27 500 Grand Central Parkway, 5th Floor  
Las Vegas, NV 89155

28 PAGE 6 OF 13

1 Phone 702-455-4761  
2 71. Lisa McKay  
3 Family Services Manager  
4 Department of Family Services  
5 c/o Ofelia L. Monje  
6 Clark County District Attorney's Office - Civil Division  
7 500 Grand Central Parkway, 5th Floor  
8 Las Vegas, NV 89155  
9 Phone 702-455-4761

72. Emily Smith, Social Enterprise Attorney, Civil Legal Corps, 847-906-8317

10 All of these witnesses are expected to testify as to their knowledge of the incident, due  
11 process violations, plaintiff's fitness as a parent, plaintiff's damages, the failure of any  
12 government agency anywhere to seek to unify or reunify the family, Laura Rodriguez's post-  
13 partum depression or related illness, or plaintiff's earning capacity, diligence, education, work  
14 ethic, love of his children, general capability or particular capability in raising his sons, and  
15 rebuttal to the horrific actions taken and words spoken by defendants and to an assertion that  
16 there was any justification to taking Eggleston's sons.

**INITIAL DISCLOSURES – (B), DOCUMENTS ET AL.**

- 17 1. Emails by and between plaintiff and others about the boys, custody, abduction,  
18 defamation, intentional infliction, and damages.
- 19 2. Links to plaintiff's online presence as impacts all issues in the case, including photos  
20 and videos of the boys:
  - 21 a. SteveEgglestonWrites.com
  - 22 b. EggmanGlobal.com
  - 23 c. LinkedIn.com/SteveEgglestonakaTheEggman
  - 24 d. Facebook.com/TheEggman411

- e. Facebook.com/EggmanGlobal
  - f. TheFoodMafiaBook.com
  - g. Upwork: <https://www.upwork.com/fl/steveeggleston?viewMode=1>
  - h. All plaintiff and plaintiff-related websites, social media
3. Plaintiff's Writing Portfolio
  4. Appellant DFS Fair Hearing Exhibits
  5. Select Legal Materials filed in Rodriguez v. Rodriguez, Clark County District Court, Case No. D-10-424066-D, including particularly Order Resolving Child-Custody Issues
  6. Select Legal Materials filed in In Re Marriage of James Rodriguez v, Laura Rodriguez, Lake Circuit Court, Crown Point, Indiana, Case No. 45C01 -0911-DR-961
  7. Select Legal Materials filed in Eggleston vs. Battistella, Clark County District Court, Case No. D-15-508989-P, in particular granting paternity and custody.
  8. The unsigned Guardianship Document.
  9. Select Legal Materials in In Re the Matter of minor son 1 and minor son 2, Will County Circuit, Case No. 15 P 231
  10. Select Materials re Child Welfare Obligations, Department of Health and Human Services, Child Welfare Presentation, February 2017.

PAGE 8 OF 13

11. Universal Declaration of Human Rights relative to families, parents and children.
12. The Complaint in Clark v. Guinn, United States District Court, District of Nevada, Case No. 2:06-cv-01068-RCJ-RJJ.
13. The Grand Jury Complaint filed against Child Protective Services, dated June 16, 2011, and responses thereto and findings and reports issued.
14. Death and family threat emails.
15. Redacted bank statements showing income and expenses for purposes of calculating damages and all other documents supporting plaintiff's income loss claims.
16. Documents on Transparent Nevada showing overtime pay of defendant Georgina Stuart and other Clark County Employees to establish churning among other things
17. All Will County Guardianship Records re plaintiff's sons and the Rodriguez children
18. All Will County Illinois Records pertaining to the In Re [REDACTED] minor son 1 guardianship case or any matter regarding plaintiff's sons.
19. Emails showing abuse, harassments, and threats committed by James Rodriguez, Sr.
20. Documents re Lisa Callahan's Abandonment of her mother, Kathleen Battistella
21. FBI Records regarding abduction and kidnapping in family and family custody matters.

All of Plaintiff's books, articles and materials written, both published and unpublished, subject to

appropriate protective orders and NDAs, showing his capability, income, income potential, etc.

22. All photos, images, videos and the like of the Eggleston-Rodriguez-Battistella family, including but not limited to those of plaintiff with his sons and the children

**INITIAL DISCLOSURES – (C) COMPUTATION BY CATEGORIES OF DAMAGES**

**Computations by Category of Damages:**

**I. Legal Actions (Attorney's Fees, Expert Fees, Litigation expenses, travel, accommodations, etc.)**

**a. Past Attorney's Fees and Related Expenses:**

- a. Clark County Custody and Paternity Action (Eggleston v. Rodriguez) and related matters: approximately \$5,000, for Emily McFarling law firm.
- b. Will County Guardianship Proceedings: estimate \$2,000, includes legal fees, filing fees, and travel expense.

**b. Future Attorney's Fees and Related Court Costs, Travel, Expert Witness Expenses:**

- a. Current civil rights action: estimated \$500,000, includes legal fees; court expenses; depositions and deposition transcript fees; expert witnesses; lay witness-related fees for travel, meals, and accommodations to testify at trial.
- b. Callahan Enforcement of Judgement action in Will County, IL (default or otherwise) and/or other places of residence: estimated \$45,000 legal fees, filing fees, travel, meals and accommodations.
- c. Defending and appealing "Fair Hearing" as regards Plaintiff and the boys'



rights: \$100,000.

d. Nevada State and/or Federal action(s) to enjoin/address unconstitutionality and due process violations of Clark County "Fair" Hearing process, including but not limited to: violation of plaintiff's parental, family, due process, and related rights, as to himself, his sons, and/or their natural mother.

e. Will County Guardianship Proceedings: \$250,000, includes ongoing legal fees, filing fees, and travel expenses.

f. Indiana State and/or Federal action(s) to deter unconstitutionality and violation of Will County Guardianship process, including but not limited to: violation of plaintiff's parental, family, due process, and related rights, as to himself, his sons, and/or their natural mother: \$250,000.

g. Immigration legal fees, travel, accommodation, for Plaintiff's wife and step-children to live in America should the Will County and/or other U.S. court refuse to allow Plaintiff to move the boys to England or outside the U.S.: \$50,000.

2. Mental Health, Psychiatric, Psychologist, Family Transition, Therapy and Related Expenses for Kidnapping/Abduction of Plaintiff's sons for all family members impacted:

a. Family Transition and Re-unification: Twice yearly for family at \$4,000 per day for four days until last child reaches 25:  $\$4,000 \times 4 = \$16,000 \times 2 = \$32,000 \times 20 = \$640,000$  + twice annual expenses to California facility of average 6 people flying from England ( $6 \times \$600 = \$3600 \times 20 = \$72,000$ ) + 20 years  $\times 2 @ \$1,000$  per trip = \$40,000. Total combined approximately: \$1,464,000.

1 b. Ongoing annual therapy sessions (psychology/psychiatric) for  
2 kidnapping/abduction specialist for two adults and average 4 children (total 6) x  
3 \$250 per session = \$1500 x 24 (2 sessions for month) = \$36,000 per year x 20  
4 years = \$720,000.

5  
6 3. Plaintiff Income Loss:

7 a. Past:

8 i. Interference with Plaintiff's writing and consulting career: \$150,000.

9  
10 ii. Lost book royalties: \$50,000.

11  
12 iii. Lost artist management, booking, and consulting fees: \$150,000.

13 b. Future:

14  
15 i. Interference with Plaintiff's writing and consulting career: \$100,000 x 5  
16 years = \$500,000 assuming litigation is over in five years.

17  
18 ii. \$100,000+ per year if litigation continues in Nevada and/or Will County.

19  
20 iii. Lost of brand and good will Eggman Global: \$500,000.

21 4. Past and Future Bodily injury: \$1 million (assuming lifespan of 87 years).

22 5. Past and Future Mental and Emotion Distress: \$50 million (assuming lifespan of 87  
23 years).

24  
25 6. Past and Future Damage to Reputation: \$50 million (assuming lifespan of 87 years).

1 7. Visitation costs to America/Indiana, including travel, accommodations, au pair, living  
2 expenses until boys turn 18: estimated 3 visits for one month each for total 3 months per  
3 year for 13 years of 5 people (2 adults and 3 children), roughly \$25,000 per year x 13  
4 years = \$325,000.

5  
6 **INITIAL DISCLOSURES – (D) INSURANCE**

7  
8 Inapplicable.

9  
10 Dated: \_\_\_\_\_

11  
12 By: \_\_\_\_\_

13 Steve Eggleston, plaintiff  
14 Goose Hall, Bourne Farm  
15 East Town Lane, Pilton ba44nx  
16 +44 7801 931682  
Email: [TheEggman411@gmail.com](mailto:TheEggman411@gmail.com)  
PLAINTIFF, IN PRO PER

# **EXHIBIT Q**

1 Report Number: 1643346

2 Case No.: 1362581

3 **STEVEN EGGLESTON'S WITNESS LIST**

4 The following witnesses may be called upon to give testimony in the above captioned  
5 case:

- 6 1. Steve Eggleston, c/o McFarling Law Group, 6230 W Desert Inn Road, Las Vegas, NV  
7 89146, 702-565-4335
- 8 2. Georgina Stuart, CPS Case worker
- 9 3. Emily McFarling, Esq., 6230 W Desert Inn Rd, Las Vegas, NV 89146, 702-565-4335
- 10 4. Dan Smith, Las Vegas, NV, 592 Over Par Court, 89148, (702) 612-6780
- 11 5. Diane Kallay, 5805 Count Fleet Street Las Vegas, NV, 89113; 716-909-2646
- 12 6. Michael Bates, 423 Stonehouse Dr., Napa, CA 94558, 707-287-7084
- 13 7. Leslie Bates, 15256 Poppy Meadow St., Santa Clarita, CA 91387, 818-679-7878
- 14 8. Karen Olsen, 1839 N. Commerce Dr., Nixa MO 65714, Phone: 417-725-0055
- 15 9. Marc Brattin, 702-994-5840, 3476 Bearpin Gap Lane, LV, NV 89129
- 16 10. Carol Greco, (832) 444-7756, Lafayette, LA
- 17 11. Shea Arender, 318-282-4532, 119 Afton Way, Clinton, MS 39056
- 18 12. Hovig Abajian, (514) 889-3434, Toronto, Canada
- 19 13. Damon Elliott, Las Vegas, NV, 310-990-9263
- 20 14. Kip Kelly, Las Vegas, NV, (702) 575-3514
- 21 15. Steve Thompson, 508-410-9228, 15 Hillbrook Drive, West Brookfield, MA 01585
- 22 16. Bobby Ferreri, 702-596-3219, 2495 Village View Dr., Henderson, NV 89074
- 23 17. Vince Casas, 702.407.5956, 2459 Village View Dr., Henderson NV 89074
- 24 18. Laura Battistella, Las Vegas, NV, 720-468-1978
- 25 19. Ken Battistella, Sr., Ozarks, 702-400-2515

- 1 20. Ken Battistella, Jr., Las Vegas and Chicago, IL, (702) 465-3129
- 2 21. Bonnie Wojdyla, Ozarks 702-575-9999,
- 3 22. Peg Kastberg, 720) 498-3374, 4595 Balsam Street, Wheat Ridge, CO 80033
- 4 23. Dana Amma Day, Goose Hall, Bourne Farm, East Town Lane, Pilton, Somerset UK,
- 5 011 44 7742 449395
- 6 24. Peter Miller, (954) 448-2671, P.O. Box 669238, Pompano Beach FL 33066
- 7 25. Cindy Landeen, 651-343-4747, Minneapolis, MN
- 8 26. James Grover, Orange County, CA, 310-591-6207
- 9 27. Rodney Omanoff, New York, NY, 310-413-9043
- 10 28. Paul Aratow, Studio City, CA, 323-363-6376
- 11 29. John Neyer, (254) 717-0683, 7418 East Helm Dr., Scottsdale, AZ 85260
- 12 30. Jay Warsinke, Burbank, CA, 818-505-1836
- 13 31. John and Shirley (last name to be provided), 8989 Slippery Rock Way, Las Vegas, NV
- 14 89123.
- 15 32. All the people who attended the CPS meetings at the home from which the children
- 16 were removed from.
- 17 33. All the individuals who accompanied Georgina Stuart when the children were
- 18 removed from their parents' home, including the two policemen.
- 19 34. All police officers who have responded to calls at the home from which the children
- 20 were removed.
- 21
- 22
- 23
- 24
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- 26
- 27
- 28

*Steven D. Grierson*

FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
OLSON, CANNON, GORMLEY  
ANGULO & STOBERSKI  
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Las Vegas, NV 89129  
Phone: 702-384-4012  
Fax: 702-383-0701  
[fgalati@ocgas.com](mailto:fgalati@ocgas.com)

Attorneys for Defendants  
CLARK COUNTY and GEORGINA STUART

DISTRICT COURT  
CLARK COUNTY, NEVADA

STEVE EGGLESTON,

CASE NO. A-16-748919-C  
DEPT. NO. VIII

Plaintiff,

v.

GEORGINA STUART; CLARK COUNTY,  
NEVADA; LISA CALLAHAN; BRIAN  
CALLAHAN; AND DOES I THROUGH 100,  
INCLUSIVE,

Defendants.

**ORDER ON CLARK COUNTY AND GEORGINA STUART'S MOTION TO  
DISMISS**

On August 28, 2018, this Court conducted a scheduled hearing on Clark County and Georgina Stuart's Motion to Dismiss filed July 24, 2018. Plaintiff was present representing himself in Proper Person. Clark County and Georgina Stuart were represented by their attorney, Peter M. Angulo, Esq. of the law firm of Olson, Cannon, Gormley, Angulo & Stoberski. Having read the submitted filing relative to the Motion to Dismiss and in consideration of the oral arguments made by the parties, the Court hereby

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

*108*

grants Clark County and Georgina Stuart's Motion to Dismiss, without prejudice, and makes the following findings of fact and conclusions of law in support thereof:

**FINDINGS OF FACT**

1. On ~~August~~ 10, 2017, Plaintiff filed a First Amended Complaint for civil rights violations, child abduction, conspiracy and defamation;
2. The Complaint alleges Defendants Clark County and Georgina Stuart, based on an investigation, determined he, along with his wife, had an unsafe environment for their children;
3. On January 7, 2015, Plaintiff signed a Temporary Guardianship surrendering custody of his children to Lisa and Brian Callahan;
4. Thereafter, the Callahans removed the children from the State of Nevada;
5. On February 2, 2015, the Department of Family Services made a finding of child maltreatment against Plaintiff;
6. On February 12, 2015, Plaintiff appealed the substantiated finding to the Department of Family Services;
7. On August 27, 2015, the Appeals Unit Manager for the Department of Family Services issued a finding-upholding the substantiated findings of physical injury neglect-14 N plausible risk of physical injury against Plaintiff as to four minor children;
8. On September 9, 2015, Plaintiff requested a Fair Hearing to appeal that decision;
9. That hearing was originally scheduled to take place-at Plaintiff's request-on August 1, 2017, but was rescheduled for 9/6/17;
10. On August 2, 2017, Plaintiff requested a continuance of the hearing;
11. Accordingly, the hearing was reset for October 24, 2017;
12. On October 4, 2017, Plaintiff requested a second continuance of the hearing;
13. On October 16, 2017, the Department of Family Services agreed to a continuance of the hearing and asked Plaintiff to advise when he could appear so it could be rescheduled;



- 1 14. Plaintiff failed to subsequently contact the Department of Family Services to reset
- 2 the hearing;
- 3 15. On July 19, 2018, having not heard from Plaintiff for several months, the
- 4 Department of Family Services notified Plaintiff of a new Fair Hearing date set for
- 5 September 11, 2018;
- 6 16. On July 20, 2018, Plaintiff requested a third continuance of the hearing;
- 7 17. As of the date of the Motion to Dismiss being filed, the Fair Hearing has not been
- 8 rescheduled due to Plaintiff not providing available dates;
- 9 18. The administrative procedure set forth above-up to and including the provision of a
- 10 Fair Hearing is required pursuant to the Federal Child Abuse and Neglect
- 11 Prevention and Treatment Act (CAPTA), Section 106(b)(2)(A)(xi)(11), NRS 432B
- 12 and Nevada Administrative Code 432B.170;
- 13 19. The purpose behind this administrative structure is to afford Plaintiff a right to due
- 14 process, which is "the right to receive notice of an adverse determination against
- 15 [him] and give [him] an opportunity to respond in an orderly proceeding;"
- 16 20. The review process involves an agency appeal (which has already been utilized by
- 17 the Plaintiff in this matter) and a Fair Hearing proceeding;
- 18 21. NRS 432B.317 requires the conclusion of a Fair Hearing before any judicial review
- 19 can take place;
- 20 22. Plaintiff's constitutional claims set forth in the First Amended Complaint, assert his
- 21 children were removed from his custody and care without due process of law.
- 22 Accordingly, the constitutional claim is a Procedural Due Process Claim;
- 23 23. For reasons set forth in the conclusions of law, Plaintiff's conspiracy claim is
- 24 dependent upon the procedural due process claim as a necessary predicate.
- 25 Accordingly, the two are inextricably intertwined;
- 26 24. The remaining claims by Plaintiff are based on assertions of damage arising from
- 27 the decision by the Department of Family Services set forth above;
- 28

1 25. By statute, the Fair Hearing officer may uphold or overturn the decision by the  
2 Department of Family Services;

3 26. Plaintiff has the opportunity at the Fair Hearing to be represented by counsel;

4 27. At the Fair Hearing, witnesses and other evidence in support of the decision or in  
5 contradiction thereto can be presented; and

6 28. As indicated above, Plaintiff has availed himself of this administrative process to  
7 challenge the decision of the Department of Family Services. The procedure has  
8 not been completed at the present time.

9 **CONCLUSIONS OF LAW**

10 Predicated upon the foregoing facts, the following is an explication of the relevant  
11 law in this area upon which this Court relies in reaching its decision:

- 12 1. A person who has entered an administrative proceeding must exhaust their  
13 administrative remedies before proceeding in District Court. The failure to do  
14 so renders the controversy non-justiciable. Lopez v. Nevada Dept. of  
15 Corrections, 127 Nev. 1156, 373 P.3d 937 \*1 (2011) (citing Allstate Ins. Co. v.  
16 Thorpe, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007));
- 17 2. The purpose for requiring exhaustion of administrative remedies is (1) to  
18 protect the administrative agency's authority by giving it an opportunity to  
19 correct its own mistakes before it is brought into Court and (2) it promotes  
20 efficiency Id.;
- 21 3. In this matter, Plaintiff has asserted a claim under 42 U.S.C. §1983. Generally  
22 speaking, exhaustion of remedies is not required for most Section 1983 claims.  
23 Patsy v. Board of Regents of Florida, 457 U.S. 496, 516 (1982);
- 24 4. In the unique case of a Procedural Due Process claim, however, the litigant  
25 asserting a property or a liberty interest violation without due process must first  
26 exhaust state remedies before filing suit. Morgan v. Gonzales, 495 F.3d 1084,  
27 1090 n.2 (9<sup>th</sup> Cir. 2007); Barron v. Ashcroft, 358 F.3d 674, 678 (9<sup>th</sup> Cir. 2004).  
28 See also Rathjen v. Litchfield, 878 F.2d 836, 839-40 (5<sup>th</sup> Cir. 1989) ("No denial

of procedural due process occurs where a person has failed to utilize the state procedures available to him”);

5. The rule recognizes a State must have the opportunity to remedy the procedural failings of its subdivision and agencies in an appropriate forum before being subjected to a claim alleging such a violation. Thus, if adequate state remedies were available but Plaintiff failed to take advantage of them, Plaintiff cannot present a claim the State failed to provide him with due process. Cotton v. Jackson, 216 F.3d 1328, 1331 (11<sup>th</sup> Cir. 2000);
6. To assert a Section 1983 conspiracy claim, there must be evidence of an underlying constitutional violation. Radeliffe v. Rainbow Construction Co., 254 F.3d 772, 783 (9<sup>th</sup> Cir. 2011). Since the Court has concluded the Procedural Due Process claims is unripe, the conspiracy claim is also dismissed;
7. Although this Motion was brought initially under NRCP 12(b)(5), it is, in essence, an NRCP 12(c) motion. The difference between the two is simply one of timing. The standard of proof and consideration for ruling on the Motions are identical and, therefore, Plaintiff’s argument that this Motion is untimely is not well taken;
8. Plaintiff has placed a request before the Court for additional time to conduct discovery. However, he failed to establish proper grounds for a continuance. Under NRCP 56(f), a party is required to submit affidavits opposing the Motion which clearly indicates that one cannot-for the reason stated-present facts essential to justify the opposition. Bakerink v. Orthopaedic Associates, Ltd., 94 Nev. 428, 431, 581 P.2d 9, 11 (1978). In this matter, Plaintiff has not made such an argument nor has he provided the appropriate affidavit detailing what facts would be necessary to meaningfully oppose the Motion to Dismiss. Accordingly, the request is not granted;

- 1           9. Plaintiff's argument that Ms. Hammack's affidavit cannot be utilized because  
2           she was not disclosed by Defendants is equally unavailing. The evidence  
3           before the Court indicates-and Plaintiff did not disagree-that Ms. Hammack was  
4           identified by Plaintiff himself in an early case disclosure filed in April of 2018.  
5           Accordingly, her identity has been known to Plaintiff since then and there is no  
6           unfair or undue surprise in utilizing an affidavit from this witness;  
7  
8           10. Based on the foregoing, this Court grants the Motion to Dismiss without  
9           prejudice. It is the Court's impression that the federal procedural due process  
10          claim is unripe at the present time because the administrative process has not  
11          been completed. Furthermore, the state law claims are predicated on the  
12          substantiated findings by the Department of Family Services and, therefore, are  
13          also premature at this point until the administrative process has been completed;  
14          and  
15          11. Not only is the litigation prematurely brought, the Court believes there is also a  
16          basis for administrative abstention under the Buford v. Sun Oil Co., 319 U.S.  
17          315 (1943). The Court further finds there is no reason to allow further  
18          discovery on the matter as it has sufficient facts before it to render its decision.

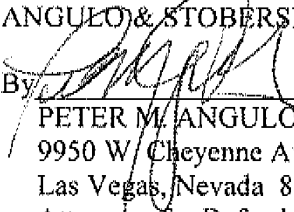
18       IT IS HEREBY ORDERED, ADJUDGED AND DECREED, the Motion to  
19       ...  
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1 Dismiss is granted. This litigation is dismissed, without prejudice, until such time  
2 as Plaintiff's Fair Hearing is concluded and an allowed judicial review is  
3 exhausted.

4 DATED this 12 day of September, 2018.

5  
6   
DISTRICT COURT JUDGE  
7

8 SUBMITTED BY:  
9 OLSON, CANNON, GORMLEY,  
10 ANGULO & STOBERSKI

11 By   
12 PETER M. ANGULO, ESQ.  
13 9950 W. Cheyenne Avenue  
14 Las Vegas, Nevada 89129  
15 Attorneys for Defendant  
16 CLARK COUNTY and GEORGINA STUART  
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1 FELICIA GALATI, ESQ.  
2 Nevada Bar No. 007341  
3 OLSON, CANNON, GORMLEY  
4 ANGULO & STOBERSKI  
5 9950 West Cheyenne Avenue  
6 Las Vegas, NV 89129  
7 Phone: 702-384-4012  
8 Fax: 702-383-0701  
9 [fgalati@ocgas.com](mailto:fgalati@ocgas.com)

10 Attorneys for Defendants  
11 CLARK COUNTY and GEORGINA STUART

12 DISTRICT COURT  
13 CLARK COUNTY, NEVADA

14 STEVE EGGLESTON,

15 Plaintiff,

16 v.

17 GEORGINA STUART; CLARK COUNTY,  
18 NEVADA; LISA CALLAHAN; BRIAN  
19 CALLAHAN; AND DOES I THROUGH 100,  
20 INCLUSIVE,

21 Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

NOTICE OF ENTRY OF ORDER

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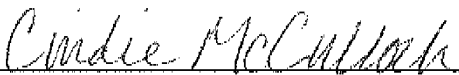
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Law Offices of  
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI  
A Professional Corporation  
9920 West Cheyenne Avenue  
Las Vegas, Nevada 8912  
(702) 384-4012 Telecopier (702) 383-0761

**CERTIFICATE OF SERVICE**

On the 10<sup>th</sup> day of September, 2018, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **NOTICE OF ENTRY OF ORDER** to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order (Administrative Order 14-2) effective June 1, 2014, and or mailed:

Steve Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, Post Code: ba4 4nx  
+44 7801 931682  
Theeggman411@gmail.com  
Plaintiff in Pro Per

  
An Employee of Olson, Cannon, Gormley  
Angulo & Stoberski





1 FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
2 OLSON, CANNON, GORMLEY  
ANGULO & STOBERSKI  
3 9950 West Cheyenne Avenue  
4 Las Vegas, NV 89129  
Phone: 702-384-4012  
5 Fax: 702-383-0701  
6 [fgalati@ocgas.com](mailto:fgalati@ocgas.com)

7 Attorneys for Defendants  
CLARK COUNTY and GEORGINA STUART

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11  
12 STEVE EGGLESTON,

CASE NO. A-16-748919-C  
DEPT. NO. VIII

13  
14 Plaintiff,

15 v.


16 GEORGINA STUART; CLARK COUNTY,  
NEVADA; LISA CALLAHAN; BRIAN  
17 CALLAHAN; AND DOES 1 THROUGH 100,  
INCLUSIVE,

18 Defendants.

19  
20 ORDER ON CLARK COUNTY AND GEORGINA STUART'S MOTION TO  
21 DISMISS

22 On August 28, 2018, this Court conducted a scheduled hearing on Clark County  
23 and Georgina Stuart's Motion to Dismiss filed July 24, 2018. Plaintiff was present  
24 representing himself in Proper Person. Clark County and Georgina Stuart were  
25 represented by their attorney, Peter M. Angulo, Esq. of the law firm of Olson, Cannon,  
26 Gormley, Angulo & Stoberski. Having read the submitted filing relative to the Motion to  
27 Dismiss and in consideration of the oral arguments made by the parties, the Court hereby  
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grants Clark County and Georgina Stuart's Motion to Dismiss, without prejudice, and makes the following findings of fact and conclusions of law in support thereof:

**FINDINGS OF FACT**

1. On ~~August~~ 10, 2017, Plaintiff filed a First Amended Complaint for civil rights violations, child abduction, conspiracy and defamation;
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- 12 and Nevada Administrative Code 432B.170;
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- 27 the decision by the Department of Family Services set forth above;
- 28

25. By statute, the Fair Hearing officer may uphold or overturn the decision by the Department of Family Services;

26. Plaintiff has the opportunity at the Fair Hearing to be represented by counsel;

27. At the Fair Hearing, witnesses and other evidence in support of the decision or in contradiction thereto can be presented; and

28. As indicated above, Plaintiff has availed himself of this administrative process to challenge the decision of the Department of Family Services. The procedure has not been completed at the present time.

### CONCLUSIONS OF LAW

Predicated upon the foregoing facts, the following is an explication of the relevant law in this area upon which this Court relies in reaching its decision:

1. A person who has entered an administrative proceeding must exhaust their administrative remedies before proceeding in District Court. The failure to do so renders the controversy non-justiciable. Lopez v. Nevada Dept. of Corrections, 127 Nev. 1156, 373 P.3d 937 \*1 (2011) (citing Allstate Ins. Co. v. Thorpe, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007));
2. The purpose for requiring exhaustion of administrative remedies is (1) to protect the administrative agency's authority by giving it an opportunity to correct its own mistakes before it is brought into Court and (2) it promotes efficiency Id.;
3. In this matter, Plaintiff has asserted a claim under 42 U.S.C. §1983. Generally speaking, exhaustion of remedies is not required for most Section 1983 claims. Patsy v. Board of Regents of Florida, 457 U.S. 496, 516 (1982);
4. In the unique case of a Procedural Due Process claim, however, the litigant asserting a property or a liberty interest violation without due process must first exhaust state remedies before filing suit. Morgan v. Gonzales, 495 F.3d 1084, 1090 n.2 (9<sup>th</sup> Cir. 2007); Barron v. Ashcroft, 358 F.3d 674, 678 (9<sup>th</sup> Cir. 2004). See also Rathjen v. Litchfield, 878 F.2d 836, 839-40 (5<sup>th</sup> Cir. 1989) ("No denial

of procedural due process occurs where a person has failed to utilize the state procedures available to him”);

5. The rule recognizes a State must have the opportunity to remedy the procedural failings of its subdivision and agencies in an appropriate forum before being subjected to a claim alleging such a violation. Thus, if adequate state remedies were available but Plaintiff failed to take advantage of them, Plaintiff cannot present a claim the State failed to provide him with due process. Cotton v. Jackson, 216 F.3d 1328, 1331 (11<sup>th</sup> Cir. 2000);
6. To assert a Section 1983 conspiracy claim, there must be evidence of an underlying constitutional violation. Radcliffe v. Rainbow Construction Co., 254 F.3d 772, 783 (9<sup>th</sup> Cir. 2011). Since the Court has concluded the Procedural Due Process claims is unripe, the conspiracy claim is also dismissed;
7. Although this Motion was brought initially under NRCP 12(b)(5), it is, in essence, an NRCP 12(c) motion. The difference between the two is simply one of timing. The standard of proof and consideration for ruling on the Motions are identical and, therefore, Plaintiff’s argument that this Motion is untimely is not well taken;
8. Plaintiff has placed a request before the Court for additional time to conduct discovery. However, he failed to establish proper grounds for a continuance. Under NRCP 56(f), a party is required to submit affidavits opposing the Motion which clearly indicates that one cannot-for the reason stated-present facts essential to justify the opposition. Bakerink v. Orthopaedic Associates, Ltd., 94 Nev. 428, 431, 581 P.2d 9, 11 (1978). In this matter, Plaintiff has not made such an argument nor has he provided the appropriate affidavit detailing what facts would be necessary to meaningfully oppose the Motion to Dismiss. Accordingly, the request is not granted;

- 1 9. Plaintiff's argument that Ms. Hammack's affidavit cannot be utilized because  
2 she was not disclosed by Defendants is equally unavailing. The evidence  
3 before the Court indicates-and Plaintiff did not disagree-that Ms. Hammack was  
4 identified by Plaintiff himself in an early case disclosure filed in April of 2018.  
5 Accordingly, her identity has been known to Plaintiff since then and there is no  
6 unfair or undue surprise in utilizing an affidavit from this witness;
- 7 10. Based on the foregoing, this Court grants the Motion to Dismiss without  
8 prejudice. It is the Court's impression that the federal procedural due process  
9 claim is unripe at the present time because the administrative process has not  
10 been completed. Furthermore, the state law claims are predicated on the  
11 substantiated findings by the Department of Family Services and, therefore, are  
12 also premature at this point until the administrative process has been completed;  
13 and
- 14 11. Not only is the litigation prematurely brought, the Court believes there is also a  
15 basis for administrative abstention under the Buford v. Sun Oil Co., 319 U.S.  
16 315 (1943). The Court further finds there is no reason to allow further  
17 discovery on the matter as it has sufficient facts before it to render its decision.

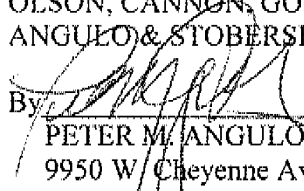
18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED, the Motion to  
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1 Dismiss is granted. This litigation is dismissed, without prejudice, until such time  
2 as Plaintiff's Fair Hearing is concluded and an allowed judicial review is  
3 exhausted.

4 DATED this 6 day of September, 2018.

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\_\_\_\_\_  
DISTRICT COURT JUDGE

SUBMITTED BY:  
OLSON, CANNON, GORMLEY,  
ANGULO & STOBERSKI

By   
\_\_\_\_\_  
PETER M. ANGULO, ESQ.  
9950 W. Cheyenne Avenue  
Las Vegas, Nevada 89129  
Attorneys for Defendant  
CLARK COUNTY and GEORGINA STUART

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1 FELICIA GALATI, ESQ.  
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9 [fgalati@ocgas.com](mailto:fgalati@ocgas.com)

10 Attorneys for Defendants  
11 CLARK COUNTY and GEORGINA STUART

12 DISTRICT COURT

13 CLARK COUNTY, NEVADA

14 STEVE EGGLESTON,

15 Plaintiff,

16 v.

17 GEORGINA STUART; CLARK COUNTY,  
18 NEVADA; LISA CALLAHAN; BRIAN  
19 CALLAHAN; AND DOES I THROUGH 100,  
20 INCLUSIVE,

21 Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

CERTIFICATE OF SERVICE OF  
ORDER ON CLARK COUNTY AND  
GEORGINA STUART'S MOTION TO  
DISMISS

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Law Offices of  
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI  
A Professional Corporation  
9950 West Clayton Avenue  
Las Vegas, Nevada 89122  
(702) 384-4012 Telecopier (702) 383-0701

**CERTIFICATE OF SERVICE**

On the 10<sup>th</sup> day of September, 2018, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **ORDER ON CLARK COUNTY AND GEORGINA STUART'S MOTION TO DISMISS** to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order (Administrative Order 14-2) effective June 1, 2014, and or mailed:

Steve Eggleston  
Goose Hall, Bourne Farm, East Town Road  
Pilton, England, Post Code: ba4 4nx  
+44 7801 931682  
[Theeggman411@gmail.com](mailto:Theeggman411@gmail.com)  
Plaintiff in Pro Per

  
An Employee of Olson, Cannon, Gormley  
Angulo & Stoberksi

*Steven D. Grierson*

FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
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Attorneys for Defendants  
CLARK COUNTY and GEORGINA STUART

DISTRICT COURT

CLARK COUNTY, NEVADA

STEVE EGGLESTON,

Plaintiff,

v.

GEORGINA STUART; CLARK COUNTY,  
NEVADA; LISA CALLAHAN; BRIAN  
CALLAHAN; AND DOES 1 THROUGH 100,  
INCLUSIVE,

Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

**ORDER ON CLARK COUNTY AND GEORGINA STUART'S MOTION TO  
DISMISS**

On August 28, 2018, this Court conducted a scheduled hearing on Clark County and Georgina Stuart's Motion to Dismiss filed July 24, 2018. Plaintiff was present representing himself in Proper Person. Clark County and Georgina Stuart were represented by their attorney, Peter M. Angulo, Esq. of the law firm of Olson, Cannon, Gormley, Angulo & Stoberski. Having read the submitted filing relative to the Motion to Dismiss and in consideration of the oral arguments made by the parties, the Court hereby

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input checked="" type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

*pcg*

grants Clark County and Georgina Stuart's Motion to Dismiss, without prejudice, and makes the following findings of fact and conclusions of law in support thereof:

**FINDINGS OF FACT**

1. On ~~August~~ 10, 2017, Plaintiff filed a First Amended Complaint for civil rights violations, child abduction, conspiracy and defamation;
2. The Complaint alleges Defendants Clark County and Georgina Stuart, based on an investigation, determined he, along with his wife, had an unsafe environment for their children;
3. On January 7, 2015, Plaintiff signed a Temporary Guardianship surrendering custody of his children to Lisa and Brian Callahan;
4. Thereafter, the Callahans removed the children from the State of Nevada;
5. On February 2, 2015, the Department of Family Services made a finding of child maltreatment against Plaintiff;
6. On February 12, 2015, Plaintiff appealed the substantiated finding to the Department of Family Services;
7. On August 27, 2015, the Appeals Unit Manager for the Department of Family Services issued a finding-upholding the substantiated findings of physical injury neglect-14 N plausible risk of physical injury against Plaintiff as to four minor children;
8. On September 9, 2015, Plaintiff requested a Fair Hearing to appeal that decision;
9. That hearing was originally scheduled to take place-at Plaintiff's request-on August 1, 2017, but was rescheduled for 9/6/17;
10. On August 2, 2017, Plaintiff requested a continuance of the hearing;
11. Accordingly, the hearing was reset for October 24, 2017;
12. On October 4, 2017, Plaintiff requested a second continuance of the hearing;
13. On October 16, 2017, the Department of Family Services agreed to a continuance of the hearing and asked Plaintiff to advise when he could appear so it could be rescheduled;

- 1 14. Plaintiff failed to subsequently contact the Department of Family Services to reset
- 2 the hearing;
- 3 15. On July 19, 2018, having not heard from Plaintiff for several months, the
- 4 Department of Family Services notified Plaintiff of a new Fair Hearing date set for
- 5 September 11, 2018;
- 6 16. On July 20, 2018, Plaintiff requested a third continuance of the hearing;
- 7 17. As of the date of the Motion to Dismiss being filed, the Fair Hearing has not been
- 8 rescheduled due to Plaintiff not providing available dates;
- 9 18. The administrative procedure set forth above-up to and including the provision of a
- 10 Fair Hearing is required pursuant to the Federal Child Abuse and Neglect
- 11 Prevention and Treatment Act (CAPTA), Section 106(b)(2)(A)(xi)(11), NRS 432B
- 12 and Nevada Administrative Code 432B.170;
- 13 19. The purpose behind this administrative structure is to afford Plaintiff a right to due
- 14 process, which is “the right to receive notice of an adverse determination against
- 15 [him] and give [him] an opportunity to respond in an orderly proceeding;”
- 16 20. The review process involves an agency appeal (which has already been utilized by
- 17 the Plaintiff in this matter) and a Fair Hearing proceeding;
- 18 21. NRS 432B.317 requires the conclusion of a Fair Hearing before any judicial review
- 19 can take place;
- 20 22. Plaintiff’s constitutional claims set forth in the First Amended Complaint, assert his
- 21 children were removed from his custody and care without due process of law.
- 22 Accordingly, the constitutional claim is a Procedural Due Process Claim;
- 23 23. For reasons set forth in the conclusions of law, Plaintiff’s conspiracy claim is
- 24 dependent upon the procedural due process claim as a necessary predicate.
- 25 Accordingly, the two are inextricably intertwined;
- 26 24. The remaining claims by Plaintiff are based on assertions of damage arising from
- 27 the decision by the Department of Family Services set forth above;
- 28

1 25. By statute, the Fair Hearing officer may uphold or overturn the decision by the  
2 Department of Family Services;

3 26. Plaintiff has the opportunity at the Fair Hearing to be represented by counsel;

4 27. At the Fair Hearing, witnesses and other evidence in support of the decision or in  
5 contradiction thereto can be presented; and

6 28. As indicated above, Plaintiff has availed himself of this administrative process to  
7 challenge the decision of the Department of Family Services. The procedure has  
8 not been completed at the present time.

9 **CONCLUSIONS OF LAW**

10 Predicated upon the foregoing facts, the following is an explication of the relevant  
11 law in this area upon which this Court relies in reaching its decision:

- 12 1. A person who has entered an administrative proceeding must exhaust their  
13 administrative remedies before proceeding in District Court. The failure to do  
14 so renders the controversy non-justiciable. Lopez v. Nevada Dept. of  
15 Corrections, 127 Nev. 1156, 373 P.3d 937 \*1 (2011) (citing Allstate Ins. Co. v.  
16 Thorpe, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007));
- 17 2. The purpose for requiring exhaustion of administrative remedies is (1) to  
18 protect the administrative agency's authority by giving it an opportunity to  
19 correct its own mistakes before it is brought into Court and (2) it promotes  
20 efficiency Id.;
- 21 3. In this matter, Plaintiff has asserted a claim under 42 U.S.C. §1983. Generally  
22 speaking, exhaustion of remedies is not required for most Section 1983 claims.  
23 Patsy v. Board of Regents of Florida, 457 U.S. 496, 516 (1982);
- 24 4. In the unique case of a Procedural Due Process claim, however, the litigant  
25 asserting a property or a liberty interest violation without due process must first  
26 exhaust state remedies before filing suit. Morgan v. Gonzales, 495 F.3d 1084,  
27 1090 n.2 (9<sup>th</sup> Cir. 2007); Barron v. Ashcroft, 358 F.3d 674, 678 (9<sup>th</sup> Cir. 2004).  
28 See also Rathjen v. Litchfield, 878 F.2d 836, 839-40 (5<sup>th</sup> Cir. 1989) ("No denial

of procedural due process occurs where a person has failed to utilize the state procedures available to him”);

5. The rule recognizes a State must have the opportunity to remedy the procedural failings of its subdivision and agencies in an appropriate forum before being subjected to a claim alleging such a violation. Thus, if adequate state remedies were available but Plaintiff failed to take advantage of them, Plaintiff cannot present a claim the State failed to provide him with due process. Cotton v. Jackson, 216 F.3d 1328, 1331 (11<sup>th</sup> Cir. 2000);
6. To assert a Section 1983 conspiracy claim, there must be evidence of an underlying constitutional violation. Radcliffe v. Rainbow Construction Co., 254 F.3d 772, 783 (9<sup>th</sup> Cir. 2011). Since the Court has concluded the Procedural Due Process claims is unripe, the conspiracy claim is also dismissed;
7. Although this Motion was brought initially under NRCP 12(b)(5), it is, in essence, an NRCP 12(c) motion. The difference between the two is simply one of timing. The standard of proof and consideration for ruling on the Motions are identical and, therefore, Plaintiff’s argument that this Motion is untimely is not well taken;
8. Plaintiff has placed a request before the Court for additional time to conduct discovery. However, he failed to establish proper grounds for a continuance. Under NRCP 56(f), a party is required to submit affidavits opposing the Motion which clearly indicates that one cannot-for the reason stated-present facts essential to justify the opposition. Bakerink v. Orthopaedic Associates, Ltd., 94 Nev. 428, 431, 581 P.2d 9, 11 (1978). In this matter, Plaintiff has not made such an argument nor has he provided the appropriate affidavit detailing what facts would be necessary to meaningfully oppose the Motion to Dismiss. Accordingly, the request is not granted;



- 1 9. Plaintiff's argument that Ms. Hammack's affidavit cannot be utilized because  
2 she was not disclosed by Defendants is equally unavailing. The evidence  
3 before the Court indicates-and Plaintiff did not disagree-that Ms. Hammack was  
4 identified by Plaintiff himself in an early case disclosure filed in April of 2018.  
5 Accordingly, her identity has been known to Plaintiff since then and there is no  
6 unfair or undue surprise in utilizing an affidavit from this witness;
- 7 10. Based on the foregoing, this Court grants the Motion to Dismiss without  
8 prejudice. It is the Court's impression that the federal procedural due process  
9 claim is unripe at the present time because the administrative process has not  
10 been completed. Furthermore, the state law claims are predicated on the  
11 substantiated findings by the Department of Family Services and, therefore, are  
12 also premature at this point until the administrative process has been completed;  
13 and
- 14 11. Not only is the litigation prematurely brought, the Court believes there is also a  
15 basis for administrative abstention under the Buford v. Sun Oil Co., 319 U.S.  
16 315 (1943). The Court further finds there is no reason to allow further  
17 discovery on the matter as it has sufficient facts before it to render its decision.

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED, the Motion to

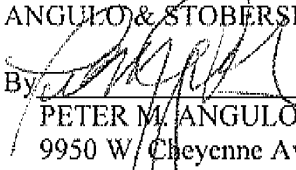
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1 Dismiss is granted. This litigation is dismissed, without prejudice, until such time  
2 as Plaintiff's Fair Hearing is concluded and an allowed judicial review is  
3 exhausted.

4 DATED this 6 day of September, 2018.

5  
6   
DISTRICT COURT JUDGE  
7 

8 SUBMITTED BY:  
9 OLSON, CANNON, GORMLEY,  
10 ANGULO & STOBERSKI

11 By   
12 PETER M. ANGULO, ESQ.  
13 9950 W. Cheyenne Avenue  
14 Las Vegas, Nevada 89129  
15 Attorneys for Defendant  
16 CLARK COUNTY and GEORGINA STUART  
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1 Steve Eggleston, Plaintiff, In Pro Per  
2 Goose Hall, Bourne Farm, East Town Road  
3 Pilton, England, Post Code: ba4 4nx  
4 UK: +44 7801 931682  
5 US: (760) 464-9496  
6 TheEggman411@gmail.com

7  
8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA  
10

11 STEVE EGGLESTON,

12 Plaintiff,

13 -vs-

14 GEORGINA STUART; DEPARTMENT OF  
15 FAMILY SERVICES, CHILD SUPPORT  
16 SERVICES, CLARK COUNTY, NEVADA;  
17 LISA CALLAHAN; BRIAN CALLAHAN;  
18 AND DOES 1 THROUGH 100, INCLUSIVE,

19 Defendants.

CASE NO. A-16-748919-C  
DEPT NO. VIII

REQUEST FOR TELEPHONIC  
APPEARANCE AT HEARING BY  
PLAINTIFF

20 **MOTION TO RECONSIDER DEFENDANTS' MOTION TO DISMISS AND 9/7/18**  
21 **ORDER OF DISMISSAL WITHOUT PREJUDICE BASED FAILURE TO EXHAUST**  
22 **ADMINISTRATIVE REMEDIES**  
23

24 COMES NOW Plaintiff Steve Eggleston and, pursuant to Rule 2.24 of the Eighth Judicial  
25 Court Rules, and hereby moves this Court to reconsider the Defendants' Motion to Dismiss and  
26 9/7/18 Order entered thereon ("the County defendants"), on the grounds the Order was in error  
27 and that allegations, facts, and law not previously considered by the Court compel  
28 reconsideration and denial of the Motion to Dismiss. This Motion is based upon the papers,  
pleadings and records on file herein, the attached Memorandum of Points and Authorities, and  
such oral argument, evidence, and testimony as the Court may entertain.

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**NOTICE OF MOTION**

TO: Defendants Georgina Stuart and Clark County

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion to Reconsider on for hearing before the above-entitled Court, in Department VIII, at the Regional Justice Center, Las Vegas, Nevada, on the 22 day of October, 2018, <sup>In Chambers</sup> ~~at the hour of 8:00 a.m.~~ or as soon thereafter as counsel may be heard.

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

Steve Eggleston, Plaintiff, In Pro Per

*/s/ Steve Eggleston*

---

Steve Eggleston, Plaintiff, In Pro Per  
Goose Hall, Bourne Farm, East Town Road  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**SUMMARY OF ARGUMENTS**

Plaintiff's Motion should be granted for the following reasons:

1. This Motion presents new law and facts not previously considered by the Court given (a) the narrowness of the single issue presented by Defendants' Motion to Dismiss, and (b) new facts asserted and arguments made by Defendants in their Reply, and (c) the legal authorities relied upon by the Court in its Order of Dismissal, most of which were not cited by, discussed, or argued by Defendants in their Motion, their Reply, and/or at the hearing.

2. The Findings of Fact recited in the Court's 9/7/18 Order do not construe the factual and legal allegations of the First Amended Complaint (FAC) in a manner most favorably to Plaintiff, giving him the benefit of all inferences, so as to uphold Plaintiff's claims.
3. There is a material factual question as to whether the County Defendants abandoned, waived, and/or are estopped from asserting the Fair Hearing process as an administrative prerequisite to bringing the present action, requiring denial of the Motion to Dismiss and/or further discovery.
4. The "Fair Hearing" process does not provide any relevant or adequate remedy to the disposition of the key claims presented by the FAC, making it an unnecessary exercise in futility and not warranting exhaustion.
5. Plaintiff's procedural due process claim exists separate and apart from the Fair Hearing Process, involve questions of constitutionality not within the jurisdiction of the DFS, and therefore override any assertion of administrative exhaustion.
6. Plaintiff's substantive due process claims are not the same as Plaintiff's procedural due process claims, nor derivative thereof, and therefore override any assertion of administrative exhaustion.
7. Plaintiff's intentional tort claims based on abduction, conspiracy to abduct, and defamation exist separate and apart from the "Fair Hearing" process and therefore override any assertion of administrative exhaustion.
8. Further discovery is warranted since there is a reasonable probability, in light of the record, that further triable issues of material fact will be discovered that preclude dismissal.

## II.

### **PLAINTIFF'S FIRST AMENDED COMPLAINT AND PERTINENT PROCEDURAL HISTORY CONSTRUED FAVORABLY TO PLAINTIFF**

1 In the morning of December 22, 2014, Laura Battistella suffered an episode of  
2 postpartum depression, expressing suicidal ideation to her oldest daughter Alexis in the upstairs  
3 bedroom. [FAC, P 7.] Plaintiff Steve Eggleston was working in his downstairs office, and the  
4 four young children (two from Laura's previous marriage, two with Plaintiff) were playing.  
5 Christmas was a few days away. After 911 was called, the EMT took Laura to Monte Vista  
6 Hospital, where sadly she was admitted for observation.

7 A former law school Valedictorian and law professor, Plaintiff was then an adjunct  
8 professor at two Clark County colleges, a published author, and active in the Las Vegas  
9 entertainment scene. At that time, he managed 7x Grammy-winning producer Steve Thomas, and  
10 formerly managed Michael Grimm, 2010 winner of America's Got Talent (who had a residency  
11 at Caesars). The previous month he had released his first fiction legal thriller, "Conflicted," to  
12 some critical acclaim (his first book being "Labor and Employment in California: A Guide to  
13 Employment Laws, Regulations, and Practices).  
14

15 Plaintiff was not an ex-felon, drug addict, criminal, or unstable person so common in  
16 matters involving Child Protective Services. There was never any suggestion he had an overall  
17 inability to provide for his children's physical, mental, or emotional health and development. At  
18 all times, he was a fit parent and fully capable of taking care of and raising his sons. [P, 12.]

19 On Christmas Eve, Clark County CPS agent and Defendant Georgina Stuart visited  
20 Plaintiff's house. She represented it was routine to investigate whenever a mother with children  
21 was admitted at Monte Vista for observation. No suggestion of any kind was made that any of  
22 the children were in any kind of danger, that there had been any abuse or neglect or any of the  
23 children, that Plaintiff was being investigated as being abusive or neglectful, or that he had ever  
24 been or was unfit to have custody over and raise his sons. [P 13.]  
25

26 Plaintiff informed Stuart he did not smoke, drink alcohol, or take any drugs, prescription  
27 or otherwise, which was confirmed by tests taken for both colleges where he worked and a test  
28 he later took at Stuart's request. Plaintiff informed Defendant Stuart that, in light of the

1 circumstances and since Laura's older children were at home, he felt he had no choice but to take  
2 his two sons from the house and move. This was admitted by Defendants in Answer to Plaintiff's  
3 First Amended Complaint. [Answer to FAC, VIII, 3:4-5.]

4 Defendant Stuart replied by telling Plaintiff to think of *all* of the children and to please  
5 stay. She recommended a newly-funded program with Boys Town that was starting at the first of  
6 the year, representing Plaintiff's family would be the first admitted to the program. When  
7 Plaintiff hesitated, Defendant Stuart offered to pay their January rent. Plaintiff agreed to  
8 participate in the program to keep the family together. This is documented by Plaintiff's  
9 concurrent emails to Defendant Stuart, quoted verbatim. [P 22, 23.]

10 On that day, however, something wasn't right. Clearly Defendant Stuart's behavior was  
11 off. Being the day before Christmas, Plaintiff thought she might be intoxicated, perhaps from too  
12 much holiday libation. Stuart's "interview" of Plaintiff lasted about fifteen minutes with her  
13 scribbling notes the whole time, never once suggesting that Plaintiff was doing anything wrong.  
14 In fact, just the opposite. She told him "good job, hang in there," or words to that effect.

15  
16 In anticipation of Laura's release from the Hospital, Defendant Stuart appointed Plaintiff  
17 and Laura's oldest two daughters to a "Present Danger Plan." This Plan essentially affirmed  
18 Stuart's conclusion Plaintiff was a fit parent who could be entrusted with the children and  
19 required that the children not be left unsupervised with Laura. Importantly, as of this time, no  
20 claim of endangerment of the children had ever been suggested to Plaintiff, much less discussed.

21 Thereafter, Boys Town visited the house, everyone met, and Defendant Stuart announced  
22 that Plaintiff's family had been officially accepted into the program, representing specially to  
23 Plaintiff that she had full authority to make that commitment because Plaintiff expressly told her  
24 he was relying on her. [P 18, 19.] A time was firmly set for January 6, 2015, after the new year,  
25 for the Boys Town team to come to the house and for the program to begin. Plaintiff sent several  
26 emails confirming this, as set forth verbatim in the FAC. [P 22-24.]  
27  
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1           On January 6, 2015, Boys Town was scheduled to show at the house to commence the  
2 program. Instead, Defendant Stuart, Laura's sister, Defendant Lisa Callahan, and two policemen  
3 stormed the house with the police wearing highly visible, HIP-holster guns, demanding Plaintiff  
4 sign over temporary guardianship of his sons to Callahan and her husband (the Callahan  
5 defendants), or never see his sons again. [P 26.]

6           Overwhelmed, Plaintiff signed the form under coercion after calling his partner's cousin,  
7 a Las Vega family law attorney, Emily McFarling, Esq., who was at lunch. She spoke to Stuart  
8 briefly and requested Plaintiff's sons be given to Plaintiff, but was told they would be returned to  
9 him in several days. Though he signed the paper, Plaintiff exclaimed loudly that he was being  
10 coerced and objected to the whole fraudulent enterprise, verbally revoking the document minutes  
11 after he signed it, and threatening to call the FBI if his sons were removed from the state and not  
12 immediately returned to him. [P 26. McFarling affidavit, Request for Judicial Notice, Will  
13 County, Illinois District Court, Case No. 2015P 000231, *In the Matter of the Estate of Ryder*  
14 *Eggleston*, filed in opposition to Motion to Dismiss.]

15  
16           Plaintiff would soon learn that Defendant Stuart and Callahan had coordinated the  
17 ambush and abduction of his sons. Plaintiff had been lied to by Stuart, induced not to take his  
18 sons and leave, and now his sons were gone. With the complicity and active assistance of Stuart,  
19 Lisa Callahan fled the state to Illinois. Contrary to Nevada law and the federal constitution, no  
20 hearing of any kind was held before the taking of the children, despite there being no emergency  
21 of any kind. Were it anyone but the County, Plaintiff was told an Amber Alert would have been  
22 issued.

23           Plaintiff hired Attorney McFarling to find out what happened. She called Stuart from her  
24 office with the phone on speaker while Plaintiff listened. Stuart expressly affirmed there was no  
25 claim of abuse or endangerment against Plaintiff and the file would be closed as to him. She also  
26 stated, "I have no objection to Plaintiff taking custody of his sons." (P 26(p).)  
27  
28

1 A week or so later, on February 2, 2015, Plaintiff filed for Paternity, Custody, and Child  
2 Support for his sons, and notified the County. [(Request for Judicial Notice, Eggleston v.  
3 Battestella, Clark County Case # D-15-508989-P.)]

4 The same day, in direct contradiction to Stuart's express representations, Plaintiff  
5 received a so-called "Substantiation Letter" directed (oddly) to Laura's ex-husband, "Mr.  
6 Rodriguez." (Rodriguez was her former married name.) The error immediately caused Plaintiff  
7 to think of Stuart's bizzare behavior at his house on Christmas Eve. Though it was specious, the  
8 Letter did not claim or assert or find that Plaintiff was unfit. Indeed, it did not address fitness or  
9 custody at all.

10 Highly notable is the Appeal Notice that accompanied the Substantiation Letter. It  
11 expressly described the only remedy available on the appeal as follows: "If a substantiated  
12 finding(s) of child abuse or neglect is reversed following an administrative appeal, all reference  
13 to the perpetrator's identity previously submitted to the Central Registry [citing NRS 432B.290]  
14 is removed." No other remedy was provided. No civil fine, no damages, no determination of  
15 constitutionality, and no custody considerations would be made.

16 Registry removal was the sole remedy available, a matter not involved in the instant case.  
17 Moreover, the Letter expressly stated in bold black letters: "**An administrative reviewed [sic] is**  
18 **not available in cases that have been substantiated by the court in either a civil or a**  
19 **criminal proceeding.**" To repeat: Clark County's own document, from the Department of  
20 Family Services, specified in the "Purpose" of the appeal that the administrative review process  
21 was not exclusive as to criminal or civil proceedings, and was not available "**in cases that have**  
22 **been substantiated by the court...in...a civil...proceeding.**" The purpose served by the appeal  
23 was to provide a remedy should a person want their name removed from the UNIFY reporting  
24 system. Nothing more.  
25  
26  
27  
28

1 On February 18, 2015, Plaintiff formally revoked the temporary Guardianship he had  
2 previously revoked verbally and in repeated emails where he demanded the return of his sons,  
3 and sent notice to the Callahans. (P 26(q).)

4 On June 29, 2015, the Nevada District Court substantiated Plaintiff's assertion that he  
5 was fit and should be awarded custody of the children: **"ORDERED, ADJUDGED AND**  
6 **DECREED that Plaintiff Steve Eggleston is fit and proper to be designated sole legal and**  
7 **physical custodian of the minor children...[his sons]."** [(Request for Judicial Notice,  
8 Eggleston v. Battistella, Clark County Case # D-15-508989-P.)]

9 The Decree further stated: "That pursuant to NRS 125.510(6) the Parties are hereby put  
10 on notice of the following: PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,  
11 CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS  
12 PUNISHABLE AS A CATEGORY 'D' FELONY AS PROVIDED IN NRS 193.130, NRS  
13 200.359 [sic] provides that every person having a limited right of custody to a child ...who  
14 wilfully detains, conceals or removes the child in violation of an order of this court, or  
15 removes the child from the jurisdiction of the court without consent of either the court or  
16 all persons who have the right to custody...is subject to being punished for a category 'D'  
17 felony..." [Ibid.]

18  
19 The Callahans ignored and deliberately violated this Order that was promptly served on  
20 them and kept and concealed Plaintiff's sons, having secretly filed a Guardianship action in  
21 Illinois and fraudulently claimed that Plaintiff had voluntarily given up custody of his sons to  
22 her. Plaintiff was not named or served with this lawsuit.

23 Behind the scenes, unknown to Plaintiff at the time, Defendant Stuart was  
24 communicating with Lisa Callahan and the boy's guardian ad litem in Illinois and, contrary to  
25 her earlier admissions, falsely and fraudulently asserting that a finding of express unfitness had  
26 been made, when she knew it had not. [P 26(s)-(u).] This was done to protect the County from  
27  
28



1 liability for defrauding Plaintiff, ambushing him, and egregiously violating his rights and those  
2 of his sons through its malfeasance. [Ibid.]

3 When the alleged “Finding of Physical Injury – Neglect” was fraudulently issued on  
4 February 2, 2015, Plaintiff’s counsel filed a notice of appeal to protect his interests in light of  
5 Stuart’s assertion that no such action was warranted. Over six months later, on August 27, 2015,  
6 a “Finding of Substantiation” was issued long after any further appeal would do any good.  
7 Plaintiff had been awarded custody, but the children were long gone.

8 Despite the futility, Plaintiff was advised to request a Fair Hearing out of caution and he  
9 did so. Thereafter, despite that request, no hearing date was set. It seemed apparent Defendant  
10 Clark County had abandoned the appeal. In the meantime, Plaintiff moved to England and got  
11 married, with the goal of recovering his sons and reuniting them with his family as soon as  
12 feasible in the entirety of the circumstances.

13  
14 On November 10, 2016, having not heard from the County in well over a year, Plaintiff  
15 attempted to resolve his outstanding claims with the County and Stuart. [Eggleston affidavit,  
16 Exhibit 4, email of 11/10/16.] The County referred him to Tisa Evans, the official Clark County  
17 Ombudsman. [Eggleston affidavit, email 11/22/16.] When Plaintiff spoke to her at length on the  
18 phone, she made it crystal clear that the County couldn’t and wouldn’t be able to do anything to  
19 help him, asserting “the County didn’t take custody of your sons.” Not once did she suggest that  
20 there was a Fair Hearing pending or that his claims or concerns could or should be resolved in  
21 the Fair Hearing process.

22 On December 7, 2016, Plaintiff followed up another email, confirming “DFS’s position  
23 that CPS [Stuart] never took custody of my boys and therefore bears no responsibility for their  
24 removal or the consequences of what happened to them...” And then on December 8, 2016,  
25 Plaintiff send another email affirming the County’s position “DFS/CPS did not take custody of  
26 my boys...” and asking why all the deceit and searching for answers. [Eggleston affidavit, emails  
27 12/7/16, 12/8/16, Exs. 5,6.]  
28

1 After Ms. Evans reaffirmed there “is nothing the County can do, I’m sorry,” Plaintiff  
2 filed the instant action on December 29, 2016, for civil rights violations, abduction, conspiracy,  
3 defamation and other torts, before the two-year statute of limitations would run on about January  
4 5, 2015. Then in March 2015, nearly nineteen months after Plaintiff’s appeal, out of the blue  
5 Plaintiff received a request by the County to select one of two hearing dates much later in the  
6 year. No explanation for the delay was given.

7 Later that summer, Defendants moved to dismiss certain of Plaintiff’s claims without  
8 ever mentioning the Fair Hearing or failure to exhaust administrative remedies. The Court  
9 granted the Motion in part and granted Plaintiff leave to amend.

10 In his FAC, Plaintiff’s first claim for relief alleges Civil Rights violations pursuant to 42  
11 USC section 1983 against the County defendants. The second claim for relief also alleges a  
12 Section 1983 Claim, except this claim separately states allegations of conspiracy, aiding and  
13 abetting between and among the County and Private defendants. The third and fourth claims for  
14 relief set forth state law intentional torts of intentional infliction of emotional distress and  
15 defamation, libel and slander.

16  
17 Nowhere in the original Complaint or FAC was any reference made to any specific  
18 Findings made by the County, any Substantiation Letter, or the Fair Hearing process specifically.  
19 Likewise, nowhere in Defendants’ Answer to the FAC is any reference made to any specific  
20 Findings made by the County, any Substantiation Letter, or the Fair Hearing process specifically.  
21 Nor has the County ever contended or asserted that the Fair Hearing process would provide any  
22 remedy involved in the issues raised in the FAC.

23  
24 It wasn’t until a year later (July 24 of this year) that the County Defendants filed their  
25 Motion to Dismiss based solely on the grounds of failure to exhaust administrative remedies, i.e.,  
26 alleged failure to complete the Fair Hearing process that the County had delayed and then  
27 abandoned. The Court accepted this argument, finding “Plaintiff must exhaust his administrative  
28 remedies before proceeding in this Court ‘and [his] failure to do so renders the controversy

nonjusticiable’,” citing *Lopez v. Nevada Dep’t of Corr.*, 127 Nev. 1156, 373 P.3d 937 (2011), citing *Allstate Ins. Co. v. Thome*, 123 Nev. 565, 571, 170 P.3d 989, 993 (2007).

Though acknowledging section 1983 civil rights claims generally don't require exhaustion (*Patsy*), and citing *Morgan vs. Gonzalez*, 495 F.3d 1084, 1090 n.2 (9<sup>th</sup> 2007), and *Barron v. Ashcroft*, 358 F.3d 674, 678 (9<sup>th</sup> 2004), the Court's Order adopted a "procedural carveout" argued only generally by defense counsel at the hearing (for the first time). Neither the leading case of *Patsy*, or either of the cases on which the Court relied – *Lopez* or *Allstate* - were cited by Defendants in their Motion, thus precluding Plaintiff from replying to them.

The Court also relied on *Cotton v. Jackson*, 216 F.3d 1328, 1331 (11<sup>th</sup> Cir. 2000), for the following proposition: “Thus, if adequate state remedies were available but Plaintiff failed to take advantage of them, Plaintiff cannot present a claim the State failed to provide him with due process.” Again, however, in Defendants’ Motion to Dismiss *Cotton* was neither discussed nor cited.

Based on the foregoing, this Court granted the County Defendants' Motion to Dismiss without prejudice, stating: "It is the Court's impression that the procedural due process claim is unripe at the present time because the administrative process is uncompleted. Furthermore, the state law claims are predicated on the substantiated findings of the Department of Family Services and, therefore, are also premature at this point until the administrative process has been completed."

For the reasons set forth herein, the Court is urged to reconsider its ruling and deny the Motion to Dismiss.

### III.

## STANDARD OF REVIEW

The Nevada Rules of Civil Procedures are substantially similar to the Federal Rules of Civil Procedure. “Federal cases interpreting the Federal Rules of Civil Procedure ‘are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts.’” *Exec Mgmt., Ltd. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002).

1 Under the federal rules, the purpose of the complaint is merely to provide notice of the  
2 claim asserted. All that is required is a "short and plain statement of the claim showing that the  
3 pleader is entitled to relief." FRCP, Rule 8(a)(2). In considering a 12(b) Motion to Dismiss, the  
4 court must accept as true the allegations made in the complaint and construe them most  
5 favourably to upholding the plaintiff's claim. *New Mexico State Inv. Council v. Ernst & Young*  
6 *LLP*, 641 F.3d 1089, 1094 (9<sup>th</sup> Cir. 2011).

7 All inferences must be construed in the plaintiff's favor (*Conway v. Circus Casinos, Inc.*,  
8 116 Nev. 870, 873, 8 P.3d 837, 839 (2000), see also *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506  
9 (2007) and *National Audubon Soc., Inc. v. Davis*, 307 F. 3d 835 (9<sup>th</sup> Cir. 2002)), and the  
10 sufficiency of the allegations must be examined "with a view to attaining substantial justice  
11 among the parties (ibid)," the purpose being to test the sufficiency not the merits of the  
12 underlying complaint (*Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7<sup>th</sup> Cir. 1990)).

13  
14 "If, on a motion asserting the defense numbered (5) to dismiss for failure of the pleading  
15 to state a claim upon which relief can be granted, matters outside the pleading are presented to  
16 and not excluded by the court, the motion shall be treated as one for summary judgment and  
17 disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to  
18 present all material made pertinent to such a motion by Rule 56." NRCP Rule 12(b).

19 Under FRCP Rule Rule 56, "Should it appear from the affidavits of a party opposing the  
20 motion that the party cannot for reason stated present by affidavit facts essential to justify the  
21 party's opposition, the court may refuse the application for judgment or may order a  
22 continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had  
23 or may make such other order as is just."

24 ///

25 ///

26 ///

1  
2 IV.

3 ARGUMENT

4 A. The Findings of Fact recited in the Court's 9/7/18 Order do not construe the  
5 factual and legal allegations of the FAC most favorably to Plaintiff, giving him  
6 the benefit of all inferences, so as to uphold Plaintiff's claims.

7 The Order recites as Fact #2 that "The Complaint alleges Defendants...based upon an  
8 investigation, determined he, along with his wife, had an unsafe environment for his children." In  
9 fact, neither the original Complaint or the FAC alleges the key part of this recital. There is no  
10 allegation that an investigation "determined that Plaintiff, along with his wife, had an unsafe  
11 environment for his children."

12 First, Plaintiff and Laura were never married. They were previously engaged in a  
13 ceremony whereby the former Mayor of Las Vegas, Oscar Goodman, made the proposal in  
14 Italian in a ceremony at the Grand Opening of the Mob Museum. But the engagement had been  
15 terminated by Plaintiff in the summer of 2014, the FAC does not allege a marriage or  
16 engagement, and defendants offer no evidence of their relationship.

17 Second, the FAC does not allege that a determination was made that the household was  
18 unsafe, and in fact no such finding was ever made. To the contrary, the FAC alleges that "no  
19 allegations of abuse or neglect were made to Defendant...against Plaintiff or the Eggleston  
20 Boys..." [P 11], and that, "At all times Plaintiff was a fit parent and fully capable of taking care  
21 of and raising his sons [P 12]."

22 The Order recites as Fact #3 that, "On January 7, 2015, Plaintiff signed a Temporary  
23 Guardianship surrendering custody of his children to Lisa and Brian Callahan," making no  
24 reference to the critical unconstitutional, coercive element that is outside any administrative  
25 agency's jurisdiction. The FAC alleges in pertinent part, "At no time was neglect of, abuse of, or  
26 failure to protect the Eggleston boys made, such that [Defendants] fabricated and made up the  
27  
28

1 existence of the making of such a report to justify their wrongful, illegal and unconstitutional  
2 actions..." [P 29(c).]

3 Not referenced by the Court, the FAC also alleges that, on about January 6, 2015,  
4 Defendant Stuart stormed into Plaintiff's family home "with two armed police officers wearing  
5 highly-visible, HIP-holster guns..." [P 26(a)], and coerced him into signing a temporary  
6 guardianship to the Callahan after threatening: "Either you sign the temporary  
7 guardianship...*right now* or the police are taking your children into custody *right now* and you  
8 will never see them again..." [P 26(b)]."

9 The FAC further alleges that the foregoing coercive action "constituted an unlawful and  
10 malicious abduction, on one level no different in import than a child kidnapping by a total  
11 stranger..." [P26(n)], that the actions by the police "constituted a de facto custodial taking of the  
12 Eggleston boys, triggering all the constitutional rights and legal rights that would be triggered  
13 had the police taken the boys into direct custody and whisked them away in the back of their  
14 police cars..." [P 26(p)]."

15 The FAC further alleges "concealment of material facts in the investigations...with the  
16 purpose of depriving [Plaintiff] of the opportunity and ability to protect his fundamental parental  
17 rights and protect the Eggleston boys from wrongful removal, all as part of an ongoing custom  
18 and practice of abusing her power and authority in taking actions designed, not to advance the  
19 best interests of the parents, children and families, but rather, to enhance budgets and monetary  
20 allocations to..." Defendants. [P 26(e).]

21 Moreover, the FAC alleges "an 'Ambush Strategy' ...complete with law enforcement  
22 officers ready to draw their guns, with the purpose of depriving [Plaintiff] of the opportunity and  
23 ability to protect his fundamental parental rights and protect the Eggleston boys from wrongful  
24 removal, all as part of an ongoing custom and practice of abusing her power and authority..." as  
25 well as Defendant's Supervisor taking actions that caused "Stuart to take actions designed to  
26 cover up her misrepresentations and misdeeds and abuse her power..." [P 29(f).]  
27  
28

1 In the context of an Order dismissing Plaintiff's FAC as to the County Defendants, the  
2 difference in the Facts summarized by the Court and those alleged in the FAC, construed in  
3 Plaintiff's favor, is crucial. It is a far cry from Plaintiff simply signing over the children after an  
4 allegation of "unsafe environment" which was not alleged in the FAC or cannot be proven by  
5 any evidence.

6 When the FAC is construed most favorably to Plaintiff, as hereafter set forth, it is  
7 submitted the Motion to Dismiss should be denied.

8  
9 B. There is a material factual question as to whether the County Defendants  
10 abandoned, waived, and/or are estopped from asserting the Fair Hearing process  
11 as an administrative prerequisite to bringing the present action, requiring denial of  
12 the Motion to Dismiss and/or further discovery.

13 The Court's recitation of the procedural history of the Fair Hearing process adopts  
14 Defendants' incorrect and self-serving re-construction of what happened, and also omits key  
15 clarifying facts and reference to the significant delays occasioned not by Plaintiff but by  
16 Defendants. The Order also fails to reference the County's affirmative obligations when children  
17 are taken into custody.

18 A CPS social worker only has two choices when considering family intervention:  
19 voluntary services to help the family or court action. NRS 432B.360 urges voluntary services  
20 where the family is willing. It is undisputed that Plaintiff and his family were willing to engage  
21 voluntary services. Indeed, as alleged in the FAC, Stuart represented the family had been  
22 accepted into the Boys Town program beginning January 6, 2015.

23 The other choice was immediate court action. If CPS felt the children were at risk, it was  
24 obligated to petition the court for legal custody absent an emergency. NRS 432B.390. Even then  
25 the children would not be summarily removed from the family (as happened here). To the  
26 contrary, the public policy of Nevada strongly favors keeping families together whenever  
27 possible, and the Court often supervises family services. The FAC alleges that no emergency  
28 existed and that Plaintiff's fitness was affirmatively recognized.

1 If the CPS social worker or police believe that an emergency warrants the children being  
2 taken immediately into custody, the children must be placed in an emergency shelter, a licensed  
3 foster home, or with relatives. NRS 432B.470. In that case, Nevada law requires a hearing to  
4 be held within 72 hours after a child has been taken into protective custody, excluding  
5 weekends and holidays.

6 In the instant case, the coerced removal of Plaintiff's boys and placement with relatives  
7 required a hearing within 72 hours. None was provided, and the Fair Hearing process could not  
8 remedy that, as the boys had already been abducted from the state with the County's active  
9 complicity and taken 2000 miles away to the Chicago area somewhere.

10 Furthermore, when Plaintiff appealed the Finding of February 2, 2015, it wasn't until  
11 August 27, 2015, nearly seven months later, that a "Finding of Substantiation" was issued.  
12 Plaintiff then requested an appeal, but Clark County didn't set a hearing date, instead abandoning  
13 the process. Meanwhile, Plaintiff moved to England and got married, re-establishing his life and  
14 continuing with his ongoing efforts to reunite with his sons.

15 On November 10, 2016, having not heard from the County in well over a year, Plaintiff  
16 attempted to resolve his claims against them. (Eggleston affidavit, email of 11/10/16, Ex. 4.)  
17 Instead, as detailed above, the County took the position that it had not taken custody of the boys  
18 and that there was nothing it could do to provide Plaintiff any remedy, whether by way of  
19 custody or fine or damages. Certainly this constituted an estoppel when combined with the  
20 prejudice caused by the delay. Southern Nev. Mem. Hosp. v. State, 101 Nev. 387, 391, 705 P.2<sup>nd</sup>  
21 139, 142 (1985), quoting Chequer, Inc. v. Painter & Decorators, 98 Nev. 609, (1982).  
22

23 Plaintiff then filed the instant action on December 29, 2016. Three months later, in March  
24 2017, more than nineteen months since Plaintiff appealed the Substantiation Letter and more  
25 than two years since the County's coerced removal of his sons, and totally out of the blue,  
26 Plaintiff received a letter from the County asking him to select between two hearing dates later in  
27 the year.  
28



Here is Plaintiff's response:

"Thank you for Notice of the Appeal Hearing date options in the above matter.[P] Of the two dates, I select Tuesday, August 1, 2017. [P] Given the lateness of this date, as well as other matters, **I make this selection with full reservation of my rights, should a reservation be necessary, to object to the lateness of the hearing and raise any other objection allowed by law. As you may know, I have seen my sons once since they were taken in January 2014. I have not been allowed to see or talk to them for well over a year by the person who took them. Can you please tell me why, after all this time, this hearing is now being set?...I have filed a civil rights complaint...Does this hearing have anything to do with that case?"**

[Emphasis added; Eggleston affidavit, email 3/20/17.]

If the "Fair Hearing" had anything to do with Plaintiff's case, the County would reasonably have been expected to reply to the question, **"I have filed a civil rights complaint...Does this hearing have anything to do with that case?"** In fact, no reply was forthcoming, and no claim made that the Fair Hearing needed to proceed first. When the hearing date approached, Plaintiff this time did request a continuance, as his pending Visa application had been delayed due to the international refugee epidemic and he did not have his passport.

Many months later a new hearing date of September 11, 2018, was selected by the County. In reply, Plaintiff wrote (on 7/20/18): "Hi Ms. Butts, thank you for your letter. However, I am surprised not to receive the customary selection of four dates. I have a conflict on September 11, 2018, as it is the 16th Anniversary of 9/11. My father was a B-52 Bomber Pilot, I am a graduate of the University of Maryland, and I have many friends affected. I will be in the Capitol for various events (Washington D.C.) that day. Please provide me a list of alternate dates..."

When no reply was forthcoming, Plaintiff emailed Ms. Butts again on July 27, 2018, stating: "For clarification of the record, I do not seek a continuance of the appeal hearing, simply alternative dates...Also, according to the website, I'm urged to make enquires if I have any questions about the hearing. I have these questions, all of which pertain to whether or not I will receive a fair hearing in fact and law (not just name):

"1. How do I subpoena in-state witnesses to the hearing to counter the false and fraudulent findings made against me and to confront my accusers -- the linchpin of due process?

1 2. How do I subpoena out-of-state witnesses to the hearing (since the County conspired  
2 with the Callahans to remove my sons from the state) to counter the false and fraudulent findings  
made against me and to confront the accusers -- equally a linchpin of due process?

3 3. How do I subpoena documents to the hearing (in state and out)?

4 4. I would like a record created and court reporter present. How do I accomplish that?

5 5. I will need discovery before the hearing -- document production and witness  
6 depositions. How do I schedule those?

7 6. I may bring expert witnesses to the case. Is there a special procedure for that?

8 7. I estimate at least two days and possibly three days to present my side of the case, not  
9 counting whatever the County seeks to do.

10 8. The District Attorney told me that you do not communicate with the attorneys on the  
11 civil rights action due to government ethical restrictions -- that there is a "Chinese Wall" that  
12 prevents communication between the two; yet it appears that the new attorneys for the County  
13 are being given information by your office about the Fair Hearing process. Is that true, and what  
are the ethical rules that apply?

14 9. Can the hearing officer order damages to be paid to me by the County and Stuart for  
violation of my civil rights if he were to so find?

15 10. Can the hearing officer order that my children be returned to me if he determines that  
the findings against me were false, fraudulent or unsupported by the evidence?

16 11. In my situation, where your office claims that the County never took custody of my  
17 sons, can this hearing result in any relief being awarded to me? In other words, if I win, and the  
18 findings are determined to be false, what happens next? Are my children returned? Is Ms. Stuart  
19 fired or prosecuted? In other words, what is the purpose of the hearing?"

20 Having received no immediate reply, Plaintiff followed up as follows:

21 "In addition to my previous questions, I also reference this comment in your letter to me:  
22 "You are required to attend the hearing. If you do not attend the hearing, you abandon your rights  
23 to an appeal, and the action of the agency will be implemented." Since the County contends it  
24 never took custody of the children, and two of the children were not mine (nor did I have  
25 custody of them), exactly what action of the agency will be implemented? I am baffled as to  
26 what this might be and concurrently most eager to know what it is, as it seems quite  
threatening though I have no idea what you are referring to." (Emphasis added.)

27 Obviously the warning was intended to apply to a situation where the children were in the  
28 County's custody. So when no reply was forthcoming, Plaintiff followed up again:

"I am the appellant in the matter below. On July 19, 2018, CCDFS Legal Unit Supervisor  
Ms. Devon Butts sent me the email below and a letter, both stating: "Should you have any  
questions, please contact Appeals Unit" at this email address. The website also says to contact  
your office for guidance (not legal advise), thus I am doing so. I have the following questions  
and concerns and hope that you can provide me guidance as the online information is remarkably  
inadequate for anyone hoping to have a truly fair trial involving witnesses and children now in a  
different state."

Plaintiff listed the same questions previously posed and then sent further follow up letters  
addressing his growing concerns.

1 "Dear Ms. Butts, I have sent an email with questions to the email provided in your  
2 7/19/18 letter ([dfsappeals@clarkcountynv.gov](mailto:dfsappeals@clarkcountynv.gov)), but have not received a response. That response  
impacts the dates that witnesses will be available for the "Fair Hearing" should it go forward.

3 Also, several very serious items present concern:

4 1. Hearing Officer: I have not been officially notified of the name of the Hearing Officer  
5 assigned to my case, but note both an actual and apparent conflict of interest in Christene  
6 Kelleher, should she be the designated officer. Her own website discloses the  
7 conflict: <http://kelleherandkelleher.com/attorneys/christine-kelleher/>. It is my position that this  
8 conflict will further deny my due process rights, in addition to the many prior and ongoing  
9 violations.

10 2. Potential Collusion with defense counsel in civil rights case. On several occasions, the  
11 Fair Hearing Office has taken action in conjunction (and apparent coordination) with  
12 developments in my civil rights action against Clark County and Georgina Stuart. Further, it  
13 appears that my emails to the Fair Hearing office are being forwarded to the County's defense  
14 counsel, which deeply concerns me. And of course, the County has filed a Motion to Dismiss in  
15 conjunction with your office, using the affidavit of Ms. Hammack, who is identified on your  
16 letterhead as the Assistant Director DFS.

17 Please disclose to me immediately any ex parte communications with the D.A.'s office  
18 assigned to defend my civil rights case and the current private law firm, Olson Cannon Gormley  
19 Angulo & Stoberski and Felicia Galati, Esq., if any, regarding or reference my Fair Hearing. For  
20 my peace of mind, and the appearance of fairness and justice, can you also please affirm to me  
21 under oath that no such ex parte communications have ever been made regarding my matter.

22 And this: "Dear Appeals Unit, I have not yet received a response to my earlier email.  
23 Please also note that I object to Christine Kelleher being assigned the Hearing Officer in my  
24 matter as she has both an actual and apparent conflict of interest. This is indicated on her own  
25 website: <http://kelleherandkelleher.com/attorneys/christine-kelleher/>. I look forward to your  
26 reply."

27 Followed by this: "After two weeks, I have received no response to any of my emails  
28 seeking to have a fair trial. Many of my questions raise serious concerns of fairness,  
constitutionality and legality. Yet to date they have been ignored. Should I expect to receive a  
reply to my emails? Or should I consider the other options of contacting the Clark County  
Ombudsman, the Mayor's office, the Attorney General's office...or simply file a federal  
lawsuit? Obviously I would much prefer a fair, honest, informal solution from the "fair hearing"  
office."

29 In sum, the procedural history as related to the Court by the County Defendants is  
30 inaccurate and not construed in favor of upholding Plaintiff's FAC as the law requires. When this  
31 procedural history is clarified, it becomes apparent that (a) the Fair hearing was abandoned by  
32 Defendants, (b) a question of fact exists as to whether Defendants should be estopped from  
33 asserting administrative exhaustion, (c) the hearing would be futile as respects the issues

1 involved in the FAC, and Defendants violated Nevada law in such a way that a Fair Hearing  
2 would be useless.

3 C. The “Fair Hearing” process does not provide any relevant or adequate remedy to  
4 the disposition of the key claims presented by the FAC, making it an unnecessary  
5 exercise in futility and not warranting exhaustion.

6 Citing *Cotton v. Jackson*, 216 F.3d 1328, 1331, the Court’s Order acknowledged that the  
7 exhaustion doctrine only applies “if adequate state remedies were available.” Further to that,  
8 *Rumble v. Hill*, 182 F.3d 1064, 1067-1070 (9<sup>th</sup> Cir. 1999), held that exhaustion was not required  
9 where the state’s administrative grievances process did not allow for an adequate award of  
10 damages.

11 In *Arnett v. Myers*, 281 F.3d 552, 562-564 (6<sup>th</sup> Cir. 2002), the Sixth Circuit observed that  
12 plaintiff’s civil rights claims were ripe, as against an exhaustion argument, where a review of the  
13 state’s law revealed no reasonable, certain and adequate provision for obtaining just  
14 compensation to the plaintiff. Similarly, in *Locurto v. Guiliani*, 447 F.3d 159, 170-71 (2<sup>nd</sup> Cir.  
15 2006), the Second Circuit held there was no full and fair opportunity to litigate 1<sup>st</sup> Amendment  
16 claims in the administrative proceeding because the appellant was not allowed to conduct  
17 discovery and because the ultimate decision-makers were not neutral, as is clearly the situation in  
18 the instant case where a former DFS attorney was appointed as hearing officer (over Plaintiff’s  
19 noted objection).

20  
21 Highly notable in the context of this case is the Appeal Notice that accompanied the  
22 Substantiation Letter. It expressly described the very limited scope of the administrative Fair  
23 Hearing process as “the right to receive notice of an adverse determination against you and give  
24 you an opportunity to response [sic] in an orderly proceeding.” The only remedy available was  
25 described as this: “If a substantiated finding(s) of child abuse or neglect is reversed following an  
26 administrative appeal, **all reference to the perpetrator’s identity previously submitted to the**  
27 **Central Registry [citing NRS 432B.290] is removed.**” (Plaintiff affidavit, Notice, Ex. 2.)  
28

1 Registry removal was the sole remedy available, a matter not involved in the present  
2 case. Moreover, the Letter expressly stated in bold black letters: “**An administrative reviewed**  
3 **[sic] is not available in cases that have been substantiated by the court in either a civil or a**  
4 **criminal proceeding.**” As previously stated, Clark County’s own document provided the  
5 administrative review process was not exclusive as to criminal or civil proceedings, and was not  
6 available “**in cases that have been substantiated by the court...in...a civil...proceeding.**”  
7 (Ibid.) In other words, no purpose would be served by the appeal.

8 On February 2, 1025, Plaintiff filed his Complaint for Paternity, Custody and Child  
9 Support. On February 18, 2015, Plaintiff formally revoked the temporary Guardianship he had  
10 revoked verbally after given and in repeated emails demanding the return of his son, and sent  
11 notice to the Callahans.

12 On June 29, 2015, in the Nevada Custody action, **the Nevada District Court Judge**  
13 **substantiated Plaintiff’s assertion** that he was fit and should be awarded custody of the  
14 children, finding: “**ORDERED, ADJUDGED AND DECREED that Plaintiff Steve Eggleston**  
15 **is fit and proper to be designated sole legal and physical custodian of the minor**  
16 **children...[his sons].**”

17 By operation of the County’s own Appeal Notice, the Fair Hearing process did not have  
18 any jurisdiction to decide Plaintiff’s fitness or lack thereof as relevant to Plaintiff’s FAC.

19 In addition, as set forth above, on November 10, 2016, Plaintiff attempted to resolve his  
20 claims with the County Defendants. (Eggleston affidavit, email of 11/10/16, Ex. 4.) When the  
21 County referred him to Ombudsman Evans, she thoroughly investigated the situation and  
22 reported to Plaintiff that “the County didn’t take custody of your sons,” and therefore could not  
23 provide Plaintiff any relief. Nor did she say, “hey, you have a Fair Hearing pending, you can get  
24 your relief there.”

25 On December 7, 2016, Plaintiff reconfirmed the “DFS’s position that CPS [Stuart] never  
26 took custody of my boys and therefore bears no responsibility for their removal or the  
27  
28

1 consequences of what happened to them..." And then again on December 8, 2016, Plaintiff  
2 further confirmed the County's position "DFS/CPS did not take custody of my boys..." and  
3 could provide no relief. (Exs. 4-6.)

4 Accordingly, since no adequate remedy is available at the agency level, the long-  
5 established rule of *Patsy v. Board of Regents* 457 U.S. 496 (1982) applies, "that exhaustion of  
6 state administrative remedies should not be required as a prerequisite to bringing an action  
7 pursuant to 1983." Accordingly, the Motion to Dismiss should be denied.

8 D. Plaintiff's procedural due process claims exist separate and apart from the Fair  
9 Hearing process, involve questions of constitutionality not within the jurisdiction  
10 of any government agency, and therefore override any assertion of administrative  
11 exhaustion.

12 Administrative agencies have neither the power not the competence to pass upon the  
13 constitutionality of their own statutes, laws, or processes. Am. Jur. 2<sup>nd</sup> sections 455, 456,  
14 *Constitutional Claims*; PUC Cal v. U.S., 355 U.S. 534, 78 S.Ct. 446 (1958). See also U.S. v.  
15 Radio Corp of America, 358 U.S. 334, 79 S.Ct. 457 (1959).

16 Removal of children without a prior hearing is a violation of procedural due process. *Ram*  
17 *v. Robin*, 118 F.3<sup>rd</sup> 1306 (9<sup>th</sup> Cir. 1997), specifically held: "the removal of children from their  
18 father's home without prior notice of hearing, where the children were not in imminent danger,  
19 would violate clearly established constitutional law..." See also *Perkins v. City of West Covina*,  
20 113 F.3<sup>rd</sup> 1004, 1008 (9<sup>th</sup> Cir. 1997.)

21 In his FAC, Plaintiff alleges Defendants defrauded him, ambushed him, and were  
22 complicit in the abduction of his children to another state – all in violation of his procedural due  
23 process rights. Indeed, NRS 432B.470 required a hearing within 72 hours of the CPS or police  
24 coercively placing his sons in the custody of the Callahans. Instead, defendants were complicit in  
25 aiding the Callahans in the criminal abduction of his sons to another state, and no such hearing  
26 was held.  
27

1 The Court's Order states that the rule of "exhaustion recognized a state must have the  
2 opportunity to remedy the procedural failings of its subdivision and agencies in an appropriate  
3 forum before being subjected to a claim alleging such a violation. Thus, if adequate  
4 state remedies were available but Plaintiff failed to take advantage of them, Plaintiff cannot  
5 present a claim the State failed to provide him with due process," citing *Cotton v. Jackson*,  
6 *supra*.

7 In the instant case, the procedural failings of the County were (a) its failure to give  
8 custody of the boys to Plaintiff, who was ready, willing, able and fit, (b) coercive removal of the  
9 boys without filing a prior court action (since there was no emergency), (c) failure to provide  
10 plaintiff a court hearing within 72 hours of the removal of his children, (d) proactive complicity  
11 in aiding the Callahans in the criminal abduction of his children to another state 2000 miles away,  
12 and (e) generally not providing a timely remedy to protect the custody of the children.

13 According, giving Plaintiff's FAC a most favorable construction, Plaintiff has stated a  
14 procedural due process claim unrelated to the "Fair Hearing" process, such that Defendants'  
15 Motion to Dismiss should be denied.

16  
17 E. Plaintiff's substantive due process claims are not the same as Plaintiff's  
18 procedural due process claims, nor derivative thereof, and therefore override any  
19 assertion of administrative exhaustion.

20 *Fakoya v. County of Clark*, U.S. Dt. Ct., Dt. NV, 2014 U.S. Dist Lexis 143240, is not  
21 binding precedent as a federal district court case (*Nat'l Union Fire Insurance Co v. Allstate*  
22 *Bank*, 282 F.Supp. 2<sup>nd</sup> 339, 351 (D. Md. 2003), but it is instructive. This is a Nevada federal  
23 district court case addressing an extreme action against the County for damages for violating the  
24 Plaintiffs' rights to custody of their children and their marital relationship.

25 The *Fakoya* court observed: "Plaintiffs have alleged a colourable substantive due process  
26 theory. They allege County officials removed Mr. Fakoya from his family Christmastime, as he  
27 returned home for the first time in two years after being acquired of murder [of another child] –  
28

1 and did so for retaliatory purposes and not as a legitimate exercise of government authority. And  
2 they allege that County officials instructed Ms. Fakoya that she must either divorce her husband  
3 or surrender her children. A reasonable jury could find these actions shock the conscience.”

4 The Court cited *Washington v. Glucksberg*, 521 U.S. 702, 721, 117 S.Ct. 2258 (1997), for  
5 the principle that substantive due process claims are separate and distinct from due process  
6 claims and present a two-fold test: “whether the right is ‘objectively, deeply rooted in this  
7 Nation’s history and traditions,’ and whether the ‘crucial guideposts’ of [o]ur Nation’s history,  
8 legal traditions, and practices’ support the right.”

9 In this connection, the Court observed that “The fundamental rights recognized under  
10 substantive due process include ‘personal decisions related to marriage...family relationship,  
11 child rearing...which often involv[e] the most intimate and personal choices a person may make  
12 in a lifetime...” (Id, 143240.) The court cited *Stanely v. Illinois*, 405 U.S. 645, 651, 92 Sup.Ct.  
13 1208 (1972), as follows: “And the Supreme Court has long and specifically recognized the  
14 ‘essential,’ ‘basic,’ and ‘precious’ rights to conceive and raise children.”

15  
16 Indeed, referencing the Ninth Circuit decision of *Brittain v. Hansen*, 451 F.3<sup>rd</sup> 982, 992  
17 (9<sup>th</sup> Cir. 2006), the *Fakoya* court observed, “it is long settled that custodial parents have a liberty  
18 interest in the ‘companionship, care, custody, and management’ of their children. **This interest**  
19 **does not evaporate simply because they have not been model parents or have lost**  
20 **temporary custody of the child to the state,**” citing *Santosky v. Kramer*, 455 U.S. 745, 753,  
21 102 S.Ct., 1388 (1982).

22 Moreover, in *Smith v. City of Fontana*, 607 F.2<sup>nd</sup> 1269 (9<sup>th</sup> Cir. 1979), the Ninth Circuit  
23 wrote that section 1983 permits parents to challenge “a state’s severance of a parent-child  
24 relationship with the parents” because “[t]he companionship and nurturing interests of parent and  
25 child in maintaining a tight familial bond are reciprocal, and we see no reason to accord less  
26 constitutional value to the child-parent relationship than we accord to the parent-child  
27 relationship,” citing *City of Smith, supra*.



1 In the instant case, Plaintiff has clearly alleged a violation of his substantive due process  
2 rights in the fraud, ambush, and criminal abduction of his sons to another state with the  
3 complicity of the County Defendants, especially given the fact that Plaintiff was fit and there was  
4 no emergency, as captured in the District Court's Order granting him custody: "**ORDERED,**  
5 **ADJUDGED AND DECREED that Plaintiff Steve Eggleston is fit and proper to be**  
6 **designated sole legal and physical custodian of the minor children...[his sons]."**

7 Since a reasonable jury could find these actions shock the conscience, Defendants'  
8 Motion to Dismiss should be denied as administrative exhaustion would not and cannot address  
9 this constitutional rights under the controlling decision of *Patsy, supra*, and its progeny.

10 F. Plaintiff's intentional tort claims based on abduction, conspiracy to abduct, and  
11 defamation exist separate and apart from the "Fair Hearing" process and therefore  
12 override any assertion of administrative exhaustion.

13 The Court's Order dismisses the state law tort claims on the rationale that they "are  
14 predicated on the substantiated findings by the Department of Family Services and, therefore, all  
15 also premature at this point until the administrative process has been completed..." [P 10.] To  
16 the contrary, however, giving the FAC an interpretation most favorable to Plaintiff, these  
17 intentional tort claims are not predicated on any findings by the DFS.

18 For example, the Third Cause of Action alleges:

19  
20 "(a) the Eggleston boys were abducted, removed from Plaintiff's custody and taken  
21 from the State as previously alleged;

22 (b) Plaintiff was not given notice of or provided a prompt due process hearing as  
23 required by Nevada law, the Nevada Constitution, federal civil rights and other laws or the  
24 federal Constitution;

25 (c) A false report or reports would be and was issued that falsely characterised  
26 Plaintiff as an unfit parent and/or as abusing and/or neglecting his sons, which report would be  
27 and was used to justify the removal of his sons, denial of custody of his sons by others, and  
28

1 denial of visitation and contact with his sons;

2 (d) Use of the aforesaid false reports would be combined with false and misleading  
3 files and materials never disclosed to Plaintiff, as well as ongoing contacts via phone, email, and  
4 other online media, to create the false and misleading impression that grounds existed for the  
5 exercise by other courts of so-called emergency guardianship jurisdiction (despite the lack of any  
6 emergency or grounds therefor);

7 (f) Plaintiff would not be and was not provided constitutional notice of any charges  
8 or reasonable cause for the forced removal and abduction of his sons, nor given an opportunity to  
9 dispute those charges or allegations, call witnesses to disprove them, or otherwise receive  
10 substantive or procedural due process;

11 (g) Despite Plaintiff's repeated requests, the files, records, alleged evidence, and  
12 purported witnesses, if any, supporting the Defendants' actions, omissions, and conspiracy, as  
13 alleged, were concealed, altered, destroyed, and/or not provided to Plaintiff in violation of  
14 federal and state law and the federal and state Constitutions;

15 (h) Plaintiff would be and was defamed, branded and deemed unfit as a parent for his  
16 sons despite being found fit and awarded full legal and physical custody of his sons by a Nevada  
17 District Court judge; and

18 (i) The concealed information and alleged evidence against Plaintiff would be shared  
19 with other government officials, courts, judges and others so as to prejudice and harm Plaintiff's  
20 rights of liberty, due process, parenthood, privacy and custody of his boys.

21 The vast majority of these charges would never be reached in any "Fair Hearing" process.  
22 More importantly, there is a critical distinction to be made between alleged "Physical Injury –  
23 Neglect" and legal fitness as a parent. The former is not the later. The latter is defined in NRS  
24 128.018 as follows: "by reason of the parents' fault or habit or conduct toward child or other  
25 persons, [the parent] fails to provide such child with proper care, guidance, and support."  
26  
27  
28

1           There is no allegation in the FAC, Answer, or Motion to Dismiss that (a) Plaintiff was in  
2 fact accused of being unfit, (b) that there was a finding of unfitness, or (c) that any "Fair  
3 Hearing" would have or will address the issue of fitness in any way, shape or form. Nor is there  
4 any evidence that a Finding of unfitness was ever made -- just the opposite.

5           Indeed, even if that issue was squarely before the Fair Hearing officer, he or she would  
6 have no jurisdiction to address it. As the Appeal Notice states: "**An administrative reviewed**  
7 **[sic] is not available in cases that have been substantiated by the court in either a civil or a**  
8 **criminal proceeding.**"

9           Finally, viewing Plaintiff's FAC most favorably to non-dismissal, the affidavit of  
10 Plaintiff's Clark County child custody counsel (Emily McFarling, Esq.) executed 21 May 2015  
11 and filed in Will County, Illinois District Court, Case No. 2015P 000231, *In the Matter of the*  
12 *Estate of Ryder Eggleston* (attached to Plaintiff's declaration), takes on greater significance. She  
13 states:  
14

15           "4. I spoke to Georgian Stuart [defendant herein], Senior Family Services Specialist for  
16 Child Protective Services on January 7, 2015 over the telephone while she and the police were at  
17 my client's [Plaintiff's] home.

18           "5. Ms Stuart specifically told me over the telephone that the investigation was pertaining  
19 to Laura [the children's mother], but there was a concern [for which there is no substantiation in  
20 fact] that Mr Eggleston had been leaving the children in Laura's care but there was **no direct**  
21 **concerns about Mr Eggleston being an unfit parent.**

22           "6. Ms Stuart specifically told me over the telephone that the plan was for Lisa [one of  
23 the private defendants in this case] to stay in the parties' home with the children on a temporary  
24 basis. **Ms Stuart informed me that no petition for abuse or neglect would be filed against**  
25 **Mr Eggleston if he signed the temporary guardianship consent,** but that CPS would keep the  
26 investigation case open just to see through the process of him getting set up to revoke the  
27 guardianship and take back full care and control of the children...  
28

1 “8. On or about January 21, 2015, Ms Stuart specifically affirmed in response to direct  
2 questions on the issue of Mr Eggleston could revoke the guardianship at any time and seek return  
3 of the children from Lisa. I informed Ms Stuart that Mr. Eggleston no longer lived with Laura  
4 and had not seen her since January 7, 2015, that he had his own home set up for the children and  
5 childcare plans in place. Ms Stuart state that Mr Eggleston’s revocation of the guardianship  
6 would not trigger any action by CPS...”

7 According, the Nevada Supreme Court’s decision *Turner v. Staggs*, 510 P. 2d 879 (1973)  
8 is controlling. There the Court reasoned such “arbitrary treatment clearly violates the equal  
9 protection guarantees of the United States Constitution...The statutory provisions of this state  
10 which provide that no person shall sue a governmental entity...for a demand arising out of a  
11 government tort unless he first presents a claim... *are void and of no effect.*” (Emphasis added.)

12 Likewise, the Nevada Supreme Court in *Martinez v. Maruszczak*, 123 Nev. 433, 446, 168  
13 P. 3d 720, 729 (2007) affirmed that Nevada has waived the traditional immunity from liability  
14 for torts. None of the few enumerated exceptions embrace NRS 432B.317, the so-called “Fair  
15 Hearing” process referenced by the moving defendants as further elucidated by this Motion.

16 The intentional tort claims alleged by Plaintiff are “unrelated to any plausible policy  
17 objective” that might invoke an exception. Therefore, the motion to dismiss them should be  
18 denied.

#### 19 G. Conclusion

20 The State of Nevada recognizes that termination of parental rights “is an exercise of  
21 awesome power.” *Smith v. Smith*, 102 Nev. 263, 266 (1986) (overr other gds, *In re Termination*  
22 *of Parental Rights as to N.J.*, 116 Nev. 790 800, n. 4 (2000). Severance of the parent-child  
23 relationship “is tantamount to imposition of a civil death penalty.” *Drury v. Lang*, 105 Nev. 430,  
24 433 (1989). “Parental fault [must be] proven by clear and convincing evidence.” *In re Parental*  
25 *Rights as to K.O.L.*, 118 Nev. 737, 746.

1 In deciding Defendants' Motion to Dismiss, the Court misconstrued the pleadings and  
2 underlying facts, given the narrowness of the issue presented by the Motion to Dismiss. Nor did  
3 Defendants cite any of the many U.S. Supreme Court cases controlling section 1983 law,  
4 working an unfairness to Plaintiff when the dispositive issues were addressed for the first time in  
5 the Reply and at the hearing and thus warranting this Motion to Reconsider.

6 According, with the clarification provided by this Motion, and based on a fuller  
7 addressing of the FAC, facts, and related law, the Court is urged to reconsider the dismissal  
8 motion and deny it in toto.

9 Steve Eggleston, Plaintiff, In Pro Per

10 /s/ Steve Eggleston

11  
12 Steve Eggleston, Plaintiff, In Pro Per  
13 Goose Hall, Bourne Farm, East Town Road  
14 Pilton, England, Post Code: ba4 4nx  
15 UK: +44 7801 931682  
16 US: (760) 464-9496  
17 TheEggman411@gmail.com

18 **CERTIFICATE OF ELECTRONIC SERVICE**

19 I hereby certify that I am the plaintiff in this action and on the 7<sup>th</sup> day of August, 2018, I  
20 served a true and correct copy of the foregoing **PLAINTIFF'S OPPOSITION TO MOTION**  
21 **TO DISMISS OF DEFENDANTS CLARK COUNTY AND GEORGINA STUART** (Eighth  
22 Judicial District Wiznet), by emailing the same to the following recipients. Service of the  
23 foregoing document by email is in lieu of service via official post.

24  
25 Felecia Galati, Esq.  
26 OLSON, CANNON, GORMLEY  
27 9950 West Cheyenne Ave.  
28 Las Vegas, NV 89129  
Phone: 702-384-4012  
fgalati@ocgas.com

# EXHIBIT “1”

## Supporting Affidavit of Plaintiff Steve Eggleston

Steve Eggleston, being first duly sworn, deposes and states:

1. I am the plaintiff in in this case and submit this affidavit in support of the **MOTION TO RECONSIDER COURT’S 9/7/18 ORDER OF DISMISSAL WITHOUT PREJUDICE BASED FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES**

2. Except where stated, the facts and inferences set forth in the Opposition are true to my own personal knowledge.

3. I was also physically present and overheard the conversation between Ms. McFarling and Defendant Stuart as described in this Motion.

3. Attached as Exhibit “2” to this Motion is a true and correct copy of the the Clark County Notice provided to me when informed of the Findings in February 2015. It is accurately quoted above.

4. Attached hereto as Exhibit “3” is a true and correct copy of the Decree of Custody entered in Eggleston v. Battistella, Case No. D508989, on June 29, 2015. It is accurately quoted above.

5. Attached hereto as Exhibit “4” is a true and correct copy of Plaintiff’s email to Defendant Stuart and the County as referenced above dated November 10, 2016.

6. Attached hereto as Exhibit “5” is a true and correct copy of Plaintiff’s email to Tisa Evans dated December 7, 2016.

7. Attached hereto as Exhibit “6” is a true and correct copy of Plaintiff’s email to Tisa Evans dated December 8, 2016 at 10:46 AM.

1           8. Attached hereto as Exhibit "7" is a true and correct copy of Plaintiff's email to Tisa  
2 Evans dated December 8, 2016 at 11:23 AM.

3  
4           FURTHER AFFIANT SAITH NAUGHT.

5                                 Steve Eggleston, Plaintiff in pro per

6                                 /s/ Steve Eggleston

7           Date: September 20, 2018

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# EXHIBIT “2”

(Clark County Notice)





## CLARK COUNTY DEPARTMENT OF FAMILY SERVICES

121 South Martin Luther King Blvd  
Las Vegas, Nevada 89106  
(702) 455-5444

### APPEAL OF SUBSTANTIATED ABUSE AND/OR NEGLECT FINDINGS

#### Purpose:

The purpose of the appeal process is to afford individuals who have substantiated findings of abuse and/or neglect against a child(ren) an opportunity to challenge the substantiation by requesting an administrative review. The right of appeal is required pursuant to federal statute<sup>1</sup> and the Nevada Revised Statute (NRS) 432B and Nevada Administrative Code (NAC) 432B.170. This requirement is to afford you a right to due process, which is the right to receive notice of an adverse determination against you and give you an opportunity to respond in an orderly proceeding.

If a substantiated finding(s) of child abuse and/or neglect is reversed following an administrative appeal, all reference to the perpetrator's identity previously submitted to the Central Registry<sup>2</sup> is removed.

An administrative reviewed is not available in cases that have been substantiated by the court in either a civil or criminal proceeding.

This document explains the procedures followed by Clark County Department of Family Services (DFS) in carrying out federal and state provisions governing the administrative appeal of substantiated findings of child abuse and/neglect.

#### Definitions:

**"Abuse or Neglect of a child"**<sup>3</sup>: "Physical or mental injury of a non-accidental nature; sexual abuse or sexual exploitation; or negligent treatment or maltreatment as set forth in NRS 432B.140 caused or allowed by a person responsible for his welfare under circumstances which indicate that the child's health or welfare is harmed or threatened with harm." [Emphasis Added]

**Appeal:** Means the opportunity afforded to an individual who has a substantiated finding of abuse and/or neglect documented by an agency which provides child welfare services to challenge such finding(s).

**Central Registry**<sup>4</sup>: The statewide database maintained by the State of Nevada, Division of Child and Family Services of substantiated reports of child abuse and neglect. Substantiated reports are retained in the Central Registry until the youngest victim turns 28 years of age if the child's age at the time of the report is known; or until the report is 10 years old when the age of the youngest victim is unknown.

**Court Substantiated:** A court has found by a preponderance of evidence that the child was in need of protection due to abuse or neglect following a hearing pursuant to NRS 432B.530.

**Substantiated:** Means that a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists (NAC 432B.170(7)(a))

<sup>1</sup> Federal Child Abuse and Neglect Prevention and Treatment Act (CAPTA), Section 106(b)(2)(A)(xi)(II)

<sup>2</sup> NRS 432B.290 specifies access to the Central Registry

<sup>3</sup> NRS 432B.020

<sup>4</sup> NRS 432.0999 to NRS 432.130 inclusive  
Revised 7/23/10 SAD, 9/29/10 AMJ, 1/16/14 VM,  
6/26/14 VM

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# EXHIBIT “3”

(Decree of Custody)



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*Alvin L. Lohman*  
CLERK OF THE COURT

1 DEC  
2 Emily McFarling, Esq.  
3 Nevada Bar Number 8567  
4 MCFARLING LAW GROUP  
5 6230 W. Desert Inn Rd.  
6 Las Vegas, NV 89146  
7 (702) 565-4335 phone  
8 (702) 732-9385 fax  
9 eservice@mcfarlinglaw.com  
10 Attorney for Plaintiff  
11 Steven Eggleston

7 IN THE EIGHTH JUDICIAL DISTRICT COURT  
8 FAMILY DIVISION  
9 CLARK COUNTY, NEVADA

10 STEVEN EGGLESTON,

11 Plaintiff,

12 vs.

13 LAURA BATTISTELLA,

14 Defendant.

) Case Number: D508989

) Dept. No: M

) DECREE OF CUSTODY

15  
16 This cause having come before the Court, and the Court being advised in the  
17 premises, and the same having been submitted to the above entitled Court for decision; the  
18 Court finds that it has complete jurisdiction as to the subject matter and personal jurisdiction  
19 and after reviewing the pleadings and papers on file and hearing the testimony presented  
20 this date, the Court finds as follows:

21  
22 That Plaintiff is now and has been actual bona fide resident of Clark County, Nevada  
23 and has been actually domiciles therein for more than six weeks immediately preceding the  
24 commencement of this action;

25 There are two minor children born the issue of Plaintiff and Defendant, to wit:  
26 Hunter John Eggleston, born July 18, 2012, and Ryder David Eggleston, born December 29,  
27 2010;

28  
Non-Final Dispositions:  
☐ Other  
☐ Dismissed - Want of Prosecution  
☐ Involuntary (Statutory) Dismissal  
☐ Default Judgment  
☐ Transferred  
Trial Dispositions:  
☐ Disposed After Trial Start  
☐ Settled/Withdrawn  
☐ Without Judicial Conflicting  
☐ With Judicial Conflicting  
☐ By ADR  
☐ Judgment Reached by Trial

RECEIVED  
JUN 29 2015  
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1 Nevada was the home state of the minor children within six months before the  
2 commencement of the proceedings. As such, Nevada has jurisdiction over the child custody  
3 of the minor children.

4 That the parties have never been married.

5 Paternity has already been established for both minor children, specifically:

6 A Decree of Paternity was entered in this case on June 24, 2015 establishing  
7 paternity for the minor child, Ryder, and reaffirming paternity for the minor child, Hunter.

8 As to the minor child, Hunter, an affidavit of Paternity was filed with the Office of Vital  
9 Statistics more than six months immediately preceding the filing of this action. Said  
0 Affidavit was not revoked within six months from the date it was filed.

1 THEREFORE, IT IS FURTHER ORDERED, ADJUDGED AND DECREED that  
2 Plaintiff Steve Eggleston is fit and proper to be designated as sole legal and physical  
3 custodian of the minor children Hunter John Eggleston, born July 18, 2012, and Ryder  
4 David Eggleston, born December 29, 2010.

5 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the children  
6 returning to Plaintiff's physical care, he shall contact Child Protective Services through the  
7 hotline and the previously assigned caseworker and notify them that the children have  
8 returned to his care.

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff shall file  
10 with this Court a list of the licensed daycare provider he will be using for the minor children  
11 and his set/regular work schedule.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Laura  
13 Battistella will have visitation with the minor children at Plaintiff's discretion.



IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to NRS 125B.080(9)(i), due to the relative incomes of the Parties, Defendant will not pay child support. This amount is deviated from the statutory formula that provides for a minimum of \$100 per child due to the parties relative incomes.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both Parties shall file Financial Disclosure Forms.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED Plaintiff shall provide medical, dental and vision insurance for said children until said children reach the age of majority, or become sooner self-supporting, with the premium split equally between the parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the parties shall share equally all uninsured medical expenses of the minor children. Medical expenses shall include, but are not limited to, counseling, eye exams, eye glasses and medical treatment. Reimbursement shall be made pursuant to the 30/30 rule for expenses. The parent who paid for the expenses shall provide the other parent a copy of the receipt of payment within 30 days of payment. The other parent should reimburse one half of the expenses within 30 days.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED Plaintiff may claim the minor children on his income tax return each year beginning the year 2014 and forward.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED the 1999 Red Ford Explorer, NV license plate number 343YLK, Vehicle ID No. 1FMVU22E0XUB47235, now held in the names of Steve Eggleston and Laura Battistella, married name Laura Rodriguez, shall be transferred - all right, title, and interest - to Steve Eggleston.

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED each of the parties  
2 herein will pay his or her own attorney's fees and costs.

3 IT IS FURTHER ORDERED, ADJUDGED AND DECREED the parties are subject  
4 to the provisions of NRS 31A.025 through 31A.240 which deal with the recovery of  
5 payments for the support of minor children by the welfare division of the Department of  
6 Human Resources or the District Attorney; and, that his/her employer can be ordered to  
7 withhold his/her wages or commissions for delinquent payments of child support.  
8

9 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that both parties shall  
10 execute any and all escrow documents, transfers of title, and other instruments that may be  
11 required in order to effectuate transfer of any and all interests which either may have in and  
12 to the property of the other as specified herein, and do any other act or sign any other  
13 documents reasonably necessary and proper for the consummation, effectuation, or  
14 implementation of this Decree and its intent and purposes. Should either party fail to  
15 execute any documents to transfer interest to the other, either party may request that this  
16 Court transfer such property directly, or have the Clerk of the Court sign in place of the  
17 other, consistent with NRCP 70.  
18

19 That pursuant to NRS 125.510(6), the Parties are hereby put on notice of the  
20 following:  
21

22 **PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION,**  
23 **CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS**  
24 **ORDER IS PUNISHABLE AS A CATEGORY "D" FELONY AS PROVIDED IN**  
25 **NRS 193.130. NRS 200.359 provides that every person having a limited right of**  
26 **custody to a child or any parent having no right of custody to the child who willfully**  
27 **detains, conceals or removes the child from a parent, guardian or other person**  
28 **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.**



1 The Parties are also put on notice that the terms of the Hague Convention of October  
2 25, 1980, adopted by the 14th Session of the Hague Conference on Private International

3 Law, apply if a parent abducts or wrongfully retains a child in a foreign country. The

4 Parties are also put on notice of the following provisions in NRS 125.510(8):

5 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  
8 child, that the United States is the country of habitual residence of the child for the purposes  
9 of applying 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  
11 if the court determines that the parent poses an imminent risk of wrongfully removing or  
12 concealing the child outside of the country of habitual residence. The bond must in an  
13 amount determined by the court and may be used only to pay for the cost of locating the  
14 child and returning him to his habitual residence if the child is wrongfully removed from or  
15 concealed outside the country of habitual residence. The fact that a parent has significant  
16 commitments in a foreign country does not create a presumption that the parent poses an  
17 imminent risk of wrongfully removing or concealing the child.

18 That the Parties are also put on notice of the following provision of NRS 125C.200:

19 If custody has been established and the custodial parent or a parent having joint  
20 custody intends to move his residence to a place outside of this state and to take the  
21 child with him, he must, as soon as possible and before the planned move, attempt to  
22 obtain the written consent of the other parent to move the child from the state. If the  
23 noncustodial parent or other parent having joint custody refuses to give that consent,  
24 the parent planning the move shall, before he leaves the state with the child, petition  
25 the court for permission to move the child. The failure of a parent to comply with  
26 the provisions of this section may be considered as a factor if a change of custody is  
27 requested by the noncustodial parent or other parent having joint custody.

28 The Parties are further put on notice that they are subject to the provisions of NRS

31A and 125.450 regarding the collection of delinquent child support payments.

The Parties are further put on notice that either party may request a review of child  
support pursuant to NRS 125B.145.

The Parties shall submit the information required in NRS 125B.055, NRS 125.130

and NRS 125.230 on a separate form to the Court and the Welfare Division of the

Department of Human Resources within ten (10) days from the date the Decree in this

1 matter is filed. Such information shall be maintained by the Clerk of the Court  
2 and not part of the public record. The Parties shall update the information filed with the  
3 Court and the Welfare Division of the Department of Human Resources within ten (10) days  
4 should any of that information become inaccurate.  
5

6 IT IS SO ORDERED this 29 day of June, 2015.

7   
8 THE HONORABLE WILLIAM S. POTTER  
9 for Judge Potter 

10 MCFARLING LAW GROUP  
11 

12 Emily McFarling, Esq.  
13 6230 W. Desert Inn Rd.  
14 Las Vegas, NV 89146  
15 (702) 565-4335  
16 Attorney for Plaintiff  
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## EXHIBIT “4”

(Plaintiff’s email to Defendants Stuart and the County as referenced above dated November 10, 2016)

**Re: Claims of Steve Eggleston, father of Ryder and Hunter Eggleston; Complaint - Civil Rights Violation & Child Abduction; Offer of Settlement and Compromise**

Thu, Nov 10, 2016 at 7:08 AM

Steve Eggleston &lt;theeggman411@gmail.com&gt;

To: Georgina Stuart / CPS &lt;gxstuart@clarkcountynv.gov&gt;, Lisa Callahan &lt;lmccallahan@hotmail.com&gt;

Bcc: Dana Amma day &lt;dana@positivetv.tv&gt;, Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

**To Whom It May Concern:**

On about January 6, 2015, my sons were unlawfully abducted from me. This abduction was orchestrated by Georgina Stuart, acting for CPS, and Lisa Callahan, in clear violation of my fundamental rights civil rights as a parent and the protocol established by law (see, e.g., <http://dcfs.nv.gov/Programs/CWS/CPS/CPS/>). At no time were the Eggleston boys in actual or imminent danger of harm then or before.

The essential facts are set forth in my COMPLAINT FOR CIVIL RIGHT VIOLATIONS, CHILD ABDUCTION, and CONSPIRACY. That Complaint is attached.

Before the abduction, was interviewed one time, for about 20 minutes, after which I was appointed Guardian over the children and their mother. This was several days before the abduction. Answering the question what changed between then and the abduction would be a good place to start, for those interested in gathering any of the facts related to this travesty.

Further information is available from my attorney, Emily McFarling. She is a well-respected family law attorney in Clark County. As she is a witness, she is not my attorney in this action. I will make the decision of who to retain depending on how these Settlement negotiations conclude. Ms. McFarling spoke to Ms. Stuart during and after the abduction. Ms. McFarling is also witness to my fitness as a parent over the years preceding the abduction. Neither she nor anyone other than the mother's two oldest children (who lived in Chicago and were home briefly for the holidays) were interviewed before the abduction. No investigation as required by law was required. Indeed, through the morning of the abduction, we had been approved for a new program that apparently was bringing millions of funding dollars to CPS or related entities.

It is my hope to reach a settlement without the necessity of filing suit. A Nevada court found me fit and awarded me full legal and physical custody of the boys in the spring of 2015. However, as it currently stands, the Callahans, who have physical possession of my sons, have not returned my sons or communicated with me once since January of this year, nearly a year ago. Nor have they allowed me any contact of any kind with them despite my constant demands and requests. They have instead pursued guardianship in Indiana in violation of my constitutional rights and the Order of the Nevada court, which has superior jurisdiction. I have no idea if my sons are dead or alive, happy and healthy, or otherwise. I have only seen them once - at a court hearing in Nevada - since their abduction nearly two years ago.



If we do not work something out by mid-December, or get on a clear path to doing so, I will file suit and formally serve all named defendants. What's at stake here are my fundamental parental rights, the love and affection that Ryder, Hunter and I share for each other, and the short and long-term health of the boys... all of which have been trammled upon.

In an effort to avoid expensive and protracted litigation, here's my proposed Settlement and Compromise offer:

1. The boys will be put on the phone with me every Sunday, subject to reasonable schedule adjustments, via Facetime or Skype, from a place where the video connection is good;
2. The boys will be made available to me for visitation over the holidays this year for four days in the Chicago area;
3. I will have regular visitation rights for the boys in the spring and next summer and other reasonably agreed dates (without any waiver of my right to pursue full and complete custody);
4. In addition to Sundays, the boys equally available to me on all holidays, birthdays and special occasions;
5. The Report of Abuse and Neglect as against me will be rescinded;
6. Proof of reprimand and/or disciplinary action against Ms. Stuart will be provided to me;
7. Proof of proposed new procedures for investigation of suicidal ideation, blended families and situations like ours will be provided to me;
8. A practice of guardianship removal of children through ambush and police intimidation will be banned and cease forthwith;
9. The Callahans will return my sons to me forthwith or as agreed;
10. The Callahans will pay me the sum of \$25,000; and
11. CPS and Georgina Stuart will pay me the sum of \$100,000, a portion of which will be paid by Ms. Stuart personally without any reimbursement or indemnification.

If resolution is not reached by mid-December, I will file and serve my COMPLAINT, contact every local, state and federal office with any connection to CPS or its funding, including the U.S. Department of Health and Human Services and the affiliated Children's Bureau, and coordinate with all watchdog groups that put a flashlight on government abuse of this sort. Hopefully informal resolution will make that unnecessary.

Sincerely, Steve Eggleston

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# EXHIBIT “5”

(Plaintiff’s email to Tisa Evans dated December 7, 2016)

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## So-called "Failure to Protect" Cases

Steve Eggleston <steve@eggmanglobal.com>

Wed, Dec 7, 2016 at 9:05 AM

To: Tisa Evans <EVANST@clarkcountynv.gov>

Cc: Lisa Callahan <lmcclahan@hotmail.com>

Bcc: Dana Amma day <dana@positivetv.tv>, Ryder David Eggleston <ryderdavid2010@gmail.com>

Good morning, Ms. Evans.

I've been giving thought to your observation that, even though no one ever mentioned this to me at the time, my situation fits in the category of a so-called "failure to protect" case. Presumably that means one parent is failing to protect children from neglect or abuse by the other parent.

Wouldn't good practice, fundamental fairness, and common decency/sense require some or all of the following:

1. Imminent Danger: Ascertain the safety or lack thereof of the children. In our case, the children were not in imminent danger of anything. Georgian Stuart first arrived in early December. The children were forcibly removed a month later on a day when a help program was supposed to start. My youngest son, Hunter, hadn't even been in the house for days. Because St. Mary's Hospital misread X-rays, he suffered a burst appendix that another hospital discovered (a bitter irony since nothing happened to St. Mary's for this neglect). All the while, because his mother was herself in treatment and not home, my oldest son was under the watchful eye of myself, his oldest sister home from college, or his Aunt, the very person to whom temporary Guardianship was ultimately forced. So the big question is this: What is the evidence of imminent danger to Hunter and Ryder that warranted his forced removal a month later?

2. Expression of Concerns and Honesty. The spark to all of this was the boys' mother apparently telling her oldest daughter Alexis while in the bath tub in the morning that she should just kill herself. Apparently this resulted from an argument between them -- over the years, they argued a lot and Alexis was very mad at her mother. The children were neither there in the bedroom during this situation or involved, as far as I know. I was downstairs in my office working. (The bedrooms were upstairs.) The ambulance arrives and that's how I learn about any of this. Laura had no prior history of suicidal threats or ideation. No one called CPS to my knowledge, No report of the children being in jeopardy was made to my knowledge. Obviously nothing was imminent, the boys not being forcibly removed for a month.

When Georgina Stuart arrived on the scene a few days later, knocking at the door, as far as I recall the children were not even at the house. If they were, they were upstairs playing. She did not announce she was there to investigate any claims about the children. Her entire focus was on Laura. At no time did she tell me, "Steve, we're concerned you are not protecting the children from their mother during these hard times. Here's a brochure on how to deal with it and some suggestions. Or, Steve, can

you explain what you are doing to protect the children. Here's what you should be doing?"

Wouldn't common decency and common sense require that the parent in my shoes be told what is being investigated and offered self-help solutions -- before forcibly ripping his children away from their father?

3. Private Solutions: It seems to me good practice and fair procedure would require the innocent parent be given options before being ambushed by the police and told to sign away his children or else. Sit down, discuss the concerns, kick around rational alternatives. Perhaps the help program Georgina Stuart was peddling like a carpet salesman was her way of doing that. But that's not what I'm talking about. I'm talking about the situation when it is determined that other parent cannot be involved. Apparently rather than sit down with me privately, a late night decision was made to ambush me with the police and remove my kids by force... rather than sit down and discuss alternatives. Is this the way government wants to be done in America? Sounds more like Gestapo Germany to me.

4. Understanding the family situation: There is a difference in families. Some adults with children are married, and some are not. Some have blended families, with children from a former marriage or relationship and children from the current one. That was our case. Living in the home were four children: two from Laura's prior marriage, and two between us. We were not married. Those children had a father who had visitation rights only. A Judge in Clark County gave Laura legal and physical custody of those children, determining she was proper and fit. I did not have custody. They were not my children. Other than call the police, I had not right to make her do anything with these children if they were in danger because of their mother.

But her children are different than my children. My boys, Hunter and Ryder, were under my custody. I could have taken them from the house and moved elsewhere if anyone had suggested this was necessary. No one did. No one said, "Steve, we think you are failing to protect your sons from Laura - who was in the hospital anyone most of this time - and we think you need to do this or that, or, you need to remove your sons from this environment or we will have to take them." Instead, I was ambushed and my children forcibly removed from me. What kind of way is that to protect the interests of families and their children? What possible governmental interest is being advanced by an ambush like this when the children are in no imminent danger of anything?

Not sitting down and rationally discussing alternatives, not expressing concerns about my roll in protecting the children from their mother (remember that after Georgian Stuart interviewed me she put me in charge with the oldest daughter of the children when Laura was in the house -- and at all times the children were under our care as required -- so where was the imminent danger warranting an ambushed removal of my boys with intimidating police there growling at me to make up my mind or the children would be taken and that there was no time to call my attorney?), lying to us about this help program, and showing up with the ambush

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team to forcibly remove my children -- cannot possibly be justified by any constitutional, rational policy.

In the end, a family was destroyed by this, my reputation was maligned (a father whose children were removed for neglect or abuse), my boys were ripped from my life and me from there's and given to someone with a history of elder abuse. That was the option chosen by Georgian Staurt, CPS and DFS?

The bitterest of ironies is the last conversation I had with my oldest son, Ryder, nearly a year ago (the last allowed contact by Lisa). In that conversation, he said: "Dad, I miss the good old days." He had just turned 5.

So, you asked what you can do. Here's what I ask:

1. Is there ANY evidence of my boys being abused or neglected or being in imminent danger of abuse or neglect by anyone, and if so, when, who are the witnesses and what was the danger?
2. Is there ANY evidence that I failed to protect my boys of the specific situation identified in answer to the first question that would warrant ambushed, forced removal of my sons from me?
3. Is there any justification for DFS following an ambush policy in this kind of situation?

I copy Lisa Callahan into this email should she, as the abductor of the children, have any information about the above or any justification for a/ not letting me talk to my sons, b/ not returning my sons to me, and c/ not letting me visit with my sons.

Thanks for all your help. You the very first person to be open to talking to me about any of these grave concerns.

Sincerely, Steve Eggleston

PS -- I also add the attachments of earlier - Judgment awarding me custody, complaint for civil rights violations and abduction, and my Portfolio showing I'm a decent and rational human being... in the event you did not get them or Lisa did not.

Steve Eggleston, J.D., aka The Eggman  
 Mobile: +44 (0)7801931682 (calls from U.S.)  
 Land: +44 (0)1749899341 (calls from U.S.)  
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Founder/CEO, Eggman Global Artists  
 Founder/CEO, Eggman Global Consultants  
 Co-Founder/CEO, TECH for Humankind  
 Partner, ABA Booking Agency  
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[Facebook.com/EggmanGlobal](https://Facebook.com/EggmanGlobal)  
[Twitter.com/EggmanGlobal](https://Twitter.com/EggmanGlobal)

# EXHIBIT “6”

(Plaintiff’s email to Tisa Evans dated December 8, 2016 at 10:46 AM)

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More Questions That Come to Mind

Thu, Dec 8, 2016 at 10:46 AM

Steve Eggleston <theeggman411@gmail.com>

Steve Eggleston <steve@eggmanglobal.com>  
To: Tisa Evans <EVANST@clarkcountynv.gov>  
Cc: Georgina Stuart / CPS <gxstuart@clarkcountynv.gov>  
Bcc: Dana Amma day <dana@positivetv>, Ryder David Eggleston <ryderdavid2010@gmail.com>

Sorry for letting my frustration brim over, but these additional questions and concerns come to mind in light of the DFS's position that CPS never took custody of my boys and therefore bears no responsibility for their removal or the consequences of what happened to them (btw, it is my strong belief that Ms. Stuart knew the boys would be removed by Lisa from the state as everything was organized in advance between them):

1. Since the police aided in the forceful removal of my sons, why was I not a/ informed beforehand that my sons were deemed at risk, so I could take steps to do something, and b/ given an opportunity in a "failure to protect" case like mine to remove my boys from the environment from which they needed protection? I could and would have done so.

2. Since the police aided in the forceful removal of my sons, why was I not given notice of challenge or appeal rights, notice of the charges against me, and evidence I did anything wrong warranting such force without prior notice?

3. If, as you say, CPS and DFS never took custody of my boys, why were the police there in the first place? Does a CPS agent have a right to bring in the police to remove children by force (regardless of who they are given to) without any due process rights being then provided?

4. If there were grounds to remove my boys, why weren't they removed earlier? Why was everything okay the day before? How did they Supervisor deciding we were not fit for the program at the last moment have anything to do with my boys' safety the next day?

5. Why was a report issued against me for her Laura's two children? Why wasn't a similar report issued against the mother's oldest daughter or sister, both of which got custody (one like I did and one on the day of the abduction)? I had no greater custodial rights than they did; in fact, I had fewer rights as I wasn't married or related the the children's mother. In this regard, I wasn't asked to sign a guardianship form for those two children for this very reason. So how can I be guilty of abuse or neglect for "failure to protect" children of which I have no custody?

6. Is there any single witness to me failing to protect my boys from anything? If so, on what day and what time and in what place did this occur? Because, if there is such an accusation, it has never been presented to me. And if there is such proof, it has never been shown to me.



20/01/2018

7. Is there any kind of oversight for people like Georgia Stuart on their use of police force to remove children? This lady forcibly removed my boys by ambush without ever having told me my boys were at risk and after herself appointing me in charge of them only several days earlier based on her interviews.

8. Is the police ambush policy still in force at CPS / DFS in failure to protect cases (or any cases for that matter)?

9. Finally, a simple question: what should I have done differently? No one has ever mentioned or told me what they would have done in the circumstance.

Thank you very much in advance for your time and assistance.

Sincerely, Steve Eggleston, still the father of Ryder and Hunter Eggleston

PS - I have copied Ms. Stuart in hopes she can answer any of these questions for you. I also again urge contacting my former attorney to verify the facts on my end.

Steve Eggleston, J.D., aka The Eggman

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Founder/CBO, Eggman Global Consultants

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Author, "Conflicted," a Trip Splatter Novel

2nd Edition Street Date: 01/10/16

EggmanGlobalBooks.com

Facebook.com/SteveEgglestonLegalThillers

The Eggman Theme Song

www.youtube.com/watch?v=CvERHtTx9w

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# EXHIBIT “7”

(Plaintiff’s email to Tisa Evans dated December 8, 2016 at 11:23 AM)





Steve Eggleston <steve@eggmanglobal.com>

## More Questions That Come to Mind

Thu, Dec 8, 2016 at 11:23 AM

Steve Eggleston <steve@eggmanglobal.com>

To: Tisa Evans <EVANST@clarkcountynv.gov>

Cc: Georgina Stuart / CPS <gxstuart@clarkcountynv.gov>, Lisa Callahan <lmcallahan@hotmail.com>

Bcc: Dana Amma day <dana@positivetv.tv>, Ryder David Eggleston <ryderdavid2010@gmail.com>

I'm sorry, but several additional questions come to mind:

1. If DFS/CPS did not take custody of my boys, are you saying that the entire blame for the boys being abducted from the state lie with Lisa Callahan and the people her aided her?
2. Does DFS / CPS have any policies in place to make sure abduction does not occur when they forcibly remove children like my boys and put them into the hands of third parties?
3. Did DFS / CPS do anything to determine if Lisa Callahan was fit to take any of the children, especially in light of the manner in which she, in my opinion, committed elder abuse on her own mother?
4. Lisa Callahan has told me I was determined by DFS /. CPS to be an "unfit parent" as regards my boys. Has DFS or CPS or anyone for that matter ever made such a determination?

Thanks again, Ms. Evans.

Sincerely, Steve Eggleston, father of Ryder and Hunter Eggleston

PS - I am also copying Lisa Callahan on this email so she can provide any proof of anything if she has it.

[Quoted text hidden]



1 FELICIA GALATI, ESQ.  
2 Nevada Bar No. 007341  
3 OLSON, CANNON, GORMLEY  
4 ANGULO & STOBERSKI  
5 9950 West Cheyenne Avenue  
6 Las Vegas, NV 89129  
7 Phone: 702-384-4012  
8 Fax: 702-383-0701  
9 [fgalati@ocgas.com](mailto:fgalati@ocgas.com)  
10 Attorneys for Defendants  
11 CLARK COUNTY and GEORGINA STUART

8 DISTRICT COURT  
9  
10 CLARK COUNTY, NEVADA

11 STEVE EGGLESTON,  
12

13 Plaintiff,

14 v.

15 GEORGINA STUART; CLARK COUNTY,  
16 NEVADA; LISA CALLAHAN; BRIAN  
17 CALLAHAN; AND DOES I THROUGH 100,  
18 INCLUSIVE,

19 Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

Date of Hearing: 10/22/18

Time of Hearing: In Chambers

20 **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S**  
21 **OPPOSITION TO PLAINTIFF'S MOTION TO RECONSIDER DEFENDANTS'**  
22 **MOTION TO DISMISS AND 9/7/18 ORDER OF DISMISSAL**

23 COME NOW Defendants CLARK COUNTY and GEORGINA STUART  
24 ("Defendants"), by and through their attorney FELICIA GALATI, ESQ. of the law firm  
25 OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby submit their  
26 Opposition To Plaintiff's Motion To Reconsider Defendants' Motion To Dismiss And 9/7/18  
27 Order Of Dismissal. This Opposition is made and based upon all papers, pleadings and records  
28

1 on file herein, the attached Memorandum of Points and Authorities, and such oral argument,  
2 testimony and evidence as the Court may entertain.

3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I.**

5 **INTRODUCTION**

6  
7 Plaintiff's Motion must be denied because Plaintiff has not presented any new evidence,  
8 identified any change in the law, or demonstrated that this Court's decision is clearly erroneous.  
9 Plaintiff merely rehashes his prior arguments, which this Court rejected, and adds things he could  
10 have argued, but chose not to. Thus, Plaintiff has failed to meet his burden and reconsideration  
11 is not proper in this case.

12 **II.**

13 **PROCEDURAL AND FACTUAL BACKGROUND**

14  
15 On 7/24/18, Defendants filed a Motion To Dismiss on the basis that Plaintiff failed to  
16 exhaust his administrative remedies. That was the only issue before this Court. On 8/7/18,  
17 Plaintiff filed an Opposition thereto. On 8/21/18, Defendants filed a Reply. On 8/28/18, this  
18 Court conducted a hearing on the Motion to Dismiss, and both Plaintiff, who attended the  
19 hearing in person, and Defendants made argument. The Court took the matter under submission.  
20 On 9/7/18, the Order granting Defendants' Motion To Dismiss was filed. On 9/20/18, Plaintiff  
21 filed a Motion To Reconsider Defendants' Motion To Dismiss And 9/7/18 Order Of Dismissal  
22 ("Motion").  
23

24 It was and is undisputed:

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1           1.     That on 8/27/15, DFS issued a Finding of Substantiation upholding the  
2 substantiated finding of physical injury neglect – 14 N plausible risk of physical injury against  
3 Plaintiff as to 4 minor children.<sup>1</sup>

4           2.     That on 9/9/15, Plaintiff requested a Fair Hearing or appeal of that decision in  
5 care of his attorney, Ms. McFarling.<sup>2</sup>

6           3.     That the Fair Hearing was originally scheduled for 8/1/17 at Plaintiff's request,  
7 but was rescheduled for 9/6/17.<sup>3</sup>

8           4.     That on 8/2/17, Plaintiff requested a continuance of the 9/6/17 Fair Hearing.<sup>4</sup>

9           5.     That on 8/18/17, DFS advised Plaintiff the Fair Hearing was reset for  
10 10/24/17.<sup>5</sup>

11           6.     That on 10/4/17, Plaintiff requested a second continuance of the 10/24/17  
12 Fair Hearing.<sup>6</sup>

13           7.     That on 10/16/17, DFS agreed to a continuance of the 10/24/17 Fair Hearing at  
14 Plaintiff's request and DFS asked Plaintiff to advise when he could appear for a Fair Hearing so  
15 it could be rescheduled.<sup>7</sup>

16           8.     Thereafter, Plaintiff failed to contact DFS to reset the 10/24/17 Fair Hearing.<sup>8</sup>

17           9.     That on 7/19/18, not having heard from Plaintiff for 9 months, DFS notified  
18 Plaintiff of a new Fair Hearing date set for 9/11/18.<sup>9</sup>

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24     <sup>1</sup> See Affidavit of Paula Hammack (Exh. A to Motion); Affidavit of Devon Butts (Exh. B to Reply); DFS  
8/27/15 letter and Finding of Substantiation of Child Abuse and/or Neglect (Exh. E to Reply).

25     <sup>2</sup> *Id.*; Plaintiff's Request for Fair Hearing of Agency Decision (Exh. F to Reply).

26     <sup>3</sup> *Id.*; DFS 5/26/17 letter (Exh. G to Reply); DFS 6/9/17 letter (Exhibit H to Reply).

27     <sup>4</sup> *Id.*; Plaintiff's 8/2/17 e-mail, p. 2 (Exh. I to Reply).

28     <sup>5</sup> *Id.*; DFS 8/18/17 letter (Exh. J to Reply).

<sup>6</sup> *Id.*; Plaintiff's 10/4/17 e-mail (Exh. K to Reply).

<sup>7</sup> *Id.*; DFS 10/16/17 e-mail, p. 1 (Exh. K to Reply).

<sup>8</sup> See Affidavit of Paula Hammack (Exh. A to Motion); Affidavit of Devon Butts (Exh. B to Reply).

<sup>9</sup> *Id.*; DFS 7/19/18 letter (Exh. L to Reply).

10. That on 7/20/18, Plaintiff requested a third continuance of the 9/11/18 Fair Hearing, indicating he would be in Washington, D.C. on 9/11/18.<sup>10</sup>

11. That on 7/31/18, DFS corresponded with Plaintiff reminding Plaintiff that the 10/24/17 Fair Hearing was set for 9/11/18, but continued at his request, and reminding Plaintiff that DFS asked Plaintiff to advise when he could appear for a Fair Hearing so it could be rescheduled, but he had failed to do so.<sup>11</sup>

12. That on 8/17/18, DFS again corresponded with Plaintiff and reiterated what was in its prior 7/31/18 correspondence to Plaintiff again reminding Plaintiff that the 10/24/17 Fair Hearing was set for 9/11/18, but continued at his request, and reminding Plaintiff that DFS asked Plaintiff to advise when he could appear for a Fair Hearing so it could be rescheduled, but he had failed to do so.<sup>12</sup>

13. To date, Plaintiff has not provided a date to DFS on which the Fair Hearing can proceed. Notwithstanding DFS' multiple requests for Plaintiff to provide DFS a date upon which a Fair Hearing can be rescheduled, Plaintiff has refused to do so. Thus, the Fair Hearing is still pending at DFS.

Based on all of the above, there is no doubt that Plaintiff initiated the appeal process and Fair Hearing, which is pending and has not occurred yet. Therefore, he has failed to exhaust his administrative remedies.

### III.

#### STANDARD FOR RECONSIDERATION

Nowhere in the Motion does Plaintiff address the standard for reconsideration, which is the only relevant standard here. "A district court may reconsider a previously decided issue if **substantially different evidence is subsequently introduced or the decision is clearly erroneous.**" Masonry and Tile Contractors Ass'n of Southern Nevada, v. Jolley, Urga & Wirth, Ltd., 113 Nev. 737, 741, 941 P.2d 486, 489 (1997) (emphasis added); Moore v. City of Las

<sup>10</sup> Id.; Plaintiff's 7/20/18 e-mail (Exh. M to Reply).

<sup>11</sup> See DFS 7/31/18 e-mail (Exh. N to Reply).

<sup>12</sup> See DFS 8/17/18 e-mail (Exh. O to Reply).



1 Vegas, 92 Nev. 402, 405, 551 P.2d 244, 246 (1976). In Moore, supra, the Nevada Supreme  
2 Court held:

3 the only feature which distinguished the second motion for rehearing from  
4 the two previous motions was the citation of additional authorities for a  
5 proposition of law already set forth and adequately supported by reference  
6 to relevant authorities in the earlier motions. We note particularly that the  
7 second motion for rehearing raised no new issues of law and made  
8 reference to no new or additional facts. Under such circumstances, the  
9 motion was superfluous and, in our view, it was an abuse of discretion for  
the district court to entertain it. **Only in very rare instances in which  
new issues of fact or law are raised supporting a ruling contrary to the  
ruling already reached should a motion for rehearing be granted.**

10 (Emphasis added.) An attempt to relitigate previously decided issues does not constitute a  
11 changed circumstance that warrants reconsideration. DFR Apparel Co. v. Triple Seven  
12 Promotional Prod. Inc., 2014 WL 1268689, at \*3 (D. Nev.); Jaden Inv. Tr. v. Bank of Am., N.A.,  
13 2014 WL 293308, at \*1 (D. Nev.) ("Plaintiff fails to establish a reason justifying relief. Plaintiff  
14 offers no new facts or evidence. Instead, **Plaintiff attempts to relitigate the issue . . . Plaintiff**  
15 **had an opportunity to meet its burden . . .** and, as the Court found in its Order, failed to do so.  
16 **A motion for reconsideration is not a proper vehicle for relitigating past issues** and therefore  
17 the Motion for Reconsideration should be denied.") (emphasis added); In re AgriBioTech, Inc.,  
18 319 B.R. 207, 209 (D. Nev. 2004) ("A motion for reconsideration is not an avenue to re-litigate  
19 the same issues and arguments upon which the court already has ruled."); Renfro v. City of  
20 Emporia, 732 F. Supp. 1116, 1117 (D. Kan. 1990) (emphasis added) (**A motion for**  
21 **reconsideration "is not intended to allow the parties to relitigate old issues, to advance new**  
22 **theories, or to rehear the merits of the case."**) "[A] party's failure to present his strongest  
23 case in the first instance does not entitle him to a second chance in the form of a motion to  
24 amend" or a motion to reconsider. Id. (emphasis added) Reconsideration based upon newly  
25 discovered evidence should be considered an extraordinary event and granted only on the  
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1 showing of exceptional circumstances. Mayberry v. Maroney, 558 F.2d 1159, 1163 (3<sup>rd</sup> Cir.  
2 1977). "A party is not entitled to reconsideration based on 'new facts' or theories which  
3 were clearly available to that party at the time of the earlier ruling. Nor are  
4 'afterthoughts' appropriate bases for reconsideration." Muckleshoot Indian Tribe v. Hall,  
5 698 F. Supp. 1504, 1519 (W.D. Wash. 1988) (citations omitted and emphasis added). Finally,  
6 "[p]oints or contentions not raised in the original hearing cannot be maintained or  
7 considered on rehearing." Achrem v. Expressway Plaza Ltd., 112 Nev. 737, 742, 917 P.2d  
8 447, 450 (1996) citing Chowdhury v. NLVH, Inc., 111 Nev. 560, 562-63, 893 P.2d 385, 387  
9 (1995); Cannon v. Taylor, 88 Nev. 89, 92, 493 P.2d 1313, 1314-15 (1972). A trial judge is  
10 granted great discretion on the question of rehearing. Harvey's Wagon Wheel, Inc. V.  
11 MacSween, 96 Nev. 215, 606 P.2d 1095 (1980).

12 Plaintiff has not presented any new facts, a change in the law or demonstrated that this  
13 Court's decision is clearly erroneous. All of Plaintiff's exhibits, except his affidavit, existed  
14 prior to the Motion being filed and were in Plaintiff's possession, but he failed to produce them  
15 to the Court. Therefore, he cannot do so now. Also, those exhibits are self-serving and it is  
16 telling that he has not provided Defendants' emails relating thereto because they do not establish  
17 what he is arguing to this Court. Finally, the cases cited by Plaintiff, too, were in existence  
18 before the Motion was filed, but he failed to cite them in his Opposition. Therefore, he cannot  
19 do so now. Simply put, Plaintiff has failed to meet his burden and the Motion must be denied.

#### 20 IV.

#### 21 LEGAL ARGUMENT

##### 22 A. Plaintiff Has Not Presented Any New Or Substantially Different Evidence

23 Plaintiff has not presented any new or substantially different evidence to support  
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1 reconsideration of this Court's decision. He makes argument based on things not supported by  
2 citation to any evidence<sup>13</sup> and relies on what is not alleged in the First Amended Complaint  
3 (FAC).<sup>14</sup> He relies on his self-serving affidavit and emails, which do not support the Motion.  
4 See, e.g., Alborzi v. Nationstar Mortg., LLC, No. 69906, 2017 WL 1806805, at \*1 (Nev. App.  
5 Apr. 28, 2017) citing Clauson v. Lloyd, 103 Nev. 432, 434-35, 743 P.2d 631, 633 (1987)  
6 (holding that a self-serving affidavit will not support summary judgment). He relies on  
7 irrelevant facts, like whether he was married or not, which does not support reconsideration.  
8 Finally, his made up facts, including that his children were removed by DFS, which never  
9 happened and is nowhere in Plaintiff's 27-page FAC, also do not support the Motion. Aside  
10 from the above, Plaintiff generally points to the same set of facts discussed in his Opposition.  
11 That does not support reconsideration. Gaines v. State, 2014 WL 2466316, at \*3 (Nev.) Finally,  
12 none of the relevant facts – that Plaintiff initiated the appeal process and Fair Hearing, which is  
13 pending and has not occurred yet – are disputed. Although Plaintiff takes issue with paragraph  
14 10 of the Order, which indicates the claim is unripe, he clearly admits he requested a continuance  
15 of the Fair Hearing, which supports that finding.<sup>15</sup> Plaintiff previously argued that the FAC “set  
16 forth four general claims for relief; all centered around or stemming from the unlawful,  
17 unconstitutional, and/or coerced removal and abduction of his minor sons from his home and to  
18 another state, through the conspiracy, aiding and abetting of the various County and private  
19 defendants.”<sup>16</sup> He now makes the very same argument in support of reconsideration.<sup>17</sup> Thus, he has  
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26 <sup>13</sup> See Motion, i.e., pp. 2-3, 4:1-21, 5:1-2, 5:4-21, 6:1-2, 6:6-13, 6:16-23 and 7:4-26.

27 <sup>14</sup> Id. at pp. 6:3 (no “stormed” in FAC), 6:13-15, 6:24 (no “speaker” in FAC), 7:1-3 (no custody decree in  
28 FAC), 8:1-2, 8:4-27, 9:1-28, 10:1-6, 13:12-16, 15:24-28 and 16:18-20.

<sup>15</sup> Id. at p. 17:16-21.

<sup>16</sup> See Opposition, p. 3:2-5.

<sup>17</sup> See Motion, e.g., pp. 14:16 to 28, 15:23-25 and 16:6-9.

1 not introduced new or substantially different evidence, and simply points to the same set of facts  
2 discussed in his Opposition. That is not enough. Gaines, supra.

3 In summary, Plaintiff complains about Defendants' procedural failings (first through  
4 third causes of action) and, as this Court found, the pending Fair Hearing is an opportunity for  
5 Defendants to remedy that prior to being subjected to civil rights claims requiring dismissal for a  
6 failure to exhaust administrative remedies.<sup>18</sup> Lopez v. Nevada Dept. of Corrections, 127 Nev.  
7 1156, 373 P.3d 937 (2011); Allstate Ins. Co. v. Thorpe, 123 Nev. 565, 170 P.3d 989 (2007).

8  
9 **B. This Court's Decision Is Not Clearly Erroneous**

10 This Court properly found on undisputed facts that Plaintiff requested a Fair Hearing to  
11 appeal the 8/27/15 finding of substantiation, which is pending and has not been heard yet.<sup>19</sup> As  
12 such, Plaintiff has not exhausted his administrative remedies under CAPTA, NRS 432B.317 and  
13 NAC 432B.170.<sup>20</sup> This Court's decision correctly interpreted the law and applied it to the  
14 undisputed facts. Therefore, this Court's decision to dismiss this action is not clearly erroneous  
15 and appropriate under the exhaustion of administrative remedies doctrine. Lopez, supra; Allstate  
16 Ins. Co., supra.

17  
18 Plaintiff argues this Court did not construe the FAC in the light most favorable to him.  
19 He mistakenly believes that the Court must consider everything in the FAC, whether relevant or  
20 not, and as true. It must not. Where there is undisputed evidence to the contrary and/or  
21 admissions by a party, the Court can base its findings on that evidence. Furthermore, the Court  
22 is "not required . . . to accept legal conclusions cast in the form of factual allegations if those  
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27 <sup>18</sup> See Order, Conclusions of Law, ¶¶2, 4, 5, 6, 10 and 11.

28 <sup>19</sup> Id. at ¶¶7, 8 and 17; ; P. Hammack Affidavit, ¶15 (Exh. A. to Motion); D. Butts Affidavit, ¶17 (Exh. B to Reply).

<sup>20</sup> Id. at 18 and 21.

1 conclusions cannot reasonably be drawn from the facts alleged.’ ” Alexander v. New York  
2 Cmtv. Bancorp. Inc., 2013 WL 5423087, at \*1 (Nev. Sept. 20, 2013) citing Cholla Ready Mix,  
3 Inc. v. Civish, 382 F.3d 969, 973 (9<sup>th</sup> Cir. 2004). The allegations must amount to “more than  
4 labels and conclusions . . . [or] a formulaic recitation of the elements of a cause of action.” Bell  
5 Atlantic Corp. v. Twombly v ., 550 U.S. 544, 555, 127 S.Ct. 1955 (2007).

6  
7 Plaintiff complains that the Court’s Order cites Patsy v. Board of Regents of Florida, 457  
8 U.S. 496 (1982); Lopez, supra, Allstate Ins. Co., supra, and Cotton v Jackson, 216 F.3d 1328  
9 (11<sup>th</sup> Cir. 2000), which he says were not cited by Defendants in their Motion and precluded him  
10 from replying.<sup>21</sup> Plaintiff forgets he cited Patsy and relies on it in his Motion so he cannot  
11 complain about it being referred to by anyone and/or relied upon by this Court.<sup>22</sup> Also, Plaintiff  
12 is wrong or making misrepresentations about Lopez and Allstate because Defendants cited both  
13 in their Motion.<sup>23</sup> As to Cotton, although Defendants did not cite it, Plaintiff neither objected nor  
14 asked for more time to respond. Therefore, he waived any objection thereto. In any case, Lopez  
15 and Allstate, which are binding on this Court, provide an adequate legal basis for this Court’s  
16 decision that a State must have the opportunity remedy the procedural failings.<sup>24</sup> Lopez, 127  
17 Nev. at \*1 (“The doctrine of exhaustion of administrative remedies is well-established in the  
18 jurisprudence of administrative law . . . The exhaustion doctrine requires that a person exhaust  
19 administrative remedies before proceeding in the district court and failure to do so renders the  
20 controversy nonjusticiable . . . Exhaustion of administrative remedies serves two main purposes.  
21 First, exhaustion protects administrative agency authority [by giving] an agency an opportunity  
22 to correct its own mistakes ... before it is haled into ... court and it discourages disregard of [the  
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27 <sup>21</sup> See Opposition, p. 11:6-12.

28 <sup>22</sup> Id. at p. 6:17-23; Motion, pp. 22 and 25.

<sup>23</sup> See Defendants’ Motion To Dismiss, p. 6:5-17.

<sup>24</sup> See Order, Conclusions of Law, ¶5.

agency's] procedure. Second, exhaustion promotes efficiency.") (internal citations and quotations omitted); Allstate Insur. Co., 123 Nev. at 571-72, 170 P.3d at 993-93 ("Nevertheless, whether couched in terms of subject-matter jurisdiction or ripeness, a person generally must exhaust all available administrative remedies before initiating a lawsuit, and failure to do so renders the controversy nonjusticiable. The exhaustion doctrine gives administrative agencies an opportunity to correct mistakes and conserves judicial resources, so its purpose is valuable; requiring exhaustion of administrative remedies often resolves disputes without the need for judicial involvement.") Finally, "regardless of whether a party finds and cites to relevant authority, this Court has an independent duty to research and properly apply the law[.]" which it did. Baylon v. Wells Fargo Bank, N.A., 303 F. Supp. 3d 1160, 1165 (D.N.M. 2018); G & G Prods. LLC v. Rusie, 902 F.3d 940 (9<sup>th</sup> Cir. 2018) ("our prior decisions 'have likewise stressed the district court's independent obligation to adequately ascertain relevant . . . law' . . . 'even if the parties' submissions are lacking[.]'" (citation omitted).

Plaintiff now argues for the first time that Defendants abandoned, waived and/or are estopped from relying on the pending Fair Hearing process.<sup>25</sup> However, this Court does not have to consider the new argument and has absolute discretion in that regard. Achrem, supra ("Points or contentions not raised in the original hearing cannot be maintained or considered on rehearing.") Also, Plaintiff relies on his self-serving affidavit and emails, which do not establish that. Alborzi, supra. Plaintiff's emails are all dated in 2016.<sup>26</sup> The Fair Hearing was initially scheduled for 8/1/17.<sup>27</sup> In 2017, Plaintiff requested three continuances of the Fair Hearing.<sup>28</sup> In 2017, Defendants agreed to the continuances of the Fair Hearing requested by Plaintiff and asked

<sup>25</sup> See Opposition, pp. 15-20.

<sup>26</sup> See Plaintiff's Exhibits 4 through 7.

<sup>27</sup> See D. Butts Affidavit, ¶6 (Exh. B to Reply);

<sup>28</sup> Id. at ¶¶7, 9 and 13; Plaintiff's emails requesting continuances (Exhibits I, K and M to Reply).

1 Plaintiff to provide dates, which he never provided.<sup>29</sup> Thus, Plaintiff's 2016 emails – which  
2 came before the Fair Hearing was scheduled in 2017, before Plaintiff's three 2017 requested  
3 continuances and before Defendants agreed to the continuances in 2017 and asked Plaintiff to  
4 provide dates – do not support his abandonment, waiver and/or estoppel argument because they  
5 came before the hearing was set and before Plaintiff requested the continuances.  
6

7 Finally, the estoppel cases cited by Plaintiff do not support this argument. Equitable  
8 estoppel operates to prevent a party from asserting legal rights that, in equity and good  
9 conscience, they should not be allowed to assert because of their conduct. Nevada State Bank v.  
10 Jamison Family P'ship, 106 Nev. 792, 799, 801 P.2d 1377, 1382 (1990). It requires a showing  
11 that: (1) the party to be estopped must be apprised of the true facts; (2) he must intend that his  
12 conduct shall be acted upon, or must so act that the party asserting estoppel has the right to  
13 believe it was so intended; (3) the party asserting the estoppel must be ignorant of the true state  
14 of facts; and (4) he must have relied to his detriment on the conduct of the party to be estopped.  
15 Chequer, Inc. v. Painters & Decorators Joint Comm., Inc., 98 Nev. 609, 614, 655 P.2d 996, 998–  
16 99 (1982). There must be a clear showing that the party relying upon it was induced by the  
17 adverse party to make a detrimental change in position, and the burden of proof is upon the party  
18 asserting estoppel. Nevada State Bank, supra. At a minimum, Plaintiff cannot make a clear  
19 showing that he was ignorant of the true state of facts, or that he must have relied to his  
20 detriment on Defendants' conduct. The undisputed evidence establishes that DFS set three  
21 hearings, which Plaintiff requested be continued, and DFS four times asked Plaintiff to provide  
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28 <sup>29</sup> Id. at ¶¶8, 10 and 14; Defendant's emails (Exhibits J, K, N and O to Reply).

1 dates, which he failed to do.<sup>30</sup> Plaintiff's failure to cooperate does not establish Defendants'  
2 abandonment, waiver and/or estoppel, nor does Plaintiff cite a single case that establishes that the  
3 facts of this case amount to abandonment, waiver and/or estoppel. This Court's decision is not  
4 clearly erroneous and this Court did not abuse its discretion in granting Defendants' Motion  
5 without prejudice. Gaines, supra.

7 **C. Plaintiff's Argument Regarding No Adequate Remedy To Key Claims Is Irrelevant**

8 Plaintiff's complaint that the Fair Hearing process does not provide an adequate remedy  
9 to his unspecified key claims is irrelevant. That was not the issue on the Motion to Dismiss and  
10 it is not the issue on reconsideration. Again, this Court does not have to consider this new  
11 argument, which Plaintiff did not raise in his Opposition, and has absolute discretion in that  
12 regard. Achrem, supra. The dismissal of this action was without prejudice. It is not a decision  
13 substantively dismissing Plaintiff's claims. Upon Plaintiff exhausting his administrative  
14 remedies, he can take whatever action he deems appropriate to seek whatever remedy he deems  
15 appropriate. At that time, any claims brought can be dealt with as appropriate. The purpose of  
16 the exhaustion of administrative remedies is to allow the administrative agency an opportunity to  
17 correct its own mistakes. This is not the time for any remedy as to Plaintiff's substantive claims.  
18 Furthermore, all of the cases cited by Plaintiff existed at the time the Motion was filed, are not  
19 binding on this Court (2<sup>nd</sup> and 6<sup>th</sup> Circuit)<sup>31</sup>, and he failed to cite them except Patsy, on which this  
20 Court relied. He cannot do so on reconsideration. Muckle Shoot Indian Tribe, supra. Also,  
21 contrary to Plaintiff's assertion, none of the cases Plaintiff cited (Fakoya, Washington, Stanley,  
22 and Brittain) "override any assertion of administrative exhaustion."<sup>32</sup> Finally, Plaintiff's reliance  
23 on Patsy is misplaced. In Patsy, the United States Supreme Court determined that exhaustion of  
24 state administrative remedies was not a prerequisite to action under the Civil Rights Act where  
25 the plaintiff brought only federal civil rights claims. However, that is not the case here. Plaintiff  
26

27 <sup>30</sup> See Order, Findings of Fact, ¶¶ 9-17 and 28; Motion, p. 17:16-21; P. Hammack Affidavit, ¶¶ 6-14 (Exh. A.  
to Motion); Exhibits G through Q to Motion.

28 <sup>31</sup> See Motion, p. 20:11-20.

<sup>32</sup> Id. at p. 23-24.



1 brings federal and state law claims. Plaintiff's argument that there is a blanket proscription  
2 against a dismissal for a failure to exhaust administrative remedies where there are federal claims  
3 is not supported by the law he cites.

4 **D. Plaintiff's Intentional Tort Claim Argument Is A Rehash Of His Prior Argument**

5 Plaintiff rehashes the intentional tort argument he made in his Opposition relying on the  
6 same cases cited therein (Turner v Staggs – relating to a notice of claim requirement; and  
7 Martinez v. Maruszczak – relating to discretionary-act immunity – neither having anything to do  
8 with the doctrine of exhaustion of administrative remedies), which this Court rejected.<sup>33</sup>  
9 Therefore, this Court does not have to consider it. In the argument, Plaintiff refers to his third  
10 cause of action which alleges intentional infliction of emotional distress.<sup>34</sup> However, the  
11 allegations he quotes do not relate to the third cause of action, but the second cause of action  
12 (§1983 claim).<sup>35</sup> Thus, the argument fails. Furthermore, Plaintiff alleges he suffered emotional  
13 distress, including being deprived of raising his sons, etc.<sup>36</sup> However, he alleges that “Defendant  
14 LISA CALLAHAN abducted and removed the Eggleston Boys from the county and the state and,  
15 on information and belief, together with Defendant Brian Callahan, hide them at their  
16 apartment in Indiana (or the greater Chicago area), neither contacting Plaintiff nor  
17 disclosing the whereabouts or condition of the Eggleston Boys to him.”<sup>37</sup> Therefore, the  
18 deprivation, if any, was caused by Defendant Callahan not these Defendants.  
19  
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21 **V.**

22 **CONCLUSION**

23 Defendants respectfully request this Court deny Plaintiff's Motion for reconsideration  
24 because Plaintiff has failed to meet his burden of producing new or substantially different  
25

26 <sup>33</sup> Id. at pp. 7-9; Motion, pp. 25-28.

27 <sup>34</sup> See Motion, p. 25:18-19; FAC, pp. 21-22.

28 <sup>35</sup> Id. at pp. 25-26; FAC, ¶36.

<sup>36</sup> See FAC, ¶¶39-40.

<sup>37</sup> See FAC, ¶26(l).

1 evidence, identifying any subsequent change in the law, or establishing this Court's decision is  
2 clearly erroneous.

3  
4 DATED this 8<sup>th</sup> day of October, 2018.

5 OLSON, CANNON, GORMLEY  
6 ANGULO & STOBERSKI

7 /s/ Felicia Galati, Esq.


8  
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14 CLARK COUNTY and  
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**CERTIFICATE OF SERVICE**

On the 8<sup>th</sup> day of October, 2018, the undersigned, an employee of Olson, Cannon, Gormley, Angulo & Stoberski, hereby served a true copy of **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S OPPOSITION TO PLAINTIFF'S MOTION TO RECONSIDER DEFENDANTS' MOTION TO DISMISS AND 9/7/18 ORDER OF DISMISSAL** to the parties listed below via the EFP Program, pursuant to the Court's Electronic Filing Service Order (Administrative Order 14-2) effective June 1, 2014, via U.S. Mail and via e-mail:

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Plaintiff in Pro Per

  
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Dept. No. VIII

No. A-16-748919-C

IN THE 8<sup>TH</sup> JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

STEVE EGGLESTON, Plaintiff

-vs-

GEORGINA STUART; DEPARTMENT OF  
FAMILY SERVICES, CHILD SUPPORT  
SERVICES, CLARK COUNTY, NEVADA;  
LISA CALLAHAN; BRIAN CALLAHAN

Defendants.

Case: A-16-748919-C

Dept: VIII

NOTICE OF APPEAL

Notice is hereby given by Steve Eggleston, plaintiff above named, hereby appeals to the Supreme Court of Nevada from the order of dismissal entered on the Motion to Dismiss of Defendants Georgina Stuart and Clark County, Nevada, entered September 7, 2018 (dismissing "[t]his litigation, without prejudice..." apparently as to all Defendants, including non-moving Defendants Lisa Callahan and Brian Callahan), and served on plaintiff on September 10, 2018.

Steve Eggleston, Plaintiff, In Pro Per

/s/ Steve Eggleston

Dated: October 9, 2018

Steve Eggleston, plaintiff, In Pro Per  
406 Lincoln Avenue  
Falls Church, VA 22046  
1-760-464-9496  
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Dept. No. VIII

No. A—16-748919-C

IN THE 8<sup>TH</sup> JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR THE COUNTY OF CLARK

STEVE EGGLESTON, Plaintiff

-vs-

GEORGINA STUART; DEPARTMENT OF  
FAMILY SERVICES, CHILD SUPPORT  
SERVICES, CLARK COUNTY, NEVADA;  
LISA CALLAHAN; BRIAN CALLAHAN

Defendants.

CASE: A-16-748919-C

Dept: VIII

CASE APPEAL STATEMENT

1. Steve Eggleston is the appellant filing this Case Appeal Statement.
2. The Judge issuing the Order appealed from is the Hon. Douglas E. Smith.
3. The sole appellant is Steve Eggleston, in Pro Per, 406 Lincoln Avenue, Falls Church, VA 22046, Phone: 1-760-464-9496, email: [TheEggman411@gmail.com](mailto:TheEggman411@gmail.com).
4. The Respondents are Georgina Stuart and Clark County, Nevada, represented by Felecia Galati, Esq., Nev. Bar No. 007341, of Olson Cannon, Gormley, Angelo & Stoberski, 9950 West Cheyenne Avenue, Las Vegas, NV 89129, Phone: 702-384-4012, email: [fgalati@ocgas.com](mailto:fgalati@ocgas.com), and (out of caution) Respondents Lisa and Brian Callahan, 300 Ashley Dr., New Lenox, IL 60451 (out of caution because they did not file a Motion to Dismiss and have not appeared, but the Order appealed from states "[t]he litigation is dismissed, without prejudice," implying that it was dismissed as to all defendants, including the non-moving defendants who have not appeared in the action and who did not file any motion to dismiss or otherwise).
5. The attorney referenced above (Felecia Galati, Esq.) is licensed to practice law in the State of Nevada.

Page 1 of 2

- 1
- 2 6. Appellant Steve Eggleston acted in Pro Per in the District Court.
- 3 7. Appellant Steve Eggleston is acting in Pro Per on this appeal.
- 4 8. No in forma pauperis application was filed.
- 5 9. The case commenced in the district court when plaintiff filed his Complaint on December
- 6 30, 2016.
- 7 10. Generally, the case presents claims for section 1983 civil rights violations and state law
- 8 torts, stemming from the abduction of his sons, violation of his constitutional rights, and
- 9 commission of the torts of defamation and intentional infliction of emotional distress.
- 10 The original Motion was a FRCP Rule 12(b)(5) Motion, but it was treated by the district
- 11 court judge as a NRCP 12(c) Motion. Though the Motion was brought only by the
- 12 Defendants/Respondents Georgina Stuart and Clark County, the Motion was granted
- 13 dismissing the action and stating, expressly, that “[t]he litigation is dismissed, without
- 14 prejudice,” implying that it was dismissed as to all defendants, including the non-moving
- 15 defendants who have not appeared in the action.
- 16
- 17 11. The case has not previously been the subject of any appeal.
- 18 12. This case involves issues of child custody, but not actual child custody.
- 19 13. This case has the possibility of settlement.
- 20

21 Dated this 9<sup>th</sup> day of October, 2018.

22 Steve Eggleston, Plaintiff, In Pro Per

23  
24 */s/ Steve Eggleston*

25 Steve Eggleston, plaintiff, in Pro Per  
26 406 Lincoln Avenue  
27 Falls Church, VA 22046  
28 1-760-464-9496  
TheEggman411@gmail.com



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**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE  
STATE OF NEVADA IN AND FOR  
THE COUNTY OF CLARK**

STEVE EGGLESTON,

Plaintiff(s),

vs.

GEORGINA STUART; CLARK COUNTY,  
NEVADA; LISA CALLAHAN; BRIAN  
CALLAHAN,

Defendant(s),

Case No: A-16-748919-C

Dept No: VIII

**CASE APPEAL STATEMENT**

1. Appellant(s): Steve Eggleston

2. Judge: David Barker

3. Appellant(s): Steve Eggleston

Counsel:

Steve Eggleston  
406 Lincoln Ave.  
Falls Church, VA 22046

4. Respondent (s): Georgina Stuart; Clark County, Nevada

Counsel:

Felicia Galati, Esq.  
9950 West Cheyenne Ave.  
Las Vegas, NV 89129

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Respondent (s): Lisa Callahan; Brian Callahan

Counsel:

Lisa Callahan and Brian Callahan  
300 Ashley Dr.  
New Lenox, IL 60451

5. Appellant(s)'s Attorney Licensed in Nevada: N/A  
Permission Granted: N/A

Respondent(s)'s Attorney Licensed in Nevada: Yes  
Permission Granted: N/A

6. Has Appellant Ever Been Represented by Appointed Counsel In District Court: No

7. Appellant Represented by Appointed Counsel On Appeal: N/A

8. Appellant Granted Leave to Proceed in Forma Pauperis\*\*: N/A  
*\*\*Expires 1 year from date filed*  
Appellant Filed Application to Proceed in Forma Pauperis: No  
Date Application(s) filed: N/A

9. Date Commenced in District Court: December 30, 2018

10. Brief Description of the Nature of the Action: TORT - Other

Type of Judgment or Order Being Appealed: Dismissal

11. Previous Appeal: No

Supreme Court Docket Number(s): N/A

12. Child Custody or Visitation: N/A

13. Possibility of Settlement: Unknown

Dated This 11 day of October 2018.

Steven D. Grierson, Clerk of the Court

/s/ Amanda Hampton  
Amanda Hampton, Deputy Clerk  
200 Lewis Ave  
PO Box 551601  
Las Vegas, Nevada 89155-1601  
(702) 671-0512

cc: Steve Eggleston





1 Steve Eggleston, Plaintiff, In Pro Per  
2 Goose Hall, Bourne Farm, East Town Road  
3 Pilton, England, Post Code: ba4 4nx  
4 UK: +44 7801 931682  
5 US: (760) 464-9496  
6 TheEggman411@gmail.com

DISTRICT COURT  
CLARK COUNTY, NEVADA

7 STEVE EGGLESTON,

8 Plaintiff,

9 -vs-

10 GEORGINA STUART; DEPARTMENT OF  
11 FAMILY SERVICES, CHILD SUPPORT  
12 SERVICES, CLARK COUNTY, NEVADA;  
13 LISA CALLAHAN; BRIAN CALLAHAN;  
14 AND DOES 1 THROUGH 100, INCLUSIVE,

15 Defendants.

CASE NO. A-16-748919-C  
DEPT NO. VIII

REQUEST FOR TELEPHONIC  
APPEARANCE AT HEARING BY  
PLAINTIFF

REQUEST FOR COURT  
REPORTER AT CHAMBERS  
HEARING

16 **PLAINTIFF'S REPLY RE MOTION TO RECONSIDER DEFENDANTS' MOTION TO**  
17 **DISMISS/CONVERT TO SUMMARY JUDGEMENT AND 9/7/18 ORDER**

18 COMES NOW Plaintiff Steve Eggleston, who hereby submits his Reply re his Motion to  
19 Reconsider Defendants' Motion to Dismiss/Convert to Summary Judgement and 9/7/18 Order of  
20 Dismissal entered thereon. This Reply is based upon the papers, pleadings and records on file  
21 herein, the attached Memorandum of Points and Authorities, and such oral argument, evidence,  
22 and testimony as the Court may entertain.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I. INTRODUCTION**

25 In a shocking series of events, Plaintiff has discovered that the Order of 9/7/18 is a fraud  
26 upon Plaintiff and this Court so deplorable as to shake the very foundations of justice. These  
27 circumstances will be recounted here, and the fraud revealed. Plaintiff will invoke the County  
28

1 Defendants' own Opposition to compel (a) the granting of his Motion to Reconsider, and (b) the  
2 denial of Defendants' Motion to Dismiss for Failure to Exhaust Administrative Remedies.

## 3 **II. THE SERIES OF EVENTS**

### 4 **A. Early Litigation**

5 Plaintiff sued two sets of Defendants for civil rights violations and state law torts  
6 stemming from the abduction of his sons on January 7, 2016: the County Defendants and the  
7 Callahan Defendants. Originally represented by the District Attorney's Office, the County  
8 Defendants filed their First Motion to Dismiss heard in July 2017, and the court granted the  
9 Motion with leave to amend. The County Defendants answered, raising 22 shotgun Affirmative  
10 Defenses,<sup>1</sup> with one notable exception. It specified Plaintiff had failed to exhaust his  
11 administrative remedies prior to filing suit "as required by NRS 41.00366(2)."<sup>2</sup>

12  
13 The Case Conference was held and NRCP 16.1 Initial Disclosures were made. When  
14 Plaintiff viewed County's initially disclosed documents, he was surprised at how few documents  
15 were produced relative to what he knew existed. Plaintiff brought to the District Attorney's  
16 attention, and she indicated there was a "Chinese Wall" barring communication on ethical  
17 grounds between the D.A.'s Office and the Fair Hearing Office, so she did not know what had  
18 been previously produced.

### 19 **B. The County Destroys Key Evidence**

20 Plaintiff responded by doing a detailed Document Request seeking, among other things,  
21 all handwritten notes of Defendant Stuart for the time period preceding his son's abduction,  
22 basically 12/1/15 – 1/7/16. At this exact time, the District Attorney's office abruptly withdrew  
23 from the case without reason or explanation after more than a year of being defense counsel.  
24

25  
26 <sup>1</sup> While Affirmative Defenses need not include extensive factual allegations to give fair notice, assertions of legal  
27 conclusions unsupported by facts are not sufficient. *Hartford Underwriters Insurance Company v. Kraus USA,*  
28 *Incorporated*, 313 F.R.D. 572 (N.D. Cal. 2016).

<sup>2</sup> NRS 41.00366(2) embodied a governmental tort claim notice requirement not applicable in section 1983 civil  
rights actions, of which this was one.

1 Current private defense counsel appeared and junior shareholder Felecia Galati took over  
2 the defense. Galati's first official act (a letter of 6/14/18) was to request an extension to respond  
3 to Plaintiff's pending Document Request of the critical handwritten notes of CPS Stuart. These  
4 notes were critical as they would show Plaintiff's constitutional rights were violated, and that his  
5 sons were criminally abducted by the Callahans with the County's complicity.

6 The next weeks involved a series of correspondence in which Plaintiff expressed  
7 frustration at the non-production of these critical Notes. All of these emails are attached as  
8 exhibits, demonstrating Plaintiff's growing concern over the destruction of evidence. Plf  
9 Affidavit, Reply, Exs. 2-4.

10 Galati's next official act was to inform Plaintiff the notes no longer existed. Every single  
11 note made prior to the abduction of Plaintiff's sons had somehow vanished into thin air. In other  
12 words, they had all been destroyed in clear violation of the Public Records Act, NAC 239.696-  
13 699,<sup>3</sup> and the required litigation hold<sup>4</sup>.

14 Plaintiff was shocked, reacting by sending a second Document Request to show the  
15 Substantiation process was a diversionary sham and that the County Defendants were engaged in  
16 a massive cover-up because (a) they knew they had violated the rights of Plaintiff and his sons,  
17 (b) they knew the abduction was orchestrated by CPS Supervisor Stuart, and (c) they had not  
18 given Plaintiff his constitutionally-required hearing.

19 Apropos is this: "Our adversarial process is designed to tolerate human failings—erring  
20 judges can be reversed, uncooperative counsel can be shepherded, and recalcitrant witnesses  
21 compelled to testify. But, when critical documents go missing, judges and litigants alike descend  
22 into a world of ad hocery and half measures—and our civil justice system suffers." ABA  
23

24  
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27 <sup>3</sup> NAC 239.696 provides: A state agency shall establish a records management program which documents its  
28 organization, functions, policies, decisions, procedures and essential transactions. NAC 239.697 provides: The  
records management program...must include controls for...distribution of the records...[3]...which allows for the  
rapid retrieval and protection of the information contained within that record..." Emphasis added.

<sup>4</sup> *Glover v. BIC Corp.*, 6 F.3d 1318, 1329 (9<sup>th</sup> Cir. 1993). Page 3 of 32

1 Abstract, p. 9<sup>5</sup>, citing *United Medical Supply Co. v. United States*, 77 Fed. Cl. 257, 259 (Fed. Cl.  
2 2007).

3 **C. Evidence Destroyed, a Second Motion to Dismiss is filed with the design of**  
4 **creating a diversion and misdirecting the Court.**

5 Poof! Documents gone, Galati's third official act was to file a Rule 12(b)(5) Motion to  
6 Dismiss the County Defendants<sup>6</sup> based on the absurd notion that Plaintiff needed to complete a  
7 "Fair Hearing" process<sup>7</sup> which: (a) has nothing to do with his son's abduction, and (b) has  
8 nothing to do with the County's failure to provide him a pre- or post-removal due process  
9 hearing. With exculpatory documents now destroyed, it was a diversionary tactic.

10 Notably, the Motion to Dismiss did not invoke the Twelfth Affirmative Defense that  
11 "Plaintiff failed to exhaust his administrative remedies... as required by NRS 41.00366(2)."  
12 Indeed, NRS 41.00366(2), asserting a governmental tort claim notice requirement, had long ago  
13 been rejected for § 1983 cases in *Patsy v. Board of Regents of Florida*, 457 U.S. 496, 516 (1982).  
14 Instead, the sole argument was that Plaintiff had failed to exhaust the so-called Fair Hearing  
15 process, a position not alleged in any of the 22 Affirmative Defenses.

16 The only cases cited by the County Defendants in support of the Motion were *Lopez v.*  
17 *Nevada Dep't Corr.*, 127 Nev. 1156, 373 P.3d 937 (2011), citing to *Woodford v. Ngo*, 548 U.S.  
18 81, 88 (2006), and *First Am. Title Co. v. State of Nevada*, 91 Nev. 804, 806, 543 P.2d 1334, 1345  
19 (1975), citing to *Allstate Ins. Co. v. Thorpe*, 123 Nev. 565, 571.

20 *Lopez* was a State of Nevada prisoner case bearing no relation whatever to the case at  
21 hand, and *Woodford* was a case arising under the Prison Litigation Reform Act of 1995 requiring  
22 exhaustion to stem the tsunami of prison cases swamping the federal courts. *First Am. Title* was  
23 a case requiring taxpayers to exhaust their administrative remedies before seeking tax relief, and  
24  
25

26  
27 <sup>5</sup> Online citation: [https://apps.americanbar.org/abastore/products/books/abstracts/5190497\\_chap1\\_abs.pdf](https://apps.americanbar.org/abastore/products/books/abstracts/5190497_chap1_abs.pdf).

28 <sup>6</sup> This Motion was not brought on behalf of the Callahans, who to this day refuse to Answer and whose default judgment was to be taken before a jury at the scheduled trial date next summer. NRCP 55(b)(2).

<sup>7</sup> It is worth noting that the Court has never even seen this document, whether it exists or has been destroyed, what time-frame is involved, or what it even says.

1 *Allstate* held doctors with grievances against insurance companies must first invoke the exclusive  
2 jurisdiction of the NDOI. It would be hard to find cases more irrelevant to the issues at hand.

3 Plaintiff was shocked to receive the Motion given the fact Fair Hearing exhaustion had  
4 never been previously raised and, most profoundly, Attorney Gallati did not cite any of the  
5 leading § 1983 case law on exhaustion. Yet it would be impossible not to be aware of the leading  
6 U.S. Supreme Court's decision in *Patsy, supra*, which unequivocally held "that exhaustion of  
7 state administrative remedies should not be required as a prerequisite to bringing an action  
8 pursuant to 1983."

9 Plaintiff wrote Gallati a Rule 11 sanctions letter for deliberately not citing leading  
10 authority and pursuing a frivolous motion. She ignored this letter. Plaintiff Reply Affidavit, Ex. 5.  
11 Instead, in her brief replying to Plaintiff's discussion of *Patsy* and its progeny, Galati wrote,  
12 "Plaintiff's Opposition completely fails to address the requirement of addressing administrative  
13 remedies...[and, contradicting herself]...Plaintiff's reliance on § 1983 cases is misplaced..."

14 Now, one might hold the view that "all is fair in love and war," the oft-cited proverb of  
15 *Euphues*, but a legal proceeding is not supposed to be fought by hook or crook. The ABA speaks  
16 directly to these matters in Model Rule 3.3<sup>8</sup>: "(a) a lawyer shall not knowingly: (1) make a false  
17 statement of fact or law to the tribunal, (2) fail to disclose to the tribunal legal authority in the  
18 controlling jurisdiction known...directly adverse to the position of the client..." *Model Rules of*  
19 *Professional Conduct ...on Professional Responsibility*, Thomas D. Moore and Roland D.  
20 Rotunda (2016 Foundation Press), p. 72. "A lawyer is not required to make a disinterested  
21 exposition of the law, but must recognize the existence of pertinent legal authorities." Ibid.  
22 Emphasis added.  
23

#### 24 **D. The Angulo Order Works a Fraud on the Court and a Perversion of Justice**

25 The hearing on the Galati Motion to Dismiss was held on August 28, 2018. Appearing for  
26 the County Defendants was attorney Peter Angulo, who previously had not made a single  
27

28 <sup>8</sup> The ABA Model Rules serve as guidance in Nevada. *Cronin v. District Court*, 105 Nev. 635, 639-40, 781 P.2d 1150, 1153 (1989).

1 personal appearance in the case or signed any pleading. Ignoring the positions taken in Galati's  
2 legal briefing, he instead argued there was a sweeping "carve out" to § 1983 claims for  
3 procedural due process violations. Plaintiff did his best to counter this phantom position.

4 After argument by both sides, the Hon. Judge Smith deferred his ruling. He did not direct  
5 either side to prepare an Order, and did not solicit proposed orders. In fact, earlier in the morning  
6 docket, he had announced he would be gone the entire month of September and would try to rule  
7 on all matters before he left at the end of the week.

8 *Though Plaintiff did not figure this out until the last few weeks, what transpired*  
9 *thereafter is, to say the least, most disturbing.* On September 7, Plaintiff was served with an  
10 Order granting the Motion to Dismiss. The Order purported to be executed on September 6,  
11 while the Judge was gone, by someone with the initials JJ. This was odd enough, but the odder  
12 part was that the Order was not on the Court's stationary, as was the Order granting the First  
13 Motion to Dismiss brought by the District Attorney's Office a year earlier.

14 The Order was on the stationary of Olson, Cannon, Gormley, Angelo, et al., and  
15 moreover, it was submitted by attorney Peter Angelo, who had appeared and argued at the  
16 hearing ("the Angelo Order"), it was not served on Plaintiff, and it was not submitted as a  
17 Proposed Order, *in direct violation of LR 7-2(f).*

18 Plaintiff was quite taken aback when he discovered this, shooting off a series of emails to  
19 Galati asking for an explanation. Plfs Reply Affidavit, Exs. 6-10.

20 After ignoring the emails for days, Galati finally replied: "Mr. Eggleston, As you know, I  
21 did not attend the hearing. I understand from Mr. Angulo that he received a call from the court  
22 clerk telling him to prepare the order consistent with the argument he made before Judge Smith.  
23 We cannot speak for what the Judge, clerk, etc., did as to signatures, initials, etc." Plaintiff Reply  
24 Affidavit, Exh. 11.

25 Upon reading this email, Plaintiff could not believe his eyes. ABA Rule 3.5 expressly  
26 forbid *ex parte* communications: "A lawyer shall not: \*\*\* (a) seek to influence a judge...or other  
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1 official by means prohibited by law; (b) communicate *ex parte* with such a person during the  
2 proceeding unless authorized to do so by law or court order..." Yet it appeared that this is  
3 exactly what had happened -- not only in the communication, which was disturbing enough  
4 (what party could think they were getting a fair shake in a situation like that?), but in the text of  
5 the Angelo Order itself, as enlightened by Attorney Gallati's email.

6 Mr. Angelo did not advise Plaintiff of the Court's contact. Instead, concealing the  
7 contact, Angelo told Galati to draw up an Order because it was her case. Since she was not at the  
8 hearing, however, so she did not know what Mr. Angelo had argued there. But that didn't matter,  
9 for she must have taken her instructions as giving her *carte blanche* to draft anything she wanted.

10 How do we know this? The answer lies in the language of the submitted Angelo Order, as  
11 unraveled below:

12 (1) Someone realized that Plaintiff was right. The 12(b)(5) Motion brought by the County  
13 Defendants was untimely as Plaintiff had earlier argued. A motion asserting failure to state a  
14 claim "shall be made before pleading if a further pleading is permitted." Emphasis added.  
15 Despite this point not being argued at the hearing, the Angelo Order stated in Legal Conclusion  
16 #7: "Although this Motion was brought initially under NRCP 12(b)(5), it is, in essence, a NRCP  
17 12(c) Motion." But the Court Clerk's *ex parte* to Angelo wasn't, "hey, while you're at it, fix  
18 anything you got wrong, even if you didn't argue it in your pleadings or at the hearing."  
19

20 (2) The Angelo Order included a second item not mentioned in any pleading or argument  
21 at the hearing in Legal Conclusion #11: "Not only is the litigation prematurely brought, the  
22 Court believes there is also a basis for administrative abstention under *Burford v. Sun Oil*  
23 *Company*, 319 U.S. 315 (1943)." Assuming Angelo meant *Burford*, the Court could not have  
24 *believed* this because he didn't see it bore JJ signed it. That Plaintiff was never given an  
25 opportunity to address *Burford* is one thing; the other suggests something stinks in Denmark,  
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1 because the Court Clerk's *ex parte* to Angelo was not, "if you run across something else you  
2 like, just stick it in, you know, he's a stupid pro per and won't know the difference anyway."<sup>9</sup>

3 (3) It is undisputed that Angelo's firm brought the Motion only for their clients, the  
4 County Defendants, and that's how the Motion was briefed and argued. Not once anywhere at  
5 any time did anyone suggest the claims of the Callahans could be dismissed...until, lo and  
6 behold, the Angelo Order. He viewed the *ex parte* as license: "while you're at it, just toss out the  
7 whole case. The Plaintiff'll never understand it's a final order and he'll miss the appeal deadline  
8 and bam, he's finished, done and dusted. Case closed. Have a nice day."

9 Yet the Angelo Order concludes: "IT IS HEREBY ORDERED, ADJUDGED, AND  
10 DECREED, the Motion to Dismiss is granted..." with the nail in the coffin: "The litigation is  
11 dismissed..." Emphasis added. It is amazing that Plaintiff caught this nuance, but he did, filing  
12 his Notice of Appeal at the last moment at a cost of over \$800 to preserve his rights.<sup>10</sup>

13  
14 (4) The party didn't stop there. The Angelo Order cited three cases never previously  
15 argued and to which Plaintiff never had the chance to respond, all in support of the novel  
16 position that, "In the unique case of a Procedural Due Process claim, the litigant asserting a  
17 property or liberty interest violation without due process must first exhaust state remedies..."

18 Bizarrely, the lead case cited to prove this "carve out" was *Morgan v. Gonzalez*, 495 F.3d  
19 1084, 1090 n.2 (9<sup>th</sup> Cir. 2007), a case where Morgan contended his due process rights were  
20 violated when the government reneged on a plea deal in his drug prosecution. Bizarrely, because  
21 the case supports Plaintiff's position.

22 Said *Morgan*: "The government argues that we lack jurisdiction over Morgan's due  
23 process or estoppel claims because he did not raise them before the agency and they are therefore  
24

25  
26 <sup>9</sup> As a general proposition, pro se are given more deference. It is not a license to steal from a blind man. *Hale v.*  
*Board of Trustees of So. Ill Univ. School of Medicine*, 219 F.Supp. 3d 860 (C.D. Ill. 2016), *Amberg-Blyskal v.*  
*Transportation Sec. Admin.*, 832 F.Supp. 2d 445 (E.D. Pa 2011).

27 <sup>10</sup> Under the current iteration of NRCP 54(b), it is possible for a judge to certify that a case is final as to one or more  
28 but fewer than all parties to an action, but not as to claims between parties remaining in litigation. This explains the  
need to dismiss the whole litigation or certify as directed. Note that taking the appeal does not divest this court of  
jurisdiction to decide this Motion for Reconsideration. See *Mack-Manley v. Manley*, 122 Nev. 849, 138 P.3d 525  
(2006).  
Page 8 of 32



1 unexhausted... The agency has no power to grant relief on estoppel or substantive due process  
2 claims, and accordingly, we have never required petitioners to exhaust claims of this nature  
3 before the agency... [cases cited]” Id, at 1090. Emphasis added.

4 A *Morgan* footnote cites the second case of the Angelo Order, *Barron v. Ashcroft*, 358  
5 F.3d 674, 678 (9<sup>th</sup> Cir. 2004). There the deportation petitioner failed to “raise an issue before the  
6 BIA” and thus “failed to exhaust his administrative remedies, which deprives this court of  
7 jurisdiction...” This case tested the jurisdictional limits of the federal Immigration Act and  
8 provided no support to the Angelo Order, either. Per *Morgan*, “the ‘post-IIRIRA exhaustion  
9 requirement is codified at INA §242(d), 8 U.S.C. §1252(d)’.” Point being, the exhaustion  
10 requirement was expressly mandated by federal statute.

11 The third case cited in the Angelo Order was *Rathjen v. Litchfield*, 878 F.2<sup>nd</sup> 836, 839-40  
12 (5<sup>th</sup> 1989). *Rathjen* reasoned: “Because Dr. Rathjen had a readily accessible administrative  
13 remedy..., this case also appears to fall within the purview of *Hudson v. Palmer*... The evident  
14 purpose behind the City’s employee grievance procedures is to facilitate prompt remedies for  
15 perceived injustices or unfairness... Dr. Rathjen had an adequate post-deprivation remedy...”

16 *Rathjen* supports Plaintiff’s position because the Angelo Order concedes the first hearing  
17 offered Plaintiff was August 1, 2017, 20 months after his sons were abducted with County  
18 complicity. (Angelo Order, P 7.)

19 (5) The divide between argument and Order only get bolder. The Angelo Order stated in  
20 Legal Conclusion #6: “To assert a Section 1983 conspiracy claim, there must be evidence of an  
21 underlying constitutional violation...” citing *Radcliffe v. Rainbow Construction Co.*, 254 F.3<sup>rd</sup>  
22 772, 773 (9<sup>th</sup> Cir. 2011).

23 In *Radcliffe*, a union rep was subject to a citizen’s arrest for trespass and prosecution for  
24 refusal to leave a job site. He brought civil rights and state tort claims. The Ninth Circuit  
25 reversed the dismissal of his claims, holding: these state law “torts...[are] traditionally held not  
26 to be pre-empted, or [IIED], and defamation, both of which the Supreme Court has held to be  
27  
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1 exempted from Garmon's pre-emption rule even though they involve conduct arguably protected  
2 or prohibited by the NLRA..." Id, at 785. Emphasis added.

3 It is hard to imagine that this esteemed Court would knowingly cite *Radcliffe* to support  
4 an order dismissing Plaintiff's conspiracy claim for lack of exhaustion, where *Radcliffe* (a)  
5 involved an NLRA claim, not a child abduction § 1983 civil rights claim, (b) involved a labor-  
6 law pre-emption issue, not administrative exhaustion, and (c) found for the plaintiff on the state  
7 law tort claims, not in favor of dismissal.

8 (6) Another egregious excess of the Angelo Order exists lies in the Factual Findings  
9 which construe all the facts in Defendants' favor, in clear contravention of established law to the  
10 contrary on a 12(c) motion for judgment on the pleadings. "...[The facts presented in the  
11 pleadings and the inferences to be drawn therefrom [must be viewed] in the light most favorable  
12 to the non-moving party." *Hanover Ins. Co. v. Urban Outfitters, Inc.*, 806 F. 3<sup>rd</sup> 761 (3<sup>rd</sup> Cir.  
13 2015).

14 Angelo Order Factual Finding #2 states: The Complaint alleges [the County]  
15 Defendants...based on an investigation, determined he, along with his wife, had an unsafe  
16 environment for their children." To the contrary, the FAC complaint [not the Complaint] alleges:  
17 "13. ... No suggestion of any kind was made that any of the children were in any kind of  
18 danger, that there had been any abuse or neglect of any of the children, that Plaintiff being  
19 investigated as being abusive or neglectful, or that he ever had been or was unfit to have  
20 custody over and raise his sons." Numerous other paragraphs make similar allegations.

21 Angelo Order Factual Findings #3 and #4 provide: "On January 7, 2015, Plaintiff signed  
22 a temporary Guardianship surrendering custody of his children to..." the Callahan Defendants.  
23 "The Callahans thereafter moved the children from the State of Nevada..." Angelo's assertions  
24 here are so wild as to suggest he felt his license had expanded to fiction. FAC 26(b) alleges to the  
25 contrary: "(b)...Defendant [] STUART, policemen at her side, entered the Family Home and  
26 announced to Plaintiff... "Either you sign temporary guardianship of all the children over to Lisa  
27  
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1 *right now* or the police are taking your children into custody *right now* and you will *never* see  
2 them again.” Paragraph 26(e) alleges: “...This document was signed under duress by Plaintiff  
3 and never...[and](m) by Nevada law... the guardianship document was *void ab initio* and never  
4 took legal effect...”

5 Angelo Order Factual Findings #5 and #6 state: “On February 2, 2015, [DFS] made a  
6 finding of maltreatment against plaintiff... On February 12, plaintiff appealed the substantiated  
7 Finding.” In truth, the words “finding,” “maltreatment,” “appeal,” and “substantiated Finding,”  
8 or words to that effect, appear nowhere in the Complaint or FAC. Further, nowhere in the record  
9 is there any evidence of when, how, where, on what date, or under what circumstances such  
10 asserted maltreatment occurred. For all we know, it may have to do with Mr. Rodriguez, not  
11 Plaintiff, as the initial letter stated.

12 But most egregious, as regards the Angelo Order’s Factual Findings, is what is wholly  
13 left out. One of the fundamental claims presented by the FAC is that Plaintiff’s sons were  
14 abducted on January 7, 2016, with no emergency and no factual justification whatsoever for  
15 doing so. It is undisputed that a Nevada CPS agent has only has two choices when considering  
16 family intervention: (1) providing voluntary services to help the family or (2) taking court action.

17 A CPS agent cannot just abduct children or help relatives do so, taking the law into her  
18 own hands. This is not the Wild Wild West. In America there is a Constitution with a Bill of  
19 Rights, and there is the rule of law and integrity in the judicial system. Legal cases cannot  
20 proceed like a Star Chamber.

21 NRS 432B.360 urges voluntary services where the family is willing, as is expressly  
22 alleged in Paragraph 17 of the FAC. But that’s not what happened. Instead Plaintiff’s boys were  
23 abducted with the County’s active assistance, as alleged. The only other option was immediate  
24 court action. If Stuart felt the children were at imminent risk, she was legally obligated to  
25 petition the Nevada court for legal custody. NRS 432B.390. She didn’t do this.

1 On the other hand, if CPS or the police believed that an emergency warranted taking  
2 children into immediate custody, the children must be placed in an emergency shelter, a licensed  
3 foster home, or with relatives. NRS 432B.470. In that case, Nevada law required a hearing to  
4 be held within 72 hours after a child has been taken into protective custody, excluding  
5 weekends and holidays. Offering one 22 months later on another matter isn't sufficient.

6 But it's not just Nevada law that the Angelo Order denigrated. He also denigrated the  
7 federal Constitution, which protects children absent a hearing from the removal of their children  
8 unless the danger to the child is so imminent that prior judicial authorization cannot be had.  
9 *Tenenbaum v. Williams*, 139 F.3<sup>rd</sup> 581 (2<sup>nd</sup> Cir. 1999). Defendant offers no evidence of  
10 emergency...because it is nonsense. There was none.

11 When Plaintiff appealed the letter of February 2, 2015, it wasn't until August 27, 2015,  
12 nearly seven months later, that a so-called "Finding of Substantiation" (another letter without any  
13 hearing) was issued. Plaintiff requested an appeal, but Clark County didn't set a hearing date,  
14 instead abandoning the process. The actual hearing date was not set until 22 months later and had  
15 nothing to do with custody of his sons.

17 Removing children and providing a hearing in less than 48 hours in an emergency might  
18 not offend the Constitution. *Parker v. Austin*, 105 F.Supp. 592 (W.D. VA 2015). Providing a  
19 hearing within four days can be justified. *Southerland v. City of New York*, 680 F.3<sup>rd</sup> 127 (2<sup>nd</sup> Cir.  
20 2012). But when a sheriff conspires with relatives to remove a child, without a hearing being  
21 provided, it's a civil rights violation. *Brokaw v. Mercer County*, 235 F.3<sup>rd</sup> 1000 (7<sup>th</sup> Cir. 2000).

22 (7) In Factual Finding #18, the Angelo Order states that "the administrative procedure set  
23 forth above and including...a Fair Hearing [offered for the first time 22 months after removal] is  
24 required pursuant to...(CAPTA), Section 106(b)(2)(A)(xi)(11), NRS 432B and Nevada  
25 Administrative Code 432B.170."

26 This is such an outrageous misrepresentation of federal and state law as to defy belief that  
27 this esteemed Court would knowingly adopt it in an Order. For starters, CAPTA, Section  
28

1 106(b)(2)(A)(xi)(11), is an improper citation. The proper citation is 42 U.S.C.A. § 5106a(b),  
2 assuming that's even what Angelo and company intended.

3 Secondly, there is no Section 106(b)(2)(A)(xi)(11), at least not one that the Custodian at  
4 the U.S. Library of Congress Law Library and the clerks at the U.S. Attorney General's Office In  
5 Washington, D.C., could readily find when Plaintiff made personal visits there. There is,  
6 however, 42 U.S.C.A. § 5106a(b)(2)B)(xi), with no (11).

7 Assuming § 5106a(b)(2)B)(xi) is what was intended, "the administrative procedure set  
8 forth above up-to [sic] and and including a Fair Hearing" [set for the first time 22 months after  
9 removal of Plaintiff's children] is hardly what this section addresses. Indeed, it is so different as  
10 to constitute clear evidence of fraud on this Court.

11 § 5106a(b)(2)B)(xi) does not mandate an administrative process for the presentation of  
12 facts that might be civil rights violations for torts. It only addresses grant eligibility, requiring in  
13 (xi): "the cooperation of State law enforcement officials, court of competent jurisdiction, and  
14 appropriate State agencies providing human services in investigation, assessment, prosecution,  
15 and treatment of child abuse and neglect."

17 On this record, we have no idea if Nevada has or has not applied for a grant. Moreover,  
18 the section cited was enacted effective May 29, 2017, after the January 2016 abduction. Further,  
19 Nevada has a codified procedure which complies with with the grant provisions of CAPTA. That  
20 procedure is NOT the so-called Fair Hearing process whereby a letter called a Finding is written  
21 by the self-interested CPS worker. To suggest such is laughable.

22 That proper procedure to qualify for a grant is encapsulated in NRS 432B.390, which  
23 required the County to petition the court before taking child removal actions, and NRS  
24 432B.470, which provides for a hearing within 72 hours of removal's justified by an emergency.  
25 Offering a hearing 22 months later abrogates the grant requirement and warrants grant denial.  
26

27 Nothing in CAPTA makes the agency process described by the County Defendants pre-  
28 emptive or exclusive. In all the history of CAPTA, no such requirement could be found at the

1 U.S. Library of Congress or Library of Congress Law Library. Indeed, it seems the only “carve  
2 out,” is where a procedural due process claim is based on a federal statute which mandates its  
3 own administrative process for the precise remedy in question (*Woodford, supra*; *Ryans v. New*  
4 *Jersey Com ‘N For Blind and Visually impaired*, 542 F.Supp. 841 (Dt. Ct. N.J. 1982); *Booth v.*  
5 *Churner*, 532 U.S. 731, 121 Sup. Ct. 1819 (2001); *Porter v. Nussle*, 534 U.S. 516, 122 S.Ct. 983  
6 (2002); *cf Henry A. v. Willden*, 678 F.3d 991 (9<sup>th</sup> Cir. 2012)), none of which supports the  
7 assertion in the Angelo Order.

8 (8) Factual Finding #19 of the Angelo Order defies comprehension and contains a  
9 deliberate Concealment. It states: “The purpose behind this administrative structure is to afford  
10 Plaintiff a right due process, “which is the right to receive notice of an adverse determination  
11 against [him] and give [him] an opportunity to respond in an orderly proceeding.” First, the  
12 quote has no citation. From whence it comes, one might never know.

13  
14 More importantly, it makes no sense whatever. Plaintiff’s children were abducted on  
15 January 7, 2016. The pre-removal judicial hearing mandated by NRS 432B.390 was not held.  
16 Nor was a post-removal hearing held by a Court within 72 hours as mandated by NRS 432B.470.  
17 All this discussion by Defendants of a Fair Hearing is a red-herring, a diversionary tactic  
18 fraudulently included in the Angelo Order with the Judge absent and unable to see it.

19 The Fair Hearing process has nothing to do with the removal of Plaintiff’s children. The  
20 children were taken from the state with the County’s complicity on January 7, 2016. On  
21 November 10, 2016, Plaintiff attempted to resolve his outstanding claims with the County  
22 Defendants as regards the abduction of his sons. [Eggleston affidavit, MFR Exhibit 4, email of  
23 11/10/16.] When he did, he was repeatedly told, “the County didn’t take custody of your sons,”  
24 so there “is nothing the County can do, I’m sorry.”

25  
26 Plaintiff then filed the instant action, which takes us full circle to the key Factual Finding  
27 #19 which commenced this discussion. The Appeal Notice that accompanied the Substantiation  
28 Letter of August 27, 2016, as quoted in the Angelo Order, stated: “the right to receive notice of

1 an adverse determination against you and give you an opportunity to response [sic] in an orderly  
2 proceeding.”

3 Eureka! That’s where the Finding from – the Notice of Rights on Appeal included with  
4 the Substantiation Letter. But Angelo, rather than executing his obligation to construe the  
5 pleadings and facts in Plaintiff’s favor, materially omitted the next phrase in the Notice, which  
6 appeared in bold black letters: **“An administrative reviewed [sic] is not available in cases that  
7 have been substantiated by the court in either a civil or a criminal proceeding.”**

8 Now, one might think, if Angelo did not read the pleadings filed, and Galati did not  
9 attend the hearing, the head might not know what the tail was doing. But it bears repeating. Clark  
10 County’s own Notice stated the Fair Hearing process (a) was not exclusive so as to preclude civil  
11 proceedings (a matter dispositive against the Motion to Dismiss), and (b) was not available “in  
12 cases that have been substantiated by the court...in...a civil...proceeding.” Ibid.

13 As Angelo knew, on June 29, 2015, less than sixty days earlier, a Nevada District Court:  
14 **“ORDERED, ADJUDGED AND DECREED that Plaintiff Steve Eggleston is fit and proper  
15 to be designated sole legal and physical custodian of the minor children...[his sons].”**

16 Request for Judicial Notice, Eggleston v. Battistella, Clark County Case # D-15-508989-P.

17 Under no circumstances could the finding of a CPS agent or hearing officer change that  
18 judicial determination. Indeed, recognizing this, by operation of the County’s own Appeal  
19 Notice, the Fair Hearing officer does not have any jurisdiction over the issues of fitness or  
20 custody where a civil court has already acted, as here.

21 (9) Angelo Order Factual Findings #24 and #25 state that the “remaining claims by  
22 Plaintiff are based on assertions of damages arising from the decision by the [DFS] set forth  
23 above,” and that, [b]y statute the Fair Hearing officer may uphold or overturn the decision by the  
24 [DFS].” Nothing could be more absurd. First, the “decision” is two self-serving letters by people  
25 who work for the DFS that destroyed evidence.  
26  
27  
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1 Secondly, Angelo is hiding in his Order a huge presumption: that the Substantiation  
2 Finding bears on Plaintiff's right to custody of his children, whether reversed or not. Indeed,  
3 Defendants have not once offered this self-serving letter Finding (which is actually part of a  
4 cover-up) into evidence.

5 Thirdly, since the County did not petition the Court pre-removal or post-removal, as  
6 required by Nevada and federal constitutional law, the Fair Hearing Officer could not reach the  
7 removal issue which is core to Plaintiff's civil rights claim. Moreover, the Callahans are integral  
8 to the determination of abduction, but they are not a party to the Fair Hearing process. So how on  
9 God's green earth could the Fair Hearing Officer decide the tort claims asserted against them in  
10 the appeal of a Finding which did not address them? In Angelo's zeal to submit an overreaching  
11 Order, he missed the devil in the detail.

12 Indeed, as but one example, this Finding suggests that Plaintiff's claims of defamation  
13 against the Callahans could be decided by the Hearing Officer. But how is that so? The  
14 defamation claim is based on the defamatory publication that Plaintiff was unfit. The Finding  
15 and Substantiation do not find this. To the contrary, And a Nevada federal district court judge  
16 aware of the CPS' action has found Plaintiff fit for legal and physical custody. Indeed, the  
17 Court's Order contemplated the return of the children to Plaintiff, who would then report to CPS  
18 that he had the children. Plaintiff's Affidavit, MFR Exhibit 3, Order of Custody, p. 4.

19 (10) In Legal Conclusion #8, the Angelo Order enters a quagmire. #8 addresses  
20 Plaintiff's claim for additional discovery in response to the Motion to Dismiss and destruction of  
21 evidence. Angelo here smacks his lips with the predictable observation that "Plaintiff has failed  
22 to establish proper grounds for a continuance. Under NRCP 56(f), a party is required to submit  
23 affidavits opposing the Motion which clearly...indicates facts essential to justify the  
24 opposition..."

25 Interesting, isn't it, that here the fox is guarding the henhouse: the attorney for the party  
26 who destroyed evidence is deciding if further discovery is warranted. This is the same attorney  
27  
28



1 who filed an improper Rule 12(b)(5) Motion long after answering the FAC, asked that it be  
2 treated alternatively as a summary judgement motion, then re-shuffled the deck in the Angelo  
3 Order by characterizing it as a Rule 12(c) Motion for Judgement. Who's on first, who's on  
4 second, and who's on third... are the questions.

5 One must step back and ask the fundamental question of whether this is even fair play,  
6 invoking the broader due process questions addressed in *International Shoe v. Washington*, 326  
7 U.S. 310 (1945). Is this what American justice has become? Where a Rule 12(b)(5) Motion to  
8 Dismiss is converted to a Rule 56 Summary Judgement Motion and finally to a FRCP Rule 12  
9 (c) Motion with a FRCP Rule 56 component in an Order written secretly by opposing counsel—  
10 shouldn't the trial court bend over backwards to allow discovery to the pro per Plaintiff after  
11 Defendants admit destroying key evidence right before the Motion to Dismiss was brought?

12 Moreover, we don't need to reach Rule 56(f) in a motion conversion scenario that's  
13 spinning like a roulette wheel. When a FRCP 12(c) Motion is converted to a FRCP Motion for  
14 Judgement for Summary Judgment, the opposing party must be given reasonable opportunity to  
15 respond when proper discovery has not been had. *Boyle v. Governor's Veteran's Outreach &*  
16 *Ass. Ctr.*, 925 Fed. 2d 71, 18. Fed. R. Serv. 3d 1099 (3d Cir. 1991). Notice and a hearing must be  
17 given in some circumstances. *Ibid*.

18 Moreover, a fair opportunity to respond must be given, and the conversion by the court  
19 must be unambiguous. *Clay v. Department of Army*, 239 Fed. Appx. 705 (3d Cir. 2007).  
20 *Newman Oil Co. v. Atlantic Richfield Co.*, 597 F.2d 275, 27 Fed. R. Serv. 2d 1162 (Temp Emer.  
21 Ct. App. 1979). This is especially so where the non-moving party is not represented by counsel.  
22 *Somerville v. Hall*, 2 F.3d 1563, 26 Fed. R. Serv. 3d 1378 (11<sup>th</sup> Cir. 1993). *See, also, Advanced*  
23 *Cardiovascular Systems, Inc. v. Scimed Life Systems, Inc.*, 988 F.2d 1157 (Fed. Cir. 1993).  
24

25 Additional clarification of the Angelo Order and/or and discovery could easily prove all  
26 of the Motions involved here should be denied and discovery allowed, for the following reasons:  
27  
28

1 (1) The only evidence offered in support of the 12(b)(5) incantation was the Hammock  
2 declaration. This declaration is extrinsic evidence and cannot be considered in a 12(b)(5) motion  
3 to dismiss or 12(c) Motion for Judgment on the Pleadings. Thus, since the Fair Hearing  
4 administrative process is not mentioned in the FAC, the Motion must be denied.

5 (2) If the Motion is treated as one for summary judgement, extrinsic evidence may be  
6 considered, but only after fair notice. Since the Hammock declaration is the only evidence  
7 offered to meet the County's burden under *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 106 S.  
8 Ct. 2505, 106 S.Ct. 2505 (1986), the burden is not met. It fails to prove the Fair Hearing process  
9 involves any of the issues at stake in the abduction. Because the Court must construe all  
10 inferences in Plaintiff's favor, a Summary Judgement Motion must be denied..

11 (3) A deposition of Hammock will show that declaration lacks foundation and thus does  
12 not support the County's moving burden under *Liberty Lobby*. She does not have personal  
13 knowledge of anything she averred her statements are objectionable, inadmissible hearsay.

14 (4) A Hammock deposition will further show that the declaration is highly misleading, if  
15 not fraudulent. In Paragraph 5 it states Plaintiff requested a Fair Hearing on 9/9/15 and in  
16 Paragraph 6 it states the hearing was originally scheduled for 8/1/17 "at Plaintiff's request." The  
17 misleading implication is that the delay of nearly two years was caused by Plaintiff. Her  
18 deposition will show that the date was one selected from three dates given to plaintiff only weeks  
19 earlier, and that her office abandoned the hearing and is responsible for the 22 month delay.

20 (5) The deposition of County employee CCDFS Legal Unit Supervisor Ms. Devon Butts  
21 will further prove the delay was occasioned by the County, not Plaintiff, that the Notice on the  
22 Appeal prohibited the Hearing Officer from determining custody, damages, or Plaintiff's fitness  
23 to raise his sons, i.e., the issues involved in the FAC, that the County dropped the hearing,  
24 creating a waiver and/or estoppel, and that the Fair Hearing office colluded with the Angelo firm  
25 in breach of the Chinese Wall to deprive Plaintiff of his constitutional rights. Further specifics  
26 are demonstrated in the emails attached to Plaintiff's supporting declaration.  
27  
28

1 (6) The Angelo Order states that "Hammock was identified by Plaintiff himself in an  
2 early case disclosure filed in April of 2018." This assertion is both outrageous and false. There is  
3 no other legal case. There was the Fair Hearing process, but the only way for Angelo to know  
4 that is to have unethically breached the Chinese Wall. Further, that Hammock was on a list of 50  
5 plus witnesses only proves the point that her deposition is required, because no depositions have  
6 been taken in the current case. Deposition discovery was waiting for production of the  
7 documents that were revealed to be destroyed just before the Motion to Dismiss was filed.

#### 8 VI. Conclusion

9 The tragedy is that the Angelo Order was signed without the Judge or Plaintiff ever  
10 seeing it, as it so demonstrably exceeds the scope of his commission as to question the integrity  
11 of the entire judicial process. Its submission smacks, not just of overreaching, but utter bad faith,  
12 fraud and breach of basic ethics. And the amount of grief, heartache, hardship, and cost to  
13 Plaintiff and his family that could have been spared by basic decency and honesty, is hard to  
14 fathom. The Court should not only reconsider the Angelo Order, it should reverse the dismissal  
15 and enter judgement in Plaintiff's favor as a matter of law  
16

17 Dated: October 14, 2018

Steve Eggleston, Plaintiff, In Pro Per

18 /s/ Steve Eggleston

19 Steve Eggleston, Plaintiff, In Pro Per  
20 Goose Hall, Bourne Farm, East Town Road  
21 Pilton, England, Post Code: ba4 4nx  
22 UK: +44 7801 931682  
US: (760) 464-9496  
[TheEggman411@gmail.com](mailto:TheEggman411@gmail.com)

#### 23 CERTIFICATE OF ELECTRONIC SERVICE

24 I hereby certify that I am the plaintiff in this action and on the 15<sup>th</sup> day of October, 2018,  
25 I served a true and correct copy of the foregoing **PLAINTIFF'S OPPOSITION TO MOTION**  
26 **TO DISMISS OF DEFENDANTS CLARK COUNTY AND GEORGINA STUART**, by  
27 emailing the same to the following recipient. Service of the foregoing document by email is in  
28 lieu of service via official post.

Page 19 of 32

Felecia Galati, Esq.  
OLSON, CANNON, GORMLEY  
9950 West Cheyenne Ave.  
Las Vegas, NV 89129  
Phone: 702-384-4012  
fgalati@ocgas.com

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# EXHIBIT “1”

## Supporting Affidavit of Plaintiff Steve Eggleston

Steve Eggleston, being first duly sworn, deposes and states:

1. I am the plaintiff in in this case and submit this affidavit in support of the MOTION TO RECONSIDER COURT’S 9/7/18 ORDER OF DISMISSAL/COVERSION TO SUMMARY JUDGEMENT.

2. Except where stated, the facts and inferences set forth in this Reply are true to my own personal knowledge, as I am in pro per and wrote them (they are not repeated for brevity, but are incorporated verbatim herein along with all emails and documents attached to the Motion and this Reply.)

3. Attached as Exhibit “2” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Wednesday, July 25, 2018.

4. Attached hereto as Exhibit “3” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Thursday, July 26, 2018.

5. Attached hereto as Exhibit “4” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Friday, August 3, 2018, 10:22 AM.

6. Attached hereto as Exhibit “5” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Friday, August 3, 2018, 1:25 PM.

7. Attached hereto as Exhibit “6” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Friday, August 3, 2018.

8. Attached hereto as Exhibit “7” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Friday, October 5, 2018.

9. Attached hereto as Exhibit “8” to this Reply is a true and correct copy of Plaintiff’s email to Attorney Galati dated and sent on Saturday, October 6, 2018.



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## EXHIBIT “2”

(Plf Email “Eggleston v. Clark County, Wedn July 25, 2018)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Eggleston v. Clark County**

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Steve Eggleston &lt;theeggman411@gmail.com&gt;

Wed, Jul 25, 2018 at 2:55 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Cindy Landeen / RockGodz Hall of Fame &lt;cjlandeen@gmail.com&gt;, John Neyer &lt;jhneyer13@gmail.com&gt;, Dana Amma Day Dana &lt;dana@positivetv.tv&gt;, Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

Dear Ms. Galati,

Thank you for this production, but several questions remain:

1. Have you produced any other documents yet? If not, you can email them here or snail-mail them to me in Falls Church, Virginia, where I intend to move my boys once they are returned. I am here now, arranging details, among other things.

2. Do you agree to my proposed revisions to your PTO? If not, do you intend to submit a counter? If not, I will file go ahead and file my MTC.

3. As I suspected, Stuart and the County have destroyed, deleted, and/or failed to preserve virtually all key original notes and documents, as suggested by their Third Supplement Disclosure. This raises serious concerns under cases like *GN Netcom, Inc. v. Plantronics, Inc.*, No. 12-1318-LPS, 2016 U.S. Dist. LEXIS 93299 (D. Del. July 12, 2016) [\$3 million sanction]. I am just now pondering the implications. In this same connection, are you saying no emails were preserved either?

Looking forward to your response.

Sincerely, Steve Eggleston, Plaintiff in pro per

[Quoted text hidden]

—  
Steve Eggleston, J.D., aka The Eggman

Mobile: +44 (0)7801931682

TheEggman411@gmail.com

SteveEgglestonWrites.com

Plf. Exhibit "2"



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## EXHIBIT “3”

(Plf 2-page Email, Eggleston v. Clark County, Thur, July 26, 2018)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

---

**Eggleston v. Clark County**

---

Steve Eggleston <theeggman411@gmail.com>  
To: Felicia Galati <fgalati@ocgas.com>  
Bcc: Ryder David Eggleston <ryderdavid2010@gmail.com>

Thu, Jul 26, 2018 at 2:39 PM

Hi Ms. Galati,

I have a conflict on 9/11, but will agree to continue the hearing to a date after that.

I usually use June's legal to serve pleadings and documents, but thank you for the suggestion. I do remember trying to do this once before, and for some reason I was prevented from doing so. Hopefully I won't encounter the same problem this time.

I will be setting depositions to precede the hearing on your MTD, so please pick a date that allows for 3-5 days of deposition days preceding the hearing.

Have you produced (or do you plan to produce) any other documents in response to the Document Request (other than the few produced via email the other day)? If not, I will schedule my Motion to Compel for the same date as your Motion to Dismiss and my FRCP Rule 11 motion.

Please consider this my 21-day notice under FRCP Rule 11 to withdraw your Motion to Dismiss. Here are a few of the many reasons the motion is frivolous, unreasonable, and brought in bad faith:

1. For decades (since 1982) it's been well-established that exhaustion of state administrative remedies is not a prerequisite to an action under section 1983. The Supreme Court's decision in *Patsy v. Board of Regents* is black letter law, you don't even cite it, you don't distinguish it or cite

*Plf Exhibit "3" (1)*

any case to support your position, and you don't make any argument (good faith or otherwise) to overturn *Patsy* at the Nevada trial court level.

2. State law torts for conspiracy to abduct, defamation, and intentional infliction of emotional distress do not have administrative remedies via the Nevada child welfare procedures. To my knowledge, no case in Nevada or under any other similar state system have ever so held, and you don't cite to one.

3. The FH process does not provide a remedy in damages or the injunctive relief for torts or civil rights violations. On its face, the doctrine has no application, and again, you don't cite any supporting case law to support your novel position. None of the cases you do cite is even remotely relevant to this civil rights and ancillary torts case.

4. Your client has already filed a motion to dismiss, the complaint was amended, and no new motion was filed. Clearly you are seeking to file a summary judgment motion via the guise of a motion to dismiss based on alleged facts outside the complaint that are not matters of public record or of which the court can take judicial notice. Moreover, most of the documents you refer to are evidentiary, hotly disputed or downright fraudulent, also constituting rank, inadmissible hearsay.

5. Because your motion could only proceed as a motion for summary judgment procedurally, it is prejudicial and premature because many of the facts asserted all in dispute, will be discredited by documents the county has destroyed for refuses to produce, or depositions that have not been taken.

If after 21 days the Motion has not been withdrawn, I will file a Motion under Rule 11 for appropriate monetary and issue preclusion sanctions to be held on the new date of the hearing for the Motion to Dismiss. Hopefully known of these motions will be necessary and you will drop the motion and produce the documents. :-)

Plf Exhibit "3" (2)

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## EXHIBIT “4”

(Plf Email, Eggleston v. Clark County, Fri, August 3, 2018)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Eggleston v. Clark County**

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Steve Eggleston &lt;theeggman411@gmail.com&gt;

Fri, Aug 3, 2018 at 10:22 AM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

Hi Ms. Galati, I'm still looking for your position on the PTO, and also wondering if you intend to further amend your Document Response to provide verified updated responses confirming the position that you have already produced all documents and don't have any more to produce. Also, despite having generally produced some records before, neither the County nor Ms. Stuart produced the documents in the categories requested or as maintained in the ordinary course of business, thus obscuring the foundation, dates of entrees, and authorship of the documents produced...or, for that matter, whether the documents produced are official records, altered records, or fraudulent records. Thank you. Steve Eggleston, Plaintiff in pro per

[Quoted text hidden]

Plf Exhibit "4"

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# EXHIBIT “5”

(2-page Plf Email, Further Fule 11 Sanctions – Demand and Specify, Fri, Aug 3, 2018)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Further NRCP Rule 11 Sanctions -- Demand and Specifity**

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Steve Eggleston &lt;theeggman411@gmail.com&gt;

Fri, Aug 3, 2018 at 1:25 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Cindy Landeen / RockGodz Hall of Fame &lt;cjlandeen@gmail.com&gt;, John Neyer &lt;jhneyer13@gmail.com&gt;, Dana Amma Day Dana &lt;dana@positivetv.tv&gt;

Dear Ms. Galati,

The current Motion to Dismiss based on administrative non-exhaustion is not well taken and warrants serious sanctions if not withdrawn. Set forth here are additional grounds (there are more) proving beyond doubt that the Motion is unreasonable and should be withdrawn to avoid Rule 11 sanctions. These grounds are set forth in detail to provide you specific knowledge of the basis for the sanctions that will be requested (striking defenses, issue preclusion, etc.):

A. The Motion is untimely.

Under NRCP Rule 12(a)(1), "A defendant shall serve an answer within 20 days after being served with the summons and complaint..." Under NRCP Rule 12(b)(5), a motion to dismiss based on "failure to state a claim upon which relief can be granted...shall be made before pleading..."

The County Defendants filed a 16(b) Motion to Dismiss against Plaintiff's original complaint in the summer of 2017. The Motion was granted in part, allowing Plaintiff leave to amend. Plaintiff timely filed his First Amended Complaint and the County Defendants answered, raising numerous affirmative defenses, including failure to exhaust administrative remedies.

The time to file a 16(b)(5) Motion to Dismiss has long past. No justification for the untimely filing of such a Motion, or the assertion of an exception to this blackletter, well-established state procedural rule is even attempted. Accordingly, the Motion must be denied.

B. It's blackletter law that section 1983 motions (and ancillary torts) do not require exhaustion of administrative remedies, even if the Motion were timely and such remedies existed.

Plf Exhibit "5" (1)

It is well-established that exhaustion of state administrative remedies is not a prerequisite to an action under section 1983. The Supreme Court's decision in *Patsy v. Board of Regents* 457 U.S. 496 (1982) laid the matter to rest and has now been black letter law for decades. The Motion parties don't even cite this case, much less distinguish it or make an argument why *Patsy* should be reversed by a state trial court.

The Supreme Court did not stop with *Patsy*. Six years later it held that, while a state may neutrally apply state procedural rules to section 1983 actions, it may not do so in a way that burdens or frustrates such claims. *Felder v. Casey*, 487 U.S. at 141 (1988) [Wisconsin's four-month claim statute inapplicable to section 1983 actions].

Factors considered are: (a) whether the requirement "is entirely absent from civil rights litigation in federal court," (b) whether the factor would "predictably produce different outcomes in federal civil rights litigation based solely on whether the litigation takes place in federal or state court," and (c) whether the factor is only one that protects "government defendants and thus conditions the right to bring suit against the very person and entities that Congress intended to subject to liability." *Felder, supra*, at 141, 145.

Here all these factors are satisfied by any application of a "Fair Hearing" administrative exhaustion that is clearly inapplicable to federal court, would produce different outcomes in state and federal courts, and as applied would protect the County defendants from the very unconstitutional conduct that Congress intended to subject to liability. According, on the force of *Felder* alone, this untimely, ill-begotten, if not bizarre Motion must be denied.

But that's not all. The U.S. Supreme court has further spoken in *Howlett v. Rose*, 496 U.S. 356 (1990), 369, holding that a state's sovereign immunity rules do not apply to section 1983 actions brought in state court. And in *Martinez v. California*, the court held a state's statutory immunity statute could not be applied to a section 1983 claim despite the fact it had been asserted in state court.

Under the Supremacy Clause of the U.S. Constitution, a state may not employ its jurisdictional rules so as to nullify a federal right "because of disagreement with its content or a refusal to recognize the superior authority of its source. *Howlett, supra*, 371, 374. See also *Arnold*

Plf Exhibit "5" (2)



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## EXHIBIT “6”

(2-page Plf email, Plaintiff’s Document Request, Fri, Aug 3, 2018, 1:14 PM)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

## Plaintiff's Document Request

Steve Eggleston &lt;theeggman411@gmail.com&gt;

Fri, Aug 3, 2018 at 1:14 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Cindy Landeen / RockGodz Hall of Fame &lt;cjlandeen@gmail.com&gt;, John Neyer &lt;jhneyer13@gmail.com&gt;, Dana Amma Day Dana &lt;dana@positivetv.tv&gt;

Dear Ms. Galati,

In addition to the points previously made, please consider the following as pertains to the woefully inadequate production of documents in this case:

1. CC 025 is CPS Referral Summary regarding Laura Rodriguez (not Plaintiff). It references a date of 12/22/14, 1643346. Is this a mistake? Did you intend to produce a document referencing Plaintiff? Please confirm.

2. CC 028 is blank. Please confirm in the Document Response that the document in all its incarnations (original and any copies) is blank, or produce the non-blank document. If you contend it is blank, why was it numbered and produced? Conversely, please produce the un-redacted document.

3. CC 027 appears to be altered and clearly has been redacted in multiple spots.

3a. Missing entirely is the sections that answers the question, "1. What is the extent of child maltreatment?" When Hunter fell into the pool, this was answered and it was concluded there was no maltreatment. It's been deleted here. Please produce this deleted (not even redacted) section.

3b. Missing entirely is the section that answers the question, "2. What are the circumstances surrounding the child maltreatment?" When Hunter fell into the pool, this was answered and it was concluded again there was no

Plf Exhibit "6" (1)

maltreatment. It's been deleted here. Please produce this deleted section (again, not even redacted, but made to look like it does not exist).

3c. Question 5 of this form states: "WHAT ARE THE GENERAL DISCIPLINARY PRACTICES IN THIS FAMILY?" After a short answer, a second question states: "What would the source like to see happen?" The entire answer is blacked out and redacted. Please produce this unredacted portion.

3d. Other blacked-out redactions are set forth on this page. All need to be produced. Likewise,

4. There are many other redactions in the produced documents that need to be produced. See CC 003, 004 (which appear to be all the notes related to Plaintiff as related to his interview the day before Christmas on 12/24/14 and thus could not possibly be privileged), 008, 009, 010, 011, 012, 013, 015, 017, 019, 020, 022, 023, 028, 029, 032, 034 (another entirely blank document), 035, 036, 039, 040, 041, 042, 043, 044, 045, 046, 047, 048, 049, 052, 053, 054, 055, 056, 057, 061, 062, 064.

Obviously much of this is being withheld because it vindicates Plaintiff, impeaches Defendants, or blocks discovery of essential information needed to obtain a fair trial. If all of this information is not produced forthwith, and/or the specific information identified by a protected specific category (e.g., private phone number or social security number), I will move to compel and will seek sanctions, including issue preclusion sanction and possibly even striking of the Answer given the collective seriousness of the discovery abuses and frivolous Motion to Dismiss.

Sincerely, Steve Eggleston, Plaintiff in pro per

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*P/F Exhibit "6" (2)*

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## EXHIBIT “7”

(Plf Email, Minute Order on Motion to Dismiss, Fri, Oct 5, 2018 at 10:13 PM)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Minute Order on Motion to Dismiss**

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Steve Eggleston &lt;theeggman411@gmail.com&gt;

Fri, Oct 5, 2018 at 10:13 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Cindy Landeen / RockGodz Hall of Fame &lt;cjlandeen@gmail.com&gt;, Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

Dear Ms. Galati,

I assume the Court provided your office a copy of the Minute Order from which you faithfully prepared the Order of Dismissal that you in turn served on me. I note this because the Order is on your firm's submitted stationary. No copy of that Minute Order was provided to me. Can you please provide me a copy of the exact Minute Order provided by the Court to you, or indicate to me that you were not provided such a Minute Order? Thank you.

Steve Eggleston, in pro per

--

Steve Eggleston, J.D., aka The Eggman  
Mobile: +44 (0)7801931682  
TheEggman411@gmail.com  
SteveEgglestonWrites.com

Founder/CEO, Eggman Global  
www.EggmanGlobal.com  
Facebook.com/EggmanGlobal  
Twitter.com/EggmanGlobal  
The Eggman Theme Song:  
www.youtube.com/watch?v=CvERHITfx9w

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## EXHIBIT “8”

(Plf Email, Minute Order on Motion to Dismiss, Sat, Oct 6, 2018 at 4:57 PM)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Minute Order on Motion to Dismiss**

---

Steve Eggleston &lt;theeggman411@gmail.com&gt;

Sat, Oct 6, 2018 at 4:57 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

Dear Ms. Galati,

I have a follow-up question as well. The Judge stated he would be on vacation for the month of September, so did someone with the initials JJ sign the Order? And if so, what does JJ stand for, and, if someone with the initials JJ signed the Order, in what capacity did JJ do so? My understanding, based on my inquiries, is that I'm entitled to know this information since the Judge took the matter under submission and did not rule one way or the other at the hearing.

Thank you. Steve Eggleston, in pro per

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Plf Exhibit "8"

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## EXHIBIT “9”

(Plf Email, Minute Order on Motion to Dismiss, Mon, Oct 8, 2018 at 5:21 PM)



10/15/2018

Gmail - Minute Order on Motion to Dismiss



Steve Eggleston <theeggman411@gmail.com>

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## Minute Order on Motion to Dismiss

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Steve Eggleston <theeggman411@gmail.com>  
To: Felicia Galati <fgalati@ocgas.com>

Mon, Oct 8, 2018 at 5:21 PM

I was hoping to get answers from you before calling the Court Clerk and seeking an explanation from her. Can I please have answers to my questions at your earliest convenience? I am hoping there is a simple explanation that will clarify things. Thank you so much. Regards, Steve Eggleston, in pro per

[Quoted text hidden]

Plf Exhibit "9"

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## EXHIBIT “10”

(2-page Plf Email, Minute Order on Motion to Dismiss, Tue, Oct 9, 2018 at 7:52 PM)



Steve Eggleston &lt;theeggman411@gmail.com&gt;

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**Minute Order on Motion to Dismiss**


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Steve Eggleston &lt;theeggman411@gmail.com&gt;

Tue, Oct 9, 2018 at 7:52 PM

To: Felicia Galati &lt;fgalati@ocgas.com&gt;

Bcc: Cindy Landeen / RockGodz Hall of Fame &lt;cjlandeen@gmail.com&gt;, John Neyer &lt;jhneyer13@gmail.com&gt;, Ryder David Eggleston &lt;ryderdavid2010@gmail.com&gt;

Dear Ms. Galati, I am still trying to understand how the Order granting your Motion to Dismiss came about. Here is my understanding of the sequence of events:

1. On August 28, the hearing was held on the Motion to Dismiss of defendants Stuart and Clark County before the Hon. Douglas E. Smith.
2. After argument by both parties, the Court took the matter under submission. He did not rule on the Motion, did not direct either side to prepare an Order (because he had not yet ruled), and did not solicit proposed orders from either party.
3. During the course of the morning calendar, the Judge announced publically that he would be gone the entire month of September and would try to rule on all matters by the end of the week before he left.
4. After he left, on September 7, your office served on me an order granting the Motion to Dismiss that purported to be a/ executed on September 6, and b/ signed by someone whose initials were JJ. In other words, somebody named JJ signed the order despite there being no public record of the court having ruled. Maybe JJ thought the court had instructed your firm to submit the order, but the court did not do so in court and there is no minute order.
5. I presume there was no ex parte communication between your office and the Court, so the question is why and how the order was entered on your office's legal stationery. The is unlike the earlier order granting defendants' motion (last year) that was on the court's stationery.
6. There is no Minute Order entered on the case docket (again, unlike the order), so there is no Minute Order to which an Order prepared by your office could conform.

*Plf Exhibit "10" (1)*

7. If your office did submit a proposed Order to the Court, the question arises as to why? The further question arises as to why you did not submit that proposed Order to me for review and inform me of your intention.
8. The inference could be drawn that your firm submitted the order when the judge was on vacation without notifying me with the expectation the clerk would just sign it, being none the wiser.
9. Hopefully that is not the case, and I will presume there is a simple explanation for this. That is why I am being persistent with my questions and hoping for clarification.
10. Another odd aspect arises as to the wording of the Order. Despite the Motion being made only by the County defendants, it states at the end that the entire litigation is dismissed. By doing this, the Order appears to constitute a final order, which required me to appeal the Order. Boy howdy, but it sure would have been easy to miss that, don't you think?

I would appreciate some clarification on the above. Thank you. Steve Eggleston, Plaintiff

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Plf Exhibit "10" (2)

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## EXHIBIT “11”

(Felicia Galati Email, Minute Order on Motion to Dismiss, Wed, Oct 10, 2018 at 5:33 PM)

10/15/2018

Gmail - Minute Order on Motion to Dismiss



Steve Eggleston <theeggman411@gmail.com>

---

## Minute Order on Motion to Dismiss

---

**Felicia Galati** <fgalati@ocgas.com>  
To: Steve Eggleston <theeggman411@gmail.com>

Wed, Oct 10, 2018 at 5:33 PM

Mr. Eggleston,

As you know, I did not attend the hearing. I understand from Mr. Angulo that he received a call from the court clerk telling him to prepare the order consistent with the argument he made before Judge Smith. We cannot speak for what the Judge, clerk, etc., did as to signatures, initials, etc.

**Felicia Galati, Esq., Shareholder**

**Olson, Cannon, Gormley, Angulo & Stoberski**

**9950 West Cheyenne Avenue**

**Las Vegas, Nevada 89129**

**PH: 702-384-4012**

**FX: 702-383-0701**

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**From:** Steve Eggleston [mailto:theeggman411@gmail.com]  
**Sent:** Monday, October 08, 2018 2:21 PM  
**To:** Felicia Galati  
**Subject:** Re: Minute Order on Motion to Dismiss

↑ Exhibit "11"



1 FELICIA GALATI, ESQ.  
Nevada Bar No. 007341  
2 OLSON, CANNON, GORMLEY  
ANGULO & STOBERSKI  
3 9950 West Cheyenne Avenue  
4 Las Vegas, NV 89129  
Phone: 702-384-4012  
5 Fax: 702-383-0701  
fgalati@ocgas.com  
6 Attorneys for Defendants  
7 CLARK COUNTY and GEORGINA STUART

8 DISTRICT COURT  
9  
10 CLARK COUNTY, NEVADA

11 STEVE EGGLESTON,

12  
13 Plaintiff,

14 v.

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16 GEORGINA STUART; CLARK COUNTY,  
17 NEVADA; LISA CALLAHAN; BRIAN  
18 CALLAHAN; AND DOES I THROUGH 100,  
INCLUSIVE,

19 Defendants.

CASE NO. A-16-748919-C  
DEPT. NO. VIII

Date of Hearing: 10/22/18

Time of Hearing: In Chambers

20  
21 **DEFENDANTS CLARK COUNTY AND GEORGINA STUART'S MOTION**  
22 **TO STRIKE PLAINTIFF'S REPLY TO DEFENDANTS' OPPOSITION TO**  
23 **MOTION TO RECONSIDER DEFENDANTS' MOTION TO DISMISS AND 9/7/18**  
24 **ORDER OF DISMISSAL**

25 COME NOW Defendants CLARK COUNTY and GEORGINA STUART  
26 ("Defendants"), by and through their attorney FELICIA GALATI, ESQ. of the law firm  
27 OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI, and hereby move to strike  
28 Plaintiff's Reply to Defendants' Opposition to Motion to Reconsider Defendants' Motion to

Dismiss and 9/7/18 Order of Dismissal. This Motion is made and based upon all papers, pleadings and records on file herein, the attached Memorandum of Points and Authorities, and such oral argument, testimony and evidence as the Court may entertain.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I.**

#### **INTRODUCTION**

Plaintiff's "reply" improperly attempts to raise issues not directly found in the initial motion seeking reconsideration and, therefore, is improper. It is late-filed in violation of EDCR2.20. Moreover, it is a work of fiction, rife with spurious and unduly inflammatory statements unbecoming a filing before this Court. Finally, it fails to advance the cause of why reconsideration should be compelled in this matter.

### **II.**

#### **A REPLY MUST BE LIMITED TO ISSUES RAISED IN THE ORIGINAL MOTION**

As this Court is well aware, it has long been the rule that arguments raised for the first time in a Reply need not be considered by the Court. Francis v. Wynn Las Vegas, LLC, 127 Nev. 657, 671 n.7, 262 P.3d 705, 715 n.7 (2011). The reason for this is simple, to the extent that a party raises a new argument or proffers new evidence and information in a reply brief, that argument or evidence is improper because the opposing party is deprived of an opportunity to respond. Tovar v. United States Postal Service, 3 F.3d 1271, 1273 n. 3 (9th Cir. 1993). Therefore, the court cannot consider new evidence provided in a reply when the other party does not have an opportunity to respond to the evidence. Provenz v. Miller, 102 F.3d 1478, 1483 (9th Cir.1996).



1 In this case, Plaintiff has raised issues which were never broached in the original Motion  
2 for Reconsideration. Accordingly, the Reply is an affront and should be stricken in its entirety.

3  
4 III.

5 **NRCP 12(f) MANDATES THIS DOCUMENT BE STRICKEN**

6 For almost a century, courts in this state have made it clear that filings with the Court  
7 should stay within proper bounds of pleading. To this end, filings that are deemed to be  
8 scandalous, impertinent, immaterial or redundant are subject to being stricken. NRCP 12(f);  
9 Wainwright v. Dunseath, 46 Nev. 361, 211 P. 1104, 1109 (1923). While, admittedly, Motions to  
10 Strike are generally disfavored, Carins v. Franklin Mint Co., 24 F. Supp. 2d 1013, 1037 (C.D.  
11 Cal. 1998), when "it is clear that the matter to be stricken could have no possible bearing on the  
12 subject matter of the litigation" a Motion to Strike should be granted. LeDuc v. Kentucky  
13 Central Life Ins. Co., 814 F. Supp. 820, 830 (N.D. Cal. 1992).

14  
15 "Immaterial' matter is that which has no essential or important relationship to the claim for relief  
16 or the defenses being pleaded." 5 Wright & Miller, Federal Practice and Procedure Section 1382  
17 at 706-07 (1990). "Impertinent' matter consists of statements that do not pertain, and are not  
18 necessary, to the issues in question." Id. at 711. Such items, for example, as superfluous  
19 historical allegations are properly subjects of a Motion to Strike. See Healing v. Jones, 174  
20 F.Supp. 211, 220 (D. Ariz. 1959). Matters which are "redundant" consist of allegations that  
21 constitute a needless repetition of other averments which are foreign to the issue to be denied.  
22 Wilkerson v. Butler, 229 F.R.D. 166, 170 (E.D. Cal. 2005). "An 'impertinent' allegation is  
23 neither responsive nor relevant to the issues involved in the action and which could not be put in  
24 issue or given in evidence between the parties." Id. Matters which are impertinent consist of  
25 statements which do not pertain and are unnecessary to the issues in question. Id. Finally, a  
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1 "scandalous" matter "improperly casts a derogatory light on someone, usually a party,"<sup>1</sup> *Id.*  
2 "Allegations may be stricken as scandalous if the matter bears no possible relation to the  
3 controversy or may cause the objecting party prejudice." *Id.* In fact, courts have held even  
4 relevant portions of a filing may be stricken when they are scandalous in needless detail.  
5 Gleason v. Chain Service Restaurant, 300 F. Supp. 1241, 1257 (S.D.N.Y. 1969), aff'd, 422 F.2d  
6 342 (2<sup>nd</sup> Cir. 1970).

8 In this case, Plaintiff's submitted Reply is full of such stuff and nonsense. He not only  
9 falsely attacks the character and actions of Defense counsel, he impugns the integrity and  
10 honesty of this Court. He does so by apparent prevarication of the relevant facts surrounding the  
11 issuance of this Court's order—which he falsely ascribes as a "fraud" upon this court. Setting  
12 aside the hyperbole used by him, it is clear his baseless allegations are misplaced and provide  
13 additional support to not consider the contents of the Reply in deciding the motion.

15 **A. There Is No Fraud On The Court**

16 Plaintiff's Reply, without evidence, charges the 9/7/18 Order dismissing this action  
17 constitutes a fraud upon this court—which is as unfounded as it is offensive. First, Ms. Galati  
18 neither attended the hearing on Defendants' Motion to Dismiss nor did she prepare the Order.  
19 Rather, the order was prepared by the attorney who argued the motion for Defendants in  
20 response to a request left on his voicemail to prepare an order consistent with the filings and  
21 arguments made before the Court. Second, the Court Clerk's voicemail to Mr. Angulo to prepare  
22 the Order is not an *ex parte* communication. It is certainly customary for the Court's staff to  
23 contact attorneys to prepare orders once a decision is made by the Court. Third, the Order was  
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27 <sup>1</sup>In other words, scandalous material must reflect cruelly on the defendant's moral character, use repulsive  
28 language or detract from the dignity of the Court. Skadegaard v. Farrell, 578 F. Supp. 1209, 1221 (D.N.J.  
1984).

submitted to the Court for review and signature. Obviously, if there was something amiss in what had been proffered, the Court could have corrected it. Fourth, the Order was received by Defendants' counsel after the Court signed it and it was e-filed and served on Plaintiff.<sup>2</sup> Fifth, the Order properly sets forth the arguments made at the time of the hearing on this matter, in conjunction with the submitted filings. As to the suggestion of another basis for dismissal (Buford abstention), this Court has already been provided authorities indicating it is within its rights—and, indeed, its obligations—to conduct independent research and rule on grounds which neither party has raised if the circumstances require.

In Occhiuto v. Occhiuto, 97 Nev. 143, 625 P.2d 568 (1981), the Court expounded at length on the meaning of “fraud on the court.” It claimed such a motion is addressed to the sound discretion of the trial court but that it was necessary to show—by the moving party—an unconscionable plan or scheme which is designed to improperly influence the Court in its decision. Indeed, in a more recent decision, Estate of Adams v. Fallini, 132 Nev. \_\_\_, 386 P.3d 621, 625 (2016), the court defined such fraud as “only that species of fraud which does, or attempts to, subvert the integrity of the court itself, or as a fraud perpetrated by officers of the court so that the judicial machine cannot perform in the usual manner its impartial task of judging cases . . .” Id. (citations omitted).

Noting an attorney was an officer of the Court and, as such, owed a duty of loyalty to the Court, the decision held only when an attorney departs from that standard of conduct is a fraud is perpetrated upon the Court. Id. “Even then, relief from a judgment based on fraud upon the court is rare and normally ‘available only to prevent a grave miscarriage of justice.’” Id. (citing United States v. Beggerly, 524 U.S. 38, 47 (1998)).

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<sup>2</sup> See Notice of Entry of Order.

1 In further identifying what constitutes fraud upon the court, the Court specifically cited  
2 the example of when an attorney proffers a material fact which is known—or should be known—to  
3 be false and relies on the admitted false fact to achieve a favorable ruling. Id. at 625-26.<sup>3</sup>

4 “A finding of fraud on the court is justified only the most egregious conduct directed to  
5 the court itself, such as bribery of a judge or jury or fabrication of evidence by counsel, and must  
6 be supported by clear, unequivocal and convincing evidence.” In Re Coordinated Pretrial  
7 Proceedings in Antibiotic Anti-Trust Actions (“Phizer”), 538 F.2d 1080, 195 (8<sup>th</sup> Cir. 1976)  
8 (citations omitted). Clear and convincing evidence is evidence, whether direct or circumstantial,  
9 which is sufficiently strong as to produce conviction in the mind of the judge of the truth of the  
10 charge. See Gruber v. Baker, 20 Nev. 453, 476, 23 P. 858, 865 (1890). The burden is on the  
11 plaintiff’s bringing the matter. Clark Sanitation, Inc. v. Sun Valley Disposal Co., 87 Nev. 338,  
12 487 P.2d 337 (1971). Moreover, the standard applies to each element of the fraud that is  
13 asserted. Bulbman, Inc. v. Nevada Bell, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992).

14 Such a finding must be “reserved for those cases of ‘injustices which, in certain instances,  
15 are deemed sufficiently gross to demand a departure’ from rigid adherence to the doctrine of res  
16 judicata.” Beggerly, 524 U.S. at 45 (citations omitted). In further defining fraud on the Court,  
17 “it is necessary to show an unconscionable plan or scheme which is designed to improperly  
18 influence the court in its decision.” England v. Doyle, 281 F.2d 304, 309 (9<sup>th</sup> Cir. 1960).

19 Here, none of this is shown. The Order reflects positions taken in the filings and the oral  
20 arguments placed before the Court at the time of the hearing. Plaintiff has no evidence of such  
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27 <sup>3</sup> In reaching that conclusion, the Court cited a prior Nevada decision, Sierra Glass and Mirror v. Viking  
28 Indus., Inc., 107 Nev. 119, 125-26, 808 P.2d 512, 516 (1991). In Sierra Glass, the Court held when an  
attorney omitted pertinent evidence to “buttress” his client’s argument and with the knowledge that the  
omitted material was harmful to his client’s position that attorney committed fraud upon the Court. Id.

**PLEADING  
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