IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * * * * * * *

ERICH M. MARTIN,

Appellant,

vs.

RAINA L. MARTIN,

Respondent.

SC NO: 81810
DC NO: D-15-509049-D

RESPONDENTS' INDEX TO APPENDIX VOLUME X

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APPENDIX INDEX

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ORIGINAL

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CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

9 ERICH M. MARTIN

CASE NO. D-15-509045-D

DEPT. C

12 RAINA L MARTIN

APPEAL NO. 81810

13 Defendant.

14

BEFORE THE HONORABLE REBECCA L. BURTON
15 DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 WEDNESDAY OCTOBER 28 2015

APPEARANCES

18

THE PLAINTIFF: ERICH M. MARTIN
19 (Telephonically)

FOR THE PLAINTIFF: FRANCESCA M. RESCH, ESQ.
20 10000 W. Charleston Blvd., #1 0
Las Vegas, Nevada 89135
21 (702) 901-4800

22 THE DEFENDANT: NOT PRESENT

FOR THE DEFENDANT: RAMIR M. HERNANDEZ, ESQ.
23 7785 W. Sahara Ave., #200
Las Vegas, Nevada 89117
24 (02 475-7964

1 LAS VEGAS, NEVADA WEDNESDAY, OCTOBER 28, 2015

P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 11:27:05 A.M.)

4

5 THE COURT: Good morning. We're here on case
6 D-15-509045-D, Erich Martin versus Raina Martin. And, Mr.
7 Martin, this is Judge Rebecca Burton in Las Vegas. Are you on
the phone?

THE PLAINTIFF: I am, ma'am.

10 THE COURT: Okay. You can hear us?

11 THE PLAINTIFF: Yes.

THE COURT: Okay. Great. Counsel, please state
13 your appearances.

14 MS. RESCH: Francesca Resch, bar number 13011,
15 appearing for Mr. Naimi. And my client is appearing
16 telephonically.

17 THE COURT: Okay. Great. Thank you.

18 MR. HERNANDEZ: Ramir Hernandez, bar number 13146,
19 on behalf of Raina Martin, Your Honor.

20 THE COURT: Okay. Thank you. Where are we?

21 MS. RESCH: Well, I believe that the decree has been
22 submitted to the Court. And so with that, I believe the order
23 to en -- the order to show cause as well as the motion to
24 enforce are both moot at this point. And I believe that's

where we stand.

MR. HERNANDEZ: Well, the only quest -- the only issue we have left, Your Honor, is we're seeking attorney's fees for having to file the motion to enforce and for having to come here today because we signed a decree back in September. We thought we were done.

And then I received a phone call from oppos -- opposing Counsel. And I try -- I called opposing Counsel and we spoke on the phone. And we stated that, you know, we were wondering why the decree had not been signed. She informed me that they were going to withdraw. I informed her that we were going to file a motion to enforce the settlement, which is what we did. And then after we filed that motion, Mr. Martin finally signed the decree of divorce, Your Honor.

I included a supplemental exhibit which we filed on -- on October 23rd where we listed our fees for having to file the motion to enforce and for the, you know, post signature of decree actions that we've taken. And we're seeking attorney's fees in the amount of 16 -- $1622, Your Honor.

THE COURT: And you're saying that's what -- that's the amount of fees you have expended to -- to get the signature on the decree --

MR. HERNANDEZ: Cor --

THE COURT: -- after you signed it?

1 MR. HERNANDEZ: Correct, Your Honor.
2 THE COURT: Is that what you're saying? Okay.
3 MS. RESCH: Well, one of the things that was not
4 mentioned in the motion is the main delay in signing the
5 decree of divorce was due to a scheduling issue wherein the
6 summer visitation that is the bulk amount of time that was
7 negotiated for our client to have the child was suddenly
8 thrown out the window because the child ended up being
9 enrolled in a year-round school. So the summer schedule was a
10 big issue. And that was one of the reasons that the whole --
11 THE COURT: Did that come up --
12 MS. RESCH: -- signature was delayed.
13 THE COURT: -- after the meeting with the settlement
14 master?
15 MS. RESCH: Yes, that came up after. We had further
16 negotiations after the settlement master, the settlement
17 conference and after we reduced the settlement agreement to
18 to writing.
19 MR. HERNANDEZ: Your Honor. I spoke to Mr. Naimi
20 prior to that. And he told me that we were -- that -- that
21 they were done with their client, and that they were just --
22 we were just going to sign the decree, and that we were just
23 going to con -- to sign the decree as is and the parties could
24 work that out on their own.

1 I agree that that is an issue that was brought up,
2 but that did not preclude him from signing the decree. And
3 Mr. Naimi informed me that they were just -- and they were the
4 ones that prepared the decree, Your Honor. And this issue
5 came up before we signed the decree
6 THE COURT: Just playing --
7 MR. HERNANDEZ: -- in September.
8 THE COURT: -- devil's advocate, but wouldn't that
9 isn't it prudent to get that taken care of instead of --
10 MR. HERNANDEZ:
11 THE COURT: -- coming back to court?
12 MR. HERNANDEZ: -- understand, Your Honor. And from
13 my understanding, there was a breakdown of communications. I
14 -- I was willing to talk about it. But apparently, there was
15 a breakdown of communication between opposing side on it. And
16 my client shouldn t be punished, Your Honor, for signing a
17 decree which they presented, and which they prepared, and
18 which we signed, and which we in good faith waited for it to
19 be resolved. We re happy to discuss that issue, but my client
20 shouldn't be penalized and my firm shouldn't be penalized for
21 ex -- expending these extra costs.
22 THE COURT: Well, did -- and and I get -- was the
23 one that you signed, it hasn't been changed? That's the one
24 that s submitted to the Court or was it changed since then?

1 MR. HERNANDEZ: No, Your Honor. That was the one
2 that was signed and submitted to the Court based on the
3 settlement documents, which we presented in our motion to

5 THE COURT: That -- that did contain -- did
6 did that contain the -- the issue with the resolution of the
7 issue of the summer schedule?
8 MR. HERNANDEZ: No, it did not, Your Honor.
9 THE COURT: So that still is out there?
10 MR. HERNANDEZ: Potentially, Your Honor. But, you
11 know, the child's schedule could change at any point. In the
12 future, he could go back to a traditional school schedule.
13 THE COURT: Okay.
14 MR. HERNANDEZ: spoke -- Mr. Naimi's office is
15 right next door to ours. So I've gone down there, and we've
16 talked about this. And you know, apparently, I've tried to
1 communicate this issue. We -- we were having an ice cream
18 social where we discussed this issue and it came up.
19 And I'd like to resolve this issue, Your Honor. But
20 at the end of the day, we agreed that we were just going to
21 sign the decree as is and move forward with it and the parties
22 could just resolve the issue on their own. That's what
23 Mr. Naimi and I came to an agreement on.
24 MS RESCH: And based on that, as soon as we got the

1 signed and executed decree from opposing Counsel, we did
2 provide it to our client. And unfortunately, we did not
3 receive the signed copy from our client until October 20th.
4 THE COURT: All right. I want to go back and look
5 at the paperwork. I -- I'm not -- you know, when stuff does
6 ultimately get settled, that doesn t really leave a lot of
7 room for attorney fees. I'm going to take a look at it and
8 take it under submission, okay?
9 MR. HERNANDEZ: Very good, Your Honor
THE COURT: All right. So you -- you've already
11 submitted your memorandum of costs or whatever it is that
13 MR. HERNANDEZ I submitted a supplemental exhibit
14 Your Honor, but I could prepare a Brunzell's factor of
15 memorandum if you would prefer that.
16 THE COURT: You know what let me look at it before
17 you do that. don't want to exacerbate fees, okay? So let
18 me look at it If I do -- if I do decide that I'm going to go
19 that direction then I would have you submit And -- and I ll
20 give you the opportunity to respond, okay?
21 MS. RESCH: Okay. Then I do have an order to
22 withdraw prepared pursuant to our motion. But if you would
23 prefer me not to submit that to you now, can hold off.
24 THE COURT: It s up to you.

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~~JA4380~~

JA4379

JA4381

Exhibit 16

Exhibit 16

JA4392

1 Q. **What was that period of time?**
2 A. 2013, 2014 or 2015, 2016.
3 Q. **But are there still pieces remaining to**
4 **be sold?**
5 A. There are not but there is a clause in
6 the agreement that says -- it's called a bonus
7 payment. And if the developer can sell his homes,
8 when he pro formas the sale, if he can meet his
9 pro forma, then he's good. If he can sell the
10 homes at a higher value, we get a lookback for a
11 quote, bonus payment, and that's to be determined
12 upon lookback.
13 Q. **Which will be when?**
14 A. I'm hoping the end of the year, that
15 calculation will be made, or the first part of next
16 year the calculation will be made. If any, if
17 there is a bonus payment.
18 Q. **And the monies that you received from**
19 **this investment totaled to date -- totaled**
20 **approximately how much?**
21 A. A little under $30,000, maybe 29, 28,
22 something like that.
23 Q. **And how did those monies flow to you?**
24 A. I believe I asked for a check to put in
25 GWA Advisors.

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JA4411

JA4411

GWA Consulting Income
9/1/2012 through 8/31/2013

	Fisherman	Mercer	Sapline Inc.	TOTAL Amount
			$23,000	$126,667
COO				10,556
			Credit Pers	
				$ 73,752
				$ 1,787
				$ 5,339
				$ 8,645
			Per Mo	
Tot Net Income				$ 6,328
				$ 2,031

JA441

JA442

Exhibit 2

JA4430

JA4432

JA4433

JA4432

JA

Exhibit 22

Exhibit 22

JA4444

JA4443

JA4445

JA4444

highly compensated job she now holds at RDI, but Bill Gould did not object to it or the compensation being given to her.

The Executive Committee

29. My sisters first proposed an executive committee as a means to avoid reporting to me or, as a practical matter, [redacted] construct, which was not implemented at that time. As part of the resolution of our disputes that they attempted to force me to accept in May and June 2015, described above, they included an executive committee construct that would have had them reporting to the executive committee that they, together with Guy Adams who is financially beholden to them, would control. As part of their seizure of control of RDI, in addition to terminating me as President and CEO, they activated and repopulated RDI's Board of Directors executive committee. That executive committee previously had never met and never made a decision. After it was activated and repopulated on June 12, 2015, it was used as a means to exclude me and then director Tim Storey, and to a lesser extent Bill Gould, from functioning as directors of RDI and, in some instances, even having knowledge of matters that were handled by the executive committee that historically and ordinarily were handled by RDI's Board of Directors.

The Supposed CEO Search

30. When RDI filed a Form 8-K with the SEC and issued a press release announcing the termination of me as President and CEO, RDI also announced that it would engage a search firm to conduct the search for a new President and CEO. The board empowered Ellen to select the search firm. Ellen selected Korn Ferry ("KF"). She explained to the RDI Board of Directors the she selected KF because KF offered a proprietary assessment tool, which would be used to assess the three finalists for the position of President and CEO, which assessment she asserted would "de-risk" the search process. The Board agreed. Ellen also told the Board that the three final candidates would be presented to the Board for interviews. The Board agreed. Ellen selected herself, Margaret, Bill Gould and Doug McEachern to be members of the CEO search committee, which the Board accepted without substantive discussion.

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directors less familiar with the details of the Company followed it. Not one of the directors other than Ellen indicated that they had taken any action at all, whether reviewing Company documentation, speaking with experts such as counsel or bankers or doing anything else at all, to prepare to discuss the Offer. At that meeting, Ellen also indicated that she and Margaret would oppose any response other than rejecting the Offer, and added that it was their belief that the Company should proceed on its course as an independent company. No director asked questions about whether and how the Company could ever actualize the supposed value Ellen claimed it had. None asked questions about whether management was preparing a business plan to do so or, for that matter, simply preparing a long-term or strategic business plan. None existed. Instead, Cotter directors simply ascertained that Ellen and Margaret wanted to reject the Offer and agree that the price offered was inadequate. They voted to proceed in the manner they recommended.

I declare under penalty of perjury under the laws of the State of Nevada, that the foregoing is true and correct.

DATED this 13th day of October, 2016

James J. Cotter, Jr.

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JA

JA4461

middle of a stay-at-home order, but that he would get that compensatory time --

MR. KELLEHER: -- you know --

THE COURT: I understand.

MR. KELLEHER: -- in the summer

COURT: I -- I --

MR. KELLEHER Yeah

THE COURT: -- get it

MR. KELLEHER: That --

THE COURT: And I --

MR. KELLEHER: That s it.

THE COURT: -- think that's reasonable. What I want to remind Dad, I want to take the opportunity to remind Dad because we went through this ad nauseam at the last hearing in October -- I mean, in December. If -- if he forfeits his time that's not make-up

MR. KELLEHER: No, I understand that, Your Honor And they -- and he didn't forfeit the time. There was -- there were emails, which I believe you have in a -- in a huge packet, back and forth that he just wanted the time to be made up because they weren't supposed to be flying. Everyone's on lockdown. And my understanding there s --

THE COURT: And not

MR. KELLEHER: an agreement --

THE COURT: -- not spring break. I'm talking about October. October, he said he wasn't going to take it.

MR. KELLEHER: Right. I --

THE COURT: So that's not make-up time. Okay. And that's all -- the only point I wanted to make is that he's asked yet again for make-up for something he forfeited and he can't do that. The --

MR. KELLEHER: Right.

THE COURT: -- spring break he has a point. So --

MR. KELLEHER: Right.

THE COURT: -- Mr. Crane, is there any specific reason why Dad shouldn't be made up his -- the time that he missed for spring break because of COVID? We're doing that with most cases here.

MR. CRANE: Yeah, absolutely not, Your Honor. In fact, my client has been trying to work with him on it and this is a nonissue as far as we're concerned.

THE COURT: Okay.

MR. KELLEHER: Okay.

THE COURT: Good. Let's get that scheduled. We have -- summer is upon us. We're already in the middle of June. So I don't want you to keep bickering about it until summer is all gone and now we've lost the opportunity to --

1 KELLEHER: Can I --

2 THE COURT: -- at least to have

3 MR. KELLEHER: Can I ask my client, right, can we

4 just add 10 days to whatever he gets this summer? Would that

6 MR. CRANE: Ten days?

7 MR. KELLEHER: You had him a week --

8 THE PLAINTIFF: I would --

9 MR. KELLEHER: plus

10 THE PLAINTIFF: -- agree with that.

11 MR. KELLEHER: -- both weekends.

12 THE COURT: Well --

13 MR. KELLEHER: I m sorry?

14 THE COURT: -- however many days spring break is

15 MR. KELLEHER: Yeah, you have a week. They have

16 five days plus both weekends. I know my kids love spring

17 break So it's one, two, five -- it's nine. It's nine days

18 MR. CRANE: I'll discuss that with my client, Your

19 Honor and we'll -- we ll have that discussion. And we can

20 discuss that on Thursday as well.

21 MR. KELLEHER: Well

22 THE COURT: No

23 MR. KELLEHER: -- respectfully Your Honor --

24 THE COURT: We're not going to --

MR. KELLEHER: -- can you just go

THE COURT: -- discuss it on Thursday at -- well because we're -- we're

MR. KELLEHER: Right.

THE COURT: -- we don't have this isn't being --

MR. KELLEHER: Right.

THE COURT: -- set for an hour hearing. Okay?

MR. CRANE: I understand

THE COURT: By Friday -

MR. CRANE:

THE COURT: -- by 5:00.

MR. CRANE: They're both it's a simple (indiscernible) --

THE COURT By Friday at 5:00 o'clock, Counsel are to have affirmed whatever time it is that Mom's going to have And again, I'm going to set it for a status check. So if that's left over then I guess deal with that at the status check.

Dad's motion for contempt for joint legal custody, all this stuff about the schools, the optometrist the dermatologist, the ENT, this is the kind of stuff we keep going around and around and around about. do like (indiscernible) her suggestion. Each party has until Friday at 5:00 to provide a list to the other party on

1 OurFamilyWizard of all healthcare providers with the date and
2 time of the next appointment. Okay.
3 Neither parent -- this is in this Court's standard
4 joint legal custody language, although the parties have their
5 own. But I'm adding it to theirs. Neither party may take the
6 child to a nonemergency healthcare appointment without advance
7 notice to the other party.
8 And when I say advanced notice, mean as soon as
9 you make that appointment the next thing you're to do is to
10 go on OurFamilyWizard and tell the other parent about the
11 parent -- about the appointment so that if they can, they have
12 the opportunity to to attend and participate.
13 It's always better - and I know it's probably
14 unrealistic in this case where the parents live out of state.
15 But it's always better when the parents can be there at the
16 same time to ask questions and whatnot with doctors so that
17 or whoever the professional is so that we don't have he said
18 she said about what the professional said if that can be
19 accomplished. Okay. And if that's the case, then only the
20 parents are to be there. We're not going to take significant
21 others because those -- the significant others in this case
22 seem to be a real thorn in each other's side.
23 Okay. Schools, if school zone changes for whatever
24 reason, Mom must immediately tell Dad because Dad has the

1 option and the legal right to explore different schools.
2 Okay. Just, it's not automatically by zone.
3 It s automatically by zone if you re not going to
4 explore private schools for whatever reason or, you know,
5 don't know, charter schools or -- or whatever. But it -- it
6 doesn't just automatically go by Mom's school zone. Okay
Dad still has the legal right to know what
8 school change is going to be and to be able to weigh in on
9 that if he thinks that Mom moved into an area where the schoo
0 is not a very good one, and he can maybe find an alternative.
11 He's got that right. So Mom does need to let him know as soon
12 as the school zone changes.
13 Dad's motion to -- Dad violated the behavior -- oh
14 yeah Mom's domestic partner violated the behavior order.
15 Well, Mom's domestic partner is not a party to the behavior
16 order. You know, the Court's not at all impressed, by the
1 way, by stepdad making some -- contacting the other parent in
18 this case where there's been so much litigation to contact and
19 make an offer to terminate parental rights.
20 That really is -- and so that would just - I
21 can think of no other reason to make that -- reach out and
22 make that offer than to inflame the other side. Okay. So 'm
23 not impressed with that. Stop it. Stop it. I think
24 already think that was the reason why we had -- why the

1 Court had made the behavior order was because well, I had
2 I've seen my note from that hearing. The Court has no
3 jurisdiction over third parties. The Court has jurisdiction
4 over the parties. Okay.
5 When stepdad starts that by or Mom's domestic
6 partner starts that by saying well, she doesn't know I'm
7 doing this. I'm suspect for that because everything Mom
8 writes says we So if they're we and they're a couple, I'm
9 sure she probably knows he might have done this. Okay.
10 So please don't. Both of you stop throwing gasoline
11 on this, okay, with your significant others. Please stop.
12 That's why we addressed it the last time. I'm not going to
13 find anybody in contempt, though because he's not a party to
14 the proceeding. Not impressed.
15 Dad's motion to reverse the sealed case Dad as a
16 party, he's entitled to all the documents he needs. So the
17 Court's not going to reverse the fact that the case is sealed.
18 Mom's motion for no contact with stepmom, okay, we get back to
19 this issue. Look, I'm going to look at the CPS records. You
20 know, they're -- again it makes a huge difference whether Mom
21 was -- you know, whether the child got beat to death or
22 whether it was like a scratch above his eye kind of thing. So
23 I'm satisfied with the Mom's not to be -- stepmom is not to be
left alone. Okay.

1 But 'm going to wait. 'm going to see what the
2 CPS records say. I'm going to get those right away, and 'll
3 let Counsel know on Thursday when we have our phone
4 conference. If -- if it is just like a mark under the eye and
5 there seems to be some explanation for that, I want to see why
6 they substantiated it. Sometimes they substantiate or
7 unsubstantiate for reasons that seem very odd to me. So
8 want to take a look at that
9 And meanwhile, the Court does say that if stepmom
10 takes a class equivalent to ABCs or triple P whatever is age
11 appropriate for this child, then it would be appropriate to
12 then resume contact. We already resolved the -- well, we're
13 going to resolve the issue of therapy. The parties agree to
14 that. Mom's motion for -- somebody brought up child custody
15 or maybe that was Dad -- on a child custody evaluation
16 That's --
17 MR. KELLEHER We -- we are
18 THE COURT: -- denied. The --
19 MR. KELLEHER: Yeah, we don't need a --
20 THE COURT: You don't have a
21 MR. KELLEHER: -- child custody evaluation.
22 THE COURT: -- motion to modify. Okay. There was
23 no motion to modify custody. You just want --
24 MR. KELLEHER Yeah we re we re not ask - I --

1 THE COURT: -- (indiscernible) --

2 MR. KELLEHER: Right.

3 THE COURT: Got it. Okay. If stepdad is taking

4 showers with this nine-year-old boy, he needs to stop it,

5 okay? don t know whether it's true or not. But if he is

6 stop it. It s not appropriate. It's not -- this child is not

7 his son. It s not appropriate

8 Hey, everybody's going to pay their own fees. This

9 go-around retirement issue is a novel ssue. I don t find

10 that anybody is being in bad faith or anybody has a frivolous

11 position here. Okay. We just again have acrimony -- high

12 levels of acrimony between these two people. So we'll have a

13 telephone conference then with Counsel about the therapy and

14 about the CPS records. And so whether or not -- when s Dad's

15 next time to visit?

16 MR. KELLEHER I'm sorry, Dad has his time now.

17 THE COURT: Oh, he s got the child right now?

18 MR. KELLEHER: Right That s why we're asking if we

19 can just extend out nine days on the spring on the -- on

20 the vacation because he's got him already. So rather than

21 bring him back, you know, or he can just extend the nine days

22 That's why we're asking.

23 THE COURT: Okay. Is -- is Dad working?

24 MR. KELLEHER: My -- my understanding, Your Honor,

is that my client is retired from the military, but don't know if he has other employment.

THE COURT: Well --

MR. KELLEHER: Yeah, I have no --

THE COURT: -- he's making over $11,000 a month working some -- for somebody.

MR. KELLEHER: Yeah, again, right apologize. didn't review his FDF. You can ask him, Your Honor.

THE COURT: Okay. So I want to know who's watching this child then if he says there's going to be no contact between stepmom and child -- or no unsupervised contact. Who's watching the child?

THE PLAINTIFF: Your -- Your Honor, I have one of my neighborhood friends that have kids watching him while I'm at work. And then I my days are fairly short because I also have the ability for remote work. So it should be a nonissue, and I get to see him m 'm back

THE COURT: No.

THE PLAINTIFF: -- either like --

THE COURT: It's an issue.

THE PLAINTIFF: -- 2:30, 2:00 o'clock.

THE COURT: It's not a nonissue Please tell me who

THE PLAINTIFF: I -- I --

THE COURT: -- name of the person is.

THE PLAINTIFF: Her name is Sherry (ph).

THE COURT: Sherry what?

THE PLAINTIFF: Soulier.

THE COURT: Pardon me?

THE PLAINTIFF: Soulier.

THE COURT: Do -- spell it.

THE PLAINTIFF: S-o-u-l-i-e-r.

THE COURT: S-o-u-l-i-e-r, is that correct? She's a neighbor of yours?

THE PLAINTIFF: Yeah. Yes. Your Honor.

THE COURT: She's watching the child when you're at work, or you're otherwise unavailable to be there personally with him, right?

THE PLAINTIFF: Correct. Your Honor.

THE COURT: Okay. So this child is -- will not be left alone with your wife until this issue gets resolved; is that correct?

THE PLAINTIFF: Completely, Your Honor. I have no issue with that.

THE COURT: Okay. And I believe that that's today. We're going to have a status check to put all these odds and ends and things. And, let me see about July 2nd at

1 10:00. Does that work, or 11:00? Actually, let's do 11:00.
2 MR KELLEHER: I m sorry can I just I really --
3 THE COURT: Sure
4 MR. KELLEHER: appreciate the opportunity I m
5 sorry, did you say July 11th?
6 THE COURT: No, I said July 2nd (indiscernible .
7 MR. KELLEHER: Oh, I apologize. July 2nd.
8 THE COURT Yeah, that -- I -- it's next to the
9 holiday day weekend. So if you can't make it, I understand.
10 MR. KELLEHER: No, Your Honor. could -- I -- I
11 don't know about opposing Counsel Did you say at 9:00 in the
12 morning?
13 THE COURT No at 11:00. 11:00 o clock.
14 MR. KELLEHER: could -- I could do that, Your

THE COURT Okay.
MR. CRANE: I actually have another hearing in
18 Department P at that time Your Honor.
19 THE COURT: Okay. All right. Let's find another
20 time. was looking for a time where I can squeeze in a
21 little bit more than just 15 minutes.
22 MR. CRANE: I'm open the rest of that day.
23 THE COURT: Yeah, well --
MR. KELLEHER Yeah, I I wish Your Honor. It

1 looks like --

2 THE COURT: The Court's not.

3 MR. KELLEHER: I'm sorry.

4 THE COURT: How about July 6th, then, on the Monday

5 at 10:00?

6 MR. CRANE: That works for me, Your Honor.

7 MR. KELLEHER: I'm sorry, Your Honor, that -- that

8 for whatever reason has like three hearings all bunched up.

9 So there's no way.

10 THE COURT: The -- the 7th at 9:00 -- or 9:00

11 actually, the 7th at 9:30?

12 MR. KELLEHER: And I'm sorry, I've got -- I -- I --

13 and you know what's happened, Your Honor, I know

14 probably with everybody is that because everything is pushed

15 like that -- that first few weeks of July is like a -- a

16 madhouse. It's a hearing. How -- is it possible

17 THE COURT: Okay. How about the 11th on July 13th?

18 That give you --

19 MR. KELLEHER: July 11th --

20 THE COURT: -- time to resolve all this stuff

21 anyway. July 13th at 11:00.

22 MR. KELLEHER: I'm sorry

23 MR. CRANE: I'm -- I'm in your courtroom just before

24 that. So that works fine for me, Your Honor.

THE COURT: Perfect.

MR. KELLEHER: That'll be fine, Your Honor. have a 10 -- I have a -- a 10:30 but that's like just a -- like kind of a status -- and that shouldn't well, it's Judge Moss, and she's wonderful. But sometimes she runs behind. So want to let --

THE COURT: As I'm running now.

MR. KELLEHER: Yeah. I'm just trying to like -- because I don t -- how -- how about the following day? Would that work?

THE COURT: How about -- you know what? I have -- I have Thursday at 10:00 o'clock the 16th and I have a whole hour at 10:00.

KELLEHER: That ll be fine

MR. CRANE: I'm good --

MR. KELLEHER: -- Your Honor

MR CRANE: I'm good on the 16th, Your Honor.

MR. KELLEHER: I'm sorry, July 16th?

THE COURT: Yes.

MR. KELLEHER: That'll be fine. That ll be great.

THE COURT: Okay. All right You got it. We'll block that whole one out so we have - so you can get the res of these odds and ends resolved. All right?

MR. KELLEHER: So --

MR. CRANE: July six --

MR. KELLEHER: -- I apologize Your Honor.

MR. CRANE: July -- July 16th

MR KELLEHER: Jul -- July --

MR CRANE: -- at 10:00 a.m Your Honor?

MR. KELLEHER: Okay.

THE COURT: July 16th at 10:00 o'clock.

MR. CRANE: Great. Thank you Your Honor

THE COURT: Okay?

MR. KELLEHER: And then, Your Honor

THE COURT: Mr. --

MR. KELLEHER: -- are -- are --

THE COURT: -- Crane, I'm going to have you prepare the order from today. You have two weeks to get it to Mr. Kelleher who has two weeks to sign it off. And talk to you on then -- whatever it was, Thursday. I' to you just about the CPS and about the therapist.

MR. KELLEHER And then respectfully, Your Honor, have you made a ruling then just so my client can make airline reservations, whatever he's doing, with the spring break? Is that resolved then so it's -- it's supervised -- 's on no

THE COURT: Apparently, it s not, so you all talk about it okay?

1 MR. CRANE: We have till 5:00 p.m. on Friday, John,
2 to discuss that.
3 MR. KELLEHER Okay.
4 THE COURT: Okay? All right.
MR. KELLEHER: All right.
6 THE COURT: Thank you.
7 MR. KELLEHER: Thank you.
8 THE COURT: Bye.
9 MR. CRANE: Thank you for your time, Your Honor.
10 MR. KELLEHER: Thank you, Your Honor
11 PROCEEDINGS CONCLUDED AT 11:16:20 A.M.
12
13 ATTEST: I do hereby certify that I have truly and
14 correctly transcribed the digital proceedings in the
15 above-entitled case to the best of my ability

Adrian Medrano

19 Adrian N. Medrano
20
21
22
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24

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ORIGINAL

FILED
DEC 24 2020
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERICH M. MARTIN, Plaintiff,	)	CASE NO. D-15-509045-D DEPT. C
vs.	)	**NV SUPREME CT. APPEAL NO. 81810**
RAINA L. MARTIN, Defendant.	)	**SEALED**

FINAL BILLING FOR TRANSCRIPTS

The office of Transcript Video Services filed transcripts for Kathleen A. Wilde, Esq., on December 24, 2020 for the following proceedings in the above-captioned case:

JUNE 2, 2015; OCTOBER 28, 2015; SEPTEMBER 22, 2016
JANUARY 12, 2017; JUNE 16, 2020

Original transcript and one copy were requested.

The transcript total is 204 pages, for a final cost of $536.09. A deposit in the amount of $375.00 was received on November 25, 2020. The balance of $161.09 was paid on December 24, 2020 directly to **Verbatim Reporting and Transcription**.

DATED this 24th day of December, 2020.

Maria Balagtas
Maria Balagtas, Legal Office Assistant II
Transcription Video Services

Balance of Paid in Full Check # _____ **CC#** 20-2317 **CASH** _____ **CLERK** _____

Received by: Kathleen Wilde **this** 30th **day of** December, **2020.**

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT

EIGHTH JUDICIAL DISTRICT COURT - TRANSCRIPT VIDEO SERVICES
601 N. Pecos Road, Las Vegas, Nevada 89101 (702) 455-4

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FILED
DEC 24 2020
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

ERICH M. MARTIN, Plaintiff,	)	CASE NO. D-15-509045-D DEPT. C
vs.	)	**NV SUPREME CT. APPEAL NO. 81810**
RAINA L. MARTIN, Defendant.	)	**SEALED**

RECEIPT OF COPY

RECEIPT OF COPY of Transcripts and Certification of the following proceeding in the above-captioned case:

JUNE 2, 2015; OCTOBER 28, 2015; SEPTEMBER 22, 2016
JANUARY 12, 2017; JUNE 16, 2020

Were filed December 24, 2020 for Kathleen A. Wilde, Esq., is hereby acknowledged this 30th day of December, 2020.

BY Kathleen Wilde
Kathleen A. Wilde, Esq.
10001 Park Run Drive
Las Vegas, NV. 89145

202

202

Electronically Filed
12/31/2020 1:04 PM
Steven D. Grierson
CLERK OF THE COURT

NOTC

DISTRICT COURT

CLARK COUNTY, NEVADA

ERICH M. MARTIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. D-15-509045-D
	)	DEPT NO. Q
RAINA L. MARTIN,	)	
	)	
Defendant.	)	
_____	)	

NOTICE OF RESCHEDULING OF HEARING

TO: ALL PARTIES AND/OR THEIR COUNSEL OF RECORD

Please be advised that the date and time of a hearing set before the Honorable Rebecca Burton , has been changed due to reassignment of case. The hearing presently scheduled for January 11, 2021, at 10:00 AM, has been rescheduled to January 12, 2021, at 10:00 AM , before the Honorable Bryce C. Duckworth , in Department Q.

Please be advised that counsel/pro se litigants will receive an e-mail approximately one (1) week prior to the new hearing date which will provide a Blue Jeans Link for that hearing.

HONORABLE BRYCE C. DUCKWORTH

By /s/ Kimberly Weiss
Kimberly Weiss
Judicial Executive Assistant
Department Q

CERTIFICATE OF SERVICE

I hereby certify that on the above file-stamped date, I caused a copy of the foregoing Notice of Rescheduling of Hearing to be:

: E-Served pursuant to NEFCR 9 on, or placed in the folder(s) located in the Clerk's Office of, the following attorneys:

Chad Clement, Esq.

Marshal Willick, Esq.

9 E-Served pursuant to NEFCR 9 on, or mailed postage prepaid, addressed to, the following litigants in Proper Person:

/s/ Kimberly Weiss
Kimberly Weiss
Judicial Executive Assistant
Department Q

ORDR
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
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3591 E. Bonanza Road, Suite 200
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Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: C DATE OF HEARING: 11/3/2020 TIME OF HEARING: 9:00 am

ORDER FROM THE NOVEMBER 3, 2020, HEARING

This matter came on for a hearing at the above date and time before th Honorable Rebecca Burton, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorn Richard L. Crane, Esq., of the WILLICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers and filed herein an entertaining argument from both sides, made the following findings and orders a follows:

THE COURT HEREBY FI NDS:

1. The Court has subject matter jurisdiction over this case, personal jurisdiction over the parties and child custody subject matter jurisdiction.[1]
2. If a Stay is to preserve the Status Quo then it would be not needed because Erich would still be making the monthly payments to Raina. That is the Status Quo, that is the Order of the Court.[2]
3. The Decree of Divorce is the Status Quo that Erich is trying to change. The Court enforced the Decree of Divorce and Erich has appealed the Court's enforcement.[3]
4. The Court has reviewed NRAP 8(c) and went through the factors and the object of the appeal. The Court finds that the object of the appeal for a few months might be defeated, but, the Court is not persuaded that the value of the appeal would be significantly reduced if Erich continued to make a few months of payments. In the big picture what we're looking at is the possibility of forty years or more of these payments.[4]
5. That real object of this appeal is that these payments will go on for many years[5]
6. Neither party is going to suffer irreparable or serious injury if the stay is denied or the stay is granted.[6]

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[1]Time Stamp 9:03:06 - 9:03:17

[2]Time Stamp 9:03:23 - 9:03:39

[3]Time Stamp 9:03:40 - 9:03:49

[4]Time Stamp 9:03:59 - 9:04:37

[5]Time Stamp 9:04:54 - 9:05:10

[6]Time Stamp 9:05:12 - 9:05:31

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7. $20,000 is not an unreasonable estimate as to the benefits payable during the pendency of the appeal.[7]

6KH ZLO

8. The consequences to Raina are greater because her income is smaller. ~~They'll~~ have to pay out funds to maintain her position while paying attorney's fees. She'll have to pay out funds to obtain her judgment.[8]

9. Erich can better afford to pay out funds to obtain his judgment after the fact, if we're looking to collect monies after the fact.[9]

10. Covid has really made everybody's income uncertain. There is a lot less predictability. Erich recently lost his job in March of 2020, I know Raina's income has been reduced because of her ~~production~~ UHGXFWL of hours caused by Covid so, there are some collection issues there, in that regard.[10]

11. Concerning whether Erich will likely prevail, the Court would like to think it's reasoning is sound, of course, recognizing that the issue is unresolved. Again, the Court did expect that this appeal would occur.[11]

12. The Court didn't make the decision it did off the top of it's head. It spent a considerable amount of time doing legal research and reviewing the law. The last cases that the Court cited were from a couple of months ago or less.[12]

13. NRCP 62(d)(2) states a party in entitled to a stay by providing a bond.[13]

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[7]Time Stamp 9:05:57 - 9:06:03

[8]Time Stamp 9:06:03 - 9:06:14

[9]Time Stamp 9:06:16 - 9:06:23

[10]Time Stamp 9:06:37 - 9:07:07

[11]Time Stamp 9:07:09 - 9:07:24

[12]Time Stamp 9:07:25 - 9:07:48

[13]Time Stamp 9:08:00 - 9:08:06

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14. The Court is inclined to grant the stay, but require Erich to pay however he wishes to do that.[14]

15. The Court likes Raina's idea of Erich continuing to pay the monthly payments into an attorney's trust account. That is a good reasonable approach.[15]

16. ~~I think that really is a good approach to it~~. Because then we won't have any overpayments or underpayments and we're not going to have collection issues at the end of the day and the funds are there.[16]

17. The Court would like confirmation going from Ms. Wilde to Mr. Crane that those monthly payments are being made.[17]

18. The Court did go through the factors about a bond and will put its thoughts about the matter on the record. [18]

19. The Collection Process is not complex but it would be easier for Erich than it would be for Raina, ~~but the Court does take note of that issue, as it was the Court involved when there was the spousal support issue~~.[19]

20. The time to obtain collection is going to depend on how cooperative everybody is. If it would be enforced, then of course there will be a motion and there's going to be a hearing and there's going to be a potential trial and arguments about how much the money is going to be, although that's probably not likely and there's not likely to be an appeal from that but that's always possible.[20]

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[14]Time Stamp 9:16:51 - 9:16:58

[15]Time Stamp 9:17:00 - 9:17:10

[16]Time Stamp 9:17:20 - 9:17:33

[17]Time Stamp 9:17:11 - 9:17:20

[18]Time Stamp 9:17:33 - 9:17:45

[19]Time Stamp 9:17:47 - 9:18:07

[20]Time Stamp 9:18:07 - 9:18:28

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21. Again, collections might be difficult on both sides just because of Covid.[21]

22. We have two professionals here. A dental hygienist and a retired military member who is in a management position now. We have two professionals who make very nice incomes and neither party is destitute by any means. They are fortunate to have the jobs that they do and to make the incomes that they are in light of Covid right now when a lot of people are hurting.[22]

23. The Court is going to require the monthly payment be made. That will avoid any additional costs. The monthly payment makes sense and will be sitting there, then there will be no collection issues at the end of the day.[23]

24. Erich needs to go ahead and pay the arrearages already reduced to judgment.[24]

25. The Court really wants Erich to begin making payments toward that judgment. Counsel is to talk about that and come up with a reasonable payment in addition to the regular monthly payment to start paying on that judgment. The Court would like it paid in no less than a year. You can use that as a kind of rule of thumb there but I want counsel to talk about it.[25]

26. If he wants to pay for a bond he can but it will be the $20,000 that's been requested because that is a reasonable amount.[26]

27. In considering the Motion for attorney's fees, the Court takes into consideration both parties financial circumstances Even though Nevada follows the American rule which means everyone pays their own legal fees, the Court recognizes that Erich's income currently is about three times as high as

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[21]Time Stamp 9:18:28 - 9:18:37

[22]Time Stamp 9:18:36 - 9:19:05

[23]Time Stamp 9:19:05 - 9:19:28

[24]Time Stamp 9:20:17 - 9:20:42

[25]Time Stamp 9:22:26-9:22:56

[26]Time Stamp 9:22:56 - :9:23:11

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Raina's income but Raina's expenses are reduced by her domestic partner and his very large income.[27]

28. When you balance out the household incomes, they are fairly equivalent. They are not wildly apart. The Court realizes that Raina's domestic partner is not obligated to pay anything for these proceeding.[28]

29. The Court is granting the stay and it would be appropriate because of the very large disparity of incomes between the two parties who are part of this process to have Erich contribute something toward Raina's attorney's fees because this is all, at the end of the day, going to effect her greater financially, who makes less money then Erich does. She has been effected by Covid more than Erich who is still making his full time income. Raina has reduced income.[29]

30. The Court is not inclined to grant all of the attorney fees[30] The Court does not want anybody being destitute by this, but Erich should pay something so he will contribute $5,000 to her atorney's fees[31]

31. The Court does want him to pay the $5,000. He has 30 days to get that done.[32]

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[27]Time Stamp 9:25:31 - 9:26:00

[28]Time Stamp 9:26:19 - 9:26:32

[29]Time Stamp 9:26:39 - 9:27:29

[30]Time Stamp 28:16 - 9:28:22

[31]Time Stamp 9:28:53 - 9:29:05

[32]Time Stamp 9:30:35 - 9:30:44

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IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of $845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney's Trust Fund or if he purchases a supersedeas bond of $20,000.
2. Erich's attorney is to provide the monthly account statement to Raina's attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the $5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of $20,000, the $5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina's request for attorney's fees is granted. Erich is to contribute $5,000 to her atorney's fees

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6. The $15,000 is due within 30 days from the date of the hearing.

DATED this ____ day of _____, 2020.

_____
DISTRICT COURT JUDGE

Dated this 21 day of December, 2020
Respectfully Submitted By:

WILLICK LAW GROUP

//s//Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 E. Bonanza Rd., Suite 200
Las Vegas, Nevada 89110
(702) 438-4100; Fax (702) 438-5311
Attorneys for Defendant

P:\wp19\MARTIN,R\DRAFTS\00467670.WPD/jj

Dated this ___ day of _____, 2020
Approved as to Form and Content By:

MARQUIS AURBACH COFFING

**SIGNATURE REFUSED*

CHAD F. CLEMENT, ESQ.
Nevada Bar No. 12192
KATHLEEN A. WILDE, ESQ.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Erich M Martin, Plaintiff	CASE NO: D-15-509045-D
vs.	DEPT. NO. Department C
Raina L Martin, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 12/31/2020

"Samira C. Knight, Esq. " .	Samira@tklawgroupnv.com
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DISTRICT COURT
CLARK COUNTY, NEVADA

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INTERIM CONDITIONS:

FUTURE HEARINGS:

				! "

ORDR
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
Nevada Bar No 2515
3591 E. Bonanza Road, Suite 200
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email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: Q DATE OF HEARING: 1/12/2021 TIME OF HEARING: 10:00 am

ORDER FROM THE JANUARY 12, 2021, HEARING

This matter came on for a hearing at the above date and time before the Honorable Bryce Duckworth, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorney, Richard L. Crane, Esq., of the WILLICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde of MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers filed herein and entertaining argument from both sides, made the following findings and orders:

THE COURT HEREBY FINDS:

1. This case is appropriate to be heard by the District Court as the issues raised are ancillary to the issues bought up on appeal.
2. Mr. Crane represented that CRSC pay is always accompanied by VA Disability Pay. The Court asked Mr. Martin directly if he was receiving VA Disability pay in addition to his CRSC pay. Mr. Martin replied that he was not receiving any VA disability pay.
3. Based on Mr. Martin's response, the Court finds that the Plaintiff's monthly income to be used in the calculation of Child Support is $13,022.16.
4. Based on Mr. Crane's request, discovery will be opened on the issue of VA Disability Pay.
5. Should Discovery result in there being VA Disability Pay that was not disclosed on the Plaintiff's Financial Disclosure Form, the amount of child support shall be recalculated appropriately.
6. The Court does not have its own standard Behavioral Order Language, but will accept any added and stipulated language.
7. Any previous financial Orders made by this Court's predecessor are still considered due and enforceable under the Court's contempt powers.
8. As the Child Support is up for review based on over three years having passed, attorney's fees will not be awarded to either party.

IT IS HEREBY ORDERED:

1. As of November 18, 2020, Child Support is set at $1,317 per month. Erich is to transmit the full amount to Raina on the first of every month. ~~After the 5th, any payments not made by then shall be considered late and interest shall be applied.~~
2. Discovery regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain open for 60 days.

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3. The Parties shall bear their own attorney's fees.

4. Mr. Crane is to draft the Order from today's hearing. Ms. Wilde is to review as to form and content.

DATED this____ day of_____ , 2021.

_____
DISTRICT COURT JUDGE

Dated this 22nd day of January , 2021
Respectfully Submitted By:

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
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Las Vegas, Nevada 89110
(702) 438-4100; Fax (702) 438-5311
Attorneys for Defendant

P:\wp19\MARTIN,R\DRAFTS\00477161.WPD/jj

Dated this day of , 2021
Approved as to Form and Content By:

MARQUIS AURBACH COFFING

**Signature Refused*

CHAD F. CLEMENT, ESQ.
Nevada Bar No. 12192
KATHLEEN A. WILDE, ESQ.
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Attorneys for Plaintiff

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Erich M Martin, Plaintiff	CASE NO: D-15-509045-D
vs.	DEPT. NO. Department Q
Raina L Martin, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 1/26/2021

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Richard Crane	richard@willicklawgroup.com

Erich Martin	emartin2617@gmail.com
Lennie Fraga	lfraga@maclaw.com
Christopher Phillips, Esq.	cphillips@fordfriedmanlaw.com
Rachel Tygret	rtygret@maclaw.com
Cally Hatfield	chatfield@maclaw.com
Suzanne Boggs	sboggs@maclaw.com

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Steven D. Grierson
CLERK OF THE COURT

NEOJ
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
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email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: Q

NOTICE OF ENTRY OF ORDER FROM THE NOVEMBER 3, 2020, HEARING

TO: ERICH MARTIN, Plaintiff.

TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.

PLEASE TAKE NOTICE that an Order from the November 3, 2020, Hearing was duly entered in the above action on the 31st day of December, 2020, a true a

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correct copy of which is attached herein.

DATED this 28th day of January, 2021.

WILLICK LAW GROUP

// s// Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 28th day of January, 2021, I caused the above and foregoing document to be served as follows:

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

[ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.

[ ] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

[ ] by hand delivery with signed Receipt of Copy.

[ ] by First Class, Certified U.S. Mail.

To the person(s) listed below at the address, email address, and/or facsimile number indicated:

CHAD F. CLEMENT, ESQ.
KATHLEEN A. WILDE, ESQ.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Plaintiff

/s/Justin K. Johnson

An Employee of the WILLICK LAW GROUP

P:\wp19\MARTIN,R\DRAFTS\00479643.WPD/jj

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email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: C DATE OF HEARING: 11/3/2020 TIME OF HEARING: 9:00 am

ORDER FROM THE NOVEMBER 3, 2020, HEARING

This matter came on for a hearing at the above date and time before th Honorable Rebecca Burton, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorn Richard L. Crane, Esq., of the WILLICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers and filed herein an entertaining argument from both sides, made the following findings and orders a follows:

THE COURT HEREBY FINDS:

1. The Court has subject matter jurisdiction over this case, personal jurisdiction over the parties and child custody subject matter jurisdiction.[1]

2. If a Stay is to preserve the Status Quo then it would be not needed because Erich would still be making the monthly payments to Raina. That is the Status Quo, that is the Order of the Court.[2]

3. The Decree of Divorce is the Status Quo that Erich is trying to change. The Court enforced the Decree of Divorce and Erich has appealed the Court's enforcement.[3]

4. The Court has reviewed NRAP 8(c) and went through the factors and the object of the appeal. The Court finds that the object of the appeal for a few months might be defeated, but, the Court is not persuaded that the value of the appeal would be significantly reduced if Erich continued to make a few months of payments. In the big picture what we're looking at is the possibility of forty years or more of these payments.[4]

5. That real object of this appeal is that these payments will go on for many years[5]

6. Neither party is going to suffer irreparable or serious injury if the stay is denied or the stay is granted.[6]

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[2]Time Stamp 9:03:23 - 9:03:39

[3]Time Stamp 9:03:40 - 9:03:49

[4]Time Stamp 9:03:59 - 9:04:37

[5]Time Stamp 9:04:54 - 9:05:10

[6]Time Stamp 9:05:12 - 9:05:31

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7. $20,000 is not an unreasonable estimate as to the benefits payable during the pendency of the appeal.[7]

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8. The consequences to Raina are greater because her income is smaller. ~~They'll~~ have to pay out funds to maintain her position while paying attorney's fees. She'll have to pay out funds to obtain her judgment.[8]

9. Erich can better afford to pay out funds to obtain his judgment after the fact, if we're looking to collect monies after the fact.[9]

10. Covid has really made everybody's income uncertain. There is a lot less predictability. Erich recently lost his job in March of 2020, I know Raina's income has been reduced because of her ~~production~~ UHGXFWL of hours caused by Covid so, there are some collection issues there, in that regard.[10]

11. Concerning whether Erich will likely prevail, the Court would like to think it's reasoning is sound, of course, recognizing that the issue is unresolved. Again, the Court did expect that this appeal would occur.[11]

12. The Court didn't make the decision it did off the top of it's head. It spent a considerable amount of time doing legal research and reviewing the law. The last cases that the Court cited were from a couple of months ago or less.[12]

13. NRCP 62(d)(2) states a party in entitled to a stay by providing a bond.[13]

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[8]Time Stamp 9:06:03 - 9:06:14

[9]Time Stamp 9:06:16 - 9:06:23

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[11]Time Stamp 9:07:09 - 9:07:24

[12]Time Stamp 9:07:25 - 9:07:48

[13]Time Stamp 9:08:00 - 9:08:06

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14. The Court is inclined to grant the stay, but require Erich to pay however he wishes to do that.[14]

15. The Court likes Raina's idea of Erich continuing to pay the monthly payments into an attorney's trust account. That is a good reasonable approach.[15]

16. ~~I think that really is a good approach to it~~. Because then we won't have any overpayments or underpayments and we're not going to have collection issues at the end of the day and the funds are there.[16]

17. The Court would like confirmation going from Ms. Wilde to Mr. Crane that those monthly payments are being made.[17]

18. The Court did go through the factors about a bond and will put its thoughts about the matter on the record. [18]

19. The Collection Process is not complex but it would be easier for Erich than it would be for Raina, ~~but the Court does take note of that issue, as it was the Court involved when there was the spousal support issue~~.[19]

20. The time to obtain collection is going to depend on how cooperative everybody is. If it would be enforced, then of course there will be a motion and there's going to be a hearing and there's going to be a potential trial and arguments about how much the money is going to be, although that's probably not likely and there's not likely to be an appeal from that but that's always possible.[20]

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[16]Time Stamp 9:17:20 - 9:17:33

[17]Time Stamp 9:17:11 - 9:17:20

[18]Time Stamp 9:17:33 - 9:17:45

[19]Time Stamp 9:17:47 - 9:18:07

[20]Time Stamp 9:18:07 - 9:18:28

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21. Again, collections might be difficult on both sides just because of Covid.[21]

22. We have two professionals here. A dental hygienist and a retired military member who is in a management position now. We have two professionals who make very nice incomes and neither party is destitute by any means. They are fortunate to have the jobs that they do and to make the incomes that they are in light of Covid right now when a lot of people are hurting.[22]

23. The Court is going to require the monthly payment be made. That will avoid any additional costs. The monthly payment makes sense and will be sitting there, then there will be no collection issues at the end of the day.[23]

24. Erich needs to go ahead and pay the arrearages already reduced to judgment.[24]

25. The Court really wants Erich to begin making payments toward that judgment. Counsel is to talk about that and come up with a reasonable payment in addition to the regular monthly payment to start paying on that judgment. The Court would like it paid in no less than a year. You can use that as a kind of rule of thumb there but I want counsel to talk about it.[25]

26. If he wants to pay for a bond he can but it will be the $20,000 that's been requested because that is a reasonable amount.[26]

27. In considering the Motion for attorney's fees, the Court takes into consideration both parties financial circumstances Even though Nevada follows the American rule which means everyone pays their own legal fees, the Court recognizes that Erich's income currently is about three times as high as

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[22]Time Stamp 9:18:36 - 9:19:05

[23]Time Stamp 9:19:05 - 9:19:28

[24]Time Stamp 9:20:17 - 9:20:42

[25]Time Stamp 9:22:26-9:22:56

[26]Time Stamp 9:22:56 - :9:23:11

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Raina's income but Raina's expenses are reduced by her domestic partner and his very large income.[27]

28. When you balance out the household incomes, they are fairly equivalent. They are not wildly apart. The Court realizes that Raina's domestic partner is not obligated to pay anything for these proceeding.[28]

29. The Court is granting the stay and it would be appropriate because of the very large disparity of incomes between the two parties who are part of this process to have Erich contribute something toward Raina's attorney's fees because this is all, at the end of the day, going to effect her greater financially, who makes less money then Erich does. She has been effected by Covid more than Erich who is still making his full time income. Raina has reduced income.[29]

30. The Court is not inclined to grant all of the attorney fees[30] The Court does not want anybody being destitute by this, but Erich should pay something so he will contribute $5,000 to her atorney's fees[31]

31. The Court does want him to pay the $5,000. He has 30 days to get that done.[32]

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[29]Time Stamp 9:26:39 - 9:27:29

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[32]Time Stamp 9:30:35 - 9:30:44

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IT IS HEREBY ORDERED:

1. The Stay is granted as long as Erich either makes the ordered monthly payments of $845.43, plus any applicable cost of living adjustment, during the pendency of the appellate proceedings to an Attorney's Trust Fund or if he purchases a supersedeas bond of $20,000.
2. Erich's attorney is to provide the monthly account statement to Raina's attorney within five days of the payment where the monies were deposited.
3. If Erich decides to make the monthly payments as described above, the $5,918.01 in arrears already reduced to judgment shall also be deposited into the same account as the monthly payments. This amount will continue to accumulate statutory interest until deposited.
4. If Erich purchases a supersedeas bond of $20,000, the $5,918.01 in arrears already reduced to judgment is still due and will continue to accumulate statutory interest.
5. Raina's request for attorney's fees is granted. Erich is to contribute $5,000 to her atorney's fees

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(702) 438-4100

6. The $15,000 is due within 30 days from the date of the hearing.

DATED this _____ day of _____, 2020.

_____
DISTRICT COURT JUDGE

Dated this 21 day of December, 2020
Respectfully Submitted By:

WILLICK LAW GROUP

//s//Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
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Las Vegas, Nevada 89110
(702) 438-4100; Fax (702) 438-5311
Attorneys for Defendant

P:\wp19\MARTIN,R\DRAFTS\00467670.WPD/jj

Dated this ___ day of _____, 2020
Approved as to Form and Content By:

MARQUIS AURBACH COFFING

**SIGNATURE REFUSED*

CHAD F. CLEMENT, ESQ.
Nevada Bar No. 12192
KATHLEEN A. WILDE, ESQ.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Erich M Martin, Plaintiff	CASE NO: D-15-509045-D
vs.	DEPT. NO. Department C
Raina L Martin, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 12/31/2020

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Cally Hatfield	chatfield@maclaw.com

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CLERK OF THE COURT

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email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: Q

NOTICE OF ENTRY OF ORDER FROM THE JANUARY 12, 2021, HEARING

TO: ERICH MARTIN, Plaintiff.

TO: KATHLEEN A. WILDE, ESQ., Attorney for Plaintiff.

PLEASE TAKE NOTICE that an Order from the January 12, 2021, Hearing was duly entered in the above action on the 26th day of January, 2021, a true and

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correct copy of which is attached herein.

DATED this 28th day of January, 2021.

WILLICK LAW GROUP

// s// Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Attorneys for Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 28th day of January, 2021, I caused the above and foregoing document to be served as follows:

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

[ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.

[ ] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.

[ ] by hand delivery with signed Receipt of Copy.

[ ] by First Class, Certified U.S. Mail.

To the person(s) listed below at the address, email address, and/or facsimile number indicated:

CHAD F. CLEMENT, ESQ.
KATHLEEN A. WILDE, ESQ.
Marquis Aurbach Coffing
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorney for Plaintiff

/s/Justin K. Johnson

An Employee of the WILLICK LAW GROUP

P:\wp19\MARTIN,R\DRAFTS\00479646.WPD/jj

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email@willicklawgroup.com
Attorney for Defendant

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: Q DATE OF HEARING: 1/12/2021 TIME OF HEARING: 10:00 am

ORDER FROM THE JANUARY 12, 2021, HEARING

This matter came on for a hearing at the above date and time before th Honorable Bryce Duckworth, District Court Judge, Family Division. Defendant, Raina Martin, was present by video and was represented by and through her attorn Richard L. Crane, Esq., of the WILLICK LAW GROUP, and Plaintiff, Erich Martin, was present by video and represented by and through his attorney, Kathleen A. Wilde MARQUIS AURBACH COFFING.

The Court, having reviewed the pleadings and papers filed herein an entertaining argument from both sides, made the following findings and orders:

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3591 East Bonanza Road
Suite 200
Las Vegas, NV 89110-2101
(702) 438-4100

THE COURT HEREBY FINDS:

1. This case is appropriate to be heard by the District Court as the issues raised are ancillary to the issues bought up on appeal.
2. Mr. Crane represented that CRSC pay is always accompanied by VA Disability Pay. The Court asked Mr. Martin directly if he was receiving VA Disability pay in addition to his CRSC pay. Mr. Martin replied that he was not receiving any VA disability pay.
3. Based on Mr. Martin's response, the Court finds that the Plaintiff's monthly income to be used in the calculation of Child Support is $13,022.16.
4. Based on Mr. Crane's request, discovery will be opened on the issue of VA Disability Pay.
5. Should Discovery result in there being VA Disability Pay that was not disclosed on the Plaintiff's Financial Disclosure Form, the amount of child support shall be recalculated appropriately.
6. The Court does not have its own standard Behavioral Order Language, but will accept any added and stipulated language.
7. Any previous financial Orders made by this Court's predecessor are still considered due and enforceable under the Court's contempt powers.
8. As the Child Support is up for review based on over three years having passed, attorney's fees will not be awarded to either party.

IT IS HEREBY ORDERED:

1. As of November 18, 2020, Child Support is set at $1,317 per month. Erich is to transmit the full amount to Raina on the first of every month. ~~After the 5th, any payments not made by then shall be considered late and interest shall be applied.~~
2. Discovery regarding the VA Disability Pay issue is open as of the January 12, 2021, and shall remain open for 60 days.

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(702) 438-4100

3. The Parties shall bear their own attorney's fees.

4. Mr. Crane is to draft the Order from today's hearing. Ms. Wilde is to review as to form and content.

DATED this____ day of_____ , 2021.

_____
DISTRICT COURT JUDGE

Dated this 22nd day of January , 2021
Respectfully Submitted By:

WILLICK LAW GROUP

// s // Richard L. Crane, Esq.

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
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Attorneys for Defendant

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Dated this day of , 2021
Approved as to Form and Content By:

MARQUIS AURBACH COFFING

**Signature Refused*

CHAD F. CLEMENT, ESQ.
Nevada Bar No. 12192
KATHLEEN A. WILDE, ESQ.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711; Fax (702) 382-5816
Attorneys for Plaintiff

CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Erich M Martin, Plaintiff	CASE NO: D-15-509045-D
vs.	DEPT. NO. Department Q
Raina L Martin, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Service Date: 1/26/2021

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Suzanne Boggs	sboggs@maclaw.com

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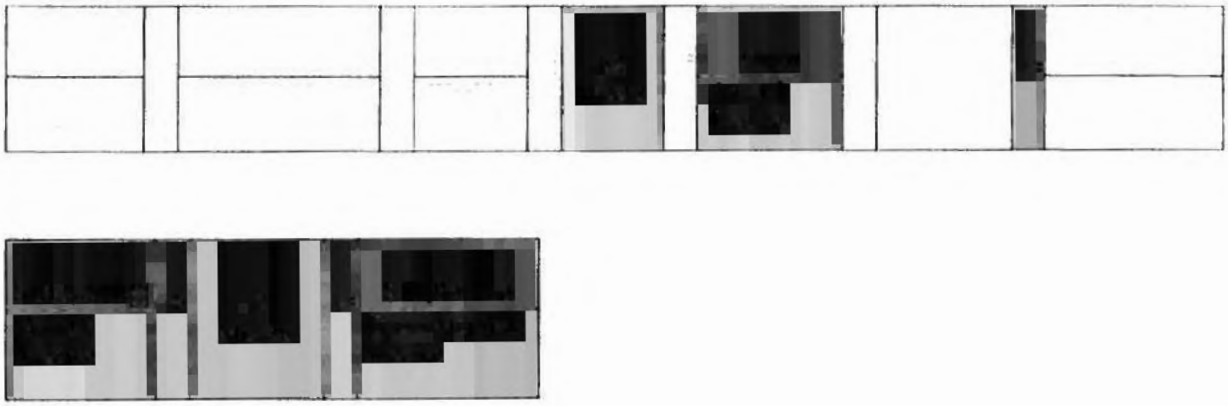

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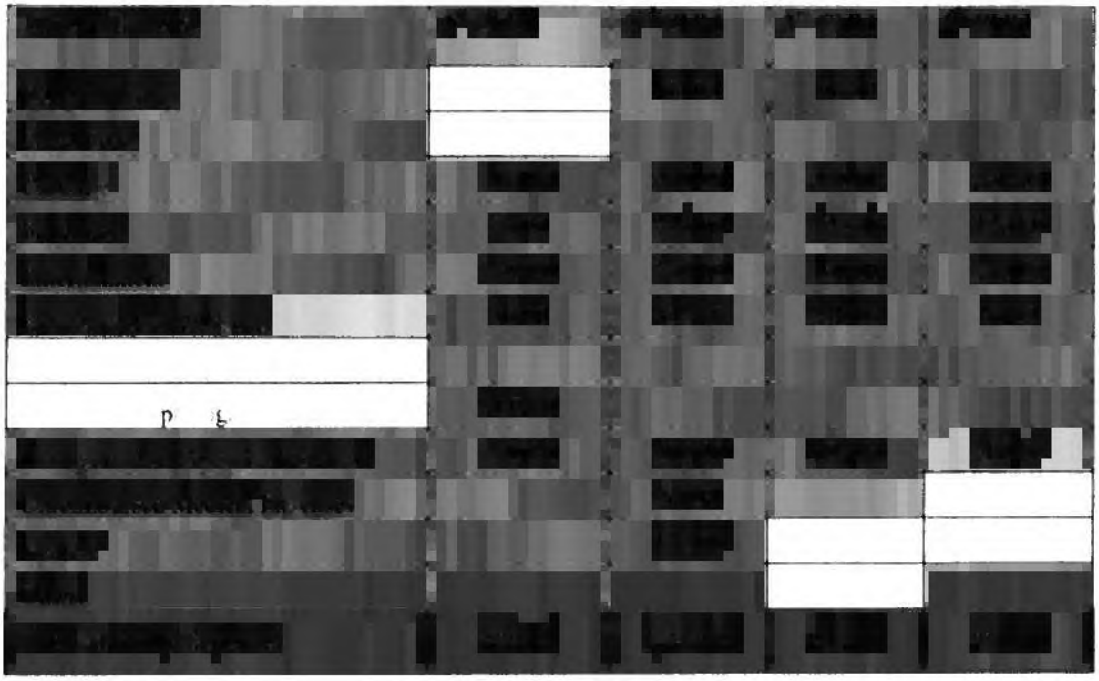

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Steven D. Grierson
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA
****

Erich M Martin, Plaintiff vs. Raina L Martin, Defendant.	Case No.: D-15-509045-D Department Q

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees in the above-entitled matter is set for hearing as follows:

Date: March 23, 2021

Time: 9:00 AM

Location: Courtroom 21
Family Courts and Services Center
601 N. Pecos Road
Las Vegas, NV 89101

NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Desiree Darris
Deputy Clerk of the Court

CERTIFICATE OF SERVICE

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Desiree Darris
Deputy Clerk of the Court

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Electronically Filed
2/11/2021 9:22 AM
Steven D. Grierson
CLERK OF THE COURT

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Steven D. Grierson
CLERK OF THE COURT

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OPPC
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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff, vs. RAINA MARTIN, Defendant.	CASE NO: D-15-509045-D DEPT. NO: C DATE OF HEARING: TIME OF HEARING:

ORAL ARGUMENT Yes _x_ No ___

OPPOSITION TO MOTION FOR VOLUNTARY INCREASE OF CHILD SUPPORT, DISCONTINUATION OF DISCOVERY AND ATTORNEY'S FEES AND COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS AND RELATED RELIEF AS TO POSSIBLE RULE 11 SANCTIONS

I. INTRODUCTION

Raina's FDF filed on November 18, 2020, remains correct and there have bee no material change in her financial disclosure. This is submitted in compliance witl EDCR 5.507.

Erich's Motion is a mess both procedurally and factually. We tried to point this out to opposing counsel, but they ignored anything we told them.

Nearly everything they claim is without merit and is not supported by any competent evidence.

Throughout this case, we have had to deal with Erich lying to us and to Raina. This was also pointed out to opposing counsel, but they took that as an attack on their client and on their skills as lawyers. They refused to accept that the facts of the case proved out his continued lies and misrepresentations.

We have dealt with this as best we could. However, when he lies to the Court when asked directly if he has any other income and he says no, it is perjury.

This is a word that we do not use lightly. But it is time that Erich learn that you can't continue to cover your tracks by lying.

As this Court is aware, there was a fairly recent case where a man submitted a known fraudulent document to the Court concerning a child custody matter. He was criminally charged for doing so and is currently serving a three year sentence in the Nevada Department of Correction. Lying to the Court, submitting documents that have known errors included, and making claims that documents supporting their claim were provided to us, are serious matters that tear down the fundamental processes of our judiciary. In other words, he needs to be held accountable.

As a final opening note, it was our intention to produce and serve a Motion for Rule 11 Sanctions to opposing counsel for their failures in conducting the most basic of investigations prior to the filing of the current Motion. However, they now have requested that this matter be heard on shortened time, so we were unable to get it served in accordance with the Rule.[1] The Court retains the authority under NRCP

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[1] NRCP 11(c)(2) Motion for Sanctions. A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b). The motion must be served under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets. If warranted, the court may award to the prevailing party the reasonable expenses, including attorney fees, incurred for presenting or opposing the motion.

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11(c)(3) to "order an attorney, law firm, or party to show cause why conduct specifically described in the order has not violated Rule 11(b)."

II. FACTS

This Court, having read and reviewed the prior pleadings in this matter is fully aware of the facts of this case. Therefore, we will only present a few relevant facts here, specifically the mischaracterizations that are made in the Motion.

Erich did file an updated FDF on December 11, 2020, but the indicated income was misstated. Specifically, he claimed on the FDF page 2 that his monthly gross income was $10,620 per month. However, his attached pay stubs indicate that his income was actually $11,505 per month.[2] Almost $900 more than he claimed.

Erich's income was notably lower than the FDF filed in June 2020, but not for the reasons stated in the Motion. It was lower because he purposefully miscalculated his monthly income from employment and did not include the VA benefits to which he is entitled. At no time, did we ever consider his current wife's income in any calculations.[3] It is also notable that his June FDF was more accurate – being filed while he was in proper person – then the one where he had assistance of counsel.

Erich's Exhibit 2, was never produced to counsel. Had it been produced, knowing that he was eligible to receive the benefits, we could have assisted in getting the issue resolved. This might also have precluded the filing of any other motions or the implementation of any discovery. However, he did not disclose this to us or to the Court.

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[2] $5,310 every two weeks equals an annual salary of $138,060. This amount divided by 12 equals $11,505.

[3] Opposing Counsel has made this claim at every hearing since they appeared in the case. Judge Burton dismissed this as he did the calculation and proved that it did not include his wife's income.

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It is important to note that according to the letter, they were withholding the benefits to pay a debt he had to the government. In other words, he was still receiving the gross benefit, it was just paying a debt. He still lied to the Court concerning the receipt of these funds.

We were last before the Court on the morning of January 12. At that hearing, undersigned counsel made an assertion as an officer of the court that everyone that receives CRSC also receives VA disability compensation.[4] The Court opened discovery after Erich "twice" told the Court that he was not receiving these benefits.

After the hearing, undersigned Counsel called the VA to determine the benefits that Erich was receiving.[5] The response was $3,823.57.[6] However, we did not have evidentiary support of this number, so the subpoena was necessary to obtain the information to prove that Erich misrepresented his income to the Court. The subpoena was sent on January 15, 2021, asking only for information concerning Erich's disability payments.[7]

The letter from the VA that opposing counsel provided clearly does not say his benefits were suspended, only that "Your monetary compensation has been appropriately updated and amended..."[8] Additionally, the letter sent by Opposing Counsel misrepresented his VA compensation saying that it was $2,842.98 and did all of their child support calculations using this clearly erroneous number.[9]

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[4] CRSC is paid by the Defense Finance and Accounting Service (DFAS) and the VA benefits come from the Veterans Administration.

[5] This information is public record and can be disclosed with a phone call.

[6] So, on the date of the hearing, Erich was entitled to $3,823.57 per month in VA disability.

[7] The Court is well aware of the requests included in the subpoena as it required this Court's signature to be issued.

[8] See Plaintiff's Exhibits 3 and 4.

[9] See Plaintiff's Exhibit 4, second paragraph.

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Armed with the knowledge that on January 12, Erich's VA compensation was nearly $4,000 per month, we declined their offer to sign the proposed Stipulation and Order as it would still have shorted our client a significant sum.

Erich then claims in his factual statement that our discovery requests are somehow intrusive and exhaustive. Of course, no discovery conference was ever held stating their objections as required by EDCR 5.602. Additionally, if there was such an objection to our requests, this same rule states:

> Unless otherwise ordered, all discovery disputes (except disputes presented at a pretrial conference or at trial) must first be heard by the discovery hearing master.

No discovery motion has been filed and bringing it before this Court is a waste of judicial resources[10]

On February 8, 2021, Opposing Counsel sent a letter again asking that we stipulate to a child support amount of $1,529.99. The letter included a statement:

> Candidly, I find it difficult to understand why your client is opposed to stipulated child support in an amount greater than what she requested in her November 2020 motion."[11]

Contrary to her assertion, that the request was "not fruitful," we responded on the same date stating:

> As to your offered support, we can see how you came up with your numbers, but none of it is supported by any documentation. Before we can stipulate to a child support amount we would need to see a new FDF with all of the income supported by pay stubs or other proof of income. At a minimum, we should see a current (from this year) CRSC statement, any Retiree Account Statements (RAS) from DFAS, at least one pay stub showing the new income, and a statement from the VA showing the amount he is receiving.
>
> Additionally, we already have the subpoena issued to the VA and they have acknowledged receipt. We want to see what that subpoena produces and will copy you with the results.[12]

The letter went on to say:

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[10] We maintain that our requests are and remain relevant based on the papers/pleadings, and oral representations presented to this Court.

[11] See Defendant's Exhibit A, copy of letter from Ms. Wide received on February 8.

[12] See Defendant's Exhibit B, copy of letter to Ms. Wide sent on February 8.

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> If you can wait until the subpoena is responded to and can get an updated FDF on file, we may be able to resolve the child support issue. If you feel you must file a Motion before doing those things, we will be pointing out all of the above to Judge Duckworth and will again ask fees.

In other words, if Erich would file a new and correct FDF and await the response from the VA, we may have been able to resolve the case.

Erich filed his Motion for Voluntary Increase of Child Support, Discontinuation of Discovery, and Attorney's Fees and a new FDF on February 10, 2021.

This Opposition follows.

III. OPPOSITION

We will deal with all of the procedural problems with their Motion after we address the main issues presented.

A. Erich's FDF Still Misstates His Income

We argued at the last hearing that Erich had filed an FDF that misstated his income. He has filed a new FDF that does the same thing. Specifically, neither Erich nor his Counsel took to the time to actually check the numbers presented to the Court. Worse still, they use these wrong numbers to calculate the support.

Looking at the letter from the VA, the Court can see that his VA benefits are listed as $3,823.57. The CRSC payment is listed as $2,394.18. These two numbers represent the total of his disability income. They total $6,217.75. His FDF indicates that his disability income is $5,245.04. He misstates his income hereby $972.71 per month.

This is a simple calculation that should have been checked by his counsel before filing the FDF. Even though we warned them of this type of error, they did not review the FDF to determine if it was misrepresenting his income.[13]

[13] See Exhibit C, email from Richard Crane sent to Ms. Rachel Tygret on December 28, 2020.

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Clearly, Erich and his Counsel were more concerned with taking a jab at Raina by listing her property award as "Disability Payments to Raina" on page three of the FDF under Monthly Deductions – Other, and as an "indemnification" payment in the Motion at page 6 of 13.[14]

Ms. Wilde in her Motion states that the total gross income of Erich is $17,095.19. The calculations for child support all stem from this erroneous number. His actual monthly income is $18,068.[15]

Though we could argue that until Raina actually receives the property award that is being held in trust by Erich's Counsel, it should be included in the child support calculation we instead, will subtract what is being held in trust, leaving a monthly income of $17,211.71. This is the number that should be used for the calculation of the child support. Had Ms. Wilde simply filed the FDF, we would have pointed out her errors and there would be no need for their Motion or this Opposition. But they refused to even consider our request to wait on the Motion until a new FDF was on file and the results of the VA subpoena were received.

These errors amplify why we requested the discovery that was served on Erich through his Counsel. Once proof was produced, we could accurately determine his actual income.

Further, as we pointed out to the Court at the last hearing, the FDF is either inflated as to expenses or Erich is a spendthrift. He is currently making $216,816 per year. However, he lists a total of $24,844.91 per month in deductions and expenses.

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[14] They are attempting to create a narrative that the money Erich was ordered to pay to Raina is anything but the property award he agreed to pay at the time of divorce.

[15] CRSC of $2,394.18 plus VA benefits of $3,823.67 plus monthly pay of $11,850.15 equals $18,068.

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This is a total of $298,138.92 per year or a deficit of $81,322.92 per year or $6,776.91 a month. This is unsustainable.[16]

We do know that his claim of spending $675 per month on his only natural child is completely bogus as he pays virtually nothing beyond his child support and it has been a battle to get him to pay anything other than the child support.

Since the FDF is still unreliable as to the numbers included in the form, we must rely solely on the pay stubs. The child support argument in the Motion is plain wrong. Based on the numbers from the pay stubs the actual child support amount is $1,568.48.[17] Had Erich or his counsel provided these documents before filing a Motion we may have been able to avoid this round of litigation.

B. Discovery Remains Relevant

As can be seen thus far in this Opposition, Erich attempted to pass off numbers to Raina with no FDF and no actual supporting documents. His Counsel even misstated his VA benefits by $1,000 in the letter where she attempted to have Raina sign away her rights to the correct numbers.

The Court granted us the authority to issue discovery to prove that Erich misrepresented his income – specifically as to his VA disability. Though we have not seen the results of the subpoena, we knew on the day of the hearing that Erich had lied to the Court as to his income. We still want to see what they claimed were these "debts" that his VA benefits were being garnished to satisfy.

No matter what they were supposed to be repaying, they were, for all intent and purposes, still being received by Erich to satisfy an obligation. That is what he should have told the Court.

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[16] If his current wife is making over this amount each month, she has obtained a significant pay increase over the $2,800 per month she was contributing in June.

[17] See Child support calculation attached as Exhibit D.

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Counsel argues that the issue of "candor" to the Court is important, but it isn't important enough to get to the truth. First, candor to the Court is a responsibility of Erich's Counsel. NRPC 3.3 states:

> (a) A lawyer shall not knowingly:
> (1) Make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
> (2) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
> (3) Offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

Here, Ms. Tygret and Ms. Wilde were on notice that their client had misrepresented his income in the FDF filed in December.[18] Even though they knew, they never verified that the numbers in the FDF were actually correct. It is their failure to do the proper Rule 11 investigation before filing the Motion. This is sanctionable by this Court.

What actually happened here, was that Erich lied directly to the Court about his VA disability payments. He has either received them directly each month or they were applied to his debts. Either way, he misled the Court as to his gross income at the last hearing. This rises to the level of perjury, as the Court directly asked him twice if he was receiving any VA benefits. It was a lie to say no.

Now we come to the letter that is first produced as an exhibit in their Motion that says his benefits were suspended. This should have been provided to counsel without even asking. But, they slip it in as an exhibit trying to make it look like this information was disclosed. The subpoena will produce this letter.

Most importantly here, is that Erich does not apologize to the Court or to Raina for his causing this extra work in opening discovery. He did not even attempt to

[18] See Exhibit C.

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explain to the Court why he was not receiving benefits. He just sat silent hoping that we would not find this extra $3,823 he was receiving.

Allowing a litigant to lie – either by commission or omission – directly to the Court tears at the heart of our judiciary. It engenders distrust in the system and punishes the innocent. Yes, Erich should be punished for his bald faced lie to this Court.

The discovery that we have served will show if he has lied about any other income or obligations. He should be required to supply everything we asked for.[19]

The Court should deny their request to terminate discovery as we have now shown that they are less than forthcoming with correct information even when cued to do so or asked directly to provide it.

C. Attorney's Fees

Under no theory presented in their Motion is Erich entitled to attorney's fees. He can't possibly prevail as his FDF is completely inaccurate and his income figures are plain wrong. Under NRS 18.010 his claim fails.

It was he, and not Raina, that has vexatiously increased litigation in this matter. Had he been forthcoming with all of his income from the beginning, there would have been no need for this Motion or the discovery granted by the Court. His claim under EDCR 7.60 also fails.

We did warn Opposing Counsel that we would seek fees if they went forward with this Motion. We believe that we have shown that such a request has significant merit as we were forced to correct their income figures and their child support calculations based on those erroneous figures.

As for our desire to punish Erich, that is left to the sound discretion of the Court, not us.

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[19] We did ask for all income sources that he used to obtain a new mortgage. This will demonstrate whether he was candid with them as well as with this Court.

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Lastly, and it pains me to point this out, but they are not entitled to fees under the Brunzell factors.[20] Counsel's work on this matter violated NRCP 11 in that they did not verify any of the numbers they submitted to the Court and to us. We have received three different child support amounts that they want us to accept and want the Court to order; none are correct.

They did not provide correct relevant information to undersigned counsel that may have avoided litigation until after they filed their Motion, and they were anything but civil in their correspondence and dealings.

We will now detail the procedural defects in their Motion that also support finding that their representation in this matter was below standards.

D. Procedural Errors

1. EDCR 5.501

Though we agree that Counsel did contact us before filing this Motion, our response would have limited litigation if they only filed a correct FDF and waited for the Court authorized subpoena to produce documents. The reason for the rule is to limit litigation. They produced no support for the numbers they provided and expected us to take them at their word that they were correct. As outlined above, that would have been malpractice for us to do.

We do not believe that they met the spirit of the rule and the Court should so find.

2. Violated EDCR 5.205

The exhibits produced are not Bates Stamped in the lower right corner as required by EDCR 5.205(b), and they were not all produced to us in discovery.

Collective exhibits to a filing must be filed as a separate appendix, including a table of contents identifying each exhibit. This is required by EDCR 5.205(d).

[20] Brunzell v. Golden Gate National Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

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3. Violated EDCR 2.21/EDCR 5.506

Erich provides no affidavit or declaration to his Motion. EDCR 2.21 says:

> Rule 2.21. Affidavits on motions.
>
> (a) Factual contentions involved in any pretrial or post-trial motion must be initially presented and heard upon affidavits, unsworn declarations under penalty of perjury, depositions, answers to interrogatories, and admissions on file. Oral testimony will not be received at the hearing, except upon the stipulation of parties and with the approval of the court, but the court may set the matter for a hearing at a time in the future and require or allow oral examination of the affiants/declarants to resolve factual issues shown by the affidavits/declarations to be in dispute. This provision does not apply to an application for a preliminary injunction pursuant to N.R.C.P. 65(a).
> (b) Each affidavit/declaration shall identify the affiant/declarant, the party on whose behalf it is submitted, and the motion or application to which it pertains and must be served and filed with the motion, opposition, or reply to which it relates.
> (c) Affidavits/declarations must contain only factual, evidentiary matter, conform with the requirements of N.R.C.P. 56(e), and avoid mere general conclusions or argument. Affidavits/declarations substantially defective in these respects may be stricken, wholly or in part.

Here, there is no affidavit attached to the Motion at all. EDCR 5.506 allows for Declarations – including short form declarations – on motions and oppositions. Erich does not present either which is grounds for the Court striking the Motion in whole or in part.

These procedural defects go mainly to the issue of fees. Since they have failed to comply with even the local rules, they are not entitled to fees.

IV. COUNTERMOTION

A. Attorney's Fees

Notwithstanding the massive errors pointed out in the current Motion, FDF and the fact that Raina should be the prevailing party in this litigation, the Court specifically said that if it was discovered that Erich was receiving VA disability payments as we suggested at the hearing, attorney's fees would be awarded for the previous hearing as well as this hearing.

It is clear that Erich lied to the Court as he was entitled to the benefits and even if they were being garnished to pay his debt to the government, he was still receiving

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them. He lied to the Court to try and avoid paying child support. It wasn't until he realized that we would find all of this out through the subpoena process that he tried to cover his tracks.

As this Court is aware, attorney's fees may be awarded in a pre- or post-divorce motion/opposition under NRS 125.150. In addition, and because we believe that Raina will be the prevailing party in this matter, she should receive an award of her attorney's fees and costs pursuant to NRS 18.010(2) for having to oppose this Motion.

Erich has consistently attempted to short Raina of money she is rightfully owed. This is a clear demonstration of him doing the same thing with child support. By making him pay for the litigation that he causes, it may deter him from doing the same in the future.

With specific reference to Family Law matters, the Supreme Court has re-adopted "well-known basic elements," which in addition to hourly time schedules kept by the atorney, are to be considered in determining the reasonable value of an attorney's services qualities, commonly referred to as the Brunzell factors:[21]

> 1. The Qualities of the Advocate: his ability, his training, education, experience, professional standing and skill.
>
> 2. The Character of the Work to Be Done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation.
>
> 3. The Work Actually Performed by the Lawyer: the skill, time and attention given to the work.
>
> 4. The Result: whether the attorney was successful and what benefits were derived.

[21] Supra

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Each of these factors should be given consideration, and no one element should predominate or be given undue weight.[22] Additional guidance is provided by reviewing the "attorney's fees" cases most often cited in Family Law.[23]

The Brunzell factors require counsel to make a representation as to the "qualities of the advocate," the character and difficulty of the work performed, and the work actually performed by the attorney.

First, respectfully, we suggest that the supervising counsel is A/V rated, a peer-reviewed and certified (and re-certified) Fellow of the American Academy of Matrimonial Lawyers, and a Certified Specialist in Family Law.[24] Richard L. Crane, Esq., the attorney primarily responsible for drafting this Motion, is an associate attorney for the WILLICK LAW GROUP and has practiced exclusively in the field of Family Law for over nine years under the direct tutelage of supervising counsel.

The fees charged by paralegal staff are reasonable, and compensable, as well. The tasks performed by staff in this case were precisely those that were "some of the work that the attorney would have to do anyway [performed] at substantially less cost per hour."[25] As the Court reasoned, "the use of paralegals and other nonattorney staff reduces litigation costs, so long as they are billed at a lower rate," so "'reasonable attorney's fees' . . . includes charges for persons such as paralegals and law clerks."

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[22] Miller v. Wilfong, 121 Nev. 119, P.3d 727 (2005).

[23] Discretionary Awards: Awards of fees are neither automatic nor compulsory but within the sound discretion of the Court, and evidence must support the request. Fletcher v. Fletcher, 89 Nev. 540, 516 P.2d 103 (1973), Levy v. Levy, 96 Nev. 902, 620 P.2d 860 (1980), Hybarger v. Hybarger, 103 Nev. 255, 737 P.2d 889 (1987).

[24] Per direct enactment of the Board of Governors of the Nevada State Bar, and independently by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to write the examination that other would-be Nevada Family Law Specialists must pass to attain that status.

[25] LVMPD v. Yeghiazarian, 129 Nev. 760, 312 P.3d 503 (2013) citing to Missouri v. Jenkins, 491 U.S. 274, 295-98 (1989).

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Justin K. Johnson, the paralegal assigned to Raina's case, earned a Certificate of Achievement in Paralegal Studies and was awarded an Associates of Applied Science Degree in 2014 from Everest College. He has been a paralegal for over five years and provided substantial assistance to WILLICK LAW GROUP staff in a variety of family law cases.

As to the "character and quality of the work performed," we believe this filing is adequate, both factually and legally; we have diligently reviewed the applicable law, explored the relevant facts, and believe that we have properly applied one to the other.

V. CONCLUSION

Based on the foregoing, this Honorable Court should enter the following orders:

1. Denying Erich's Motion in full.
2. Enter a new child support award going back to January 1, 2021, for $1,568.48 per month.
3. Find that Erich perjured himself by answering in the negative when asked if he was receiving VA disability benefits.
4. Award Raina her actual attorney's fees from the filing of the Motion to Modify Child Support through the hearing on this matter.
5. Require that any fees awarded and arrearages be paid within 30 days of the order being issued from the bench.

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6. Any other relief the Court deems is just and proper under the circumstances

DATED this 17th day of February, 2021.

WILLICK LAW GROUP

// s// Richard L. Crane, Esq.

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Attorneys for Defendant

DECLARATION OF RAINA MARTIN

1. I, Raina Martin, declare that I am competent to testify to the facts contained in the preceding filing.

2. I have read the preceding Motion, and I have personal knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

3. The factual averments contained in the preceding filing are incorporated herein as if set forth in full.

I declare under penalty of perjury under the laws of the State of Nevada (NRS 53.045 and 28 U.S.C. § 1746), that the foregoing is true and correct.

EXECUTED this 17th day of February, 2021.

//s//Raina Martin

RAINA MARTIN

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILLICK LAW GROUP and that on this 17th day of February, 2021, I caused the foregoing document to be served as follows:

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

[ ] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;

[ ] pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means;

[ ] by hand delivery with signed Receipt of Copy.

To the litigant(s) and attorney(s) listed below at the address, email address, and/or facsimile number indicated:

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//s//Justin K. Johnson

Employee of the WILLICK LAW GROUP

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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN, Plaintiff/Petitioner	)	
-v.-	)	Case No. D-15-509045-D
	)	Department C
RAINA MARTIN, Defendant/	)	MOTION/OPPOSITION FEE INFORMATION SHEET

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

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

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

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

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

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

The total filing fee for the motion/opposition I am filing with this form is:
G $0 X $25 G $57 G $82 G $129 G $154

Party filing Motion/Opposition: Willick Law Group Date 2/17/2020

Signature of Party or Preparer: //s//Justin K. Johnson

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