

IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTINA CALDERON F/K/A
CHIRSTINA CALDERON STIPP,

Appellant,

vs.

MITCHELL DAVID STIPP,

Respondent.

Supreme Court No. 81888
Electronically Filed
Sep 20 2021 05:52 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPELLANT'S APPENDIX VOLUME III

AARON D GRIGSBY
GRIGSBY LAW GROUP
A Professional Corporation
Nevada Bar No. 9043
2880 W. Sahara Ave.
Las Vegas, Nevada 89102
Phone: (702) 202-5235
aaron@grigsbylawgroup.com
Counsel for Appellant

RADFORD J. SMITH
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Counsel for Respondent

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Notice of Entry of Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and Parenting Matters	I	AA000001-18
Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare	I	AA000019-40
Exhibits in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare	I	AA000041-54
Notice of Hearing	I	AA000055
Application for an Order Shortening Time	I	AA000056-109
Notice of Department Reassignment	I	AA000110-111
Notice of Appearance of Counsel for Plaintiff	I	AA000112-113
Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees	I	AA000114-143
Notice of Communications between Defendant and Plaintiff's Attorney	I	AA000144-151
Notice of Hearing	I	AA000152
Ex Parte Application for an Order to Show Cause	I	AA000153-160

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Motion for Order to Show Cause
Against the Defendant for Willfully disobeying the Custody Order; A Request for
Immediate Return of the Children, Make Up Visitation and

Award of Attorney's Fees

I AA000161-230

Plaintiff's Objection to Exhibits improperly cut and pasted within Defendant's
Motion for Child Interview by FMC, Mediation and to Permit Children to exercise
Teenage Discretion on Timeshare, and Objection to Exhibits in Support of
Defendant's Motion filed on August 26, 2019,

pursuant to NRCP 16.205(i)

I AA000231-232

Ex Parte Application for an Order

Shortening Time

I AA000233-244

Defendant's Opposition to Motion for Order to Show Cause Against the Defendant
for Willfully disobeying the Custody Order; A Request for Immediate Return of
the Children, Make Up Visitation and Award of Attorney's Fees and

Countermotion for Interview of Children by FMC and for Children to exercise
Teenage Discretion

II AA000245-272

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Defendant's Exhibits in Support of Defendant's Opposition to Motion for Order to Show Cause Against the Defendant for Willfully disobeying the Custody Order; A Request for Immediate Return of the Children, Make Up Visitation and Award of Attorney's Fees and Countermotion for Interview of Children by FMC and for

Children to exercise Teenage Discretion II AA000273-366

Order to Show Cause II AA000367-368

Notice of Entry of Order II AA000369-372

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000373-389

Declaration of Amy Stipp in Support of Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on

Timeshare II AA000390-406

Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC,

Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation,

Sanctions, and Award of Attorney's Fees II AA000407-419

Notice of Hearing II AA000420

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Exhibits in Support of Plaintiff's Opposition to Defendant's Motion for Child Interview by FMC, Mediation and to Permit Children to exercise Teenage Discretion on Timeshare and Countermotion for Immediate Return of Children, Make-up visitation, Sanctions,

and Award of Attorney's Fees II AA000421-427

Defendant's Objection to Letter by Christina Calderon's Therapist Donna Wilburn and Notice of Letter from Dr. Roy Lubit

in Support of Objection II AA000228-481

Response to Plaintiff's Objection

Filed on August 30, 2019 II AA000482-485

Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant III AA000286-497

Reply to Plaintiff's Opposition to Countermotion for Interview of Children by FMC, Mediation at FMC, and for

Children to Exercise Teenage Discretion III AA000498-517

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Exhibits in Support of Defendant's Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion	III	AA000518-543
Notice of Appearance	III	AA000544-546
Supplemental Exhibits in Support of Defendant's Reply to Opposition to Our Motion for Order to Show Cause Against Defendant for Willfully Disobeying the Custody Order and Requested Relief and Opposition to the Countermotion filed by Defendant	III	AA000547-550
Ex Parte Application for an Order Shortening Time	III	AA000551-564
Order for Family Mediation Center	III	AA000565
Court Order Instructions	III	AA000566-567
Request for Child Protective Services		
Appearance and Records	III	AA000568
Status Report	III	AA000569-574
Plaintiff's Objection to Defendant's Status Report filed October 7, 2019, and Request that it be stricken Pursuant to EDCR 5.508	III	AA000575-577

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Emergency Motion for Temporary Primary Physical Custody and
Request for Writ of Attachment Order

and Attorney's Fees III AA000578-600

Notice of Hearing III AA000601

Ex Parte Application for an Order Shortening Time III AA000602-607

Opposition to Ex Parte Application for an Order Shortening Time of Plaintiff's

Motion for Primary Physical Custody III AA000608-612

Exhibits in Support of Opposition to Ex Parte Application for an Order Shortening

Time of Plaintiff's Motion for Primary Physical Custody III AA000613-634

Order Setting Case Management Conference III AA000635-637

Plaintiff's Supplement Affidavit in Support of her Emergency Motion for

Temporary Primary Physical Custody and Request for Writ of Attachment Order

and Attorney's Fees III AA000638-643

Opposition to Plaintiff's Emergency Motion for Temporary Primary Physical

Custody and Request for Writ of Attachment Order and Attorney's Fees and

Countermotion for Primary Physical Custody

and Related Relief III AA000644-666

Order Shortening Time III AA000667-668

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Notice of Entry of Order	III	AA000669-672
Order for Supervised Exchange	III	AA000673-675
Notice of Change of Address	III	AA000676
Order Setting Evidentiary Hearing	III	AA000677-681
Subpoena for Gerardo Hernandez for Deposition	III	AA000682-686
Affidavit of Service	III	AA000687
Notice of Telephonic EDCR 5.602(d) Conference	III	AA000688-690
Plaintiff's Production of Documents and List of Witnesses Pursuant to NRCP 16.2	III	AA000691-700
Certificate of Mailing	III	AA000701
Plaintiff's Motion to Compel Discovery Responses, Including Answers to Interrogatories and Responses to Requests for Production of Documents; Failure to Make NRCP 16.2 Disclosures and Productions; and For an Award of Attorney's Fees and Costs	III	AA000702-722
Notice of Hearing	III	AA000723

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Plaintiff's Exhibits in Support of Plaintiff's		
Motion to Compel Discovery	IV	AA000724-802
Defendant's Opposition to Motion to Compel		
and Related Relief	IV	AA000803-812
Defendant's Exhibits in Support of Defendant's Opposition to		
Motion to Compel and Related Relief	IV	AA000813-931
Ex Parte Application for an Order		
Shortening Time	IV	AA000932-935
Supplement to Opposition to Motion to		
Compel: Countermotion in Limine	IV	AA000936-944
Exhibits in Support of Defendant's		
Supplement: Countermotion in Limine	IV	AA000945-969
Order Shortening Time	IV	AA000970-971
Request for Hearing on Defendant's Countermotion		
In Limine	V	AA000972-973
Supplement to Opposition to Motion to Compel:		
Countermotion in Limine	V	AA000974-983

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Exhibits in Support of Defendant's Supplement:		
Countermotion in Limine	V	AA000984-1008
Ex Parte Application for Order Setting		
Hearing/Shortening Time	V	AA001009-1012
Request for Hearing on Defendant's		
Countermotion in Limine	V	AA1013-1014
Supplement to Opposition to Motion to Compel		
Countermotion in Limine	V	AA1015-1024
Exhibits in Support of Defendant's Supplement:		
Countermotion in Limine	V	AA1025-1049
Notice of Entry of Order	V	AA1050-1053
Defendant's Pretrial Memorandum	V	AA001054-1099
Receipt of Copy	V	AA001100
Witness List	V	AA001101-1104
Receipt of Copy	V	AA001105
Witness List	V	AA001106-1109
Receipt of Copy	V	AA001110
Plaintiff's List of Witness for Evidentiary Hearing	V	AA001111-1118

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Trial Subpoena	V	AA001119-1121
Trial Subpoena	V	AA001122-1124
Plaintiff's Objection to Defendant's Pre-trial Memorandum filed January 21, 2020	V	AA001125-1127
Motion to Compel Responses to Discovery and For Attorney's Fees and Costs	V	AA001128-1143
Exhibits in Support of Defendant's Motion to Compel	VI	AA001144-1279
Supplemental Declaration/Affidavit of Mitchell Stipp	VI	AA001280-1282
Notice of Hearing	VI	AA001283
Ex Parte Application for Order Setting hearing On Motion in Limine	VI	AA00184-1288
Supplement to Opposition to Motion to Compel: Countermotion in Limine	VI	AA001289-1297
Exhibits in Support of Defendant's Supplement: Countermotion in Limine	VI	AA001298-1322

DOCUMENT**VOLUME
NUMBER****BATE
NO(S)**

Plaintiff's Memorandum of Attorney's Fees and

Costs

VII AA001323-1335

Ex Parte Application for Order Shortening Time on

Defendant's Motion to Compel

VII AA001336-1497

Stipulation and Order Vacating February 7, 2020 Hearing before the Discovery

Commissioner

VII AA001498-1500

Plaintiff's Opposition to Defendant's Motion to Compel Responses to Discovery

and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001501-1517

Plaintiff's Exhibits in Support of: Plaintiff's Opposition to Defendant's Motion to

Compel Responses to Discovery and for Attorney's Fees and Cost; and

Counter-Motion for Attorney's Fees

VII AA001518-1540

Notice of Hearing

VII AA001541

Opposition to Plaintiff's Request for Attorney's

Fees and Costs

VIII AA001542-1700

Defendant's Reply to Opposition to Motion to Compel and Opposition to

Counter-motion for Attorney's Fees and Costs

VIII AA001701-1760

Notice of Hearing

VIII AA001761

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Order Shortening Time	VIII	AA001762-1763
Notice of Telephone Conference Required by Discovery Commissioner to Discuss Plaintiff's Deficient Discovery Responses	IX	AA1764-1791
Application for an Order Shortening Time	IX	AA1792-1796
Plaintiff's Offers of Proof Regarding Witnesses for Evidentiary Hearing	IX	AA1797-1802
Plaintiff's Opposition to Defendant's Motion In Limine and Counter-Motion for Attorney's Fees	IX	AA001803-1820
Plaintiff's Supplemental Production of Documents And List of Witnesses Pursuant to NRCP 16.2	IX	AA001821-1830
Status Report	IX	AA001831-1844
Notice of Entry of Stipulation and Order Resolving Discovery Disputes and Trial Matter	IX	AA001845-1851
Amended Order Setting Evidentiary Hearing	IX	AA001852-1854
Order from Hearing of October 1, 2019	IX	AA001855-1862
Order from Hearing of October 22, 2019	IX	AA001863-1867
Order from Hearing of October 1, 2019	IX	AA001868-1875

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Second Amended Order Setting Evidentiary Hearing	IX	AA001876-1879
Plaintiff's Emergency Motion Pursuant to NRCP Rule 43	IX	AA001880-1890
Opposition to Plaintiff's Emergency Motion Pursuant to NRCP 43	IX	AA001891-1895
Notice of Entry of Order	IX	AA001896-1904
Notice of Entry of Order	IX	AA001905-1910
Plaintiff's Renewed Emergency Motion Pursuant to NRCP Rule 43	IX	AA001911-1921
Ex Parte Application for an Order Shortening Time	IX	AA001922-1926
Opposition to Plaintiff's Renewed Emergency Motion pursuant to NRCP Rule 43	IX	AA001927-1929
Order Shortening Time	IX	AA001930-1932
Notice of Entry of Order	IX	AA001933-1937
Notice of Hearing	IX	AA001938

DOCUMENT	VOLUME NUMBER	BATE NO(S)
Plaintiff's Second Supplemental Production of Documents and List of Witnesses Pursuant to NRCP 16.2	IX	AA001939-1948
Receipt of Copy	IX	AA001949
Plaintiff's Memorandum of Points and Authorities Following Evidentiary Hearing	IX	AA1950-1969
Defendant's Closing Brief	IX	AA001979-1987
Notice of Entry of Order	IX	AA001988-2012
Transcripts: January 23, 2020	X	AA2013-2269
Transcripts: March 5, 2020	XI	AA2070-2512
Transcripts: August 27, 2020	XII	AA2513-2763

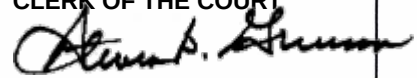
CERTIFICATE OF SERVICE

The undersigned does hereby certify that on the 20th day of September, 2021,
a copy of the foregoing Appellant's Appendix III was served as follows:

BY ELECTRONIC FILING TO

Radford J. Smith, Esq.
Radford J. Smith, CHTD
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Respondent

/s/Aaron Grigsby _____
Employee of The Grigsby Law Group



1 **RPLY**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujii-lawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)
15)
16 Plaintiff,)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

17 vs.)

18 MITCHELL STIPP,)
19)
20 Defendant.)

Date of Hearing: October 1, 2019

Time of Hearing: 11:00 a.m.

21 **REPLY TO OPPOSITION TO OUR MOTION FOR ORDER TO SHOW**
22 **CAUSE AGAINST THE DEFENDANT FOR WILLFULLY DISOBEYING**
23 **THE CUSTODY ORDER AND REQUESTED RELIEF AND OPPOSITION**
24 **TO THE COUNTERMOTION FILED BY DEFENDANT**

25 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
26 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
27 FUJII & ASSOCIATES, and hereby submits her Reply to the Opposition filed by
28 Defendant in response to our Motion for an Order to Show Cause Why Defendant
Should Not Be Held in Contempt of Court for Willfully Disobeying the Custody

1 Order; a Request for Immediate Return of the Children, Make up Visitation, and
2 an Award of Attorney's Fees.

3
4 Additionally, Plaintiff CHRISTINA hereby opposes the Counter Motion as
5 it is nothing more than a mirror recitation of his Motion for Child Interview by
6 FMC and to Permit Children to Exercise Teenage Discretion on Timeshare which
7 he filed on August 26, 2019.

8
9 This Reply, however, appropriately addresses Defendant's lack of
10 compliance with EDCR 5.501, lack of any response to the Contempt alleged
11 pursuant to EDCR 5.509 and thus, the relief requested is appropriate.

12 DATED this 18th day of September, 2019.

13 VALARIE I. FUJII & ASSOCIATES

14
15 
16

17
18 VALARIE I. FUJII, ESQ.
19 Nevada Bar No. 005955
20 704 South Sixth Street
21 Las Vegas, Nevada 89101
22 Attorney for Plaintiff
23 CHRISTINA CALDERON

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I.**

26 **STATEMENT OF FACTS**

27 It is undisputed the Defendant withheld the children directly disobeying the
28 Court Ordered custodial time, in violation of the Custody Agreement. He did so

1 without authority. His Opposition to CHRISTINA's Motion for an Order to Show
2 Cause is no different. He has no authority. There was no CPS intervention or
3 emergency jurisdiction granting Defendant sole custody of the children without
4 any contact and/or visitation to be afforded CHRISTINA and Defendant should
5 not be rewarded. Defendant failed to address these issues pursuant to EDCR
6 5.501, he purposely violated a court order and did so without notice to
7 CHRISTINA.
8
9

10 If Defendant had such concern with CHRISTINA's parenting, why did he
11 wait 9 days to contact CPS (who rejected his and his wife's claims). Why did he
12 not file something earlier before the Court. Instead he waited until after he
13 purposely withheld BOTH children, and is now attempting to justify his behavior
14 without cause. Worse, rather than specifically respond to the enumerated
15 violations of the Custody Order, his Opposition focuses on him bootstrapping a
16 request for relief warranting the Opposition of the Defendant be stricken in it's
17 entirety under EDCR 5.508(c)(3) *the subject matter of the filing should be*
18 *addressed in a separate motion.*
19
20

21 Much of the statement of facts contained in the Opposition are regarding
22 negotiations in 2008 and 2010, preceding the Custody Order at issue and thus, are
23 non responsive to the Motion for the Order to Show Cause.
24

25 Contrary to what Defendant has alleged, CHRISTINA has properly sought
26 redress under EDCR 5.509 for the six weeks she has been denied any contact with
27 her children and for every day defendant violates the Order. She has properly
28

1 identified the specific provisions and enumerated the page numbers of the portions
2 of the custody/parenting agreement Defendant is in violation of **(no right of first**
3 **refusal without permission**, pg. 6, ll. 17-12; **failure of party to contact other**
4 **party in event of child emergency**, pg. 11, ll. 8-10; **must mediate before filing**
5 **lawsuit**, pg. 11, ll. 24-25; **failure to provide daily phone calls**, pg. 10, ll. 4; **sent**
6 **text and email to 3rd parties to humiliate the other parent**, pg. 10, ll. 7-10;
7 **divulging video of the children without permission**, pg. 10, ll. 10-13). The
8 argument that it was not in her affidavit but in the body of the Motion lacks merit.
9
10
11
12

13 II.

14 LEGAL AUTHORITY

15 A. Burden is on Defendant to Prove Inability to Comply with the 16 Custody Order and His Excuse Fails

17 Defendant's actions are direct contempt and indirect constructive
18 contempt. He does not seek to explain, rather, his excuse that "he did not violate
19 any Orders, but Mia just refuses to go" does not absolve him of responsibility or
20 allow him to disobey a Court Order. "The inability of a contemnor to obey the
21 order (without fault on their part) is a defense and may be sufficient to purge them
22 of the contempt charged. *Mccormick v. Sixth Judicial District Court*, 67 Nev.
23 318, 326; 218 P.2d 939 (1950). However, where the contemnors have voluntarily
24 or contumaciously brought on themselves the disability to obey the order or
25
26
27
28

1 Decree, such a defense is not available; and the burden of proving inability to
2 comply is upon the contemnor. *Id.* (Emphasis added).

3
4 Thus, in this case, it is the Defendant's burden of proving his inability to
5 exercise the Custody Order. All he would have to do is tell Mia that she won't
6 get her phone back unless she goes with her mother and guess what? She goes.
7 Additionally, it does not explain why Ethan, their other child has had no contact
8 with CHRISTINA the entire time that Mia has supposedly refused. In fact,
9 Defendant admits in his opposition that Ethan was not even present at the home
10 when the police wrote the card he requested and that Ethan, "chose" not to go after
11 he exposed him to the text messages sent to his baseball coach. (See Opp. at pg.
12 14). Defendant cannot have it both ways. He cannot say he does not wish to
13 change custody and then argue that absolutely no contact by both children is in
14 their best interest. Defendant has empowered this 12 and 14 year old but the Court
15 and professionals will not be manipulated the same way. Defendant's conduct is
16 abuse, plain and simple. See Donna Wilburn, MS, LMFT, "LETTER OF
17 CONCERN" dated September 11, 2019, entitled "Urgent: Children in Crisis,
18 Recommended Protocol Regarding Child Visitation Refusal" filed on September
19 11, 2019.¹ This is not a general article, this is from the provider who has met the
20
21
22
23
24

25
26 ¹ Letter of concern is not an evaluation and violating custody orders is more serious then "not
27 eating your vegetables" as alleged by Defnedant's hired doctor who has never treated any family
28 member. It is proof there is no evidence that CHRISTINA was abusive, violent or has mental
illness. To the contrary, however, DEFENDANT is not seeking counseling and behavior is a crisis
and abuse to Donna Wilburn.

1 children, met these parents and addresses the damage Defendant is doing to the
2 welfare of Ethan and Mia.

3
4 As recommended by Donna Wilburn, CHRISTINA should have contact
5 with MIA and ETHAN as soon as possible, given that the time apart makes it more
6 difficult to repair all of the damage that Defendant's actions have caused. This
7 should be for a 60 day uninterrupted period of time so that individual therapy for
8 MIA and family therapy can commence.

9
10 Additionally, recourse and/or sanctions of \$1,000.00 a day for is sought
11 against Defendant for each and every day that he has withheld and continues to
12 withhold MIA and ETHAN from CHRISTINA and for his willful Contempt of this
13 Court's Orders and in violation of NRCP Rule 11, NRS 7.085, NRS 22.010 and
14 NRS 125.240. CHRISTINA is also seeking reimbursement of her attorney's fees
15 in the amount of \$5,000.00, which is what she was forced to pay counsel to defend
16 this Motion and appear in Court with her.

17
18 **B. Teenage Discretion Does Not Apply**

19
20 CHRISTINA herein opposes the requested relief contained in Defendant's
21 counter motion, specifically the request for Teenage Discretion.

22 NRS 125C.0035(4) provides that the child can express his/her wishes as to
23 custody "if the child is of sufficient age and capacity to form an intelligent
24 preference as to his or her physical custody"; and then it becomes one of 12
25 considerations for the Court in making a custody determination. The wishes of a
26
27
28

1 child are not the determining factor as to custody; it is only a preference, a
2 consideration in the overall analysis, but only when child custody is at issue.

3
4 In this case, MIA is 14; however, ETHAN is only 12. His desires or wishes
5 are hearsay, and at best, an offer of proof, not a preference or consideration,
6 especially in an analysis of child custody which Defendant admits he does not
7 wish to change. See Defendant's Motion on pg. 18, ln. 28, and pg. 19, ll. 1-3, and
8 again at p. 24, ll. 13-14.

9
10 The facts of *Harrison v. Harrison*, 132 Nev. 564 (2016), 376 P.3d 173, 132
11 Nev. Adv. Op. 56, differ significantly from the present case and says exactly
12 opposite of what Defendant alleges. *Harrison* involved a challenge by one parent
13 to a stipulated custody agreement containing an agreed-upon provision called
14 "teenage discretion." The "teenage discretion" provision in *Harrison* provided
15 that, when each child reached age fourteen (14), they could make minor weekly
16 schedule changes so long as the changes did not change joint physical custody. *Id.*
17 at 568. In its decision upholding the parties agreed-upon joint physical custody
18 arrangement, the Nevada Supreme Court held that:
19
20

21 [t]he teenage discretion provision does not violate the
22 joint physical custody arrangement. The agreement
23 permits the children to adjust "their weekly schedule,
24 from time to time." But that flexibility is necessarily
25 limited. Section 6.1 provides: "The parties do not intend
26 ... to give the children the absolute ability to determine
27 their custodial schedule with the other parent." Thus,
28 section 6.1 reinforces that child initiated schedule
changes may not take so much liberty that they violate
the joint custody arrangement set forth by the district
court. (Emphasis added)

1 Thus, Harrison allowed for teenage discretion only when it did not change
2 the joint physical custody agreement, stating that “[t]he Court will not re-write a
3 contract to include terms not agreed to by the parties. “ See also Mizrachi v.
4 Mizrachi, 132 Nev., Adv. Op. 66, 385 P.3d 982, 990 (Ct. App. 2016).

6 “We do not rewrite parties' contracts.” See Rivero v. Rivero, 125 Nev. at
7 429, 216 P.3d at 226 (recognizing that parties' contracts will be enforced as long
8 as “they are not unconscionable, illegal, or in violation of public policy”), in part,
9 because the parties' failure to agree to a judicially blue-penciled term's inclusion
10 risks trampling the parties' intent, See Reno Club, Inc. v. Young Inv. Co., 64 Nev.
11 312, 323, 182 P.2d 1011, 1016 (1947), (“This would be virtually creating a new
12 contract for the parties, which they have not created or intended themself[ve]s, and
13 which, under well-settled rules of construction, the court has no power to do.”). It
14 is the contracting parties' duty to agree to what they intend. See Id. “As we are not
15 advocates, it is not our role to partake in drafting. Thus, [Appellant’s] request for
16 the judiciary's advocacy is denied.” Id. at 570. See also Middendorf Sports v. Top
17 Rank, Inc., (D. Neb., 2019). “The Court is not at liberty to insert words that the
18 parties did not use. Edelstein v. Bank of New York Mellon, 286 P. 3d 349, 258
19 (Nev. 2012). “Neither a court of law nor a court of equity can interpolate in a
20 contract what the contract does not contain.” State Dep't of Transportation v.
21 Eighth Judicial Dist. Court in & for Cty. of Clark, 402 P.3d 677, 682 (Nev. 2017).
22 But every word must be given effect if possible, and a court should not interpret a
23
24
25
26
27
28

1 contract so as to make meaningless its provisions. Solid v. Eighth Judicial Dist.
2 Court of State in & for Cty. of Clark, 393 P.3d 666, 672 (Nev. 2017).
3

4 In this case there was no stipulation or agreement to teenage discretion. In
5 fact, the agreement was the contrary.

6 In Tufano v. Tufano, 556 A.2d 1036 (1989), the mother's claim that the
7 child did not want to go for visitation was ineffective in defending her against an
8 order of contempt. Even with the child's psychologist advised against visitation.
9

10 In Wilson v. Wilson, 61 A.2d 621 (1995), there was a finding of contempt
11 for violating visitation orders, against the parent claiming the child did not want
12 visitation.

13 A court conditioning visits on the children's wishes was ruled improper.
14
15 William-Torand v. Torand, 901 N.Y.S. 2d 601, 73 A.D. 3rd 605 (2010).

16 The district court is not permitted to delegate its ultimate decision-making
17 power regarding custody determinations to others. In Wagner v. Marino, (Nev.
18 App. 2018), including co-parenting coordinators Butista v. Picone, 419P.3d, 157
19 (Nev. 2018).
20

21 III.

22 CONCLUSION

23 Based upon the aforementioned, Plaintiff CHRISTINA respectfully requests
24 that this Court enter an Order granting the following relief:
25

- 26 1. That the Order to Show Cause be granted and that Defendant be held
27 in Contempt of Court for disobeying the Custody Order;
28

2. That Defendant be sanctioned \$1,000.00 per day for Contempt since August 23, 2019, which is the first day that he started to withhold the children from CHRISTINA;
 3. That Defendant's request for Teenage Discretion, along with all other requested relief contained in his counter motion be denied
 4. That Plaintiff CHRISTINA be awarded make-up visitation for 60 uninterrupted days;
 5. That MIA commence individual counseling and/or family counseling;
 6. That Plaintiff CHRISTINA be awarded control of the children's cellular phones and all other electronic devices in her home,
 7. That Plaintiff CHRISTINA be awarded attorney's fees in the amount of \$5,000.00 plus costs of what she has paid out of pocket to file this Motion in order to force Defendant to abide by the Custody Order;
- and

...

...

...

...

...

...

...

...

8. For other such relief as the Court deems just and proper.

WHEREFORE, let an order issue granting the relief requested by Plaintiff.

DATED this 18th day of September, 2019.

VALARIE I. FUJII & ASSOCIATES

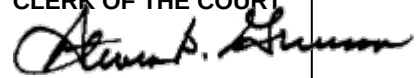
Volume 2

VALARIE I. FUJII, ESQ.
Nevada Bar No. 5955
704 South Sixth Street
Las Vegas, Nevada 89101
Attorney for Plaintiff
CHRISTINA CALDERON

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

MITCHELL STIPP, ESQ.
10120 West Flamingo Road
PMB 4124
Las Vegas, Nevada 89147
Defendant Pro Se

An employee of VALARIE I. FUJII, ESQ.



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stippplaw.com
*Attorneys for Mitchell Stipp, Defendant*¹

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK
FAMILY DIVISION**

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP;
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**REPLY TO PLAINTIFF'S
OPPOSITION TO
COUNTERMOTION FOR
INTERVIEW OF CHILDREN BY
FMC, MEDIATION AT FMC, AND
FOR CHILDREN TO EXERCISE
TEENAGE DISCRETION**

**HEARING DATE: October 1, 2019
HEARING TIME: 11:00 a.m.**

///

///

¹ Radford Smith, Esq. has been Mitchell Stipp's attorney since 2006. Mr. Smith has been assisting Mitchell with the matters before the court and will be entering an appearance as co-counsel of record prior to the hearing on October 1, 2019.

1 Defendant, Mitchell Stipp ("Mitchell"), hereby files the above-referenced reply.
2 This filing is based on the papers and pleadings before the court, the memorandum of
3 points and authorities that follows, the exhibits filed concurrently herewith, and the
4 oral argument of the parties or their attorneys at the hearing on this matter.
5

6 Mitchell respectfully requests the following relief:

- 7 1. Denial of the relief requested by Plaintiff, Christina Calderon ("Christina").
8
9 2. FMC interview the parties' children to determine their wishes and capacity to
10 exercise teenage discretion with respect to the timeshare spent with each
11 party.
12
13 3. The parties participate in mediation at FMC to determine the parameters of
14 teenage discretion.
15
16 4. An order permitting the children to exercise teenage discretion with respect
17 to the timeshare with each party within the confines of joint physical custody.
18
19 5. If the court will not grant Mitchell's request without an evidentiary hearing,
20 then the court should schedule the matter for a brief evidentiary hearing.
21

22 DATED this 24th day of September, 2019.

23 **LAW OFFICE OF MITCHELL STIPP**

24 /s/ Mitchell Stipp, Esq.
25 MITCHELL STIPP, ESQ.
26 Nevada Bar No. 7531
27 LAW OFFICE OF MITCHELL STIPP
28 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

MEMORANDUM OF POINTS AND AUTHORITIES

A. Timeline of Material Events

1. Mia Stipp (“Mia”) and Christina Calderon (“Christina”) had a physical fight on May 9, 2019.
2. Mia and Ethan Stipp (“Ethan”) were in Mitchell’s physical care from on or about May 9, 2019 until June 17, 2019, nearly 6 weeks, as a result of Christina and Mia physically fighting.
3. Mia and Christina had another physical fight on August 13, 2019.
4. A third-party, not Mitchell or his wife, Amy Stipp (“Amy”), makes a report to Child Protective Services on August 14, 2019.
5. Mia and Ethan return to Mitchell’s care on August 16, 2019.
6. A third-party, again not Mitchell or Amy, makes a report to Child Protective Services on August 22, 2019.
7. Mia and Ethan refuse to return to Christina’s physical care on August 23, 2019.
8. Christina calls Metropolitan Police Department and threatens Ethan’s baseball coach on August 23, 2019 (because Mitchell did not physically force the children into Christina’s care).

1 9. On August 24, 2019, Christina cancels Mia’s music lessons.

2 10. Mitchell filed his motion on August 26, 2019 and asks Christina to work
3 with him to avoid protracted litigation.
4

5 11. Valerie Fujii, Esq., enters an appearance for Christina on August 27, 2019.
6

7 12. Ms. Fuji and Mitchell speak by telephone on August 27, 2019. They
8 discuss the facts of the case. Mitchell agrees to remind the children to call/text
9 Christina.
10

11 13. Mitchell sends Ms. Fuji an email on August 28, 2019 with the audio file
12 of Mia’s in-person meeting with Christina on August 23, 2019. The point of the
13 audio file was to confirm Mia’s concerns with Christina and Mia’s preferences.
14

15 14. Ms. Fujii sends a letter to Mitchell on August 28, 2019, which
16 misrepresents the contents of their telephone conversation and accuses Mitchell
17 of “pathogenic parenting.” Ms. Fujii is not in any position to make such
18 accusations regarding Mitchell’s parenting. This letter fails to achieve the type
19 of resolution Mitchell had hoped Ms. Fujii would facilitate with Christina.
20
21

22 15. Ms. Fujii and Mitchell exchange further correspondence on August 28,
23 2019, pursuant to which Ms. Fujii stipulates to the involvement of Nick Ponzo.
24
25

26 16. Mitchell contacts Nick Ponzo (Christina’s family therapist) on August 29,
27 2019 for assistance.
28

1 17. Christina files a separate motion on August 29, 2019.

2 18. Christina withdraws the children from Faith Lutheran Middle and High
3 Schools on August 29, 2019. The children were visibly upset and would not
4 return to Christina's care.
5

6 19. Mitchell encouraged the children to speak to Christina while she was at
7 the schools. Counselors agreed with Mitchell's decision and facilitated the
8 visits. Mia and Ethan separately spoke to Christina in the presence of the
9 principal and still declined to return to her care.
10

11 20. The children's schools advised Christina that they will not force the
12 children into Christina's physical care. Christina was escorted out of the
13 schools, the children were released, and the children elected to leave with
14 Mitchell and Amy. There was clear concern from the schools about Christina
15 leaving and the children being released at the same time.
16

17 21. Mr. Ponzo responded to Mitchell on August 30, 2019 that Christina has
18 not authorized him to be involved.
19

20 22. Mitchell emailed Christina on **September 6, September 10 and**
21 **September 18 of 2019** requesting that Christina agree to meet with Mr. Ponzo
22 and the children to resolve the outstanding issues before the court. See Emails
23 attached as Exhibit A to Mitchell's Exhibits filed concurrently.
24
25
26
27
28

1 23. Christina elects not to attend open houses at the children's schools, Mia's
2 music performances, and Ethan's baseball practices and games between August
3 23, 2019 and the date of this filing.
4

5 Mia will be 15 years old on October 19, 2019. She is a straight "A" student at
6 Faith Lutheran High School. She was admitted into the school's prestigious Faith
7 Lutheran Conservatory of Fine Arts Vocal Music Department for the 2019-2020 school
8 year. Mia was a FLMS cheerleader, member of the FLMS Swim Team, and part of
9 FLMS's Choir and Handbell Programs. Mia continued to follow her passion in the 7th
10 and 8th Grades with music. Ultimately, in the 8th Grade, Mia was elected by her peers
11 to be the President of the FLMS Choir and was awarded the FLA Director's Award for
12 Choir (which was provided to only one student for outstanding performance). One of
13 Mia's teachers (Mrs. Nell, Algebra I) wrote to her upon graduation from the 8th Grade
14 as follows:
15
16
17

18 **You have been one of the best kids I have had the**
19 **pleasure of teaching. Please continue to embrace life**
20 **and find joy in doing your work well and**
21 **laughing with others. You will go far with that**
22 **attitude and you will change people's lives for the**
better.

23 Exhibit B to Mitchell's exhibits filed concurrently herewith are true and accurate
24 copies of Mia's choir awards, confirmation of Mia's grades, and related materials
25 supporting the above description of Mia's successes.
26

27 Ethan will be 13 years old on March 24, 2020. He is an "A/B" student at Faith
28 Lutheran Middle School. He plays club baseball for a 14u team. Ethan's passion is

1 baseball. He played in Cooperstown, New York this past summer (where he hit four
2 (4) home runs) and trained each day this summer to make a competitive club team.
3 Being on such a team is a substantial commitment. Ethan has practice on Mondays,
4 Wednesdays, and Fridays for three (3) hours each day. He trains privately on Tuesdays
5 and Thursdays. He plays league games every other Thursday and has tournaments
6 Saturdays and Sundays.
7

8 Mitchell respects the orders of the court and the court's responsibility for
9 enforcing them. Mitchell would like the children to make the decision on timeshare
10 **within the confines of joint physical custody.** Christina misrepresents Mitchell's
11 position: **Mitchell is not seeking a change in custody.** Mitchell simply wants the
12 children to have the right to spend more time with him if there is any mistreatment or
13 abuse by Christina. Mitchell believes this option is better than forcing the children to
14 remain with Christina, who emotionally blackmails them and has no problem
15 physically fighting Mia. Regulating Christina's behavior is practically impossible. If
16 the children can leave, Mitchell believes that Christina may alter her parenting.
17
18
19

20 The children are resilient and have endured many challenges. Christina spent
21 five (5) years before Judges Sullivan and Potter falsely claiming Mitchell was unfit,
22 alleging that Mia suffered from various psychiatric ailments and disorders, and Ethan
23 was sexually abused. Thankfully, Mia and Ethan are extremely smart, caring, and
24 mature. However, they need a voice (which Mitchell is trying to give them). For this
25 reason, Mitchell does not understand why Christina would oppose an interview with
26 FMC. The court should confirm through these interviews that the children are
27
28

1 intelligent and mature, have a preference, and why they have this preference. As
2 Christina repeatedly points out, the children's preference is only one factor in
3 determining their best interest. Mitchell believes this factor may be more important
4 than others but concedes that it is not determinative. Opposing the interviews entirely
5 suggests that the factor is not relevant at all. This is clearly not the case under Nevada
6 law.
7

8 **B. Summary of Arguments.**

9

10 Christina engaged in acts of domestic violence with Mia in May and August of
11 2019. Ethan was present for each act during which there was punching, kicking,
12 scratching, hair-pulling, biting, etc. As a result of the physical violence, in May of
13 2019, the parties agreed that Mia and Ethan would remain in Mitchell's care for the
14 remainder of May and most of June of 2019, nearly 6 weeks, **Christina agreed to this**
15 **arrangement**. If Christina was fine with the children spending an extended period of
16 time with Mitchell after the first act of domestic violence, why is she opposed to it
17 now? Mitchell is not proposing that the children never see or communicate with
18 Christina again. **Both children have cellular phones and are free to communicate**
19 **with Christina at any time**.
20
21
22
23

24 Both children refused to return to Christina's physical care on August 23, 2019
25 as a result of the fights between Mia and Christina in May and August. If Mia returns
26 to Christina's care, Mitchell expects there will be more physical violence between
27 them. A parent and a child should not resolve disputes this way. Moreover, no child
28

1 should be a witness to domestic violence between a parent and a sibling. While both
2 children are physically able to defend themselves, there is significant potential for
3 physical injury and psychological harm. Neither child should be in an environment
4 where it is acceptable for a parent and child to fight each other.
5

6 There is no order of the court which requires Mitchell physically to force the
7 children to return to Christina's care. What if Christina and Mia fight again and Mia
8 and/or Christina are seriously injured? What if Ethan gets involved? Although almost
9 13 years old, Ethan is not physically a child. Ethan began puberty in 4th grade. He is
10 5'9" tall and 130-140 pounds. The fact that Christina has not had physical care of the
11 children is not permanent. Mitchell has agreed to waive his vacation timeshare this
12 year (**equal to two (2) weeks**). If exercised, the children would have been in his care
13 until the hearing on October 1, 2019.
14
15
16

17 Christina continues to claim that she will not have seen or spoken with the
18 children for six (6) weeks by October 1, 2019. **This circumstance is by choice.**
19 Christina has purposely elected not to attend school events, baseball games, and
20 performances for the children so she can claim to the court that she has not seen them
21 in many weeks, despite all of the children's activities. Mitchell expects the court will
22 recognize Christina's litigation tactics in light of the frequency and quantity of events.
23 See Calendar of Events described on Exhibit C attached to Mitchell's Exhibits filed
24 concurrently herewith. Mitchell's temporary physical care of the children pending the
25 hearing on October 1, 2019 is not preventing Christina from seeing or communicating
26
27
28

1 with the children. Christina has asked for photos of the children at their activities but
2 refused to attend any of them.

3
4 Rather than address these issues with Mitchell and Christina's family therapist,
5 Nick Ponzo, **Christina demanded that Mitchell file a motion**. Mitchell does not
6 want to litigate. Mitchell filed his motion on August 26, 2019 (one (1) judicial day
7 after the children refused to return to her care). He filed and submitted on the same
8 day an *ex parte* application for an order shortening time. The application was denied.
9 Why? Mitchell believes the court views the matter the same as Dr. Roy Lubit, who
10 reviewed Donna Wilburn's letter: **a children's refusal to return to the physical care**
11 **of a parent is NOT a crisis**. See Objection and Notice filed by Mitchell on September
12
13 13, 2019. Specifically, Dr. Lubit writes as follows:

14
15
16 A crisis is a situation that if not solved right away will lead to
17 serious and possibly irreversible harm. A child refusing to eat
18 anything at all or attempting to hurt herself or attempting to run
19 away or using drugs are reasonably considered crises.

20 A child suffering significant mistreatment and being forced to
21 continue visitation despite this is a crisis situation. Refusing to
22 see a parent indicates there is a problem. It is not a crisis. There
23 is extensive research showing that exposing a child to
24 mistreatment is very destructive to the child's short- and long-
25 term functioning. I am not aware of scientific evidence that
26 allowing parental alienation to continue does even a fraction of
27 the harm that occurs from exposing a child to mistreatment. The
28 alleged research studies I have seen that claiming that parental
alienation causes long term problems, are deeply flawed and
unscientific.

1 Christina did not address Mitchell's motion. She filed a separate motion for
2 contempt. Christina wants to punish Mitchell. Mitchell does not deserve punishment.
3 Rather than Christina seeking punishment or harm to Mitchell, shouldn't Christina be
4 more concerned about the children's wellbeing? He is not responsible for Christina
5 fighting Mia. He did not cancel Mia's music lessons or threaten Ethan's baseball
6 coach. With her motion, Christina requested that the matter be heard on an order
7 shortening time and for an immediate "pick up" order. The court denied her requests
8 and set the matter to be heard on October 1, 2019. Again, Mitchell believes the matter
9 is not a crisis. The children are doing well and are insulated from the current litigation.
10
11

12
13 Christina threatened Ethan's baseball coach when Ethan refused to allow
14 Christina's father to pick him up at practice. The coach specifically informed
15 Christina that he was required to contact Child Protective Services. Christina
16 responded that it was not necessary to contact CPS since the issue was a "police
17 matter." The Metropolitan Police Department interviewed both Mia and Ethan on
18 August 23, 2019. The police officers made it very clear that Mitchell was not
19 withholding the children.
20
21

22
23 Christina initially claims that Mitchell's concerns of domestic violence had no
24 merit because no report was filed with CPS. Reports were made, but CPS did not act.
25 Now, Christina claims the reports should have occurred earlier. Christina also argues
26 that CPS did not open a file (so she did nothing wrong). The fact that a parent and
27 child physically fight may not be the type of "abuse" investigated by CPS. For the
28

1 record, Mitchell is not asking CPS to intervene. Neither Mitchell nor Amy filed the
2 reports. To Mitchell's knowledge, a CPS report was filed on August 14, 2019 and
3 August 22, 2019. The persons who made the reports communicated to Mitchell that
4 CPS intake-personnel stated that they knew "Christina Calderon," which may be the
5 reason CPS did not intervene.
6

7
8 **Contempt:**

9 "Generally, an order for civil contempt must be grounded upon one's
10 disobedience of an order that spells out 'the details of compliance in clear, specific
11 and unambiguous terms so that such person will readily know exactly what duties or
12 obligations are imposed on him.'" Southwest Gas Corp. v. Flintkote Co., 99 Nev. 127,
13 131, 659 P.2d 861, 864 (1983) (quoting Ex parte Slavin, 412 S.W.2d 43, 44 (Tex.
14 1967)). "[A] sanction for '[c]ivil contempt is characterized by the court's desire to ...
15 compensate the contemnor's adversary for the injuries which result from the
16 noncompliance.'" Albanese, 112 Nev. at 856,919 P.2d at 1071 (citing In re Crystal
17 Palace Gambling Hall, Inc., 817 F.2d 1361 (9th Cir.1987) (citations omitted)).
18 "However, an award to an opposing party is limited to that party's actual loss." United
19 States v. United Mine Workers of America, 330 U.S. 258,304, 67 S.Ct. 677, 701, 91
20 L.Ed. 884 (1947); Shuffler v. Heritage Bank, 720 F.2d 1141 (9th Cir.1983); Falstaff,
21 702 F.2d at 779.
22
23
24
25
26
27
28

The parties' parenting plan requires the following:

L. Mutual Behavioral Order

11. Child custody exchanges shall be done in a civil, law abiding manner and reasonably close to the times specified by the Court or any agreement of the parties.
12. The parties shall continue to use the "honk and seatbelt" rule which specifically states that the party facilitating the custodial exchanges shall provide the transportation for the exchanges, using the "honk and seatbelt" rule, i.e. the party does not leave his or her vehicle, but stops the car, taps the horn once, and the children will go from house to car, or car to house. Notwithstanding the foregoing, the party facilitating the custodial exchange may exit his or her vehicle to open a car door, trunk, or otherwise to assist the children with their personal belongings.
15. There shall be no threats of any kind, including threats of violence or harm, made to the other party, either party's children, or to any family member, relative, friend, and/or significant other (if any) of the other party. Each party shall also advise his or her family, relatives, friends, and significant others (if any) to not make any such threats, including threats of violence or harm to the other party, or to any family member, relative, friend and/or significant other (if any) of the other.

Mitchell and Amy were present for the exchange on August 23, 2019. Mitchell encouraged the children to return to Christina's care. Christina was picking the children up from Mitchell's home. She was the party designated to facilitate the exchange. Christina violated the court's order by not staying in her car and using the "Honk and Seatbelt Rule". Mitchell did not make any threats of any kind to Christina. Amy recorded the communication between Christina and Mia. Christina was aware of the recording (because she was also recording which is typical for her). A transcript of the in-person meeting was prepared and filed with the court on September 6, 2019 with the Declaration of Amy who made the audio recording. The court should take note of the following exchanges in the transcript:

12 CHRISTINA: So, we have a court order. You're
13 required to come. We can talk about changing that
14 order. I'll talk about that with your dad. But you are
15 coming today.

16 MIA: I'm not coming today.

17 CHRISTINA: Then I'm going to call the police

18 --

19 MIA: Okay.

20 CHRISTINA: -- and we can do that whole thing,

21 but --

22 MIA: Okay. You can do that, but --

23 CHRISTINA: -- and your dad --

24 MIA: -- I'm not coming.

25 CHRISTINA: -- is the one that's going to get

Page 7 (lines 12-25) of Transcript (Attached to Amy Stipp's Declaration).

1 in trouble for not facilitating.

2 MIA: He's not going to get in trouble.

3 MITCHELL: Look --

4 CHRISTINA: (Inaudible) you --

5 MIA: Stop threatening me with that.

Page 8 (Lines 1-5) of Transcript (Attached to Amy Stipp's Declaration). The in-person meeting with Christina, Mitchell, and Amy at Mitchell's home after Mia spoke

with Christina was also recorded and transcribed. The transcript was filed with the court on September 6, 2019 with Mitchell's Declaration. The court should take note of the following additional threats by Christina (if Mitchell did not force Mia into Christina's automobile):

4 I'm going to show up at the school, going to
5 show up at piano. I'm not going to let this stop. So
6 if you guys -- before I call the police, if you want to
7 tell her that you will address it legally, but, for now,
8 she has to go with me, I think that would be your best
9 option.

Page 2 (lines 4-9) of Transcript (Attached to Mitchell Stipp's Declaration).

12 CHRISTINA: I will be at her school --
13 MITCHELL: Fine. But why would you do that?
14 CHRISTINA: -- in the middle of the day. I'll
15 go to --
16 MITCHELL: Why would you do that?
17 CHRISTINA: -- the piano teacher.
18 AMY: You're going to make --
19 CHRISTINA: I will talk --
20 AMY: -- your relationship worse.

Page 3 (lines 12-20) of Transcript (Attached to Mitchell Stipp's Declaration). **Mia simply asked to take the week off.** Mia stated very clearly to Christina the

1 following:

2 16 I just wish we would be, like, better for each
3 17 other, but, like, I'm just saying for right now, I don't
4 18 want to go to your house. And I'm not saying that I
5 19 never want to go back again. I'm saying I don't want to
6 20 go for us. I don't want to fight. And I don't want the
7 21 stress and the anxiety anymore. I'm done with it.
8 22 Like, I've had enough of it in my whole life. I feel
9 23 like I'm old enough to realize I don't want to live like
10 24 this anymore, and I feel like it would be better if we
11 25 just didn't see each other this week.

13
14 Page 2 (lines 16-25) of Transcript (Attached to Amy Stipp's Declaration).

15 Christina made the circumstances worse by threatening to call the police,
16 actually calling the police, cancelling Mia's music lessons on the following Monday,
17 and withdrawing Mia from school the following week. Ethan communicated his
18 preference to Christina's father who appeared at Ethan's baseball game, Ethan's coach
19 and Amy. Ethan's baseball coach released Ethan to Amy, which was Ethan's
20 preference. Amy asked Ethan to go speak to his grandfather before they left the
21 practice. Ethan walked over to his grandfather, gave him a hug and told him that he
22 loved him. The interaction was very pleasant. Regardless of the dispute, both Mia
23 and Ethan have communicated with their grandfather and other family members of
24 Christina via text messages since August 23, 2019.
25
26
27
28

1 **Mitchell did not show Ethan the text messages among the parties and**
2 **Ethan's baseball coach**. However, Ethan was aware that there was a dispute and his
3 baseball coach was involved because of Christina. Ethan was also aware the police
4 were called to Mitchell's home. Like Mia, Christina withdrew Ethan from school.
5 Mitchell is shocked that Christina claims she has no idea why Ethan does not want to
6 return to her care.
7

8
9 Given the physical violence and Christina's other bad acts, Mitchell's decision
10 to respect the preference of the children was in their best interest. Mitchell is not
11 aware of any statute, case, rule, or procedure that requires Mitchell physically to force
12 the children into Christina's care. Since Christina would not work with Mitchell, he
13 filed a motion and also asked the court to hear the matter on an order shortening time.
14 Since that time, Mitchell has offered Christina opportunities to spend time with the
15 children. He also reached out to Christina's family therapist, Nick Ponzo, to help.
16 Christina's attorney stipulated to Mr. Ponzo's involvement, but Christina refused to
17 consent. Christina also had independent opportunities to see the children, which she
18 has elected to forego despite notice and availability to attend. Mitchell even waived
19 his vacation time with the children for the year (two (2) weeks). It makes no sense to
20 resume normal visitation unless Christina is willing to address her behavior.
21
22

23 **Teenage Discretion:**

24
25 The Nevada Supreme Court has considered the concept of teenage discretion in
26 the Harrison v. Harrison, 132 Nev., Advance Opinion 56 (Case No. 66157, Filed July
27
28

28, 2016). The Harrison case is instructive of the parameters of teenage discretion that the Nevada Supreme Court finds acceptable. **Mitchell is not asking for more.** If the court is unwilling to grant Mitchell's request without an evidentiary hearing because it views the matter as a request to change custody, Mitchell requests a brief one be scheduled. Adequate cause for an evidentiary hearing has been shown by Mitchell pursuant to Rooney v. Rooney, 853 P.2d 123 (1993). Domestic violence between a parent and a child satisfies the standards in Rooney.

Mitchell understands that the Harrison case concerned a stipulation by the parties as to teenage discretion. That fact does not make the case inapplicable. The case does not stand for the proposition that the exercise of teenage discretion is only permitted if the parents agree. Again, Mitchell is not requesting that custody be changed. He simply wants the children to have the legal right to remove themselves from Christina's care when they do not feel safe. When would this occur? Mitchell expects the children would want to leave if a dispute rose to the level of physical violence (like in May and again in August of 2019). The children should not be forced to remain with Christina if her preferred method of punishment is physically to fight the children.

C. Conclusion

Mitchell respectfully requests the following relief:

1. Denial of the relief requested by Plaintiff, Christina Calderon.

2. FMC interview the parties' children to determine their wishes and capacity to exercise teenage discretion with respect to the timeshare spent with each party.
3. The parties participate in mediation at FMC to determine the parameters of teenage discretion.
4. An order permitting the children to exercise teenage discretion with respect to the timeshare with each party within the confines of joint physical custody.
5. If the court will not grant Mitchell's request without an evidentiary hearing, then the court should schedule the matter for a brief evidentiary hearing.

DATED this 24th day of September, 2019.

LAW OFFICE OF MITCHELL STIPP

/s/ Mitchell Stipp, Esq.

MITCHELL STIPP, ESQ.

Nevada Bar No. 7531

LAW OFFICE OF MITCHELL STIPP

10120 W. Flamingo Rd., Suite 4-124

Las Vegas, Nevada 89147

Telephone: 702.602.1242

mstipp@stipplaw.com

DECLARATION OF MITCHELL STIPP

I hereby declare and state as follows:

1. I am competent and willing to testify in a court of law as to the facts contained in this reply (which are incorporated herein by this reference).

2. I have personal knowledge of these facts, save those stated upon information and/or belief, and as to those matters, I believe them to be true.

/s/ Mitchell Stipp

Mitchell Stipp

DECLARATION OF AMY STIPP

I hereby declare and state as follows:

1. I have been married to Mitchell Stipp for 11 years. I have been Mia and Ethan Stipp's stepmother for 11 years.
2. I am competent and willing to testify in a court of law as to the facts contained in this reply (which are incorporated herein by this reference).
3. I have personal knowledge of these facts, save those stated upon information and/or belief, and as to those matters, I believe them to be true.

/s/ Amy Stipp

Amy Stipp

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of September, 2019, I filed the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case.

By: /s/ Amy Hernandez

An employee of the Law Office of Mitchell Stipp



1 MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
2 **LAW OFFICE OF MITCHELL STIPP**
10120 W. Flamingo Rd., Suite 4-124
3 Las Vegas, Nevada 89147
Telephone: 702.602.1242
4 mstipp@stippplaw.com
Attorneys for Mitchell Stipp, Defendant
5

6
7 **IN THE EIGHTH JUDICIAL DISTRICT COURT**
OF THE STATE OF NEVADA
8 **IN AND FOR THE COUNTY OF CLARK**

9 **FAMILY DIVISION**

10 CHRISTINA CALDERON,
11 Plaintiff,
12

13 v.

14 MITCHELL STIPP,
15 Defendant.
16
17
18
19
20

Case No.: D-08-389203-Z

Dept. No.: H

**EXHIBITS IN SUPPORT OF
DEFENDANT'S REPLY TO
OPPOSITION TO
COUNTERMOTION FOR CHILD
INTERVIEW BY FMC, MEDIATION
AND TO PERMIT CHILDREN TO
EXERCISE TEENAGE
DISCRETION ON TIMESHARE**

21
22 Defendant, Mitchell Stipp, hereby files the above-referenced exhibits.

23 ///

24 ///

25 ///

26 ///

27 ///

28

1
2 Exhibit A: Emails to Christina Calderon (meeting with Nick Ponzo).

3
4 Exhibit B: Mia Stipp's choir awards, confirmation of grades, and related materials.

5
6 Exhibit C: Calendar of Events from August 23, 2019 to September 24, 2019.

7
8 **LAW OFFICE OF MITCHELL STIPP**

9
10 /s/ Mitchell Stipp, Esq.
11 MITCHELL STIPP, ESQ.
12 Nevada Bar No. 7531
13 LAW OFFICE OF MITCHELL STIPP
14 10120 W. Flamingo Rd., Suite 4-124
15 Las Vegas, Nevada 89147
16 Telephone: 702.602.1242
17 mstipp@stipplaw.com

18
19 **CERTIFICATE OF SERVICE**

20 I HEREBY CERTIFY that on the 24th day of September, 2019, I filed the
21 foregoing using the Court's E-filing system, which provided notice to the e-service
22 participants registered in this case.

23 By: /s/ Amy Hernandez

24
25 An employee of the Law Office of Mitchell Stipp

EXHIBIT A



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stippplaw.com | www.stippplaw.com

----- Forwarded message -----

From: mstippiv@gmail.com <mstippiv@gmail.com>

Date: Wed, Sep 18, 2019 at 3:04 PM

Subject: Re: Exchange Today

To: Christina <ccstipp@gmail.com>

If you do not want to use Nick Ponzo, I'm happy to discuss other options. The children want a safe place to speak to you directly. However, I am not certain they will want to return to your care. I believe if you communicate open and honestly including taking responsibility for actions that causes concern, we will be moving in the right direction.

I am not depriving you of any timeshare. In fact, I will not exercise any vacation time this year (which is 2 weeks). I am not trying to change custody. I'm trying to resolve the dynamics in your home that causes significant concern. I think the circumstances of you and Mia physically fighting, you threatening the children's relationships and canceling their extracurricular activities without basis, etc. need to be addressed. If you can correct these issues, I don't see any reason why the children should not want to spend time with you. These are issues that absolutely need to be addressed before the children return to your home. They do not feel safe at your home because your actions are unpredictable and they do not want to feel fearful in your care. You should take the time to listen to the children and start making headway in repairing your relationship with both Mia and Ethan.

I don't agree that you should wait until the hearing to see the children so that you can manipulate the Court into believing you have been harmed. You have had many opportunities to see the children but have declined to do so. Ethan has had many baseball practices, several baseball games, Mia has attended 4 of those baseball games, open house for Ethan, open house for Mia, Mia's handbell performance, etc. You have not attended any of these events.

Please let me know how you would like to proceed.

Mitchell & Amy Stipp
10120 W. Flamingo Rd.
Suite 4-124

AA000521

Las Vegas, NV 89147
702.378.1907 (Mitchell)
702.277.6537 (Amy)

Sent from my iPhone

On Sep 18, 2019, at 9:50 AM, Mitchell Stipp mstippiv@gmail.com> wrote:

I spoke to your attorney yesterday. She requested that I provide an offer to settle the matters before the court. I would like to meet with Nick Ponzo as discussed below to do that. Frankly, I'm not sure what settlement would look like. However, if we can work with Nick (sooner rather than later), I believe we can come up with a plan that should address everyone's concerns. I strongly believe the kids should have a role in this process.

Please let me know your thoughts.

On Tue, Sep 10, 2019 at 10:16 AM Mitchell Stipp mstippiv@gmail.com> wrote:

I have not heard from you regarding the email below. Have you reached out to Nick Ponzo?

On Fri, Sep 6, 2019 at 1:49 PM Mitchell Stipp mstippiv@gmail.com> wrote:

I spoke with the kids this morning, and both indicated they prefer to remain in my care. After the events over the past couple of weeks, I think you should consider alternatives other than demanding the children be delivered into your care. My thought is we should meet with Nick Ponzo (including the kids) to decide the best course of action. I'm sure you want an opportunity to repair your relationship with them. I do not believe that will occur unless you take responsibility for the things you have done and provide assurances that they will not occur again. If that is the case, we can help with that process.

As I communicated to your attorney, I am happy to work with you. I prefer not to litigate. Please let me know your thoughts.

On Fri, Sep 6, 2019 at 11:26 AM Christina ccstipp@gmail.com> wrote:

Mitch,

I am available to pick up our kids today for my regular exchange. I can pick them up from the front office or the park in back of the school. Let me know if

you intend to support our exchange and if you prefer the office or the park.

Thanks,
Christina

--

Mitchell & Amy Stipp
10120 W. Flamingo Rd.
Suite 4-124
Las Vegas, NV 89147
702.378.1907 (Mitchell)
702.277.6537 (Amy)

--

Mitchell & Amy Stipp
10120 W. Flamingo Rd.
Suite 4-124
Las Vegas, NV 89147
702.378.1907 (Mitchell)
702.277.6537 (Amy)

--

Mitchell & Amy Stipp
10120 W. Flamingo Rd.
Suite 4-124
Las Vegas, NV 89147
702.378.1907 (Mitchell)
702.277.6537 (Amy)

From: Mitchell Stipp
<mstipp@stipplaw.com>
To: PDF <pdfconvert@pdfconvert.me>
Subject: Fwd: Calderon v. Stipp
Date: Tue, 3 Sep 2019 15:36:06 -0700

To File.



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stipplaw.com | www.stipplaw.com

----- Forwarded message -----

From: Mitchell Stipp <mstipp@stipplaw.com>
Date: Fri, Aug 30, 2019 at 10:33 AM
Subject: Re: Calderon v. Stipp
To: Nicolas Ponzo <nponzo1@hotmail.com>

Thank you for your reply.

I hope Christina will agree to allow you to help. If not, I understand. Christina's attorney emailed me late yesterday and withdrew her consent to your involvement. I assume your call to her prompted the email, but it is not clear. I think she will listen to you. Her advice from her lawyer seems terrible.

Let me know if you hear anything from Christina.



Mitchell Stipp
Law Office of Mitchell Stipp
T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)
E: mstipp@stipplaw.com | www.stipplaw.com

On Fri, Aug 30, 2019 at 10:28 AM Nicolas Ponzo <nponzo1@hotmail.com> wrote:

Hello,

After reviewing your email I was not sure if there is some determination or agreement that I

have a role in this matter. If so, I suppose it has not been clarified yet what my role may be. I sent a message to Christina to let her know that you sent me an email with some attachments and to inquire with her what her understanding of my role could be. I received a message back that she will be getting in touch with me to advise me of in what capacity or form I may be of some assistance.

Nicolas Ponzo, BA (Phil.), BA (Psych.),
MSW (Cln.), LCSW, M.ED (Psych.)
Diplomate, DCSW, NASW
Psychotherapy , Consulting

10161 Park Run Drive,
Suite 150,
Las Vegas, Nevada, 89145

Tel. 702.248.1169
Fax 702.515.7413
nicolasponzo.com

EXHIBIT B



The Director's Award
For
Chorus

FAITH LUTHERAN
MIDDLE SCHOOL
2018-2019

MLA STIPP



**Faith Lutheran
Middle School**

6th Grade Choir

MIA STIPP



2016-2017

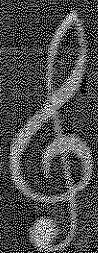


MIA STIPP

Soprano

Middle School Choir

2018



NMMEA

Nevada Music Educators Association

2019

CRUSADER AWARD



FAITH LUTHERAN
MIDDLE SCHOOL & HIGH SCHOOL

2017

Mia Stipp

Given to the Most Inspirational

Female Athlete

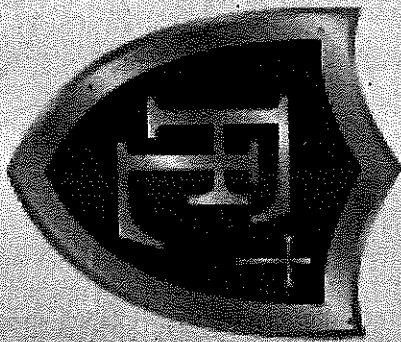
Faith Lutheran MS

Swim Team

"Do all things for the glory of God"

Faith Lutheran Middle School Athletic Award

Mia Stipp



Awarded for participation as a team member of

Swim Team

2017 - 2018

Sarah Shepler
Principal

Josh Can
Coach

[Signature]
Athletic Director

FAITH LUTHERAN MIDDLE SCHOOL

THIS CERTIFIES THAT

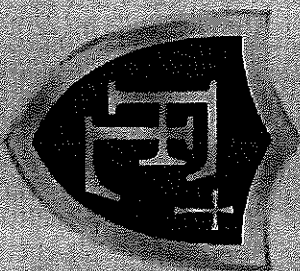
MIA STIPP

PARTICIPATED IN THE 2018 AMERICAN CHORAL DIRECTOR'S ASSOCIATION

MIDDLE SCHOOL HONOR CHOIR

IN PASADENA, CALIFORNIA MARCH 14TH - MARCH 17TH


MUSIC DIRECTOR




DEPARTMENT CHAIR



FAITH LUTHERAN

MIDDLE SCHOOL & HIGH SCHOOL

November 14, 2017

Mr. & Mrs Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

Dear Mia:

On behalf of the faculty and administration of FLHS it is my pleasure to congratulate you on receiving high academic honors for the first quarter. Since you maintained a GPA between 3.67 and 3.99 you have earned a spot on the Star Honor Roll this quarter. You can be very proud of this accomplishment.

You have begun the school year exceptionally well. Three more challenging quarters remain. I hope you will maintain your interest in school, persevere in your hard work, and continue to enjoy academic success. You will also be rewarded throughout life for the extra effort you have put forth to achieve academic excellence.

Thank you for the good stewardship of your God-given gifts. The faculty and administration of FLHS are very proud of your accomplishment.

In His Service,

Sarah Harper
MS Principal



FAITH LUTHERAN
MIDDLE SCHOOL & HIGH SCHOOL

January 30, 2018

Mr. Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

Re: Mia Stipp

Dear Mia:

On behalf of the administration of FLMS it is my pleasure to congratulate you on receiving high academic honors. You have earned a spot on the Star Honor Roll by maintaining a GPA between 3.67 and 3.99. You can be very proud of this accomplishment.

Two more quarters remain in this school year. I hope that your efforts will continue to meet the academic challenges that FLMS presents to you. Continue to work and study hard during the remainder of the year for you will be rewarded throughout life for the extra effort you have put forth to achieve such academic success.

Thank you again for your efforts. Your good stewardship of God-given talents is to be commended. The faculty and administration of FLMS are proud of your accomplishment.

God's richest blessings,

Sarah Harper
MS Principal



FAITH LUTHERAN

MIDDLE SCHOOL & HIGH SCHOOL

April 16, 2018

Mr. Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

Dear Mia:

I am impressed! You have earned a third quarter grade point average of 4.0! Wow! I admire the commitment, dedication, focus, initiative, and self-discipline you have demonstrated to achieve academically at this level. You have clearly shown that you understand the importance of high standards and goals; that same commitment to excellence will help you through the many opportunities and challenges that you will face in life beyond graduation from Faith Lutheran.

Thank you for your work in the classroom and at home; your efforts serve as a model for the rest of our students. Keep up the great work as you continue to commit to using the gifts with which God has blessed you. As the weather turns warmer and thoughts turn to summer, I challenge you to stay focused on your academic goals during the 4th quarter. I believe you can achieve whatever you put your mind to.

We are blessed to have students like you at Faith Lutheran.

God's richest blessings,

Steven J. Buuck, Ph. D.
Chief Executive Officer



FAITH LUTHERAN
MIDDLE SCHOOL & HIGH SCHOOL

November 7, 2018

Mr. & Mrs Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

Dear Mia:

Getting off to a good start is important in almost any endeavor in life. A good start establishes momentum, gives you confidence to move forward successfully, and can serve as the foundation on which to build. With a GPA of 4.0 or higher in the first quarter, you are off to that great start. Congratulations on your work during the first nine weeks of the school year.

You have set a high bar for yourself. Achieving at such a high level, after the slower pace of summer, is in itself a significant accomplishment. Yet it will be quickly forgotten without a continued commitment to academic excellence. May God continue to bless your efforts.

Again, congratulations on your status as a Faith Scholar.

In His Service,

Steven J. Buuck, Ph. D.
Chief Executive Officer



FAITH LUTHERAN

MIDDLE SCHOOL & HIGH SCHOOL

February 19, 2019

Mr. & Mrs Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

RE: Mia Stipp

Dear Mia,

Some things get easier the longer you do them. Having a g.p.a. of 4.0 or higher is not one of them. Classes get tougher as we go throughout the year. There are more activities to distract you. The enthusiasm for a new school year can diminish. Your achievement of this level of academic excellence is testimony to your intelligence and dedication.

But we are just halfway through the year. A new semester, full of its own challenges, is unfolding before you. May God continue to bless your efforts to do your best inside the classroom and out. Thanks for being the best example to all those around you.

In His Service,

Steven J. Buuck, Ph. D.
Chief Executive Officer



FAITH LUTHERAN
MIDDLE SCHOOL & HIGH SCHOOL

June 25, 2018

Mr. Mitchell Stipp
10120 W. Flamingo Rd. #4-124
Las Vegas NV 89147

Dear Mia,

You finished well! By earning a 4.0 or better GPA you have earned a spot on an exclusive list: the Faith Scholar honor roll. You were able to stay motivated when others around you were distracted by the approach of summertime leisure and the fatigue of a long school year.

You have earned a break from the rigors of classes, homework, tests and projects. Your academic success suggests summertime is just another opportunity for continuing your intellectual growth, just without the deadlines. So read a good book or two and visit interesting places. May God grant you a safe and restful summer.

Again, my congratulations on a job well done.

In His Service,

Steven J. Buuck, Ph. D.
Chief Executive Officer



FAITH LUTHERAN

MIDDLE SCHOOL & HIGH SCHOOL

Dear Mia

On behalf of the faculty at the Faith Lutheran Jr./Sr. High School, I would like to congratulate you on your promotion to high school. It has been a pleasure getting to know you this year and watching you grow in your personality and knowledge. You have been given many gifts from God but the ones that stand out to me are your dedication to your schoolwork and ability to do your very best in every situation. I also sincerely appreciate you coming into class and getting down to business in order to be successful for the day. You have been one of the best kids I have had the pleasure of teaching. Please continue to embrace life and find joy in doing your work well and laughing with others. You will go far with that attitude and you will change people's lives for the better. Always strive to do your best and live life to the fullest.

I cannot wait to see what plans God has for you and watch as you continue to grow as you move forward on to high school! Don't forget to stop by and say hi next year!

God's Richest Blessings!

Mrs. Nell

Mrs. Nell
Algebra 1

In everything
give
thanks

Thessalonians 5:18



FAITH CONSERVATORY
OF THE FINE ARTS

March 15, 2019

Dear Mia,

Congratulations!

You have been accepted into the Faith Conservatory of Fine Arts Vocal Music Department for the 2019-20 school year.

Please complete the following immediately:

A) Confirm your music class schedule with your counselor.

1st Music Class: Vocal Ensemble

2nd Music Class: Praise Band, Honors Show Choir, Honors Chamber Singers (Early Bird – audition to come), Music Theory/Keyboard Skills (online or at school), Handbells, Speech, Musical Theatre 1, Performance Psychology

B) Save the Date – Wednesday, May 1 - Join the HS Conservatory musicians during a portion of their Advisory for a brief introduction and welcome by the outgoing seniors.

Once again - **congratulations!** Jesus has blessed you abundantly, both with your incredible talent and with a spirit of hard work, leadership and great JOY. We are tremendously excited about the growth of our advanced music program and the exciting developments on the horizon – upcoming national and international tours, the addition of Honors courses in Vocal Music, etc. As Conservatory musicians, you are going to both create and carry on a Faith "legacy of song" that will be respected by the "best of the best" for years to come. THANK YOU for being a worthy steward of your God-given talents!

Creating art for HIS sake,

Mrs. Lyndsay Ermeling
Director of Vocal Music & Musical Theatre Instructor
Faith Lutheran Middle and High School
lyndsay.ermeling@flhsemail.org

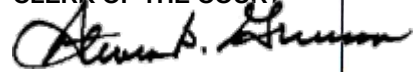
EXHIBIT C

August 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
28	29	30	31	1	2	3 AA000542
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln ■ 5:00 PM Ethan— 4:45PM-7PM-Extra Base- ball Work-Doc Romeo Field #8, 7400 Peak Dr., Las Ve- ■ 6:15 PM Mia— 6:15PM-9PM-HS Back To School Night	■ 6:15 PM Ethan— 6:15PM-9PM-MS Back To School Night	■ 4:15 PM Ethan— 4:15PM-5:15PM-Dr. Close Urology Appt. ■ 5:00 PM Ethan— 4:45PM-8PM-Baseball Field Practice-Garside Baseball Field, 203 S Newcomer St Las Vegas NV	■ 7:00 AM Ethan— 7AM-7:30AM-Truman Or- thodontics Appt	■ 6:00 PM Ethan— 5:45PM-8PM-Baseball Hit- ting Instruction-Garside Field, 203 S Newcomer St Las Vegas NV	■ 8:00 AM Ethan— 7:45AM-11AM-Baseball Field Practice-Garside Field, 203 S Newcomer St Las Vegas NV	■ 9:00 AM Ethan— 8AM-11AM-Baseball Back to School Brawl Tourna- ment vs. PR Hitmen (CA)- Desert Diamonds Field #3, 8101 W Mountains Edge ■ 11:15 AM Ethan— 11AM-2PM-Baseball Back to School Brawl Tourna- ment vs. Pure Baseball Ti- tans

September 2019

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 ■ 11:15 AM Ethan— 10AM-1PM-Baseball Back to School Brawl Tournament vs. Outkast-Desert Diamonds Field #2, 8101 W ■ 4:15 PM Ethan— 3-15PM-6:15PM-Baseball Back to School Brawl Tournament vs. PFA Matadors Navy (CA)-Desert Diamonds Field #2, 8101 W	2 ■ 10:00 AM Ethan— 10AM-8PM-Baseball Labor Day Back to School Brawl Tournament ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV	3 ■ 1:50 PM Mia—1:50-2:50-Saxe Orthodontics Appt.	4 ■ 5:00 PM Ethan—4:45-8PM-Baseball Field Practice-Gar-side Baseball Field, 203 S Newcomer St Las Vegas NV	5 ■ 5:45 PM Ethan— 5:45PM-8PM-Baseball Hitting Instruction-Gar-side Baseball Field, 203 S Newcomer St Las Vegas NV	6 ■ 8:00 AM Ethan— 7:45AM-1PM-Baseball Field Practice-Gar-side Baseball Field, 203 S Newcomer St Las Vegas NV ■ 12:00 PM Mia—12PM-1PM-Optic Gallery Eye Doc Appt	7 ■ 8:00 AM Mia—Handbells @ Grace Presbyterian ■ 9:00 AM Ethan— 8AM-11AM-Diamond Duel Tournament vs. NV Panthers-Veteran's Memorial Park, Field 3, 1650 ■ 1:45 PM Ethan— 12:45PM-3:45PM-Diamond Duel Tournament vs. LV Aces-Veteran's Memorial
8 ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV	9 ■ 9:00 AM Ethan— 4:30PM-5:30PM-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	10 ■ 5:00 PM Ethan— 4:45PM-8PM-Baseball Field Practice-Gar-side Baseball Field, 203 S Newcomer St Las Vegas NV	11 ■ 6:00 PM Ethan—5:45-8PM-Baseball Hitting Instruction-Gar-side Baseball Field, 203 S Newcomer St Las Vegas NV	12 ■ 8:00 AM Mia—Handbells @ Grace Presbyterian ■ 9:00 AM Ethan— 8AM-11AM-Diamond Duel Tournament vs. NV Panthers-Veteran's Memorial Park, Field 3, 1650 ■ 1:45 PM Ethan— 12:45PM-3:45PM-Diamond Duel Tournament vs. LV Aces-Veteran's Memorial	13 ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV	14 ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV
15 ■ 8:00 AM Ethan— 7:15AM-10AM-Diamond Duel Tournament at SN Baseball 14u-Veteran's Memorial Park, Field 3, 1650 Buchanan Blvd., Boulder City, NV	16 ■ 4:30 PM Ethan— 4:30PM-5:30PM-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	17 ■ 5:00 PM Ethan—4:45-7:30-Baseball League Play: Aces vs. Project X-Gar-side Baseball Field 203 S Newcomer St, Las Vegas, NV ■ 6:30 PM Mia— 6:30PM-7:30PM-FLHS Chicago Music Meeting	18 ■ 5:00 PM Ethan—5PM-7PM-FLMS Student Council presents Back-to-School Backyard Bash	19 ■ 3:30 PM Ethan— 2:30PM-5:30PM-Bullring Tournament vs. LV Aces-Las Vegas Sports Park, 1400 N Rampart Blvd., Las Vegas, NV ■ 5:30 PM Ethan— 5:30PM-7:30PM-Bullring Tournament vs. NV Elite Gorillas-Las Vegas Sports Park, 1400 N Rampart	20 ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV	21 ■ 3:30 PM Mia— 3:30PM-5PM-Music Lesson w/Mrs. Warling-8404 Viceroy Ln Las Vegas NV
22 ■ 2:30 PM Ethan— 10AM-1PM-Baseball Championship Game-Las Vegas Sports Park, 1400 N Rampart Blvd, Las Vegas, NV	23 ■ 4:00 PM Mia—4PM-7PM-Choir Crusader Preview Night ■ 5:00 PM Ethan— 4:45PM-8PM-Baseball Extra Work-Doc Romeo Field #8, 7400 Peak Dr., Las Vegas, NV	24 ■ 8:00 AM Mia—8AM-4PM-Choir and Handbell Rehearsal ■ 4:30 PM Ethan—4:30-5:30-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	25 ■ 8:00 AM Mia—8AM-4PM-Choir and Handbell Rehearsal ■ 4:30 PM Ethan—4:30-5:30-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	26 ■ 8:00 AM Mia—8AM-4PM-Choir and Handbell Rehearsal ■ 4:30 PM Ethan—4:30-5:30-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	27 ■ 8:00 AM Mia—8AM-4PM-Choir and Handbell Rehearsal ■ 4:30 PM Ethan—4:30-5:30-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV	28 ■ 8:00 AM Mia—8AM-4PM-Choir and Handbell Rehearsal ■ 4:30 PM Ethan—4:30-5:30-Workout w/Baseball Instructor-Vis-tas Park 11311 Alta Dr, Las Vegas, NV
29	30	1	2	3	4	5



1 **NOA**
2 RADFORD J. SMITH, CHARTERED
3 RADFORD J. SMITH, ESQ.
4 Nevada Bar No.: 002791
5 2470 St. Rose Parkway, Suite 206
6 Henderson, Nevada 89074
7 Telephone (702) 990-6448
8 Facsimile (702) 990-6456
9 rsmith@radfordsmith.com
10 *Attorneys for Plaintiff*

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

14 CHRISTINA CALDERON,
15
16 Plaintiff,

CASE NO.: D-08-389203-Z
DEPT NO.: H

FAMILY DIVISION

17 v.

18 MITCHELL STIPP,
19
20 Defendant.

21 **NOTICE OF APPEARANCE**

22 PLEASE take Notice that Radford J. Smith, Esq., of the law offices of RADFORD
23 J. SMITH, CHARTERED, has been retained as attorney of record for Defendant Mitchell

24 . . .

25 . . .

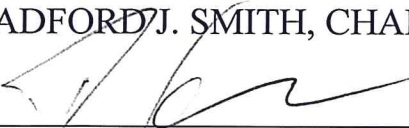
26 . . .

27 . . .
28 . . .

1 Stipp, please direct all further communication, filings or correspondence to the undersigned
2 at the foregoing address and phone number.
3

4 DATED this 24 day of September 2019.

5 RADFORD J. SMITH, CHARTERED
6

7 
8 RADFORD J. SMITH, ESQ.

9 Nevada Bar No.: 002791

10 2470 St. Rose Parkway, Suite 200

11 Henderson, Nevada 89074

12 (702) 990-6448

13 *Attorneys for Defendant*
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

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

I served the foregoing document described as "Notice of Appearance" on this 24 day of September 2019, to all interested parties as follows:

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

☐ BY FACSIMILE: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below;

☒ BY ELECTRONIC SERVICE: I transmitted a copy of the foregoing document this date via the Eighth Judicial District Court's electronic filing system;

☐ BY ELECTRONIC MAIL: Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via electronic mail to the electronic mail address shown below.

Valerie Fujii, Esq.
Fujii Law Offices
Attorney for Plaintiff

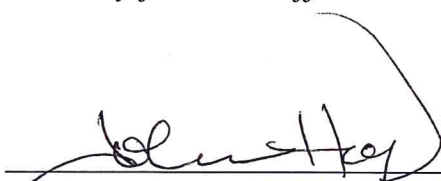

An Employee of Radford J. Smith Chartered

EXHIBIT B

Stipp, Mia Elena
 11757 Feinberg Place
 Las Vegas, NV 89138
 United States
 Birth Date: 10/19/2004
 Enrollment: 04/05/2016
 Expected Graduation: 2023



FAITH LUTHERAN
 MIDDLE SCHOOL & HIGH SCHOOL

Faith Lutheran Middle School & High School
 2015 S. Hualapai Way
 Las Vegas, NV 89117
 United States
 Phone: 702-804-4400
<http://www.faithlutheranlv.org/>

2016 - 2017 Grade: 6 Faith Lutheran Middle School & High School

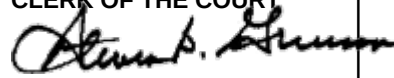
	S1	S2
Choir 6	95	99
Coed PE 6	99	99
Language Arts 6	96	98
Life Science 6	90	91
Literature 6	97	97
Math II 6th Grade	90	93
One in Christ	93	97
Social Studies 6	94	95

2017 - 2018 Grade: 7 Faith Lutheran Middle School & High School

	S1	S2
Advanced English 7	95	95
American History	95	97
Girls PE MS	97	98
Old Testament	98	98
Pre-Algebra	91	95
Pre-STEM Earth Science 7	91	92
Spanish IA	94	94
Treble Chorus MS	100	100

2018 - 2019 Grade: 8 Faith Lutheran Middle School & High School

	S1	S2
Advanced English 8	98	98
Algebra I MS	98	98
Dance I MS	98	99
Globalization	93	98
Health	97	95
Pre-STEM Physical Science 8	91	92
Treble Chorus MS	100	100
Why We Believe	99	98



1 **APP**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujii-lawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME**

20 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
21 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.

22 FUJII & ASSOCIATES, and hereby requests an Order Shortening Time on her

23 *Motion for Order to Show Cause Against the Defendant for Willfully*

24 *Disobeying the Custody Order; a Request for Immediate Return of the Children,*

25 *Make up Visitation and an Award of Attorney's Fees,* the hearing for which is

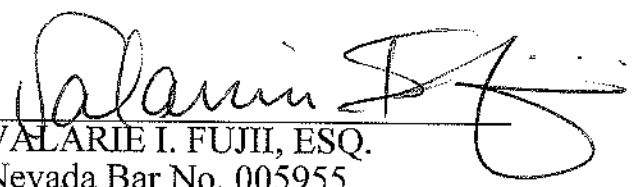
26
27

28

1 currently scheduled for the 1st day of October, at 11:00 a.m. in Department H/CR
2 3G at the Regional Justice Center of this Court.

3 DATED this 26th day of September, 2019.

4 VALARIE I. FUJII & ASSOCIATES

5
6 
7 VALARIE I. FUJII, ESQ.
8 Nevada Bar No. 005955
9 704 South Sixth Street
10 Las Vegas, Nevada 89101
11 Attorney for Plaintiff
12 CHRISTINA CALDERON

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 EDCR 5.513 Orders shortening time for a hearing, states as follows:

- 15 (a) Unless prohibited by other rule, statute, or
16 court order, a party may seek an order
17 shortening time for a hearing.
- 18 (b) An ex parte motion to shorten time must
19 explain the need to shorten the time. Such a
20 motion must be supported by affidavit.

21 In the instant case, *Plaintiff's Motion for Order to Show Cause, Etc.* must
22 be heard before the scheduled hearing on October 1, 2019, for the following
23 reasons:

- 24 1. ETHAN (age 12) has been suspended from school, a police report
25 was filed against him, and he is facing a lawsuit due to violence he
26 perpetrated upon a student at school on September 16th and 20th,
27 2019, while MITCH has been withholding the children from
28

1 CHRISTINA for over five (5) weeks. See **Exhibit 8** (Crusader
2 Connect School Record of Discipline).

- 3 2. CHRISTINA heard a rumor of ETHAN'S school suspension on
4 September 24, 2019. She immediately emailed ETHAN'S teachers to
5 verify the veracity of the rumor and to learn details given the absolute
6 lack of information provided to her from MITCH to date.
- 7 3. On September 25, 2019, ETHAN'S teachers informed CHRISTINA
8 that ETHAN had been suspended on September 23, 2019. They
9 directed her to speak with assistant principal, Jacob Kothe, for more
10 details. They also expressed concerns over ETHAN's "arrogance
11 and some behaviors that concern us and are a detriment to his
12 success as well as peer relationships." CHRISTINA is meeting with
13 them on September 26, 2019. See **Exhibit 9** (Emails to/from
14 CHRISTINA and Ms. Davis/Ms. Wandel, September 25, 2019)
15 (emphasis added).
- 16 4. Mr. Kothe informed CHRISTINA that ETHAN had been accused of
17 punching a student in the stomach on Monday, September 16, 2019,
18 and also pushing the same student to the ground on Friday, September
19 20, 2019. ETHAN admitted pushing the student. The student
20 suffered an injury for which medical treatment was sought. Mr.
21 Kothe said that the family of the injured student had filed a police
22 report and was suing due to the injuries.
- 23
24
25
26
27
28

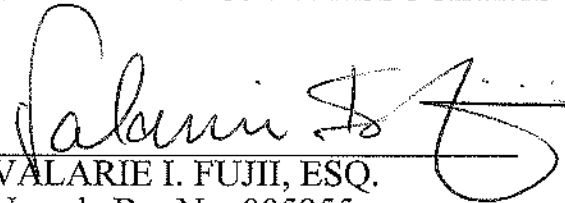
- 1 5. Mr. Kothe confirmed that he and 6th grade counselor, Dr. Knorr, met
2 with MITCH on Monday September 23, 2019 to discuss ETHAN'S
3 suspension and other behavioral concerns. MITCH has yet to inform
4 CHRISTINA of ETHAN'S suspension or the facts surrounding it in
5 violation of the parties' joint legal custody status and orders.
6
- 7 6. Mr. Kothe apologized for not reaching out to CHRISTINA directly.
8 He said that he assumed MITCH would have informed her of the
9 event as co-parents are supposed to do.
10
- 11 7. Mr. Kothe shared with CHRISTINA that when he first spoke to
12 ETHAN in his office, ETHAN glared at him in anger. Mr. Kothe
13 prayed with ETHAN and talked to him about his anger. Mr. Kothe
14 believes that ETHAN has a "chip on his shoulder."
15
- 16 8. MIA and ETHAN have not only stopped communicating with her for
17 over five weeks, but they have also stopped responding to
18 CHRISTINA'S extended family members, including CHRISTINA'S
19 father to whom both children are unequivocally bonded.
20
- 21 9. Not only did MITCH neglect to tell CHRISTINA about ETHAN'S
22 suspension, but he made no mention of these critical facts in his
23 Reply, filed September 24, 2019, in violation of his duty of candor to
24 the tribunal.
- 25 10. ETHAN's recent behaviors of violence, arrogance and difficulty
26 interacting appropriately with teachers, administration and other
27 students are consistent with those outlined by Donna Wilburn, M.S.,
28

1 LMFT in her letter of September 11, 2019, as typically displayed by
2 children of pathogenic parents who alienate and disparage the other
3 parent and who empower the children to make choices regarding
4 custody. See **Exhibit 7** filed on September 11, 2019.
5

6 Good cause exists to shorten the time on Plaintiff CHRISTINA
7 CALDERON's Motion, which is not set to be heard until October 1, 2019. If the
8 time is not shortened, ETHAN will continue to act out and both he and MIA will
9 continue to suffer the turmoil caused by MITCH. MIA and ETHAN deserve to
10 have the care, love, support and guidance of their mother in their lives. The
11 damage MITCH has caused MIA and ETHAN is grave.
12

13 DATED this 20th day of Sept., 2019.

14 VALARIE I. FUJII & ASSOCIATES

15 
16
17 VALARIE I. FUJII, ESQ.

18 Nevada Bar No. 005955
19 704 South Sixth Street
20 Las Vegas, Nevada 89101
21 Attorney for Plaintiff
22 CHRISTINA CALDERON
23
24
25
26
27
28

STATE OF NEVADA)
COUNTY OF CLARK) ss:

- 1) I am the Plaintiff in the above-captioned matter;
- 2) I am the mother of Mia Stipp (14) and Ethan Stipp (12).
- 3) I verify that the facts set forth in this affidavit are true and correct.
- 4) Exigent circumstances exist warranting the shortening of time for hearing on my Motion for Order to Show Cause Against the Defendant for Willfully Disobeying the Custody Order; a Request for Immediate Return of the Children, Make up Visitation and an Award of Attorney's Fees.
- 5) On September 24, 2019, I received information from a third party indicating that ETHAN may have been suspended from school. I immediately contacted ETHAN'S sixth grade homeroom teachers to confirm the information.
- 6) On September 25, 2019, ETHAN'S teachers informed me that ETHAN had been suspended on September 23, 2019. They directed me to speak with assistant principal, Jacob Kothe, for more details. They also expressed concerns over ETHAN's "arrogance and some behaviors that concern us and are a detriment to his success as well as peer relationships." I am meeting with them on September 26, 2019.
- 7) Mr. Kothe informed me that ETHAN had been accused of punching a student in the stomach on Monday, September 16, 2019, and also pushing the same student to the ground on Friday, September 20, 2019. ETHAN admitted pushing the student. The student suffered an injury for which medical treatment was sought. Mr. Kothe said that the family of the injured student had filed a police report and was suing due to the injuries.
- 8) Mr. Kothe confirmed that he met with MITCH on Monday, September 23, 2019, to inform him of ETHAN'S suspension and concerning behaviors. MITCH has yet to inform me of ETHAN'S suspension or the facts surrounding it in violation of our joint legal custody status and orders.
- 9) MITCH'S actions in acting out his version of "teenage discretion" has resulted in extreme alienation of MIA and ETHAN from me. He has

essentially awarded himself sole physical and legal custody of MIA and ETHAN, to their detriment.

- 10) MIA and ETHAN have not spoken to me or responded to my texts with the exception of one in-person conversation on August 29, 2019, in front of their high school principal, Scott Fogo, when I attempted to pick them up from school in accordance with our custody order.
- 11) Mr. Fogo told me after witnessing MIA and ETHAN'S interactions that the "truth would come to light" and that "manipulation has a way of revealing itself." I was not escorted off school property as MITCH falsely claims. The principal's concerns were with MITCH'S manipulation of the children, not with me.
- 12) Five weeks straight in MITCH'S sole custody and care has resulted in MIA and ETHAN not only rejecting me, but also in them rejecting my family members, who have reached out to them, including my father, an unequivocal favorite of both MIA'S and ETHAN'S, to no avail.
- 13) MITCH lied when he told the Court in his Reply, filed September 24, 2019, that I had not attended a baseball game or music performance of MIA'S or ETHAN'S in the 5 weeks he has kept the children. MITCH spoke to me at one of ETHAN'S games and saw me at others. I also attended MIA'S Preview Night performance.
- 14) MITCH'S Reply also made NO MENTION of ETHAN'S suspension, pending criminal investigation, or civil lawsuit. Instead, MITCH claims that the children are thriving in his care and attached accolades our children received over the years while in our JOINT CUSTODY.
- 15) Good cause exists to shorten the time on my Motion before MIA and ETHAN face additional hardship and endure further psychological manipulation at the hands of MITCH, who has withheld critical information about the welfare of MIA and ETHAN from both me and this Court.

Christina Calderon
CHRISTINA CALDERON

SUBSCRIBED and SWORN to before me
on this 26th day of Sept., 2019,
by CHRISTINA CALDERON.

Theresa Locklar
NOTARY PUBLIC in and for
Said County and State



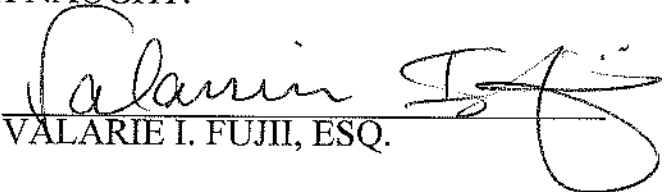
1 **AFFIDAVIT OF VALARIE I. FUJII, ESQ. IN SUPPORT OF**
2 **EX PARTE APPLICATION FOR ORDER SHORTENING TIME**

3 STATE OF NEVADA)
4 COUNTY OF CLARK) ss.

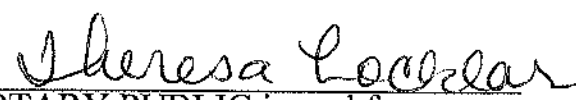
5 Affiant, VALARIE I. FUJII, ESQ., being first duly sworn, deposes and
6 affirms as follows:

- 7 1. Affiant is an attorney duly licensed to practice law in the State of
8 Nevada, Bar No. 5955, and owner of VALARIE I. FUJII & ASSOCS.
- 9 2. Affiant is the Attorney for Plaintiff CHRISTINA CALDERON.
- 10 3. A hearing on *Plaintiff's Motion for Order to Show Cause Against the*
11 *Defendant for Willfully Disobeying the Custody Order; a Request for*
12 *Immediate Return of the Children, Make up Visitation and an*
13 *Award of Attorney's Fees* is currently set for October 1, 2019.
14 *Plaintiff's Motion* must be heard before the scheduled hearing of
15 October 1, 2019, based upon the facts outlined hereinabove.
- 16 4. Good cause exists to shorten the time on Plaintiff CHRISTINA
17 CALDERON's Motion, which is not set to be heard until October 1,
18 2019. If the time is not shortened, ETHAN will continue to act out
19 and both he and MIA will continue to suffer the turmoil caused by
20 MITCH. MIA and ETHAN deserve to have the care, love, support
21 and guidance of their mother in their lives. The damage MITCH has
22 caused MIA and ETHAN is grave.

23 FURTHER AFFIANT SAYETH NAUGHT.

24 
25 VALARIE I. FUJII, ESQ.

26 SUBSCRIBED and SWORN to before me
27 on this 26th day of Sept., 2019,
28 by VALARIE I. FUJII, ESQ.

29 
30 NOTARY PUBLIC in and for
31 said COUNTY and STATE

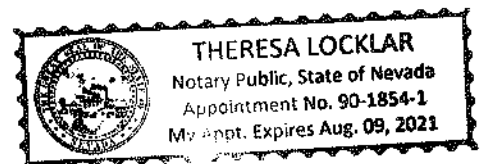


EXHIBIT 8

EXHIBIT 8

EXHIBIT 8



Official Note
Ethan Stipp '26

(<http://www.faihlv>)

x

Behavioral Probation | 9/25/2019 by Jacob Kothe

As a result of Ethan's suspension, he will be placed on discipline probation for the 2019/2020 school year. The terms of his probationary status will be that if he is involved in any similar inappropriate action again, or anything else that would normally result in suspension, his enrollment at Faith Lutheran Middle School & High School will be in jeopardy.

Certainly, we will keep Ethan in our prayers and we will continue to work with him. It is our hope that with God's help, he will make the necessary changes. We welcome any suggestions you might have to help us be more effective with your child.

[Prev](#) [Next](#) [Cancel](#)



Inappropriate Behavior

9/25/2019 by Jack [redacted] othe

(<http://www.faihl>)

Approved

Description: Ethan admits to shoving another student, he fell to the ground and was injured. There was also a report that he hit the same student earlier in the week. Ethan reports he doesn't recall hitting him in the stomach. He was suspended 3rd and 4th block Monday, September 23rd and Wednesday, September 25th.

Consequences: 1 External Suspension, 1 Served Consequence

Attendance History - By Student:
2019 - 2020

Faith Lutheran Middle School & High School

Printed: 9/26/2019

Stipp, Ethan '26

Grade: 6

Total # of Classes: 158

Total Excused: 7

Total Unexcused: 1

Section	Excuse	Excuse Type	Comment
9/25/2019			
Math II 6th Grade 502-2 (M1A)	Suspended External	Absent Excused	J Kothe
MS Chapel Maroon 2 2-13 (MS Chapel 2 Maroon)	Suspended External	Absent Excused	J Kothe
One in Christ 101-2 (M2)	Suspended External	Absent Excused	J Kothe
Coed PE 6 603-3 (M3)	Suspended External	Absent Excused	J Kothe
Life Science 6 812-2 (M4)	Suspended External	Absent Excused	J Kothe
9/23/2019			
Explore Broadcasting 6 2013-1 (G3)	Administrator	Absent Excused	J Kothe
Literature 6 302-2 (G4)	Administrator	Absent Excused	J Kothe
8/22/2019			
Life Science 6 812-2 (M4)	Tardy - No Excuse	Tardy	

EXHIBIT 9

EXHIBIT 9

EXHIBIT 9

[Print](#) | [Close Window](#)**Subject:** Fwd: Ethan Stipp**From:** Christina <ccstipp@gmail.com>**Date:** Thu, Sep 26, 2019 3:02 pm**To:** theresa@fujilawlv.com

This is the email for exhibit

Sent from my iPhone

Begin forwarded message:

From: Brianna Davis <davisb@flhsemail.org>
Date: September 25, 2019 at 7:59:07 AM PDT
To: Christina <ccstipp@gmail.com>
Cc: Melissa Wandel <Melissa.Wandel@flhsemail.org>
Subject: Re: Ethan Stipp

Good morning,

Thanks for reaching out. There was an incident with Ethan and a boy in another class resulting in a one day suspension. He'll be returning to school tomorrow. If you have any further questions regarding his suspension, please contact administration.

First of all, Ethan is doing well academically as I'm sure you can tell by checking his Crusader Connect! He's a bright kid who has lots of potential, however we're seeing arrogance and some behaviors that concern us and are a detriment to his success as well as peer relationships.

Mrs. Wandel and I would be happy to meet with you to discuss his successes and our concerns. Please let us know if you're available in the near future.

Blessings on the rest of your week,
Brianna Davis

On Tue, Sep 24, 2019 at 11:23 PM Christina <ccstipp@gmail.com> wrote:
Hello Ms. Davis & Ms. Wandel,

I am Ethan Stipp's mom. I heard from another student at Faith that Ethan was disciplined for something he said to/or about another child at school recently. Can you confirm whether that is true or not?

Unfortunately, Ethan's dad and I are involved in custody litigation and communication between us is limited. Mr. Fogo is aware of our custody dispute. I have also not spoken with Ethan in several weeks. We share joint physical and joint legal custody of Ethan and Mia (his older sister). Any information on how he has been doing in school would be greatly appreciated.

I do have access to his grades and other information on crusader connect.

Thank you,
Christina Calderon
702-610-0032

Copyright © 2003-2019. All rights reserved.

AA000564

ORIGINAL

FILED IN OPEN COURT

OFFM

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

10/11, 2019
Steven D. Grierson, Clerk of the Court

By: Kathleen Prock
KATHLEEN PROCK Deputy

Christina Calderon Stipp

vs.

Mitchell David Stipp

Plaintiff,

Case No. D-08-389203-2

Department H

Defendant.

ORDER FOR FAMILY MEDIATION
CENTER SERVICES

Pursuant to Nevada Revised Statutes 3.475 and 125.480 IT IS HEREBY ORDERED by the Court that, regarding the child(ren) at issue, the Family Mediation Center (FMC) shall provide:

- ☐ Mediation. _____
- ☐ Include Safety Protocol
- ☒ Child Interview. Name(s): Mia 10/19/2004; Ethan 3/24/07
- ☐ Standard FMC Child Interview Questions

Additional questions/topics:

- ☐ Non-therapeutic Parent/Child Observation. No. of observation sessions: 1 ☐ 2 ☐ _____
- Parent and Child Name(s): _____

IT IS FURTHER ORDERED that, if an interpreter is needed, it is the party's responsibility to pay the interpreter at the time services are rendered. The language needed is: ☐ Spanish ☐ Other: _____

☐ Good cause appearing, court interpreter fees waived by the Court.

IT IS FURTHER ORDERED that the cost of mediation will be assessed using a sliding scale based on each party's individual financial status.

IT IS FURTHER ORDERED that the parties must report to FMC at 601 N. Pecos Road, Las Vegas, NV 89101.

IT IS FURTHER ORDERED that, if the UNLV Mediation Clinic is in session, a referral is ☐ authorized ☐ not authorized.

DATED this 1st day of October, 2019

YOUR RETURN COURT DATE IS:

Date: 11/12/19 Time: 9:00am

DEPT. H
COURTROOM 3G
RJC

T Art Ritchie, Jr.

District Judge T ART RITCHIE, JR.

Bar No. of Plaintiff's Attorney: #5955

Bar No. of Defendant's Attorney: #2791

COURT ORDER INSTRUCTIONS. PLEASE READ!!!

You have been ordered by the Court to contact the Family Mediation Center and/or Donna's House Central for services. Complete the information below and leave this form in the drop box outside the Department that heard your case. The information you provide will be used as contact information to set an appointment. There is a fee for all services.

CHECK ALL SERVICES ORDERED:

☒ FAMILY MEDIATION CENTER/CHILD INTERVIEW

If you are currently receiving public assistance your Family Mediation Center fees may be waived. Please bring written verification of your benefits to your appointment.

☐ OUTSOURCE EVALUATION SERVICES

☐ DONNA'S HOUSE CENTRAL

Case No. D-08-389203-Z (from your court documents)

IF AN INTERPRETER IS NEEDED, WHAT LANGUAGE: _____

Please note that it is the party's responsibility to pay the interpreter at the time services are rendered.

NAME STIPP, MITCHELL DAVID Date of Birth 4-01-75

Mailing Address 10120 W. Flamingo Rd #4124
Number and Street Apt. No.

Las Vegas, NV 89147
City State Zip

Cell Phone 702-378-1907 Home/Work Phone _____

If telephone number is blocked, we may not be able to reach you.

Email Address (please print): Mstipp@Stipplaw.com

Your Days Off _____ Work Hours _____

Attorney's Name RAFORD SMITH #2791

NAME OF MINOR CHILD(REN) AT ISSUE IN THIS CASE

First Middle Last Date of Birth Child resides with whom?

1.	<u>Mia</u>		<u>Stipp</u>	<u>10/19/04</u>	<u>Father</u>
2.	<u>Ethan</u>		<u>Stipp</u>	<u>3/24/07</u>	<u>Father</u>
3.					
4.					

YOUR RELATIONSHIP TO THE CHILD(REN) AT ISSUE: FATHER

(i.e., paternal grandmother, maternal uncle, etc.)

COURT ORDER INSTRUCTIONS. PLEASE READ!!!

You have been ordered by the Court to contact the Family Mediation Center and/or Donna's House Central for services. Complete the information below and leave this form in the drop box outside the Department that heard your case. The information you provide will be used as contact information to set an appointment. There is a fee for all services.

CHECK ALL SERVICES ORDERED:

☒ FAMILY MEDIATION CENTER / CHILD INTERVIEW

If you are currently receiving public assistance your Family Mediation Center fees may be waived. Please bring written verification of your benefits to your appointment.

☐ OUTSOURCE EVALUATION SERVICES

☐ DONNA'S HOUSE CENTRAL

Case No. D-08-389203-Z (from your court documents)

IF AN INTERPRETER IS NEEDED, WHAT LANGUAGE: _____

Please note that it is the party's responsibility to pay the interpreter at the time services are rendered.

NAME ^(AKA) (STIPP) CALDERON, CHRISTINA Date of Birth 2-5-75

Mailing Address 11757 Feinberg Place
Number and Street Apt. No.

Las Vegas NV 89138
City State Zip

Cell Phone 702-610-0032 Home/Work Phone _____

If telephone number is blocked, we may not be able to reach you.

Email Address (please print): _____

Your Days Off _____ Work Hours _____

Attorney's Name VALARIE Fujii #5955 GREG MILLS #8191

NAME OF MINOR CHILD(REN) AT ISSUE IN THIS CASE

First

Middle

Last

Date of Birth

Child resides with whom?

- | | | | | |
|----|--------------|--------------|-----------------|---------------------------|
| 1. | <u>Mia</u> | <u>Stipp</u> | <u>10/19/04</u> | <u>50/50 both</u> |
| 2. | <u>Ethan</u> | <u>Stipp</u> | <u>3/24/07</u> | <u>50/50 both parents</u> |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |

YOUR RELATIONSHIP TO THE CHILD(REN) AT ISSUE: MOTHER

(i.e., paternal grandmother, maternal uncle, etc.)

ORIGINAL

RCPS

DISTRICT COURT

Family Division
CLARK COUNTY, NEVADA

FILED IN OPEN COURT

10/1, 20 19

STEVEN D. GRIERSON
CLERK OF THE COURT

BY: Kathleen Brock
KATHLEEN PROCK DEPUTY

CASE NO: D-08-389203-Z

DEPT. H

REQUEST FOR CHILD PROTECTION SERVICES APPEARANCE AND RECORDS

Christina Calderon Stipp
Plaintiff,

-VS-

Mitchell David Stipp
Defendant.

Mother Christina Calderon Stipp (Mother's name) Father Mitchell David Stipp (Father's name)
Child(ren)'s Name Mia E. Stipp (Child's name) Ethan Christopher Stipp (Child's name)
(Child's name) (Child's name)

NOTICE TO APPEAR:

- ☐ NOTICE to Appear to Caseworker _____ (Caseworker's name)
☐ NOTICE to Appear to CPS Representative

This Notice is to be submitted to CPS at least 72 hours prior to court hearing, except in emergency situations.

☐ NOTICE to Appear at Court Hearing:
Date _____ Time _____ Dept _____

Type of Hearing _____ Bring Records ☐ Yes ☐ No

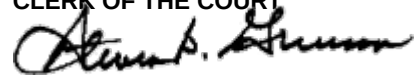
☒ NOTICE to Provide Records Only by October 4, 20 19
(Date)

Records to be delivered to: _____

Other Information _____

DATED this 1st day October 20 19.

Art Ritchie, Jr.
FAMILY COURT JUDGE/HEARING MASTER
T ART RITCHIE, JR.



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

STATUS REPORT

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced Status Report. This Status Report is based on the papers and pleadings on file in this case and the memorandum of points and authorities that follow.

///

///

///

1
2 Dated: October 7, 2019

3
4 **LAW OFFICE OF MITCHELL STIPP**

5 /s/ Mitchell Stipp, Esq.
6 MITCHELL STIPP, ESQ.
7 Nevada Bar No. 7531
8 LAW OFFICE OF MITCHELL STIPP
9 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11
12 The parties were before the court on October 1, 2019. At the hearing, the court
13 granted Mitchell's request to have the minor children, Mia and Ethan Stipp, interviewed
14 by FMC. The interview is scheduled for October 23, 2019. The court also ordered
15 Mitchell to facilitate an exchange on October 4, 2019 and to use his "best efforts" to
16 accomplish the same. The court was very clear: Mitchell was not required to use
17 physical force to accomplish the exchange.
18
19

20 Based on the stipulation of the parties, the court ordered the parties to work with
21 Nick Ponzo, who has agreed to provide family therapy to reunite Christina with the
22 children. Mr. Ponzo was previously selected by Christina as her family therapist with
23 the children. Mr. Ponzo worked with Christina and the children from 2015-2018.
24

25 Mitchell scheduled an appointment with Mr. Ponzo immediately after the hearing
26 for his soonest available time (which was at 11:30 a.m. on Friday, October 4, 2019).
27
28 The goal was to get Mr. Ponzo's advice on the best way to transition the children and to

1 come up with a preliminary plan for treatment. Mitchell met with Mr. Ponzo **for more**
2 **than three (3) hours** on October 4, 2019. Christina separately scheduled her own
3 appointment for 12:45 p.m. on the same day. Christina and Mitchell met with Mr. Ponzo
4 during a portion of Christina's appointment.
5

6 The court should be aware that Donna Wilburn reached out to Mr. Ponzo after the
7 hearing on October 1, 2019. She wants to provide reunification therapy to Christina and
8 Mia. Ms. Wilburn attended the hearing on October 1, 2019. At the hearing, Christina
9 stipulated to participate in family therapy **with Mr. Ponzo**. However, Christina now
10 refuses to participate based on the guidance of Ms. Wilburn. Instead, Christina has
11 elected to defer to Ms. Wilburn, who cannot evaluate or treat the children, to resolve the
12 issues with the children. While Mitchell cannot prevent Christina from seeking the
13 advice of Ms. Wilburn, Ms. Wilburn's actions in the case are unethical, inappropriate
14 and undermine any chance of therapy with Mr. Ponzo.
15
16
17

18 Mitchell has utilized his best efforts as required by the court to facilitate a
19 timeshare exchange on Friday, October 4, 2019. Neither child wants to return to
20 Christina's physical care. **Mitchell has asked Christina to trust the process and**
21 **consider the recommendations of Mr. Ponzo. Christina refuses.**
22
23

24 Nick Ponzo has not met with the children yet. Mr. Ponzo offered to meet over
25 the weekend. Christina rebuffed his offer. Instead, Christina attempted to pick up Mia
26 from Mitchell's home at 6pm on Friday, October 4, 2019 and was rejected by Mia.
27 Mitchell and his wife, Amy, walked Mia out to Christina's automobile. Christina asked
28

1 Mitchell and Amy to return to the inside of their home and allow her to speak with Mia
2 alone. Mitchell and Amy agreed. A short time later, Mia returned to the inside of
3 Mitchell's home, and Christina drove away in her automobile. Christina attempted to
4 pick up Ethan from baseball practice at 8:00 p.m. on Friday, October 4, 2019 and was
5 similarly rejected. Mitchell agreed to drop off Ethan's personal belongings after
6 baseball practice. After practice, and in front of the other players and parents, Christina
7 asked Mitchell to punish Ethan by refusing his participation in the tournament over the
8 weekend. When Mitchell refused, Christina asked Mitchell to return to his vehicle so
9 she could speak to Ethan alone. Mitchell agreed and returned to his vehicle. After a
10 few minutes, Ethan got into Mitchell's car, and Christina drove away.

14 Mitchell placed a telephone call to Christina on Thursday, October 3, 2019 so the
15 children could speak to Christina a day before the planned transition. She did not answer
16 or return the call. Mitchell encouraged the children to return to Christina's care after the
17 hearing on October 1, 2019. He even packed a portion of Mia's personal items. While
18 alone with the children, Christina had an opportunity physically to force the children
19 into her automobile on October 4, 2019. Thankfully, she elected not to do the same.
20 Christina has asked Mitchell to punish the children for not returning to her care. Rather
21 than punish the children, Mitchell wants Christina to work with Nick to resolve their
22 issues. Mitchell would like to avoid litigation (especially any further motion practice
23 before the next hearing). However, Christina has communicated to Mitchell that she
24 intends to file another motion.

1
2 Dated: October 7, 2019

3
4 **LAW OFFICE OF MITCHELL STIPP**

5 /s/ Mitchell Stipp, Esq.
6 MITCHELL STIPP, ESQ.
7 Nevada Bar No. 7531
8 LAW OFFICE OF MITCHELL STIPP
9 10120 W. Flamingo Rd., Suite 4-124
10 Las Vegas, Nevada 89147
11 Telephone: 702.602.1242
12 mstipp@stippplaw.com
13

14
15 **DECLARATION OF MITCHELL STIPP**

16 I hereby declare and state as follows:

17 1. I am competent and willing to testify in a court of law as to the facts contained in
18 this Status Report (which are incorporated herein by this reference).

19 2. I have personal knowledge of these facts, save those stated upon information
20 and/or belief, and as to those matters, I believe them to be true.

21 /s/ Mitchell Stipp

22 Mitchell Stipp

23 ///

24 ///

25 ///

26 ///

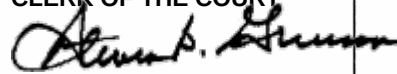
27 ///

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of October, 2019, I filed the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case.

By: */s/ Amy Hernandez*

An employee of the Law Office of Mitchell Stipp



1 **OBJ**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)

15 Plaintiff,)

16 vs.)

17 MITCHELL STIPP,)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

Date of Hearing: November 12, 2019
Time of Hearing: 9:00 a.m.

19 **PLAINTIFF'S OBJECTION TO DEFENDANT'S STATUS**
20 **REPORT FILED OCTOBER 7, 2019, AND REQUEST**
21 **THAT IT BE STRICKEN PURSUANT TO EDCR 5.508**

22 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
23 attorney of record, VALARIE I. FUJII, ESQ., of the law offices of VALARIE I.
24 FUJII & ASSOCIATES, and hereby objects to Defendant's Status Report filed on
25 October 7, 2019, and requests that it be stricken from the record pursuant to EDCR
26 5.508.

27 Specifically, Defendant's Status Report is a fugitive document, contains
28 hearsay information with no evidentiary support, and its "Memorandum of Points

1 and Authorities” contains no legal authority. MITCHELL is in violation of this
2 Court’s direct Order from the Hearing of October 1, 2019, as he failed to
3 effectuate a child custodial timeshare exchange of the minor children MIA and
4 ETHAN on Friday, October 4, 2019, and he is attempting to use his filed “Status
5 Report” to justify the same. This is improper.
6

7 Further, Defendant’s Status Report is MITCHELL’s attempt to supplement
8 his Motion and/or Opposition which were the subject of the October 1, 2019,
9 Hearing, and/or must be considered by the Court to be MITCHELL’s attempt to
10 supplement his Motion and/or Opposition.
11

12 EDCR Rule 5.508. Supplements relating to motions.

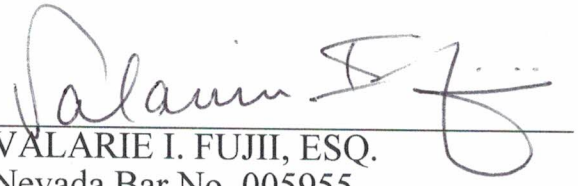
- 13 (a) Supplements to motions, oppositions,
14 countermotions, or replies must be filed at least 1
15 judicial day prior to the hearing.
- 16 (b) A supplement must pertain to the subject matter of
17 an existing filing, and reference the subject matter
18 and filing to which it relates.
- 19 (c) Upon the request of any party or for good cause
20 shown, the filing of a supplement may be found by
21 the court as grounds for any or all of:
- 22 (1) Continuance of a hearing, with or without
23 issuance of temporary orders;
- 24 (2) An award of fees in favor of a party not
25 filing the supplement; or
- 26 (3) An order striking the supplement; and
27 direction that the subject matter of the filing
28 be addressed in a separate motion.

26 CHRISTINA is requesting that MITCHELL’s Status Report be stricken
27 from the record, as it was inappropriately filed as a “Supplement” to his Motion
28

1 and/or Opposition from the Hearing of October 1, 2019. Further, it is a fugitive
2 document, and contains hearsay information, no legal authority, and no evidentiary
3 support.

4 DATED this 8th day of October, 2019.

6 VALARIE I. FUJII & ASSOCIATES

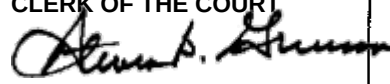
7
8 
9 VALARIE I. FUJII, ESQ.
10 Nevada Bar No. 005955
11 704 South Sixth Street
12 Las Vegas, Nevada 89101
Attorney for Plaintiff
CHRISTINA CALDERON

13 **CERTIFICATE OF SERVICE**

14 I HEREBY CERTIFY that on the 8th day of October, 2019, I served a
15 true and correct copy of the foregoing ***Plaintiff's Objection to Defendant's Status***
16 ***Report Filed October 7, 2019***, via electronic service pursuant to the Nevada
17 Electronic Filing and Conversion Rules (NEFCR), addressed as follows:

18
19 Radford J. Smith, Esq.
20 RADFORD J. SMITH, CHTD.
21 2470 St. Rose Parkway, #206
22 Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

23 
24 An employee of VALARIE I. FUJII, ESQ.



MOT
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
VALARIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101
(702) 341-6464 phone
(702) 734-6464 facsimile
vip@fujiiilawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON,)

Plaintiff,)

vs.)

MITCHELL STIPP,)

Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/CR 3 at RJC

ORAL ARGUMENT
REQUESTED XX YES ___ NO

PLAINTIFF'S EMERGENCY MOTION FOR
TEMPORARY PRIMARY PHYSICAL CUSTODY AND REQUEST FOR
WRIT OF ATTACHMENT ORDER AND ATTORNEYS FEES

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

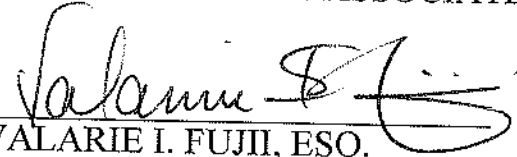
COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I. FUJII & ASSOCIATES, and submits this *Emergency Motion for Temporary*

1 *Primary Physical Custody and Request for a Writ of Attachment Order for the*
2 *Children and Attorneys Fees.*

3
4 This Emergency Motion is made and based upon the following Points and
5 Authorities, the papers and pleadings on file herein, the Affidavit of Plaintiff
6 CHRISTINA CALDERON, the Exhibits filed in Support of this Motion, and
7 whatever oral argument the Court entertains at the time of the hearing in this
8 matter.
9

10 DATED this 9th day of October, 2019.

11 VALARIE I. FUJII & ASSOCIATES

12
13 

14 VALARIE I. FUJII, ESQ.
15 Nevada Bar No. 005955
16 704 South Sixth Street
17 Las Vegas, Nevada 89101
Attorney for Plaintiff
CHRISTINA CALDERON

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I.**

20 **STATEMENT OF FACTS**

21 Plaintiff CHRISTINA CALDERON ("CHRISTINA") and Defendant
22 MITCHELL STIPP ("MITCHELL") have a current joint custodial timeshare
23 agreement for their two children, MIA STIPP, Date of Birth: October 19, 2004;
24 and ETHAN STIPP, Date of Birth: March 24, 2007, as outlined in the Stipulation
25 and Order Resolving Physical Custody, Timeshare, Child Support and Parenting
26
27
28

1 Matters filed on July 9, 2014, which states the following at pg. 2, ll. 6-14; ll. 17-
2 18:

3
4 Each party will have the children one week on, one week
5 off, during the calendar year (i.e. 7/7 split) with the
6 objective of each party having 50% of the physical
7 timeshare. . . . The parties shall have the timeshare with
8 the children only as set forth in this stipulated agreement
9 or except as otherwise agreed in the future by the parties
10 in writing.

11 During the normal custodial schedule (i.e., 7/7 split), the
12 parties agree that they shall exchange the children every
13 Friday.

14 This was the custodial timeshare exercised by the parties for over five years.
15 Then, on August 23, 2019, MITCHELL refused to hand the children over to
16 CHRISTINA for her normal weekly timeshare, and he has been withholding the
17 children from her ever since.

18 Both parties filed Motions, and appeared before this Honorable Court on
19 October 1, 2019. Though both parties are attorneys, both were represented by
20 counsel at the hearing. After reading all of the pleadings and reviewing the
21 exhibits filed in this matter, and after hearing oral argument at the time of the
22 hearing, the Court was clear.

23 **"Court stated if Defendant does not follow the Orders,**
24 **the custody would be changed."**

25 See Court Minutes from October 1, 2019, Hearing.

26 **"Plaintiff's MOTION to ENFORCE the VISITATION**
27 **ORDER shall be GRANTED."**
28

1 "Beginning Friday, 10/4/19, parties shall share WEEK
2 ON/WEEK OFF timeshare. Plaintiff's TIMESHARE
3 begins 10/4/19. NO NEGOTIATIONS are to be MADE.
4 Each party shall SET the RULES.
5 "Defendant needs to SUPPORT the CONTACT between
6 mom and Mia." *Id.*

7 CHRISTINA emailed MITCHELL on Thursday, October 3, 2019, as
8 follows: "Is Ethan going to baseball on Friday? If so, I'll pick up Mia from your
9 home on Friday at 6pm and Ethan at baseball at 8pm." MITCHELL responded,
10 "That is the plan. However, both kids are adamant about remaining in my care."
11 It was clear at that time that MITCHELL was not preparing MIA and ETHAN for
12 the exchange over to CHRISTINA's home the following day on Friday. He was
13 not fostering the relationship between CHRISTINA and MIA.

14 Notwithstanding the Court's clear Orders and directives, when CHRISTINA
15 went to pick up MIA from MITCHELL's home at 6:00 p.m. on Friday, October 4,
16 2019, MITCHELL did not foster nor support the contact between CHRISTINA
17 and MIA. In fact, MITCHELL's wife informed CHRISTINA that she could only
18 have her for dinner and to take her for a manicure/pedicure that evening; however,
19 that was a conditional offer and ultimately, CHRISTINA was not permitted by
20 MITCHELL's wife to take MIA. When CHRISTINA asked about ETHAN
21 coming with her as ordered by the Court, MITCHELL lied and indicated she could
22 pick up ETHAN after his baseball practice. When CHRISTINA arrived to
23 ETHAN's practice, he informed her that he did not have to come with her while
24 MITCHELL stood by. CHRISTINA, who was looking forward to finally having
25
26
27
28

1 some alone time with her children, sent the following email to MITCHELL on the
2 way to ETHAN's pick up:

3
4 The Judge's order was very clear. You were to exchange
5 the kids with me today. No one is authorized to change
6 the Judge's order. You sent Mia out at 6pm to tell me
7 that she is not coming with me today. I am on my way to
8 pick Ethan up from the baseball park at 8pm. You
9 refused to give me his bags and said you would meet me
10 at the park with them. I hope that you do not intend to
11 violate the order as to Ethan as well.

12 Just as anticipated, as he stated to instant counsel, MITCHELL was never
13 on planning to allow the children to have contact with CHRISTINA, regardless of
14 what this Court, his attorney or anyone ordered.

15 On Saturday, October 5, 2019, it was Homecoming for MIA and
16 CHRISTINA emailed MITCHELL the following, "Please let me know where Mia
17 is taking her homecoming pictures at. I'd like to be there to take pictures. It is my
18 custodial time with her." MITCHELL refused.

19 As the Court found no immediate safety concerns and/or issues to prevent
20 visitation, thus, MITCHELL's behavior is not justified. (**Video Cite from**
21 **October 1, 2019 Hearing: 11:41:47** - "The allegations defendant made in his
22 motion and subsequent filings DO NOT justify a loss of physical custody").
23 MITCHELL did not file a Motion before withholding the children and the incident
24 over 2 months ago with only MIA, did not justify his behavior. His claim that
25 therapeutic therapy is needed is unfounded and their participation with Nic Ponzo,
26 LMFT is "not discoverable."
27
28

1 The Court ordered that Nicholas Ponzo, who had not seen MIA or ETHAN
2 since 2017, would serve as the family therapist to provide support to the children
3 and CHRISTINA with the following clear parameters: Mr. Ponzo 1) was not to be
4 used for litigation purposes consistent with our Stipulation and Order, filed July
5 2014; 2) was not to be a court evaluator, and 3) was not to provide
6 recommendations to the Court. (VC 12:01:29).
7

8
9 Moreover, family therapy with Nic Ponzo is not discoverable as clearly set
10 forth in the July 2014 Custody Order. These children have not been in any therapy
11 for years, so it is solely MITCHELL making up excuses trying to justify his
12 unlawful behavior.¹ (**INSERT FOOTNOTE OF THE PAGE NUMBER AND**
13 **PARAGRAPH WHERE THE CUSTODY AGREEMENT SAYS ALL**
14 **THERAPY IS CONFIDENTIAL)**
15

16 MITCHELL told CHRISTINA that ETHAN called her from MITCHELL's
17 cell phone to tell her he did not wish to visit (CHRISTINA missed the call and no
18 message was left), so obviously MITCHELL can make ETHAN call his mother by
19 his own admission. Also, the fact MITCHELL would conditionally "allow"
20 CHRISTINA to have MIA for dinner and to take her to get her nails done proves
21 he can facilitate contact but chooses not to unless it is on his terms. This is
22 alienation and using the children which causes long term effects on their welfare
23 and is contrary to their best interests.
24
25

26
27 ¹See Stipulation and Order Resolving Physical Custody, Timeshare, Child Support and
28 Parenting Matters filed on July 9, 2014, from pg. 13 ln. 15 to pg. 14 ln. 19.

1 MITCHELL has taken it upon himself to over-ride the Court's Orders of
2 October 1, 2019, and decide himself what and when the custodial timeshare should
3 be. There was no ambiguity in the Court's Order. There is no teenage discretion
4 to the point it "changes" the custodial timeshare. (VC: 11:33:22)
5

6 "The point is that we motivate our kids in a bunch of different ways, and
7 one of the ways that we motivate them is that we find something that is really
8 important to them that motivates them to make decisions that we think are best for
9 them, and it sounds to me that if he is immersed in baseball, he's at age 12 looking
10 ahead to high school, if he's successful at it, it's going to be an important activity
11 that would motivate his reasons. . ." (VC: 12:06:52)
12

13 "But what I can say is a parent who has a child who is exercising their
14 independence or is rebelling against a parenting plan in which the parent...you
15 know...doesn't have a case where it is justified, motivates him by explaining that
16 one thing is related to the other...OK?" (VC: 12:07:39)
17

18 MITCHELL's claims that he cannot force the children to go with
19 CHRISTINA, is untrue. Proof of this is the fact that MITCHELL's wife AMY
20 offered to CHRISTINA that she would have MIA go to dinner with CHRISTINA
21 on Friday, October 4, 2019, and to have MIA's nails done for Homecoming;
22 however, this was a conditional offer and ultimately, CHRISTINA was not
23 permitted by MITCHELL's wife to take MIA. If AMY had the power and
24 persuasion over MIA to offer that to CHRISTINA, MITCHELL certainly had a
25 way to facilitate the custodial exchange. In addition, MITCHELL was able to
26
27
28

1 have ETHAN call CHRISTINA on the phone to tell her that he did not want to go
2 with her. Again, this is proof that MITCHELL can get the children to make phone
3 calls and go with CHRISTINA; he just chooses not to.
4

5 On Monday, October 7, 2019, MITCHELL sent the following email to
6 CHRISTINA:

7 . . . I think you should trust the process. You have
8 nothing to lose.

9 Please don't file another motion. I think we can make
10 significant progress if you are willing to participate in
11 therapy.

12 Then, just hours of requesting that CHRISTINA not file another Motion,
13 MITCHELL filed a Status Report with the Court, which was a fugitive document
14 full of hearsay statements, with no legal authority, and was an attempt to explain
15 his actions to the Court. The Report contained hearsay upon hearsay about
16 therap²y and items precluded from evidence, not discoverable pursuant to this
17 Court's Order and the Parties Stipulated Decree of Custody.
18

19 At the hearing on October 1, 2019, the Court stated that the appropriate
20 remedy for MITCHELL's continued refusal to facilitate the custodial timeshare
21 would be a change of custody. (VC: 11:57:10 "This is what I would tell Dad.
22 You follow the order as best you can. If you don't follow the orders, the remedy is
23 going to be to change custody, not to fine you \$500 or to coerce your compliance
24
25
26
27

28 ² See Custody Order July, 2014.

1 with some sort of notion that you would go win custody. That's not gonna happen.
2 Ok?"")

3
4 Therefore, CHRISTINA has filed this Emergency Motion and is requesting
5 that the Court award her temporary primary physical custody of MIA and ETHAN,
6 as this is the only way that she will ever see her children again. MITCHELL will
7 continue to make excuses as to why he will not facilitate the custodial exchanges
8 until so much time has passed that the welfare of the children is in danger.
9

10 II.

11 LEGAL AUTHORITY

12 NRS 125C.0035 states the following:

- 13 1. In any action for determining physical custody of a
14 minor child, the sole consideration of the court is
15 the best interest of the child. If it appears to the
16 court that joint physical custody would be in the
17 best interest of the child, the court may grant
physical custody to the parties jointly.
- 18 2. Preference must not be given to either parent for
19 the sole reason that the parent is the mother or the
20 father of the child.
- 21 3. The court shall award physical custody in the
22 following order of preference unless in a particular
23 case the best interest of the child requires
otherwise:
 - 24 (a) To both parents jointly pursuant to NRS
25 125C.0025 or to either parent pursuant to
26 NRS 125C.003. If the court does not enter
27 an order awarding joint physical custody of
28 a child after either parent has applied for
joint physical custody, the court shall state

1 in its decision the reason for its denial of the
2 parent's application.

- 3 (b) To a person or persons in whose home the
4 child has been living and where the child
5 has had a wholesome and stable
6 environment.
- 7 (c) To any person related within the fifth degree
8 of consanguinity to the child whom the
9 court finds suitable and able to provide
10 proper care and guidance for the child,
11 regardless of whether the relative resides
12 within this State.
- 13 (d) To any other person or persons whom the
14 court finds suitable and able to provide
15 proper care and guidance for the child.

16 In seeking to change custody, CHRISTINA must show that (1) there has
17 been a substantial change in circumstances affecting the welfare of the child, and
18 (2) that the modification serves the best interest of the child. *Ellis v. Carucci*, 167
19 P3rd 239 (Nev. 2007).

20 CHRISTINA submits that modifying physical custody and awarding her
21 primary physical custody of the children in the children's best interests. See
22 *Bluestein v. Bluestein*, 345 P.3d 1044 (2015 Nev.) In *Bluestein v. Bluestein* 131
23 Nev. ___, 345 P.3d 1044, 1047 (2015) the Supreme Court mandated that the
24 district court had authority to review the parties' timeshare arrangement, determine
25 whether the parties shared joint physical custody under Nevada law, and modify
26 the agreement accordingly. See *Rennels*, 127 Nev. at ___, 257 P.3d at 399.

1 NRS 125C.045(1)(b) provides that the court may modify its custody order at
2 any time. Certain standards must be met in order for a court to properly modify a
3 custody order. See, e.g., *Rivero*, 125 Nev. at 430, 216 P.3d at 227 (explaining that,
4 to modify a joint physical custody arrangement, the court must find that
5 modification "*is in the child's best interest*[.]")

6
7 NRS 125C.0035(4) In determining the best interest of the child, the court
8 shall consider and set forth its specific findings concerning, among other things:
9

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

13 MITCHELL has continued to thwart and interfere with CHRISTINA's time,
14 contact and communication with her children.

15 (d) *The level of conflict between the parents;*

16 The level of conflict between the parties is high, because of MITCHELL's
17 ego, refusal to co-parent unless it is on his terms and uses the children to their
18 detriment.

19 (e) *The ability of the parents to cooperate to meet the needs of the*
20 *child;*

21 These children were doing exceptional in CHRISTINA's care, however, 45
22 days with MITCHELL has caused ETHAN to get in a physical fight with another
23 student resulting in a RPC at his school, and MITCHELL unilaterally met with the
24 school, attempted to hide this information (filing only glowing reports of MIA)
25 and CHRISTINA had to learn about ETHAN's suspension from another parent.
26
27
28

1 This proves MITCHELL does not only refuse to follow Orders, he cannot co-
2 parent.

3
4 (f) *The mental and physical health of the parents;*

5 CHRISTINA is in good mental and physical health. Donna Wilburn who
6 has seen both parties along with the children was present at the October 1, 2019
7 hearing. Defendant's mental and physical health is suspect and concerning.

8
9 (g) *The physical, developmental and emotional needs of the child;*

10 ETHAN is of great concern for CHRISTINA, he has always done well and
11 his absense from his mother could well be the cause of his current discord due to
12 isolation and parental alienation. MITCHELL's influence and control is affecting
13 his normal developmental and emotional needs. Both he and MIA are lacking the
14 their mother's love, safety and stability.

15
16 (l) *Whether either parent or any other person seeking custody has*
17 *committed any act of abduction against the child or any other child.*

18 The pathogenic parenting of MITCHELL amounts to abduction warranting
19 a pick up Order and Writ of Attachment to enforce the timeshare.

20 MITCHELL is in violation of the Uniform Child Custody Jurisdiction and
21 Enforcement Act (UCCJEA), which is codified in NRS Chapter 125A and the
22 federal Parental Kidnaping Prevention Act (PKPA), 28 U.S.C. § 1738A. He
23 refuses to provide information regarding the children.
24

25 PENALTY FOR VIOLATION OF ORDER: THE
26 ABDUCTION, CONCEALMENT OR DETENTION OF
27 A CHILD IN VIOLATION OF THIS ORDER IS
28 PUNISHABLE AS A CATEGORY D FELONY AS

1 PROVIDED IN NRS 193.130. NRS 200.359 provides
2 that every person having a limited right of custody to a
3 child or any parent having no right of custody to the
4 child who willfully detains, conceals or removes the
5 child from a parent, guardian or other person having
6 lawful custody or a right of visitation of the child in
7 violation of an order of this court, or removes the child
8 from the jurisdiction of the court without the consent of
9 either the court or all persons who have the right to
10 custody or visitation is subject to being punished for a
11 Category D felony as provided in NRS 193.130.

12 The legal remedy for the contempt and failure to abide by the already
13 existing Order, later re-Ordered and solidified by this Court was stated by the
14 Honorable Judge Ritchie at the hearing on October 1, 2019. If Defendant did not
15 follow the one week on and one week off, stating the timeshare begins on
16 October 4, 2019, the recourse would be a change in custody.

17 III.

18 ATTORNEYS FEES

19 The Custody Order specifically provides:

20 Should either party be required to enforce the terms of
21 this stipulated agreement, the prevailing party in that
22 action **shall** be entitled to an award of attorneys's fees
23 and costs from the non-prevailing party.

24 See Custody Order from pg. 14, ln. 26, to pg. 15, ln. 2.

25 CHRISTINA was forced to retain the services of an attorney in this case.
26 Moreover, fees are warranted pursuant to NRS 18.010. Thus, CHRISTINA is
27 requesting \$12,000.00 in fees for having to file the instant request.
28

1 In the case of Miller v. Wilfong, 119 P.3d 727 (Nev. 2005), the Nevada
2 Supreme Court held that it is within the trial court's discretion to determine the
3 reasonable amount of attorney's fees under a statute or rule, and that in exercising
4 its discretion, the district court must evaluate the factors set forth in Brunzell v.
5 Golden Gate National Bank, 85 Nev. 345, 455 P.2d 31 (1969). See
6 CHRISTINA's Affidavit attached hereto, as well as the discussion herein below,
7 which address the Brunzell factors in compliance with Miller, (affidavit and
8 billing of instant counsel are available upon request with further briefing) which
9 are as follows:
10
11

- 12 (1) **The qualities of the advocate:** his/her ability, training, education,
13 experience, professional standing and skill;
14
- 15 (2) **The character of the work to be done:** its difficulty, its intricacy, its
16 importance, time and skill required, the responsibility imposed and
17 the prominence and character of the parties where they affect the
18 importance of the litigation;
19
- 20 (3) **The work actually performed by the lawyer:** the skill, time and
21 attention given to the work;
22
- 23 (4) **The result:** whether the attorney was successful and what benefits
24 were derived.

25 **Ms. Fujii**, she is peer review rated AV by Martindale Hubble, the highest
26 rating you can achieve. Born in 1967, she is a native of Las Vegas. She graduated
27 from the University of Nevada, Las Vegas, in 1989, with a Bachelor of Science
28

1 Degree in Business Administration focusing primarily in accounting practices.
2 She graduated from Whittier College School of Law with her Juris Doctorate in
3 1995. Thereafter, she attended the University of Sorbonne in Paris, France. Since
4 passing the bar in the State of Nevada in 1996, she has amassed vast experience in
5 civil litigation and has appeared at every level of court in the State including the
6 Nevada Supreme Court, the Nevada Court of Appeals, Federal Court, District
7 Court, Justice Court, Municipal Court and Small Claims Court. She has been a
8 part of the Family Law Section of the State Bar of Nevada since 2003 and has
9 tried many Family Court cases. She was a criminal defense track litigator for
10 approximately three years, doing fast track appeals and defending alleged juvenile
11 delinquents. She has been a participant of the Indigent Defense Panel for parents
12 accused of abuse/neglect by Child Protective Services for fifteen (15) years. She
13 has been court appointed as a Guardian Ad Litem and attorney for children in the
14 Eighth Judicial District Court. Her hourly rate of \$400.00 is reasonable and
15 customary for this type of work and for the work performed in this case. Her
16 paralegal's rate is \$175.00 per hour.

21 The **character of the work performed in this case** is tasking and
22 voluminous based upon Defendant's failure to abide by any court order. It will
23 likely result in further briefing and/or an evidentiary hearing warranting additional
24 monies to be paid by Defendant.

26 The **work actually performed by the lawyer** and her staff in this case
27 includes but is not limited to the review of pleadings and documents in this case,
28

multiple emails, drafting of all Exhibits; Motions, Oppositions, Replies, several conversations with client and opposing counsel, drafting of the Affidavits. This includes making attempts pursuant to EDCR 5.101 to resolve this matter. The work still to be performed in relation to this matter includes but is not limited to the aforementioned.

The result in this case is likely a favorable result for CHRISTINA, as she was forced to file this Motion in order to obtain any relief, and counsel expects CHRISTINA to be the prevailing party based upon the facts and law.

CHRISTINA will submit a Memorandum of Fees and Costs upon the request of the Court, as well as a copy of her billing statement with Ms. Fujii. She is seeking an award of attorney's fees in the amount of \$10,000.00, which is the amount that she owes to instant counsel.

CHRISTINA is further requesting a litigation budget to be borne by Defendant in the amount of \$15,000.00.

Therefore, attorney's fees are warranted pursuant to NRS 18.010 and EDCR 4.60.

IV.

CONCLUSION

Based upon the aforementioned, Plaintiff CHRISTINA respectfully requests that this Court enter a Writ of Attachment Order for the Children, granting her emergency temporary primary custody of the minor children MIA STIPP and

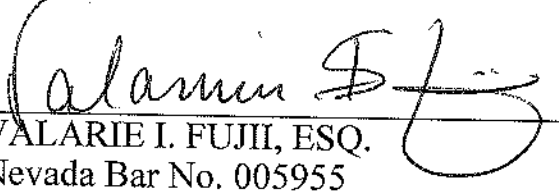
• • • •

1 ETHAN STIPP, based upon MITCHELL's continued efforts to thwart her
2 custodial timeshare.

3 DATED this 9th day of October, 2019.

5 Respectfully submitted by:

6 VALARIE I. FUJII & ASSOCIATES

7 
8 VALARIE I. FUJII, ESQ.
9 Nevada Bar No. 005955

10 704 South Sixth Street
11 Las Vegas, Nevada 89101
12 Attorney for Plaintiff
13 CHRISTINA CALDERON
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**AFFIDAVIT OF PLAINTIFF CHRISTINA CALDERON
IN SUPPORT OF EMERGENCY MOTION FOR
TEMPORARY PRIMARY PHYSICAL CUSTODY**

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, Christina Calderon, do hereby swear under penalty of perjury that the assertions of this affidavit and verification are true.

- 1) I am the Plaintiff in the above-captioned matter; I have read the foregoing Emergency Motion and can attest that the factual averments it contains are true and correct to the best of my knowledge. The averments are incorporated herein by this reference;
- 2) I am the mother of MIA (age 14) and ETHAN (age 12);
- 3) On October 1, 2019, this Court issued a clear order that Mitch was to comply with our joint physical custody timeshare and exchange MIA and ETHAN with me on Friday, October 4, 2019;
- 4) The Court gave Mitch examples of how he could parent the children to ensure that MIA and ETHAN were transitioned into my care;
- 5) The Court also ordered that Nicholas Ponzo, who had not seen MIA or ETHAN since 2017, would serve as the family therapist to provide support to the children and me with the following clear parameters: Mr. Ponzo 1) was not to be used for litigation purposes consistent with our Stipulation and Order, filed July 2014; 2) was not to be a court evaluator, and 3) was not to provide recommendations to the Court;
- 6) On Thursday, October 3, 2019, I confirmed with Mitch that on Friday, in accordance with our prior practice, I would be picking MIA up from his home at 6:00 p.m. and ETHAN at the Garside Junior High School baseball field at 8:00 p.m., at the conclusion of ETHAN's practice;
- 7) On October 4, 2019, Mitch and Amy met with Mr. Ponzo for four (4) hours from 11:30 am until 2:30 pm, including commandeering 1.5 of those hours and remaining in his office during my individual appointment time with Mr. Ponzo. Prior to my arrival, Mitch paid Mr. Ponzo at least \$600.00 and asked him to review numerous Court filings, recordings and other "evidence" he wanted Mr. Ponzo to review, contrary to the Court's clear parameters of Mr. Ponzo's therapeutic role for the children and me and in violation of our Custody Order;

- 1
2 8) Mitch spent his time during what was supposed to be my individual session
3 with Mr. Ponzo trying to challenge the Court's order to exchange the kids
4 later that day. He told me that he could "spin" ETHAN's school suspension
5 against me in a million different ways. He pointed out that he had had
6 ETHAN call me from his phone the day before, proving that he has the
7 ability to make the children listen to him. His wife likewise demonstrated
8 her ability to convince the children to have contact with me by offering me
9 the "opportunity" to allow me to take MIA to get her nails done for
10 Homecoming that day if I agreed to let them keep the children in their care.
11 I told MITCH that I intended to follow the Court's orders and would see
12 them later that day at 6:00 p.m.
- 13 9) Unfortunately, Mitch did not exchange MIA or ETHAN with me on October
14 4, 2019. To date, they have remained continuously in Mitch's care, to my
15 exclusion, for over six (6) weeks;
- 16 10) On Friday, October 4, 2019, I arrived at Mitch's house shortly before 6:00
17 p.m. and emailed Mitch that I was there to pick up MIA. He and his wife,
18 Amy, accompanied MIA to meet me. I came out of my car, opened the rear
19 hatch of my car, and met MIA on the sidewalk. MIA had no bags with her
20 and was wearing paper flip-flops as if she had recently come from a nail
21 salon. MIA told me that she was not coming with me that day. Mitch did
22 not encourage MIA to come with me. He was content with MIA's refusal to
23 come with me;
- 24 11) Amy was recording me with her cell phone. I asked Amy to please stop
25 recording me and to give me the privacy to speak with MIA alone. Amy
26 engaged in angry protestations toward me in front of MIA. Mitch finally
27 convinced Amy to grant me privacy with MIA, and he and Amy went into
28 his home;
- 12) MIA and I engaged in a pleasant conversation. I told her that I loved her,
missed her, and that I was there to receive her into my care. MIA said that
she did not want to come with me. She said she was really busy this week,
but would come to me soon. I asked her if there were any consequences at
her dad's house for not coming with me that day. She said, "No. Why
would there be?" I kept the conversation light and friendly. I encouraged
MIA to call or text me any time and reminded her that I have been
attempting to reach out to her for weeks. She teased me that my texts to her
were too similar to the ones I send to ETHAN, and we laughed about her
critique. I was happy to hear that she was at least reading my texts to her;

- 1 13) We talked about her going to her first Homecoming the next day. She had
2 just gotten her nails done. I complimented them. She told me that her dress
3 was pink. She said she was going with Joey to the dance. I told her how
4 proud I was of her and how exciting that must be. I updated her about
5 extended family members on my side and told her that they missed her too.
6 The conversation ended and she went back into Mitch's home. Thereafter,
7 Mitch came out to speak with me;
- 8 14) I asked Mitch to put ETHAN's bags in my car, as I was going to head to the
9 baseball park to get ETHAN at 8:00 p.m. Mitch said he would bring
10 ETHAN's bags to the field and meet me there, instead, even though he had
11 no reason to do that if he truly intended for me to pick ETHAN up. I did not
12 argue with him. I told him, "ok" and that I would meet him there;
- 13 15) I arrived early at ETHAN's practice and watched him play. Mitch arrived at
14 about 7:50 p.m. I asked Mitch if he wanted to start putting ETHAN's bags
15 in my car since we had time. He said yes, but did not make any move to do
16 so.
- 17 16) When practice ended, Mitch immediately approached ETHAN and spoke
18 with him. He walked ETHAN over to me. ETHAN told me he was not
19 coming with me that day. Mitch did not encourage him to come with me. I
20 asked Mitch if ETHAN was going to be participating in his tournament that
21 weekend. Mitch said he did not see any reason why ETHAN should not. In
22 front of ETHAN, Mitch said that ETHAN has his reasons for not coming
23 with me and he supported them. I asked Mitch for privacy to speak with
24 ETHAN alone. Mitch warned me not to talk too loudly as he did not want
25 ETHAN's coach to be aware of my presence there and he retreated to his
26 truck;
- 27 17) ETHAN and I had a nice conversation. I asked him about some foot and
28 knee pain he had been experiencing. He showed me his new baseball cleats.
We talked about a physical therapy referral he had received. I asked him
about his suspension from school, but he did not want to talk about it. I told
him that it looked like he had grown at least two more inches since the last
time I had seen him. The conversation ended. ETHAN gave me two hugs
and walked back to Mitch's truck;
- 18) The next day, October 5, 2019, I watched ETHAN play baseball in Boulder
City. I complimented him on his RBI and second team win of the day. He
said thank you. He left with Mitch.
- 19) Later that day, I emailed Mitch and asked where MIA would be taking
homecoming pictures, as I wanted to be present to take some of my own. I
reminded him that it was my custodial time with the kids. Mitch responded

1 that he was not going to provide me that information. He said that I should
2 not go to the kids' activities even if it was my custodial time. He said I only
3 "harass" and "embarrass" them. He promised to send me a picture of Mia,
but he has not done so;

4 20) I text Mia and asked her for a Homecoming picture. She responded and said
5 she would have Amy send me one. To date, I have yet to receive any
6 Homecoming picture of Mia from anyone;

7 21) It is clear that Mitch will not willingly comply with the Court's clear orders
8 to abide by our joint physical custody status;

9 22) The longer MITCH delays compliance and blocks my contact with MIA and
10 ETHAN, the more damage he does to the relationships I have with them.
11 He is now attempting to block me from going to any of their activities even
12 though he falsely complained to the Court on October 1, 2019, that I had not
13 been going to any since he began withholding them from me;

14 23) Good cause exists to hear my motion as soon as possible and to grant it.

15 FURTHER YOUR AFFIANT SAYETH NAUGHT.

16 Christina Calderon
CHRISTINA CALDERON

17 SUBSCRIBED and SWORN to before me
18 this 4th day of October, 2019,
19 by CHRISTINA CALDERON.

20 Theresa Locklar
21 NOTARY PUBLIC in and for
22 said County and State



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

true and correct copy of the foregoing, *Plaintiff's Emergency Motion for Temporary Primary Physical Custody and Request for Writ of Attachment Order and Attorneys Fees*, via electronic service pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR), addressed as follows:

Theresa Locklear
An employee of VALARIE I. FUJII, ESQ.

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-2

Dept. H

**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.

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

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

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

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

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

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

Party filing Motion/Opposition:

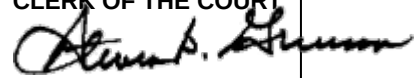
Christina Calderon Date 10/09/19

Signature of Party or Preparer

Jalann E. [Signature]
Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
10/9/2019 4:05 PM
Steven D. Grierson
CLERK OF THE COURT



In the Matter of the Joint Petition for
Divorce of:
Mitchell David Stipp and Christina
Calderon Stipp

Case No.: D-08-389203-Z

Department H

NOTICE OF HEARING

Please be advised that the Christina Calderon's Emergency Motion for Temporary Primary Physical Custody and Request for Writ of Attachment Order and Attorneys Fees in the above-entitled matter is set for hearing as follows:

Date: November 19, 2019

Time: 10:00 AM

Location: RJC Courtroom 03G
Regional Justice Center
200 Lewis Ave.
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.

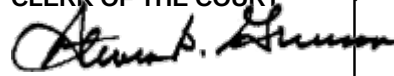
STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Carmelo Coscolluela
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/ Carmelo Coscolluela
Deputy Clerk of the Court



1 **APP**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **EX PARTE APPLICATION FOR AN ORDER SHORTENING TIME**

20 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
21 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
22 FUJII & ASSOCIATES, and hereby requests an Order Shortening Time on her
23 *Emergency Motion for Temporary Primary Physical Custody and Request for a*
24 *Writ of Attachment Order for the Children and Attorneys Fees*, the hearing for
25

26

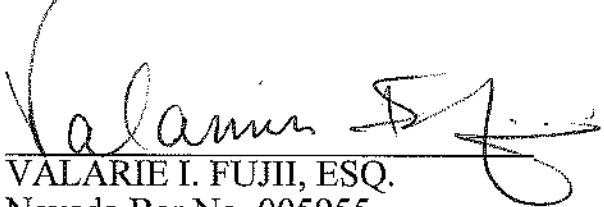
27

28

1 which is currently scheduled for the _____ day of _____, at _____
2 a.m./p.m. in Department H/CR 3G at the Regional Justice Center of this Court.

3 DATED this 9th day of Oct., 2019.

4 VALARIE I. FUJII & ASSOCIATES

5
6 
7 VALARIE I. FUJII, ESQ.
8 Nevada Bar No. 005955
9 704 South Sixth Street
10 Las Vegas, Nevada 89101
11 Attorney for Plaintiff
12 CHRISTINA CALDERON

13 **MEMORANDUM OF POINTS AND AUTHORITIES**

14 EDCR 5.513 Orders shortening time for a hearing, states as follows:

- 15 (a) Unless prohibited by other rule, statute, or
16 court order, a party may seek an order
shortening time for a hearing.
- 17 (b) An ex parte motion to shorten time must
18 explain the need to shorten the time. Such a
motion must be supported by affidavit.
- 19 (c) Absent exigent circumstances, an order
20 shortening time will not be granted until after
21 service of the underlying motion on the
22 nonmoving parties. Any motion for order
23 shortening time filed before service of the
underlying motion must provide a satisfactory
explanation why it is necessary to do so.
- 24 (d) An order shortening time must be served on all
25 parties promptly. An order that shortens the
26 notice of a hearing to less than 10 calendar
27 days may not be served by mail. In no event
28 may a motion be heard less than 1 judicial day
after the order shortening time is filed and
served.

1 (e) Should the court shorten the time for the
2 hearing of a motion, the court may direct that
3 the subject matter of any countermotion be
4 addressed at the accelerated time, at the
original hearing time, or at some other time.

5 In the instant case, *Plaintiff's Emergency Motion for Temporary Primary*
6 *Physical Custody and Request for a Writ of Attachment Order for the Children*
7 *and Attorneys Fees* must be heard before the scheduled hearing on
8 _____, 2019, as MITCHELL disobeyed the Court's Orders from the
9 Hearing on October 1, 2019, when he failed to facilitate the child custody
10 exchange on Friday, October 4, 2019. CHRISTINA has never gone this long
11 without seeing either one of her children, and neither child has been in her custody
12 since August 16, 2019, as a result of MITCHELL withholding MIA and ETHAN
13 from her.
14

15 Good cause exists to shorten the time on Plaintiff CHRISTINA
16 CALDERON's Emergency Motion, which is not set to be heard until
17 _____, 2019. If the time is not shortened, CHRISTINA could go another
18 6-8 weeks without seeing MIA and ETHAN before the Court hears her Motion,
19 given MITCHELL's stated intention to continue to violate the Court Order. This
20 will cause even further damage to CHRISTINA's relationship with MIA and
21 ETHAN, as MITCHELL empowers the children to make the decision not to see
22 CHRISTINA.
23

24
25

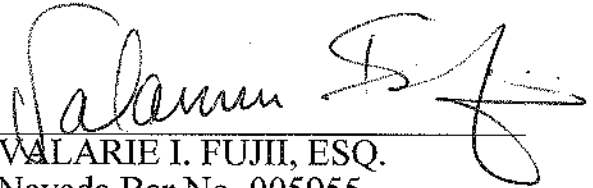
26

27
28

1 Further, counsel requests that the rescheduled hearing not be set on a
2 Wednesday, as she is on an Abuse/Neglect Track on Wednesdays in Dept.
3 K/Courtroom 22 with The Honorable Judge Cynthia Giuliani.

4 DATED this 9th day of October, 2019.

6 VALARIE I. FUJII & ASSOCIATES

7 
8

9 VALARIE I. FUJII, ESQ.
10 Nevada Bar No. 005955
11 704 South Sixth Street
12 Las Vegas, Nevada 89101
13 Attorney for Plaintiff
14 CHRISTINA CALDERON
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **AFFIDAVIT OF VALARIE I. FUJII, ESQ. IN SUPPORT OF**
2 **EX PARTE APPLICATION FOR ORDER SHORTENING TIME**

3 STATE OF NEVADA)
4 COUNTY OF CLARK) ss.

5 Affiant, VALARIE I. FUJII, ESQ., being first duly sworn, deposes and
6 affirms as follows:

- 7 1. Affiant is an attorney duly licensed to practice law in the State of
8 Nevada, Bar No. 5955, and owner of VALARIE I. FUJII & ASSOCS.
9
10 2. Affiant is the Attorney for Plaintiff CHRISTINA CALDERON.
11
12 3. A hearing on *Plaintiff's Emergency Motion for Temporary Primary*
13 *Physical Custody and Request for a Writ of Attachment Order for*
14 *the Children and Attorneys Fees* is currently set for _____,
15 2019. *Plaintiff's Emergency Motion* must be heard before the
16 scheduled hearing of _____, 2019, as MITCHELL
17 disobeyed the Court's Orders from the Hearing on October 1, 2019,
18 when he failed to facilitate the child custody exchange on Friday,
19 October 4, 2019. CHRISTINA has never gone this long without
20 seeing either one of her children, and neither child has been in her
21 custody since August 16, 2019, as a result of MITCHELL withholding
22 MIA and ETHAN from her.
23
24 4. Good cause exists to shorten the time on Plaintiff CHRISTINA
25 CALDERON's Emergency Motion, which is not set to be heard until
26 _____, 2019. If the time is not shortened, CHRISTINA could
27 go another 6-8 weeks without seeing MIA and ETHAN before the
28

1 Court hears her Motion, given MITCHELL's stated intention to
2 continue to violate the Court Order. This will cause even further
3 damage to CHRISTINA's relationship with MIA and ETHAN, as
4 MITCHELL empowers the children to make the decision not to see
5 CHRISTINA.
6

- 7 5. Further, Affiant requests that the rescheduled hearing not be set on a
8 Wednesday, as she is on an Abuse/Neglect Track on Wednesdays in
9 Dept. K/Courtroom 22 with The Honorable Judge Cynthia Giuliani.

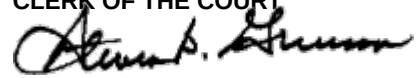
10 FURTHER AFFIANT SAYETH NAUGHT.

11 
12 VALARIE I. FUJII, ESQ.

13
14 SUBSCRIBED and SWORN to before me
15 on this 9th day of October, 2019,
16 by VALARIE I. FUJII, ESQ.

17 
18 NOTARY PUBLIC in and for
19 said COUNTY and STATE





MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**OPPOSITION TO EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME ON
PLAINTIFF'S MOTION FOR
PRIMARY PHYSICAL CUSTODY**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced opposition. This opposition is based on the papers and pleadings on file in this case and the memorandum of points and authorities that follow.

///

1
2 Dated: October 10, 2019

3
4 **LAW OFFICE OF MITCHELL STIPP**

5 /s/ Mitchell Stipp, Esq.
6 MITCHELL STIPP, ESQ.
7 Nevada Bar No. 7531
8 LAW OFFICE OF MITCHELL STIPP
9 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

10
11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 The ex parte application for an order shortening time on the motion for primary
13 physical custody filed by Christina Calderon (“Christina”) should be denied. Mitchell
14 has no problem addressing the motion to change custody if heard on the scheduled return
15 date of November 12, 2019.
16

17 Mitchell filed a Status Report on October 7, 2019. He incorporates by reference
18 that filing. As stated in the Status Report, **Christina refuses to participate in family**
19 **therapy with Nick Ponzo (her family therapist with the children from 2015-2018).**
20

21 As the court is aware, Christina stipulated to participate in family therapy with Mr.
22 Ponzo at the hearing on October 1, 2019. To be clear, Mitchell has consistently asked
23 Christina to work with Mr. Ponzo and the children **since August 29, 2019** to avoid
24 litigation. See Exhibit A to Mitchell’s Exhibits. Despite meeting with Mr. Ponzo on
25 October 4, 2019, Christina wants to follow the reunification process recommended by
26 Christina’s personal therapist/parent coach, Donna Wilburn. Unfortunately, Mr. Ponzo,
27
28

1 who knows and has worked with Christina and the children for three (3) years does not
2 believe Ms. Wilburn's forced reunification is in the children's best interest.

3 Christina could have objected at the hearing to therapy with Mr. Ponzo. The
4 parties could have stipulated, or the court could have appointed, a provider other than
5 Mr. Ponzo, if Christina did not want to work with him. **However, Christina stipulated**
6 **to work with Mr. Ponzo.** Mitchell does not understand why Christina will not work
7
8 with her own family therapist and follow his recommendations. The failure to
9 participate in family therapy with Mr. Ponzo is the reason progress has not been made
10 on resolving the issues before the court.
11
12

13 Since Mr. Ponzo cannot detail the problems with the actions of Ms. Wilburn at
14 the request of Christina and forced reunification for purposes of the court because of his
15 role as Christina's family therapist, Mitchell has consulted with Dr. Roy Lubit. In his
16 letter dated October 10, 2019, Dr. Lubit details the significant problems with the
17 actions/recommendations of Ms. Wilburn and separately with forced reunification. See
18 Exhibit B attached to Mitchell's Exhibits.
19
20

21 Christina's actions are bad faith. Mitchell reached out to Christina's attorney on
22 October 6, 2019 to avoid motion practice. See Exhibit C of Mitchell's Exhibits. Mr.
23 Ponzo could have started working with the family as early as October 4, 2019. Despite
24 requests by Mitchell, Christina refuses to schedule another appointment with Mr. Ponzo.
25 The court should allow the child interviews to proceed on October 23, 2019. At the
26 status check on November 12, 2019, the court can decide whether to schedule an
27
28

1 evidentiary hearing based on the papers and pleadings before it. For now, though,
2 Christina's request for an order shortening time should be denied. If denied, Mitchell
3 will address Christina's motion for primary custody in the normal course.
4
5

6 Dated: October 10, 2019
7

8 **LAW OFFICE OF MITCHELL STIPP**

9 /s/ Mitchell Stipp, Esq.
10 MITCHELL STIPP, ESQ.
11 Nevada Bar No. 7531
12 LAW OFFICE OF MITCHELL STIPP
13 10120 W. Flamingo Rd., Suite 4-124
14 Las Vegas, Nevada 89147
15 Telephone: 702.602.1242
16 mstipp@stipplaw.com
17

18 **DECLARATION OF MITCHELL STIPP**

19 I hereby declare and state as follows:
20

21 1. I am competent and willing to testify in a court of law as to the facts contained in
22 this opposition (which are incorporated herein by this reference).
23

24 2. I have personal knowledge of these facts, save those stated upon information
25 and/or belief, and as to those matters, I believe them to be true.
26

27 /s/ Mitchell Stipp
28

Mitchell Stipp

///

///

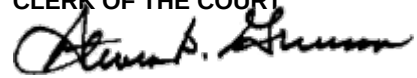
///

1
2 **CERTIFICATE OF SERVICE**

3 I HEREBY CERTIFY that on the 10th day of October, 2019, I filed the foregoing
4 using the Court's E-filing system, which provided notice to the e-service participants
5 registered in this case.
6

7
8 By: */s/ Amy Hernandez*
9

10 _____
11 An employee of the Law Office of Mitchell Stipp
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**EXHIBITS IN SUPPORT OF
DEFENDANT'S
OPPOSITION TO EX PARTE
APPLICATION FOR ORDER
SHORTENING TIME ON
PLAINTIFF'S MOTION FOR
PRIMARY PHYSICAL CUSTODY**

Defendant, Mitchell Stipp, hereby files the above-referenced exhibits (which are identified below):

///

1
2 EXHIBIT A: Email to Nick Ponzio on August 29, 2019.

3
4 EXHIBIT B: Letter from Dr. Roy Lubit dated October 10, 2019 (with article by
5 Stephanie Dallam and Joyanna L. Silberg (2016), Recommended
6 treatments for “parental alienation syndrome” (PAS) may cause
7 children foreseeable and lasting psychological harm, Journal of
8 Child Custody, 13:2-3, 134-143, DOI:
9 10.1080/15379418.2016.12199).

10
11 EXHIBIT C: Email to Valerie Fujii dated October 6, 2019.

12
13 **LAW OFFICE OF MITCHELL STIPP**

14 /s/ Mitchell Stipp, Esq.
15 MITCHELL STIPP, ESQ.
16 Nevada Bar No. 7531
17 LAW OFFICE OF MITCHELL STIPP
18 10120 W. Flamingo Rd., Suite 4-124
19 Las Vegas, Nevada 89147
20 Telephone: 702.602.1242
21 mstipp@stipplaw.com

22
23 **CERTIFICATE OF SERVICE**

24 I HEREBY CERTIFY that on the 10th day of October, 2019, I filed the foregoing
25 using the Court’s E-filing system, which provided notice to the e-service participants
26 registered in this case.

27 By: /s/ Amy Hernandez

28
29 An employee of the Law Office of Mitchell Stipp

EXHIBIT A

To File.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stiplaw.com | www.stiplaw.com

----- Forwarded message -----

From: **Mitchell Stipp** <mstipp@stiplaw.com>

Date: Fri, Aug 30, 2019 at 10:33 AM

Subject: Re: Calderon v. Stipp

To: Nicolas Ponzo <nponzo1@hotmail.com>

Thank you for your reply.

I hope Christina will agree to allow you to help. If not, I understand. Christina's attorney emailed me late yesterday and withdrew her consent to your involvement. I assume your call to her prompted the email, but it is not clear. I think she will listen to you. Her advice from her lawyer seems terrible.

Let me know if you hear anything from Christina.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stiplaw.com | www.stiplaw.com

On Fri, Aug 30, 2019 at 10:28 AM Nicolas Ponzo <nponzo1@hotmail.com> wrote:

Hello,

After reviewing your email I was not sure if there is some determination or agreement that I

have a role in this matter. If so, I suppose it has not been clarified yet what my role may be. I sent a message to Christina to let her know that you sent me an email with some attachments and to inquire with her what her understanding of my role could be. I received a message back that she will be getting in touch with me to advise me of in what capacity or form I may be of some assistance.

Nicolas Ponzio, BA (Phil.), BA (Psych.),
MSW (Clin.), LCSW, M.ED (Psych.)
Diplomate, DCSW, NASW
Psychotherapy , Consulting

10161 Park Run Drive,
Suite 150,
Las Vegas, Nevada, 89145

Tel. 702.248.1169
Fax 702.515.7413
nicolasponzo.com

EXHIBIT B



165 West End Ave 3K
New York, NY 10023

roylubit@rcn.com
917-846-7829

Roy Lubit MD, Ph.D.



Board Certifications
Psychiatry and Neurology
Child & Adolescent Psychiatry
Forensic Psychiatry

October 10, 2019

Background Information

I was initially asked by Mr. Stipp to review a letter written by Donna Wilburn dated September 11, 2019. Since I wrote my letter to him dated September 13, 2019, Mr. Stipp informed me that the court ordered the children to be interviewed and for the parties to participate in therapy with the hope of resolving the issues before the court. I understand from Mr. Stipp that this family therapist previously provided services to the mother and children and was approved by the mother at the hearing. According to Mr. Stipp, after the hearing, Ms. Wilburn contacted the family therapist to provide her own therapeutic services, which I understand is forced reunification. Ms. Wilburn has not evaluated or treated the children. Other than the foregoing, at my request, he told me nothing further about the case.

Addendum to Letter dated September 13, 2019

Ms. Wilburn's actions are concerning to me in various ways. One problem is that according to APA guidelines, it is unethical to play a dual role as forensic expert and psychotherapist. Second, Ms. Wilbur is trying to undermine the court's instructions and services offered by the family therapist. This action, if true, is another example of highly problematic behavior by Ms. Wilburn and shows poor judgment. Forced reunification without any consideration of the children's views will, in most cases, be quite harmful both to the children's psychological development and the future of mother's relationships with her children.

A central theme of medical philosophy is **Primum non nocere** "first, to do no harm." Forced reunification, without hearing the children's version of events, without adequately preparing the children for contact, and with rapid reintroduction regardless of their fears will, to a reasonable degree of medical certainty, cause marked and enduring harm. Even if the issue actually is parental alienation and not mistreatment by mother, rapid, forced reunification would do more harm than good.

If we assume the issue is entirely parental alienation, and that mother is a warm, thoughtful, patient, and supportive parent who has not done anything to distress the children, it would still be inappropriate to engage in rapid forced desensitization. To ignore the children's statements is

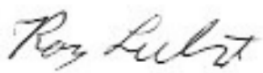
invalidation, and invalidation is known to be very harmful. Standard treatment for phobias is progressive desensitization, not forcing the individual into the feared situation. If a child was frightened of dogs, no reasonable therapist would force the child, despite her panic, to immediately play with a dog. A gradual process of desensitization would be used beginning with thinking about contact, looking at dogs from a distance, seeing others play with dogs, etc.

I have not seen data that the issue in this family is definitely parental alienation. Scientific research has clearly shown that when children reject a parent, it is far more likely to be poor parenting than parental alienation. To force children back into a situation in which they are treated poorly and understandably very uncomfortable, would likely do serious, enduring psychological harm. Not only would the children be forced back into mistreatment, but they would be shown a very negative picture of the world and of authority figures, undermining their respect for authority.

Rapid forced reunification is likely to involve attempts to change the children's opinion by telling the children that they have false beliefs about their mother and that their father manipulated them to turn against their mother. In other words, the therapist and rejected parent would be involved in parental alienation behaviors, invalidation and brain washing, just what they believe is wrong to do.

Dallam and Silberg (2016) in Journal of Child Custody write "The coercive and punitive 'therapies' recommended for children diagnosed with parental alienation constitute an ethical minefield and are especially inappropriate when used on children who have already been traumatized. Forced reunification against a child's will and without taking into consideration the child's point of view and emotional wellbeing, can be expected to reinforce a sense of helplessness and powerlessness in an already vulnerable child. Such 'treatment' can be expected to do more harm than good, and rather than helping their well-being, could cause lasting psychological harm, particularly when imposed upon children who claim the parent they are being forced to reunify with is abusive."

If we assume that forced reunification actually worked, rather than backfired, and that we were sure the issue is entirely parental alienation, the benefit to harm ratio would be such that it should never be used. To use a procedure that has not been shown to work, and that based on our knowledge of children will do far more harm than good, is not simply unethical but malpractice. The most important aspect of reunification is generally the rejected parent acknowledging problematic behavior rather than externalizing blame onto the other parent and invalidating the children, having therapeutic visitation and learning to be a better parent. It is not standard behavior for a parent to refuse the advice of the family therapist who understands the dynamics of the family and was approved for therapy by the court and insist on immediate, major reunification despite the children's feelings.



Roy Lubit MD, Ph.D.



Recommended treatments for “parental alienation syndrome” (PAS) may cause children foreseeable and lasting psychological harm

Stephanie Dallam & Joyanna L. Silberg

To cite this article: Stephanie Dallam & Joyanna L. Silberg (2016) Recommended treatments for “parental alienation syndrome” (PAS) may cause children foreseeable and lasting psychological harm, *Journal of Child Custody*, 13:2-3, 134-143, DOI: [10.1080/15379418.2016.1219974](https://doi.org/10.1080/15379418.2016.1219974)

To link to this article: <https://doi.org/10.1080/15379418.2016.1219974>



Published online: 11 Oct 2016.



Submit your article to this journal [↗](#)



Article views: 384



View related articles [↗](#)



View Crossmark data [↗](#)



Citing articles: 3 View citing articles [↗](#)

Recommended treatments for “parental alienation syndrome” (PAS) may cause children foreseeable and lasting psychological harm

Stephanie Dallam^a and Joyanna L. Silberg^{a,b}

^aLeadership Council on Child Abuse and Interpersonal Violence, Baltimore, Maryland, USA; ^bSheppard Pratt Health System, Baltimore, Maryland, USA

ABSTRACT

The coercive and punitive “therapies” recommended for children diagnosed with parental alienation constitute an ethical minefield and are especially inappropriate when used on children who have already been traumatized. Forced reunification against a child’s will and without taking into consideration the child’s point of view and emotional well-being, can be expected to reinforce a sense of helplessness and powerlessness in an already vulnerable child. Such “treatment” can be expected to do more harm than good, and rather than helping their well-being, could cause lasting psychological harm, particularly when imposed upon children who claim the parent they are being forced to reunify with is abusive.

KEYWORDS

Child abuse; parental alienation; reunification; treatment

We are in agreement with the broad critiques of parental alienation theory as offered by O’Donohue, Benuto, and Bennett (2016) and Clemente and Padilla-Racero (2016) in this issue, and many of the researchers that they cite. “Parental alienation syndrome” (PAS) criteria are vague and subjective, nondiagnostic, and inconsistent with good child-centered evaluation. As a result, PAS proponents frequently draw conclusions based on pure speculation, correlation without demonstrated causation, and inference without any foundation other than their own beliefs about how children should think and behave during a stressful divorce. Current proponents of parental alienation, including Bernet (2008) and Warshak (2015), have attempted to circumvent widespread condemnation of PAS by replacing it with parental alienation disorder (PAD) or simply parental alienation. While they have attempted to imbue their viewpoints with the mantle of science, the criteria used to determine alienation are the same ones offered by Gardner and thus the same criticisms of Gardner’s theory of PAS are applicable as noted in the Commentaries in this issue noted above as well as by others (e.g., Houchin, Ranseen, Hash, & Bartnicki, 2012; Meier, 2013; Saini, Johnston, Fidler, & Bala, 2016). In rejecting PAD for inclusion in the latest revision of the *Diagnostic*

CONTACT Stephanie Dallam ✉ sjscout@gmail.com 📠 Leadership Council on Child Abuse and Interpersonal Violence, P.O. Box 6815, 6501 N. Charles St., Baltimore, MD 21204.

© 2016 Taylor & Francis

AA000622

and *Statistical Manual of Mental Disorders* (DSM), Dr. Darrel Regier, vice chair of the DSM task force, stated, “It’s a relationship problem—parent–child or parent–parent. Relationship problems per se are not mental disorders.” The Board of Trustees would not even consider putting it in a section for disorders needing further research (Thomas & Richardson, 2015, p. 33). Our view is that the ongoing harm to children that this faulty concept has engendered is significant. In this Comment, we examine some of the diagnostic and treatment implications derived from PAS that can harm children and families.

The potential for PAS diagnoses to harm children is not surprising given the concept’s origin. As noted in the Commentaries, PAS was invented by Richard Gardner based on his clinical impressions of cases he believed involved false allegations of child sexual abuse (Gardner, 1985). At the time, Gardner was a frequent expert witness, most often on behalf of fathers accused of molesting their children (Sherman, 1993). Thus, PAS was first described to counter sexual abuse allegations in custody litigation. Without citing any evidence, Gardner (1987) claimed that PAS is responsible for most accusations of child sexual abuse that are raised during custody disputes, and that in his experience “in custody litigation ... the vast majority of children who profess sexual abuse are fabricators” (p. 274). As a result, PAS has frequently been introduced into custody cases by parents whose child has rejected them in order to discredit allegations of family violence or abuse (Bruch, 2001). Actual research, on the other hand, has consistently shown that sexual abuse allegations are not common during custody litigation and when thoroughly investigated, are often no more likely to be false than allegations raised at other points in time (see Dallam & Silberg, 2006 for a review). Yet, even when abuse claims were valid, Gardner appeared to believe that PAS was more detrimental than sexually abusing a child. For example, Gardner (2000) considered PAS to be a form of emotional abuse that can lead to lifelong psychiatric disturbance in the child. Conversely, Gardner claimed that the determinant as to whether the sexual abuse will be traumatic for a child “is the social attitude toward these encounters” (1992a, pp. 670–671) and that special care should be taken by the therapist to not alienate the child from the molesting parent (p. 537).

Gardner’s theory of parental alienation was based on the assumption that if a child rejects their parent (usually the father) after allegations of abuse, the other parent (i.e., the mother) must have brainwashed the child. As Gardner (1992b) stated, “Children are not born with genes that program them to reject a father. Such hatred is environmentally induced, and the most likely person to have brought about the alienation is the mother” (p. 75). Thus, problems in the child’s relationship with the father were simply blamed on brainwashing by the mother. The recommended solution to remedy PAS involves coercive and punitive treatments for both the mother and the child along with switching custody to the rejected parent as noted by Clemente and Padilla-Racero (2016) in this issue. Although Gardner (2001) said that children may then

add their own contributions to the vilification of a parent, there is minimal indication in Gardner's perspective that children can react to a parent based on their own experiences, feelings, and beliefs. Thus, the mental life of the child who is being diagnosed with PAS is largely ignored in Gardner's theoretical analysis.

Gardner's theory of PAS has been difficult to overcome because he relied on popular gender and cultural myths (see Dallam & Silberg, 2006 for a review) and offered courts a simple explanation for very complex cases. One judge wrote that when she first read Gardner's (1987) book *The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse*, she believed that "Dr. Gardner had just handed me the key to the mysteries of all my high-conflict family law custody cases ... the magic of the theory was intoxicating" (Slabach, 2014, p. 8). One reason the theory seemed so comprehensible was that the definition of PAS includes its hypothesized etiological agents (i.e., a manipulative/alienating parent and a receptive child) (Kelly & Johnston, 2001). This renders Gardner's theory of PAS unfalsifiable because it is tautological (i.e., true by definition). The child's denial that such brainwashing has taken place and the mother's attempts to obtain professional assistance in diagnosing, treating, and protecting the child, are then used by Gardner and proponents of his views as evidence of alienation. Thus, Gardner's theory works backward using circular reasoning to assume causation from an observation. As a result, Rotgers and Barrett (1996) cite PAS theory as a prime example of a nonscientific theory that engages in reverse logic.

The rejected parent's role in contact refusal

As a theory, PAS is black and white with minimal attention given to family dynamics or child development. The alienating parent was painted by Gardner as pathological and completely to blame for the child's position. The rejected parent in Gardner's theory was totally blameless and the "true victim" (Gardner, 2002, p. 26). In actuality, when a child rejects a parent there is a wide range of possible explanations including normal developmental conflicts with a parent, separation anxiety with the preferred parent, abuse, or neglect, etc. (e.g., Faller, 1998; Garber, 1996). Moreover, research on the topic has found that rejected parents often have contributed to their situation. Huff (2015) surveyed 292 young adults (18–35 years old) who were between 8 and 17 at the time their parents separated. He found that that violence and a perceived lack of warmth were significant predictors of contact refusal with a parent. The largest effect size for predicting contact refusal was for the degree to which participants reported being aligned with the other parent. At the same time, co-parental conflict and parents' alienating behaviors had little to no direct contribution to contact refusal after controlling for the other

variables in the model. Huff's study is of particular importance since alienating behaviors are the primary variable that alienation proponents claim causes contact refusal. His study found that participants were *not* influenced to reject a parent due to manipulation by the other parent; instead, they tended to align with the parent who exhibited the most caring behavior toward them.

These findings are supported by prior studies looking at children's rejection of a parent after divorce. Lampel (1996) studied 24 consecutively referred children of parents in custody litigation. She found that the rejected parent's demonstration of empathy was a better predictor of a child's rejection than manipulation by the preferred parent. She concluded, "The complex family dynamics suggested by these studies are that a closed parent system, in which both parents are defensive and remain in conflict, led the child to align with the more problem solving, capable, and outgoing of the two parents" (p. 239). Johnston, Walters, and Olesen (2005) found that substantiated accounts of abuse significantly predicted parental rejection when controlling for a variety of other factors, including alienating behaviors by the other parent.

Acceptance of PAS can result in failure to adequately investigate reports of abuse

One of the biggest pitfalls of having children evaluated by someone trained in parental alienation theory is that the assumption of manipulation by the preferred parent means that the rejected parent is deemed by evaluators to be the only source of "credible" information; the preferred parent and child are not viewed as credible and thus their concerns are often ignored. This parent and the child often quickly realize that the evaluator does not believe them, is biased, and has their mind made up. This can lead to them shutting down and not providing information, or even exaggerating actual abuse to be more extreme in an attempt to get the evaluator to pay attention.

Although proponents of parental alienation agree that substantiated abuse rules out a diagnosis of PAS, many custody evaluators appear predisposed to attribute abuse allegations to vindictiveness, rather than exploring whether there is a factual basis for the child's disclosure or the protective parent's concerns (e.g., Saunders, Faller, & Tolman, 2011). In addition, as Johnston, Roseby, and Kuehnle (2009) pointed out, parental violence, abuse, and neglect range on a continuum from blatant acts to more subtle forms of emotional abuse, neglect, and a lack of empathy and concern for the child that may not be acknowledged, difficult to document, and unreported or dismissed by authorities. Even when abuse is formally investigated, it is frequently not substantiated as allegations of interpersonal violence can be very difficult to independently confirm, especially if the law enforcement or child protective services personnel also believe in the myth of PAS and, therefore, do not conduct their normal comprehensive investigations.

Parental alienation proponents, on the other hand, often assert that they can easily determine whether abuse has occurred, often with no formal evaluation of the child or family (e.g., Childress, 2015). Once they make their determination, custody evaluators schooled in PAS theory were instructed by Gardner to ignore and aggressively contradict any abuse disclosures by a child they believe to be alienated. For example, Gardner (1999) wrote, “The court’s therapist must have a thick skin and be able to tolerate the shrieks and claims of impending maltreatment that PAS children often profess.... To take the allegations of maltreatment seriously, is a terrible disservice to PAS children” (pp. 201–202). Similarly, Warshak (2015) noted that children can be very convincing in their accounts of poor treatment at the hands of the rejected parent and, as a result, “[n]aïve therapists who lack specialized knowledge and experience with alienation cases may inadvertently reinforce the children’s alienation by accepting their patients’ representations as accurate” (p. 246). Gardner (1999) even directed therapists to actively counter allegations of abuse if they believed them to be false. He stated, “[I]t is therapeutic to say, ‘That didn’t happen! So let’s go on and talk about real things, like your next visit with your father’” (p. 202).

We find this position to be inherently dangerous, not only because it is disrespectful to children, but also because of the very real possibility of abused children being misdiagnosed as alienated and placed with their abuser. The ability for PAS and its offshoots to harm children was recognized by the National Council of Juvenile and Family Court Judges, a leading judicial body, in its published guidelines noting that PAS may divert attention away from the behaviors of an abusive parent by assuming that child’s attitudes toward that parent have no basis in reality (Dalton, Drozd, & Wong, 2006).

Because of the difficulty in substantiating allegations of interpersonal violence in custody cases, the American Professional Society on the Abuse of Children (2013) recommends a comprehensive family evaluation by mental health professionals with expertise in interpersonal violence. Evaluators should conduct more than a single interview with children, rely upon multiple methods of data collection and, whenever feasible, a team approach should be used to mitigate individual bias. Even with such a careful investigation, finding insufficient evidence for a finding of abuse does not mean that “brainwashing” is the most likely alternative. It is very difficult to substantiate abuse particularly in young children and, as noted previously, parental rejection has many causes.

Experimental and punitive treatments for PAS

Both PAS and PAD are built on the assumption the relationship of an alienated child with the rejected parent will be irreparably damaged, unless drastic measures (custody transfer, isolation from the loved parent, and

deprogramming) are taken. These theories further assume that the child will suffer permanent psychological harm if they are not forced to see the rejected parent. Consequently, the recommendations of PAS advocates can endanger children by separating them from the parent with whom they are most bonded and attempting to force the child to accept the rejected, and possibly abusive, parent.

Gardner (2001) claimed that children with PAS require an authoritarian and confrontational approach. As a result, treatment of children who diagnosed with parental alienation involves incarceration, threats, and/or special reunification “camps” where children are held against their will to be indoctrinated into rejecting the influence of the parent with whom the child is most bonded (see Gardner, 1999, 2000, 2001). Current treatments for alienation have not been empirically studied for efficacy and Johnston and Kelly (2004) described Gardner’s prescriptions for treating PAS “a license for tyranny” (p. 85).

Recently a number of reunification “camps” to treat PAS have emerged (see Slabach, 2014; Warshak, 2010b). The operators of reunification “camps” often emphasize that these are not treatment programs but instead are “educational” in nature, thus avoiding scrutiny of regulating bodies (Houchin et al., 2012). Houchin et al. noted that these “educational” programs are a burgeoning industry that are making some professionals and lay people quite wealthy, but which have no empirical support other than the claims of those who run the programs. Many of these programs are run out of hotel rooms. Before agreeing to take the child, most of these “camps” require that the court sign special orders to prevent the preferred parent and child from having any contact (including phone, texts, e-mail or Facebook) for a period of at least 90 days. These no contact orders require that the rejected parent be given sole legal custody, and that the preferred parent, along with the child’s other family and friends, are not allowed to know where the child is being held. The child’s cell phone is taken and all communications are restricted and monitored. The child may be threatened that if they make any attempt to contact their preferred parent, they both will be in trouble with the court, and that the 90-day period of no contact will start over again (e.g., Warshak, 2014).

Isolating a child from everyone they are familiar with and attempting to force them to adopt a different view of a parent, especially by strangers who know little about the child’s actual experiences, can in and of itself be traumatic. Warshak (2010b) who runs Family Bridges, a reunification program for “alienated” children, wrote that that when children are court-ordered into Family Bridges and told they can have no further contact with their preferred parent, “It is not uncommon for children to react by screaming, refusing to go, threatening to run away, sobbing hysterically, and, in one case, hyperventilating” (p. 61). At the same time, Warshak (2010a) claimed, “Despite their vehement protests, children and teens welcome the sense of

protection and control that comes when adults exert appropriate authority to keep children on the right track” (as cited by Warshak & Otis, 2010, p. 93). However, no peer reviewed research to support such claims has been published.

Research refutes forced treatment for PAS

Research refutes the assumption that a child’s bond with a preferred parent must be disrupted to safeguard the child’s relationship with the rejected parent. Instead, researchers have found that if a child’s rejection of parent is unwarranted, the child will usually reconcile with the parent on their own without any intervention (e.g, Johnston & Goldman, 2010; Johnston et al., 2009). Johnston et al. found that alignments with a preferred parent are usually time-limited. However, they noted if these cases are mishandled through attempting to force the child to change allegiances, they can contribute to the entrenched position in the child. Research by Johnston and Goldman found that adults who were forced into reunification with a rejected parent when they were a child had strong negative views and feelings about the experience. Based on their research, Johnston and Goldman suggested a “strategy of voluntary supportive counseling and/or backing off and allowing the youth to mature and time to heal the breach” (p. 113) instead of forcing adolescents to participate in counseling. They concluded that teenagers who feel empowered and have their autonomy respected are better able to distance themselves from the parental and family conflicts and consequently more likely to initiate meaningful contact with the rejected parent. Other writers who have looked at the issue argue that enforced treatment and custody reversal are counterproductive, in that they will only serve to reinforce the child’s hatred for the rejected parent, and add stress to the already vulnerable child (e.g., Jaffe, Ashbourne, & Mamo, 2010; Johnston et al., 2009).

Silberg, Dallam, and Samson (2013) documented the harm that can come when children are court ordered into custody of abusive parents. They analyzed the court records of 27 custody cases in which courts initially placed children in the custody of an allegedly abusive parent and later reversed itself and protected the child. Silberg et al. reported that family courts were highly suspicious of a mother’s motive for being concerned with abuse and custody evaluators and guardian ad litem (GALs) frequently accused mothers of alienating their children from fathers and coaching them to report abuse. In the majority of the cases (59%), the alleged perpetrator was granted sole custody. Some mothers were not allowed any contact with their children, and several others were ordered not to speak to their children about abuse or report any further concerns about abuse or risk losing any further contact. The children spent an average of three years in the abusive parent’s custody before the case was reversed. Court records showed evidence of the children’s deteriorating mental and physical condition including anxiety, depression,

dissociation, PTSD, self-harm, and suicidality. Thirty-three percent of the children became suicidal, some repeatedly ran away, and others ended up in psychiatric hospitals.

Conclusion

Hopefully, the tide is beginning to turn on this issue. The lack of empirical support for PAS theory has been repeatedly documented, as has the potential for harm when children are diagnosed and treated for this pseudoscientific condition. In addition, the confinement of children, who have no mental disorder and who have committed no wrong doing, away from parents and friends in unfamiliar surroundings in order to force them to adopt a new belief system would appear to violate these children's basic civil rights (Kleinman & Kaplan, 2016). As a result, in our view, diagnosing children with PAS (or following the same principles without using the label) and recommending coercive and untested treatments for child who refuse contact constitute a form of professional malpractice.

In summary, parental alienation as defined by PAS advocates is a popular, but faulty, concept which has been disproven by research and is not accepted by any professional mental health organization. Coercive and punitive “therapies” recommended for children diagnosed with parental alienation constitute an ethical minefield and are especially inappropriate when used on children who have already been traumatized. Forced reunification against a child's will and without taking into consideration the child's point of view and emotional well-being, can be expected to reinforce a sense of helplessness and powerlessness in an already vulnerable child. Such “treatment” can be expected to do more harm than good, and rather than helping their well-being, could cause lasting psychological harm, particularly when imposed upon children who claim the parent they are being forced to reunify with is abusive.

References

- American Professional Society on the Abuse of Children. (2013). *APSAC Position paper on allegations of child maltreatment and intimate partner violence in divorce/parental relationship dissolution*. Retrieved from <http://www.apsac.org/assets/documents/apsac%20position%20paper-revised%2013.pdf>
- Bernet, W. (2008). Parental alienation disorder and DSM-V. *The American Journal of Family Therapy*, 36(5), 349–366. doi:10.1080/01926180802405513
- Bruch, C. S. (2001). Parental alienation syndrome and parental alienation: Getting it wrong in child custody cases. *Family Law Quarterly*, 35, 527–552.
- Childress, C. (2015, November 3). *Diagnosing parental alienation*. Blog post. Retrieved from <http://drcraigchildressblog.com/2015/11/03/diagnosis-of-parental-alienation>
- Clemente, M., & Padilla-Racero, D. (2016). When courts accept what science rejects: Custody issues concerning the alleged “parental alienation syndrome.” *Journal of Child Custody*, 13(2–3), 126–133

- Dallam, S. J., & Silberg, J. L. (2006). Myths that place children at risk during custody disputes. *Sexual Assault Report*, 9(3), 33–47. Retrieved from http://www.leadershipcouncil.org/1/res/cust_myths.html
- Dalton, C., Drozd, L., & Wong, F. (2006). *Navigating custody and visitation evaluations in cases with domestic violence: A judge's guide* (Rev. ed.). Reno, NV: National Council of Juvenile & Family Court Judges.
- Faller, K. C. (1998). The parental alienation syndrome: What is it and what data support it? *Child Maltreatment*, 3(2), 100–115. doi:10.1177/1077559598003002005
- Garber, B. D. (1996). Alternatives to parental alienation: Acknowledging the broader scope of children's emotional difficulties during parental separation and divorce. *New Hampshire Bar Journal*, 37(1), 51–54.
- Gardner, R. A. (1985). Recent trends in divorce and custody litigation. *Academy Forum*, 29(2), 3–7.
- Gardner, R. A. (1987). *The parental alienation syndrome and the differentiation between fabricated and genuine child sex abuse*. Cresskill, NJ: Creative Therapeutics.
- Gardner, R. A. (1992a). *True and false accusations of child sex abuse*. Cresskill, NJ: Creative Therapeutics.
- Gardner, R. A. (1992b). *The parental alienation syndrome: A guide for mental health and legal professionals*. Cresskill, NJ: Creative Therapeutics.
- Gardner, R. A. (1999). Family therapy of the moderate type of parental alienation syndrome. *The American Journal of Family Therapy*, 27, 195–212. doi:10.1080/019261899261925
- Gardner, R. A. (2000, March). *Parental alienation syndrome* (2nd ed.). Cresskill, NJ: Creative Therapeutics. Revised Addendum 1. Retrieved from <http://www.fact.on.ca/Info/pas/gard00b.htm>.
- Gardner, R. A. (2001). Should courts order PAS children to visit/reside with the alienated parent? A follow-up study. *The American Journal of Forensic Psychology*, 19(3), 61–106. Retrieved from http://canadiancsrc.com/Parental_Alienation_Syndrome_Canada/gard01a.pdf
- Gardner, R. A. (2002). The empowerment of children in the development of parental alienation syndrome. *The American Journal of Forensic Psychology*, 20(2), 5–29.
- Houchin, T. M., Ranseen, J., Hash, P. A. K., & Bartnicki, D. J. (2012). The parental alienation debate belongs in the courtroom, not in DSM-5. *Journal of the American Academy of Psychiatry & Law*, 40, 127–131.
- Huff, S. C. (2015). *Expanding the relationship between parental alienating behaviors and children's contact refusal following divorce: Testing additional factors and long-term outcomes* (Doctoral dissertations). University of Connecticut, Storrs, CT.
- Jaffe, P., Ashbourne, D., & Mamo, A. (2010). Early identification and prevention of parent-child alienation: A framework for balancing risks and benefits of intervention. *Family Court Review*, 48, 136–152. doi:10.1111/j.1744-1617.2009.01294.x
- Johnston, J. R., & Goldman, J. R. (2010). Outcomes of family counseling interventions with children who resist visitation: An addendum to Friedlander and Walters (2010). *Family Court Review*, 48, 112–115. doi:10.1111/j.1744-1617.2009.01292.x
- Johnston, J. R., & Kelly, J. B. (2004). Commentary on Walker, Brantley, and Rigsbee's (2004) "A Critical Analysis of Parental Alienation Syndrome and Its Admissibility in the Family Court". *Journal of Child Custody*, 1(4), 77–89.
- Johnston, J. R., Roseby, V., & Kuehnle, K. (2009). *In the name of the child: A developmental approach to understanding and helping children of conflicted and violent divorce* (2nd ed.). New York, NY: Springer.
- Johnston, J. R., Walters, M. G., & Olesen, N. W. (2005). Is it alienating parenting, role reversal or child abuse? A study of children's rejection of a parent in child custody disputes. *Journal of Emotional Abuse*, 5(4), 191–218. doi:10.1300/J135v05n04_02

- Kelly, J. B., & Johnston, J. R. (2001). The alienated child: A reformulation of parental alienation syndrome. *Family Court Review*, 39, 249–266. doi:10.1111/j.174-1617.2001.tb00609.x
- Kleinman, T. G., & Kaplan, P. (2016). Relaxation of rules for science detrimental to children. *Journal of Child Custody*, 13(1), 72–87.
- Lampel, A. K. (1996). Children's alignment with parents in highly conflicted custody cases. *Family and Conciliation Courts Review*, 34, 229–239. doi:10.1111/j.174-1617.1996.tb00416.x
- Meier, J. (2013, September). *Parental alienation syndrome and parental alienation: A research review*. Harrisburg, PA: VAWnet, A Project of the National Resource Center on Domestic Violence. Retrieved from http://www.vawnet.org/assoc_files_vawnet/ar_pasupdate.pdf.
- O'Donohue, W., Benuto, L. T., & Bennett, N. (2016). Examining the use of "Parental Alienation Syndrome." This Issue.
- Rotgers, F., & Barrett, D. (1996). Daubert v. Merrell Dow and expert testimony by clinical psychologists: Implications and recommendations for practice. *Professional Psychology: Research and Practice*, 27(5), 467–474. doi:10.1037/0735-7028.27.5.467
- Saini, M., Johnston, J. R., Fidler, B. J., & Bala, N. (2016). *Empirical studies of alienation*. In Drozd, L. Saini, M., & Olesen, N. (Eds.), *Parenting plan evaluations: Applied research for the family court* (2nd ed., pp. 374–430). New York, NY: Oxford University Press.
- Saunders, D., Faller, K., & Tolman, R. (2011). *Child custody evaluators' beliefs about domestic abuse allegations: Their relationship to evaluator demographics, background, domestic violence knowledge and custody-visitation Recommendations*. Final Report submitted to the National Institutes of Justice. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/238891.pdf>.
- Sherman, R. (1993, August 16). Gardner's law. *The National Law Journal*, 1, 45–46.
- Silberg, J. L., Dallam, S. J., & Samson, E. (2013). Crisis in family court: Lessons from turned around cases. Final Report submitted to the Office of Violence Against Women, Department of Justice (supported under award #2011-TA-AX-K006).
- Slabach, M. A. (2014, Summer). Today's estranged child, yesterday's alienating parent? *ACFLS Family Law Specialist*, Summer 2014(3), 8–11. Retrieved from <http://mslabach.com/wp-content/uploads/2015/05/Todays-Estranged-Child-Yesterdays-Alienating-Parent.pdf>.
- Thomas, R. M., & Richardson, J. T. (2015). Parental Alienation Syndrome: 30 years on and still junk science. *Judges' Journal*, 54(3), 22–23.
- Warshak, R. A. (2010a). *Divorce poison: How to protect your family from badmouthing and brainwashing*. New York, NY: Harper Paperbacks.
- Warshak, R. A. (2010b). Family bridges: Using insights from social science to reconnect parents and alienated children. *Family Court Review*, 48(1), 48–80. doi:10.1111/j.1744-1617.2009.01288.x
- Warshak, R. A. (2014, January 27). *Deposition testimony in re marriage of Taaca and Osmundson*. Colorado: District Court of Gunnison County.
- Warshak, R. A. (2015). Parental alienation: Overview, management, intervention and practice tips. *Journal of the American Academy of Matrimonial Lawyers*, 28, 181–248.
- Warshak, R. A., & Otis, M. R. (2010). Helping alienated children with family bridges: Practice, research, and the pursuit of "humbition." *Family Court Review*, 48(1), 91–97.

EXHIBIT C

To File.



Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stiplaw.com | www.stiplaw.com

----- Forwarded message -----

From: **Mitchell Stipp** <mstipp@stiplaw.com>

Date: Sun, Oct 6, 2019 at 6:29 PM

Subject: Calderon v. Stipp (Case No. D-08-389203-Z)

To: Valarie Fujii <val@fujii-law.com>

Cc: Radford Smith <rsmith@radfordsmith.com>

Valerie:

I am writing regarding your client's personal therapist, Donna Wilburn. She attended the hearing in the above-referenced case on October 1, 2019. Since she was present at the hearing, she is aware that your client stipulated to have Nick Ponzo resume family therapy with the goal of reuniting the children with your client. Under these circumstances, I was surprised to learn that Ms. Wilburn contacted Mr. Ponzo last week after the hearing to request his consent and recommendation for her to provide reunification services to your client and my daughter, Mia Stipp. I have previously rejected Ms. Wilburn's involvement with the children for the reasons described in my filings. Please be advised that Mr. Ponzo also does not agree to Ms. Wilburn's involvement. Based on his knowledge of the family dynamics, he rejects her approach to reunification.

I met with Mr. Ponzo for more than 3 hours on Friday. Mr. Ponzo provided specific advice to Christina. Unfortunately, Christina elected not to follow it for purposes of resuming her timeshare. Mr. Ponzo warned that her approach (as supported by Ms. Wilburn) would only further alienate the children. Christina claims that Mr. Ponzo should have no role in reuniting the children with her and that Mr. Ponzo is now the therapist only for the children (i.e., no longer their family therapist). I do not understand these positions. Judge Ritchie directed us to work

AA000633

out the issues before the court via family therapy. Your client agreed to use Mr. Ponzo. Now, it appears she is not willing to participate meaningfully in this process. This is bad faith and undermines my ability to comply with your client's request to see the children.

Your client wants the children immediately in her physical care notwithstanding the recommendations of Mr. Ponzo, the children's preferences and concerns, and my concerns about her parenting skills. Christina threatened to file a new motion (even though I am committed to work with her in therapy) unless the children agreed to return to her care on Friday.

Please consult with your client on her decision to return to court rather than work with Mr. Ponzo. I think litigation is waste of time and resources (because it will not resolve the problems between Christina and the children). We are better served working with Mr. Ponzo rather than litigating.

Time is of the essence.

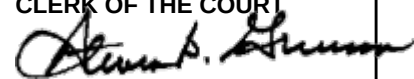


Mitchell Stipp

Law Office of Mitchell Stipp

T: [702.602.1242](tel:702.602.1242) | M: [702.378.1907](tel:702.378.1907)

E: mstipp@stiplaw.com | www.stiplaw.com



DISTRICT COURT
CLARK COUNTY, NEVADA

CHRISTINA CALDERON,

Plaintiff,

vs.

MITCHELL D. STIPP,

Defendant.

CASE NO. D-08-389203-Z
DEPT. NO. "H"

ORDER SETTING CASE
MANAGEMENT CONFERENCE

Date of Hearing: October 22, 2019
Time of Hearing: 9:00 a.m.

This case was heard on October 1, 2019. The parties appeared with counsel. The court reviewed the papers and made several orders regarding the management of the parties' post-judgment custody dispute. Specifically, the court ordered records from the Department of Family Services, the court referred the parties to the Family Mediation Center for Mia and Ethan to be interviewed, the court ordered a resumption of the joint physical custody schedule, and the court ordered that the parties resume working with Nicholas Ponzo. The court set the return hearing for November 12, 2019.

1 On October 7, 2019, Mitchell Stipp filed a Status Report. On October 8,
2 2019, Christina Calderon filed an Objection to the Status Report. On October 9,
3 2019, Christina Calderon filed an Emergency Motion for Temporary Physical
4 Custody and for Writ of Attachment. That motion was set for hearing on
5 November 19, 2019, at 10:00 a.m. Christine Calderon filed an ex-parte motion
6 for an order shortening the time for that hearing. Mitchell Stipp's opposition to
7 motion for order shortening the time was filed on October 10, 2019. The court
8 considered the papers on October 10, 2019, and shortened the time for the hearing
9 on Christina Calderon's motion to November 12, 2019, at 9:00 a.m.
10
11
12

13 This court concludes that the parties need direction from the court
14 concerning the orders that were entered at the hearing on October 1, 2019. The
15 court has concerns that the parties either do not understand the orders or will not
16 follow the orders prior to the hearing on November 12, 2019. Therefore,
17
18

19 **IT IS HEREBY ORDERED** that the parties shall appear at a case
20 management conference on Tuesday, October 22, 2019, at 9:00 a.m., in
21 Department H, courtroom 3G, located at the Regional Justice Center.
22

23 DATED this 11 day of October, 2019.
24

25 
26 DISTRICT COURT JUDGE
27 T. ART RITCHIE, JR.
28

1
2 **CERTIFICATE OF MAILING**

3 I hereby certify that the Order Setting Case Management Conference was filed on
4 October 11, 2019, and the following is a true and correct copy thereof.

5 On or about the file stamp date the foregoing Order Setting Case Management
6 Conference was:
7

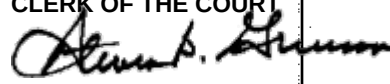
8 ☒ E-Served pursuant to NEFCR 9; placed in attorney folder(s) at the RJC; or
9 mailed to proper person litigants, via first-class mail, postage fully prepaid to:

10 Valarie I Fujii, Esq. for
11 Christina Calderon
12 PLAINTIFF

Radford J. Smith, Esq. for
Mitchell D. Stipp
DEFENDANT

13 

Katrina Rausch
Judicial Executive Assistant
Department H



1 **AFFT**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujii-lawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)
15)
16 Plaintiff,)

17 vs.)

18 **MITCHELL STIPP,**)
19)
20 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/CR 3 at RJC

Date of Hearing: November 12, 2019
Time of Hearing: 9:00 a.m.

21 **PLAINTIFF'S SUPPLEMENTAL AFFIDAVIT IN SUPPORT**
22 **OF HER EMERGENCY MOTION FOR TEMPORARY**
23 **PRIMARY PHYSICAL CUSTODY AND REQUEST FOR WRIT**
24 **OF ATTACHMENT ORDER AND ATTORNEYS FEES**

25 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
26 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
27 FUJII & ASSOCIATES, and submits her *Supplemental Affidavit in Support of*
28 *her Emergency Motion for Temporary Primary Physical Custody and Request*
for a Writ of Attachment Order for the Children and Attorneys Fees as follows:

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

4 I, CHRISTINA CALDERON, do hereby swear under penalty of perjury that
5 the assertions of this Affidavit are true.

- 6 1) I am the Plaintiff in the above-captioned matter;
- 7 2) On October 1, 2019, the Court ordered Mitch to exchange our
8 children, MIA and ETHAN, with me on Friday, October 4, 2019;
- 9 3) On October 4, 2019, I attempted to pick up MIA and ETHAN, but
10 Mitch did not follow the Court's Order; I did not receive them into my
11 care that day. See Plaintiff's Affidavit filed in Support of Motion to
12 Change Custody, filed October 9, 2019, incorporated in full herein;
- 13 4) On Friday, October 18, 2019, I attempted, yet again, to pick up MIA
14 and ETHAN pursuant to our existing custody order, but Mitch
15 deliberately thwarted the exchange;
- 16 5) Specifically, on Friday, October 18, 2019, I arrived at Mitch's home
17 shortly before 6:00 p.m. in order to pick up MIA. I was not scheduled
18 to pick up ETHAN that night until 8:00 p.m., after his baseball
19 practice;
- 20 6) I sent a text message to Mitch and, separately, to MIA, telling them
21 that I was there and was parked out front, as is our custom. I also sent
22 Mitch an email the day before confirming my pick up arrangements;
- 23
- 24
- 25
- 26
- 27
- 28

- 1 7) Instead of sending MIA out of his home, Mitch exited his home and
2 approached my vehicle. He knocked on my passenger side window,
3 and I rolled it down. He asked if we could speak before I got MIA. I
4 did not exit my vehicle. I asked him whether I was going to get MIA
5 that day or not. He said it was "up to me" and depended on whether I
6 agreed to "work with him" or not;
7
8 8) Mitch continued to argue the merits of his case with me even though I
9 just wanted to pick up MIA. She was going to be celebrating her 15th
10 birthday the next day, and I still have not even received a
11 Homecoming picture of her. Mitch proceeded to tell me that he
12 predicted that in 6-9 months the Court would not change custody
13 anyway, and told me that if I did not stipulate to waive compliance
14 with our custody order and "work with him," my relationship with my
15 children would suffer even more. He threatened that if I thought the
16 relationship was bad before August 2019, when he began to keep
17 them from me, I should "just wait and see" how bad it was going to be
18 now;
19
20 9) I told Mitch that I was going to follow the Court's order;
21
22 10) Mitch retreated into his home and never sent MIA out to me. I waited
23 forty (40) minutes for her before leaving;
24
25 11) Thereafter, I went to ETHAN'S baseball practice. I arrived at the
26 field at approximately 7:45 p.m. Mitch arrived at the park at the same
27
28

1 time. He did not need to be there if he truly intended for me to pick
2 up ETHAN. When practice ended, Mitch hovered near ETHAN,
3 spoke to him and retreated. I spoke to ETHAN briefly. ETHAN said
4 that he was not going to go home with me that night. He said that
5 Mitch told him that he did not have to. He said that Mitch told him it
6 was "his choice." I hugged ETHAN and he left with Mitch;
7

8
9 12) Before leaving the park, I sent Mitch an email confirming ETHAN'S
10 concerning statements. I began to drive away from the park. I was
11 attempting to make a right turn at the intersection adjacent to the
12 baseball field when Mitch, who had left several minutes before me,
13 returned to the area and blocked the intersection. He dangerously
14 drove his large SUV within inches of my car and lined up his driver
15 side window next to mine;
16

17 13) Mitch rolled down his window and yelled that he did not tell ETHAN
18 that he did not have to come with me. ETHAN was sitting in the
19 passenger seat watching. Mitch made ETHAN recant his statements
20 to me. I reassured ETHAN that I loved him and asked him to tell
21 MIA Happy Birthday from me. Other parents, including the coach,
22 approached the intersection. Some families had to drive around
23 Mitch's car in order to leave. They were staring at us as Mitch
24 continued his rant for several minutes. He finally left;
25
26
27
28

- 1 14) Mitch has had MIA and ETHAN continuously in his care since
2 August 16, 2019;
3
4 15) As of this writing, MIA and ETHAN have not been seen by Nicholas
5 Ponzo, and I have not been able to take them to see him as Mitch will
6 not return MIA and ETHAN to my care;
7
8 16) Mitch lied to the court in his last filing regarding family therapy. I
9 have not tried to use Donna Wilburn for family therapy. Mitch is
10 trying to distract the Court from seeing the truth;
11
12 17) Mitch has deprived me of custody of MIA and ETHAN for over two
13 months now because I asked MIA to get off of her cell phone on a
14 late school night telephone call to her boyfriend. The damage he
15 continues to do to my relationship with the children is compounding
16 with every day that he continues to ignore the court's clear order.
17
18 18) Good cause exists to grant my Motion for Temporary Primary
19 Physical Custody as soon as possible.
20

21 Christina Calderon
22 CHRISTINA CALDERON

23 SUBSCRIBED and SWORN to before me
24 this 21st day of October, 2019,
25 by CHRISTINA CALDERON.

26 Theresa Locklar

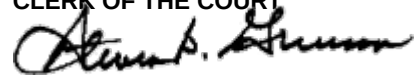
27 NOTARY PUBLIC in and for
28 said County and State



- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

true and correct copy of the foregoing, *Plaintiff's Supplemental Affidavit in Support of Her Emergency Motion for Temporary Primary Physical Custody and Request for Writ of Attachment Order and Attorneys Fees*, via electronic service pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR), addressed as follows:

Theresa Locklear
An employee of VALARIE I. FUJII, ESQ.



MITCHELL D. STIPP, ESQ.
Nevada Bar No. 7531
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com

RADFORD J. SMITH, ESQ.
Nevada Bar No. 2791
RADFORD J. SMITH, CHARTERED
2470 St. Rose Parkway, Suite 206
Henderson, Nevada 89074
Telephone: 702.990.6448
rsmith@radfordsmith.com
Attorneys for Mitchell Stipp, Defendant

**IN THE EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF CLARK**

FAMILY DIVISION

CHRISTINA CALDERON,
Plaintiff,

v.

MITCHELL STIPP,
Defendant.

Case No.: D-08-389203-Z

Dept. No.: H

**OPPOSITION TO PLAINTIFF'S
MOTION FOR PRIMARY
PHYSICAL CUSTODY AND
COUNTERMOTION FOR
PRIMARY PHYSICAL CUSTODY
AND RELATED RELIEF**

**Date of Hearing: November 12, 2019
Time of Hearing: 9:00 a.m.**

Defendant, Mitchell Stipp, as co-counsel of record, hereby files the above-referenced opposition/countermotion. This opposition/countermotion is based on the

1 papers and pleadings on file in this case, the memorandum of points and authorities that
2 follow, and any exhibits filed separately in support.

3 Mitchell respectfully asks the court for the following relief:

- 4
- 5 1. Deny the motion for primary physical custody filed by Christina Calderon
- 6 (“Christina”).
- 7
- 8 2. Grant Mitchell temporary, primary physical custody of the children with the
- 9 right of the children to exercise teenage discretion pending an evidentiary
- 10 hearing.
- 11
- 12 3. Order Christina to participate in therapy with Nick Ponzio.
- 13

14 Dated: October 21, 2019

15

16 **LAW OFFICE OF MITCHELL STIPP**

17 /s/ Mitchell Stipp, Esq.
18 MITCHELL STIPP, ESQ.
19 Nevada Bar No. 7531
20 LAW OFFICE OF MITCHELL STIPP
21 10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Telephone: 702.602.1242
mstipp@stipplaw.com
Attorneys for Defendant

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction.

Mitchell incorporates by reference his filings made on and after August 26, 2019.

These filings include, without limitation, the following:

1. MOTION FOR CHILD INTERVIEW BY FMC, MEDIATION AND TO PERMIT CHILDREN TO EXERCISE TEENAGE DISCRETION ON TIMESHARE (AUGUST 26, 2019)
2. EXHIBITS IN SUPPORT OF DEFENDANT'S MOTION FOR CHILD INTERVIEW BY FMC, MEDIATION AND TO PERMIT CHILDREN TO EXERCISE TEENAGE DISCRETION ON TIMESHARE (AUGUST 26, 2019)
3. EX PARTE APPLICATION FOR ORDER SHORTENING TIME AND RELATED RELIEF (AUGUST 26, 2019)
4. NOTICE OF COMMUNICATIONS BETWEEN DEFENDANT AND PLAINTIFF'S ATTORNEY (AUGUST 29, 2019)
5. DEFENDANT S OPPOSITION TO MOTION FOR ORDER TO SHOW CAUSE, REQUEST FOR IMMEDIATE RETURN OF THE CHILDREN, MAKEUP VISITATION AND AWARD OF ATTORNEY S FEES AND COUNTERMOTION FOR INTERVIEW OF CHILDREN BY FMC, MEDIATION AT FMC, AND FOR CHILDREN TO EXERCISE TEENAGE DISCRETION (SEPTEMBER 4, 2019)
6. DEFENDANT'S EXHIBITS IN SUPPORT OF OPPOSITION TO MOTION FOR ORDER TO SHOW CAUSE, REQUEST FOR IMMEDIATE RETURN OF THE CHILDREN, MAKEUP VISITATION AND AWARD OF ATTORNEY'S FEES AND COUNTERMOTION FOR INTERVIEW OF CHILDREN BY FMC, MEDIATION AT FMC, AND FOR CHILDREN TO EXERCISE TEENAGE DISCRETION (SEPTEMBER 4, 2019)
7. DECLARATION OF AMY STIPP IN SUPPORT OF DEFENDANT S MOTION FOR CHILD INTERVIEW BY FMC, MEDIATION AND TO PERMIT CHILDREN TO EXERCISE TEENAGE DISCRETION ON TIMESHARE (SETEMBER 6, 2019)
8. DECLARATION OF MITCHELL STIPP IN SUPPORT OF DEFENDANT S MOTION FOR CHILD INTERVIEW BY FMC, MEDIATION AND TO PERMIT CHILDREN TO EXERCISE TEENAGE DISCRETION ON TIMESHARE (SEPTEMBER 6, 2019)
9. DEFENDANT'S OBJECTION TO LETTER BY CHRISTINA CALDERON S THERAPIST DONNA WILBURN AND NOTICE OF LETTER FROM DR. ROY LUBIT IN SUPPORT OF OBJECTION (SEPTEMBER 13, 2019)
10. REPLY TO PLAINTIFF S OPPOSITION TO COUNTERMOTION FOR INTERVIEW OF CHILDREN BY FMC, MEDIATION AT FMC, AND FOR CHILDREN TO EXERCISE TEENAGE DISCRETION (SEPTEMBER 24, 2019)
11. EXHIBITS IN SUPPORT OF DEFENDANT S REPLY TO OPPOSITION TO COUNTERMOTION FOR CHILD INTERVIEW BY FMC, MEDIATION AND TO PERMIT CHILDREN TO EXERCISE TEENAGE DISCRETION ON TIMESHARE (SEPTEMBER 24, 2019)
12. STATUS REPORT (OCTOBER 7, 2019)

1 The nature of the relief requested by Christina Calderon (“Christina”) is
2 inextricably intertwined with Mitchell’s request for primary physical custody. While
3 Mitchell prefers not to file a countermotion, Christina’s filing has left Mitchell with no
4 choice. Therefore, for purposes of this filing, Mitchell’s opposition and countermotion
5 will be combined.
6

7 **II. Background.**

8

9 Mitchell filed a motion seeking permission from the court for the children to
10 exercise teenage discretion within the confines of the parties’ joint physical custody
11 status. At the hearing, the court wanted the parties to work with Christina’s family
12 therapist, Nick Ponzio, with the hope of resolving matters before the court. Christina
13 stipulated to the involvement of Mr. Ponzio. Unfortunately, therapy cannot be
14 effective because Christina is unwilling to agree on a plan of therapy. Christina desires
15 to wait until the status check on October 22, 2019 for the court to clarify her obligation
16 to participate in therapy and Mitchell’s obligation to transition the children into her
17 physical care. Christina is under the false notion that Mr. Ponzio’s advice and
18 recommendations can be ignored if they concern any condition or qualification of what
19 Christina believes is her absolute legal right to have the children in her physical care on
20 alternating weeks regardless of the children’s preferences or concerns.
21

22 According to Christina, the children’s preferences and concerns should be
23 completely disregarded because they are minors, and it is the responsibility and
24 obligation of Mitchell to ensure the children return to her care. This position is not
25
26
27
28

1 consistent with Mitchell's duty and responsibility as a parent to act in the children's best
2 interest (if the children are refusing to return). Christina has even suggested that
3 Mitchell punish the children based on what she views is this court's order. This court
4 did not order Mitchell to punish the children if they did not return to Christina's physical
5 care. The court was clear: Mitchell should follow the timeshare arrangement as "best
6 as he can," and "physical force is not required." Mitchell does not want the court to
7 force him to adopt the parenting style of Christina (which he rejects as harmful to the
8 children): disregard the children's preference, insist on complete obedience, and threaten
9 with harm the things the matter the most to the children to get compliance.
10
11
12

13 **III. Facts.**

14 Mia is 15 years old; Ethan is 12. Both are smart and mature even for their ages.
15 Both children refuse to return to Christina's physical care. There have been at least two
16 (2) instances of domestic violence between Mia and Christina in the last six (6) months.
17 The children also complain that Christina uses emotional blackmail to secure
18 compliance. Unfortunately, the children have had enough emotional trauma and do not
19 want to continue living with Christina unless these issues are resolved. Mitchell
20 believes the children love Christina. Mitchell respects Christina's role as the children's
21 mother and wants Christina and the children to have a good relationship. However,
22 Mitchell is concerned that Christina's parenting techniques have caused substantial harm
23 to the children. While Christina regularly sought the guidance and advice of Mitchell
24 on these dynamics, Christina now blames Mitchell for the children's recent choice not
25
26
27
28

1 to return and wants Mitchell to be punished.

2 Mitchell does not deserve punishment by the court. He wants to avoid litigation
3 and resolve the issues before the court through therapy. He filed his motion one (1)
4 judicial day after the children refused to return with Christina. He also did not seek to
5 change custody. Unless Christina participates in therapy with the children, Mitchell
6 does not believe the children will want to return to Christina's care. Under these
7 circumstances, the exercise of discretion will cause physical custody to change. Even
8 so, Mitchell is not asking the court to change the timeshare of the parties: it can remain
9 the same—50/50 (subject to the right of the children to exercise discretion). However,
10 if the children exercise their preference to spend more than sixty percent (60%) of the
11 physical time with Mitchell, then he should have primary physical custody (only because
12 that is what Nevada law requires). It is label without any significance in this case:
13 Mitchell does not intend to seek child support from Christina and the issue of relocation
14 is already addressed in the parties' parenting plan (i.e., no relocation).

15 Mitchell does not believe it is appropriate for him to do more than make the
16 children available for the transition, encourage them to go, and assist them with packing
17 any personal items (as necessary or appropriate). It makes no sense for Mitchell to
18 punish the children if the children are reporting mistreatment by Christina. The fact that
19 he is encouraging them to return is problematic enough given the issues (physical
20 violence). Mitchell understands that CPS may not investigate parents fighting with their
21 children and emotional abuse by a parent. However, Judge Sullivan had no problem

1 confirming the parties' joint physical custodial relationship and awarding Mitchell
2 additional timeshare based on Christina's bad acts. See Order filed on November 4,
3 2010.

4
5 This court should take note of the following findings by Judge Sullivan:

- 6 • **THE COURT FURTHER FINDS** that assuming that a joint physical
7 custody arrangement does not currently exist, the following facts evidence a
8 substantial change in circumstances affecting the welfare of the children
9 supporting a change in custody to joint physical custody:

10 c) The spontaneous statements made by Mia to Dr. Kalodner indicating
11 that she wanted to spend more time with her dad but her mommy or the
judge wouldn't let her.

12 d) The parties' extremely litigious nature resulting in the children
13 becoming embroiled in the proceedings as evidenced by Mia's
14 spontaneous statements to Dr. Kalodner indicating that Plaintiff doesn't
like Amy and that Amy is bad.

15 e) Dr. Paglini's report reflecting that the parents have unresolved issues
16 that tend to re-emerge and that if they are unable to resolve their issues, it
17 is likely that their children will be emotionally affected in the future.

18 Lines 1-20, Page 17 of Judge Sullivan's Order (emphasis added).

- 19 • **THE COURT FURTHER FINDS** that the parties are very intelligent,
20 highly educated lawyers whose children would be better served by the
21 parties resolving their issues between themselves without the need for
22 legal and/or therapeutic intervention.

23 Id. (lines 15-18, Page 18 of Judge Sullivan's Order (emphasis added)).

24 Christina was not happy with Judge Sullivan's order. When the case was re-
25 assigned to Judge Potter, she commenced years of litigation seeking to prove Mitchell
26 was in fact the culprit for the problems allegedly experienced by the children.
27 Ultimately, the children were evaluated by Christina's selected professionals. Neither
28

1 therapist concluded Mitchell was the cause of any issue. In fact, Dr. Lewis Etkoff
2 concluded the following regarding Christina's parenting skills:

3
4 Christina Calderon-Stipp appears to perceive more significant
5 behavior problems in her daughter. Her descriptions of discipline
6 methods do not appear to be well-honed or consistently
7 implemented, thus resulting in Mia learning that she can bend the
8 rules at her mother's home. Christina therefore would greatly
9 benefit from behavior management training where she would meet
10 with the therapist to discuss examples of Mia's behaviors and how
11 Christina can adjust routines, consequences, and rewards to manage
12 Mia.

13 Report by Dr. Etkoff, dated July 27, 2011 (Page 12) (emphasis added).

14 While Mitchell was pleased Christina hired a parenting coach, he is disappointed
15 that Christina has not changed her parenting style. Part of the problem could be the
16 advice she receives from Donna Wilburn. She uses Ms. Wilburn for personal therapy.
17 However, she hired Nick Ponzo in 2015 as her family therapist. Christina claims therapy
18 with Mr. Ponzo was not successful. Again, she blames Mitchell. Therapy with Mr.
19 Ponzo was likely not successful because Christina was not honest about her parenting
20 techniques, and Ms. Wilburn may have given Christina advice which was not consistent
21 with the counseling provided by Mr. Ponzo, who was actually working with the
22 children. Ms. Wilburn has not evaluated or treated the children.

23 Mitchell consented to Christina working with Mr. Ponzo in 2015 as her family
24 therapist. Mitchell participated in family therapy when requested by Christina. This
25 occurred in 2017. Below is an example of the issues Christina attempted to resolve
26 with Mr. Ponzo:
27
28

----- Forwarded message -----

From: **Christina** <ccstipp@gmail.com>

Date: Sun, Jul 23, 2017 at 8:02 PM

Subject: Re: Mia

To: Mitchell Stipp <mstipplv@gmail.com>

Here's some observations of the week and the incidents that will give you an idea of what's been going on:

Mia has been increasingly verbally and physically abusive. She reacts violently when she says that Ethan is teasing her. Yesterday, she grabbed an apple in our dorm room and threw it hard at Ethan. He retaliated in kind, which I have warned him not to, but I have also told Mia that if she hits him, it provokes him to hit back and she needs to learn to not touch people or destroy things, especially when she is angry. I don't recall what provoked her to throw the apple. Ethan was getting ready for the talent show and hadn't even been in the room until right before we were to leave.

Her outburst yesterday preceded a family talent show that she, at the last minute, said she didn't want to participate in. I notice her moods are prone to anger and irritability when she is anxious about something. At first she wanted to do the talent show and then right b4 she didn't. I said she didn't have to but she then didn't even want to watch it it have dinner before it. She was also anxious at the start of the camp.

Mia was upset that Ethan threw the apple at her so she grabbed a banana

1 and proceeded to smash it and splatter it all over our dorm room. I made
2 her clean it up. I took away her phone and iPad. She responds by saying
3 she doesn't want to live with me then.

4
5 Today, she got her phone and iPad back in the morning and was rude and
6 sullen and disrespectful the entire car ride back. When we got home she
7 was angry at Ethan. He had been talking about some boy he thought that
8 Mia liked. When Mia demanded the name, Ethan refused to provide
9 it. Mia then charged at and pushed Ethan. Ethan pushed her back and she
10 landed in a bush which scratched her.

11
12 I took away her phone and iPad again. She called me a
13 whore. Repeatedly tonight. She said that you divorced me because you
14 didn't love me and that she doesn't love me either. She threw some things
15 out of my car and onto the lawn.

16
17 I asked her not to call me a whore again. I told her that she might not like
18 or love me but that she needed to respect me, and I will do the same for
19 her. During the argument with Ethan she repeatedly pushed and hit me.

20
21 She has made statements about wanting to "die in a hole" or "just kill
22 me." When I talk to her about those sentiments she says she doesn't mean
23 them literally but she keeps saying those things.

24
25 I would appreciate your support in talking to her about her violence and
26 abusive talk. She says terrible things to Ethan too. Today she told him
27 that even Mitchell Jr. doesn't like him, which hurt Ethan.

1 I have admonished Ethan about how he talks to Mia. He might not see it
2 as teasing, but Mia seems to take anything that Ethan says as an insult or
3 competition.

4
5 Ethan was very good during the camp. He tried many times and in many
6 ways to get Mia to make friends and enjoy herself. He tried to make
7 friends for her. Mia participated in some activities and had some good
8 moments but the majority of the time she was being anti social and
9 rude. She doesn't seem to like it that Ethan was making friends easily and
10 she was not. She liked it when a couple of the kids told her they didn't
11 like Ethan and wanted her to join their secret club.

12
13 Some things that Mia enjoyed were finding and playing with sand crabs on
14 the beach. She did the sack races. She participated in water play. At one
15 point during the camp she expressed possibly actually wanting to go to
16 Pepperdine. In the past she has rejected it because "I went there."

17
18 She seemed to enjoy some aspects of surfing. She had a couple of good
19 mood days in the beginning of camp but it looked like when she failed to
20 sustain any friends she became more and more angry and
21 withdrawn. There were one or two girls her age that tried to befriend her
22 but she didn't reciprocate. Her expression was negative. We talked about
23 how her expression could be perceived as unwelcoming. We shared some
24 laughs over how she makes her expression friendly at Faith. ethan said
25 that during the kid sessions she would stay on her phone.

26
27 She didn't want to miss any of the kids camp sessions though. She wanted
28 to go to them. Insisted on not missing anything until last night.

1
2 Ethan was very social and enjoyed his time meeting and making new
3 friends. He played basketball with the kids and counselors. He
4 participated in the talent show. He tried to be helpful to Mia but her
5 attitude was negative and resistant to him the majority of the time. He
6 enjoyed learning about Pepperdine and enjoyed the weather.

7
8 Any suggestions on how to best address these things?

9
10 Sent from my iPhone

11
12 > On Jul 23, 2017, at 6:56 PM, Mitchell Stipp <mstipplv@gmail.com>

13 wrote:

14 >

15 > What is the problem? Is her anger directed to someone specifically or
16 everyone. I'd like to help address specific circumstances/situations and if
17 you could provide examples and details, Amy and I can have discussions
18 with her about her behavior.

19 >

20 > Sent from my iPhone

21 >

22 >> On Jul 23, 2017, at 6:31 PM, Christina <ccstipp@gmail.com> wrote:

23 >>

24 >> Yes. I'll have them call you once we are settled in. She is having
25 trouble controlling her anger and impulses. I would like your support in
26 getting her to attend counseling.

27 >>

28 >> I want her to stop taking Singulair. I would like to see if that has a

1 positive affect on her negative attitude as well.

2 >>

3 >> Sent from my iPhone

4 >>

5 >>> On Jul 23, 2017, at 6:17 PM, Mitchell Stipp <mstipplv@gmail.com>

6 wrote:

7 >>>

8 >>> Ok, may I speak to her and Ethan today. I have not spoken to them
9 this week.

10 >>>

11 >>> Sent from my iPhone

12 >>>

13 >>>> On Jul 23, 2017, at 6:15 PM, Christina <ccestipp@gmail.com>

14 wrote:

15 >>>>

16 >>>> Mia has been rude and disrespectful on this trip. She is not
17 permitted to bring her phone back to my home until she learns to be
18 respectful.

19 >>>>

20 >>>> Sent from my iPhone

21
22 Christina pretends the dynamics which exist in her home are a recent phenomenon.

23 **They are not.** Mitchell has never experienced the kind of behaviors of which
24 Christina reports about the children. How is this possible? Mia is an excellent
25 student with no behavior problems in school or when in Mitchell's care. Ethan is a
26 good student with generally good behavior in school and no issues while in
27 Mitchell's care. Yet, the children are somehow "wild animals" while in Christina's
28

1 care? Under these circumstances, Mitchell believes there is clearly something
2 wrong which deserves the time and attention of this court. Instead, Christina wants
3 the court to order Mitchell to facilitate forced reunification as recommended by Ms.
4 Wilburn. Dr. Roy Lubit cites in his letter dated October 10, 2019 the following:

6 Dallam and Silberg (2016) in Journal of Child Custody write “The coercive
7 and punitive ‘therapies’ recommended for children diagnosed with parental
8 alienation constitute an ethical minefield and are especially inappropriate
9 when used on children who have already been traumatized. Forced
10 reunification against a child’s will and without taking into consideration the
11 child’s point of view and emotional wellbeing, can be expected to reinforce
12 a sense of helplessness and powerlessness in an already vulnerable child.
Such ‘treatment’ can be expected to do more harm than good, and rather
than helping their well-being, could cause lasting psychological harm,
particularly when imposed upon children who claim the parent they are
being forced to reunify with is abusive.”

13 Mitchell views Christina’s behavior as difficult to monitor, regulate and change.

14 **For example, Christina has told the children that their brother, Mitchell, Jr., will**
15 **die from his medical issues (genetic disorder, mitochondrial disease, epilepsy, and**
16 **autism spectrum disorder).** The point was to punish them for wanting to spend

17 more time with him during Easter in 2017. Consistent with this approach, on
18 Friday, October 18, 2019, during the planned custody exchange, Christina
19 communicated the following to Mitchell:

22 You are an insecure parent and have no control over
23 Amy. Amy is upset because she could not have a
24 **normal child** with you. So, she is trying to take Mia
25 and Ethan as her own children.

26 Clearly, Christina has unresolved issues about Mitchell’s remarriage and the fact
27 that Mitchell has another child, who both Mia and Ethan love and adore. While
28

1 Mitchell, Jr. has significant medical issues, he is a wonderful son and fantastic
2 brother to Mia and Ethan. **If Christina is capable of saying things like this to the**
3 **children and Mitchell, what else is she capable of saying and doing?**

4
5 Christina's motion and supplemental affidavit are not based on facts. Neither
6 child wanted to return to Christina's care on October 4, 2019 or October 18, 2019.
7 This may have been different had Christina began therapy as ordered by the court.
8 Christina's description of the events on October 18 are pure fantasy—which she has
9 crafted to portray Mitchell in a way that supports her litigation position. First,
10 Mitchell spoke with Christina at his home at 6pm on October 18. It was during this
11 conversation that Christina made the hurtful comments about Mitchell, Jr. above.

12
13 **Mitchell did not threaten Christina.** He pleaded with her to work out these issues
14 with the children through therapy to avoid the cost and emotional toll of litigation
15 on the parties and the children. **Christina refused.** She believes that this court
16 intends to award her primary physical custody at the status check. What Christina
17 does not know is **Ethan asked Mitchell to attend his baseball practice.** He was
18 adamant not to return to Christina's care. Mitchell did not interfere with Christina's
19 attempt to convince Ethan to go with her. Ethan communicated very clearly to
20 Christina that he did not want to be with her because he was unhappy with the
21 fighting which regularly occurs in Christina's home. Christina specifically asked
22 Ethan if Mitchell was preventing him from returning. Ethan responded "no." After
23 Mitchell and Ethan left, Christina sent an email alleging different facts. Mitchell
24 did return to the baseball field. He spoke to Christina in front of Ethan through their

1 respective automobile windows. Christina was forced to retract her claims in front
2 of Ethan (which caused her to get angry). She was exposed for lying—a typical
3 complaint of the children. She began to yell and scream from her car window that
4 she would never stop "fighting for her kids." Both Mitchell and Ethan were shocked
5 by Christina's behavior. Ethan's response to Mitchell was, "See Dad, this is why I
6 do not want to live with Mom."
7

8 Mitchell has met with Mr. Ponzo, who is waiting on Christina to agree to
9 therapy. At Mr. Ponzo's request, in the interim, Mitchell has scheduled individual
10 sessions with the children on October 21, 2019 and October 22, 2019. Both children
11 are also scheduled for interviews at FMC on October 23, 2019.
12

13 **VI. Applicable Law.**

14 The court may modify or vacate its child custody order at any time. NRS
15 125C.0045. When considering whether to modify physical custody, the court must
16 determine what type of physical custody arrangement exists between the parties. The
17 court must look at the actual physical custody timeshare the parties are exercising to
18 determine what custody arrangement is in effect. Rivero v. Rivero, 125 Nev. 410, 430,
19 216 P.3d 213, 227 (2009). Different tests apply to modify custody depending on the
20 current custody arrangement. Joint physical custody may be modified or terminated if it
21 is in the best interest of the child. NRS 125C.0045; Truax v. Truax, 110 Nev. 473, 874
22 P.2d 10 (1994). Primary physical custody may be modified only when "(1) there has
23 been a substantial change in circumstances affecting the welfare of the child, and (2) the
24
25
26
27
28

1 modification would serve the child's best interest.” Ellis v. Carucci, 123 Nev. 145, 153,
2 161 P.3d 239, 244 (2007).

3
4 NRS 125C.003(1)(c) provides as follows:

5 1. A court may award primary physical custody to a
6 parent if the court determines that joint physical custody is
7 not in the best interest of a child. An award of joint
8 physical custody is presumed not to be in the best interest
of the child if:

9 (c) Except as otherwise provided in subsection 6 of
10 [NRS 125C.0035](#) or [NRS 125C.210](#), there has been a
11 determination by the court after an evidentiary hearing and
12 finding by clear and convincing evidence that a parent has
13 engaged in one or more acts of domestic violence against
14 the child, a parent of the child or any other person residing
with the child. The presumption created by this paragraph
is a rebuttable presumption.

15
16 A substantial change in circumstances has occurred since the parties entered into
17 their parenting plan in 2014. There have been several instances of domestic violence in
18 Christina’s home for which Mitchell believes Christina is the cause. Mitchell believes
19 the first such event occurred in 2017. Physical violence is never a solution to disputes
20 with children. The recent instances of physical violence in May and August of 2019
21 caused the children to decide they did not want to return to Christina’s physical care
22 until the issues were resolved.

23
24 The best interest of the children is served by granting Mitchell temporary and
25 permanent primary physical custody of the children subject to the right of the children
26 to exercise teenage discretion. The timeshare arrangement does not need to change;
27
28

1 however, the children should be permitted to exercise teenage discretion. The goal
2 would be that the issues with Christina and the children are resolved in therapy and
3 Christina will resume a normal timeshare based on the preferences of the children.
4

5 The type of physical custody arrangement is particularly important in three
6 situations. First, it determines the standard for modifying physical custody. Rivero v.
7 Rivero, 216 P.3d 213 (2009). Second, it requires a specific procedure if a parent wants
8 to move out of state with the child. Potter v. Potter, 121 Nev. 613, 618, 119 P.3d 1246,
9 1249 (2005). Third, the type of physical custody arrangement affects the child support
10 award. Barbagallo v. Barbagallo, 105 Nev. 546, 549, 779 P.2d 532, 534 (1989). Here,
11 Mitchell is not seeking child support from Christina, and the parties are not permitted to
12 relocate with the children. Essentially, physical custody is a label. Mitchell initially
13 sought to leave the joint physical custody arrangement in place. However, the children
14 are spending more time with Mitchell than expected because Christina will not
15 participate in therapy.
16
17
18

19 Under NRS 125C.0035(4), in determining the best interest of the child, the
20 court shall consider and set forth its specific findings concerning, among other
21 things:
22

23 (a) The wishes of the child if the child is of sufficient age and capacity to
24 form an intelligent preference as to his or her physical custody.
25

26 Both children would like to exercise teenage discretion and determine with
27 whom they should spend time.
28

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

1 N/A.

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

4 Neither parent has the ability to prevent the children from spending time with
5 the other parent.

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

8 The level of conflict is high. However, the source of the conflict is Christina's
9 parenting decisions and desire to punish Mitchell through litigation.

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

12 Mitchell has the ability to cooperate with Christina to meet the needs of the
13 children. Christina struggles with cooperation. She has difficulty putting the
14 interest of the children above her own. She has unresolved issues with Mitchell's
15 marriage to Amy and the fact that Mitchell and Amy have a son which is the sibling
16 of the children.

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

20 Both parties are mentally and physically healthy. However, Christina choice
21 to physically fight with Mia and emotionally blackmail the children causes Mitchell
22 concern. While Christina may have mental health issues, Mitchell believes they can
23 be resolved through therapy (if she is willing to be honest, trust the process and
24 participate).

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

28 The children are physically, developmentally and emotionally sound.

1 Christina exaggerates the recent incident with Ethan at school. Ethan and another
2 student were playing rough. The other student was injured. The school specifically
3 determined that Ethan did not intend to harm the other student. Ethan apologized.
4 The student's parents did not file a police report or initiate any litigation. While
5 Ethan was suspended from school as required by the policy of the school, he has
6 been specifically complimented by the school for his subsequent good behavior.
7

8 (h) The nature of the relationship of the child with each parent.
9

10 Mitchell has a great relationship with the children. Christina's relationship is
11 poor. The reason for this is Christina's parenting skills.
12

13 (i) The ability of the child to maintain a relationship with any sibling.
14

15 Mia is 15 years old. Ethan is 12 years old. The children have been raised
16 together. Both have a brother, Mitchell, Jr., who is the son of Mitchell and Amy.
17 Mitchell, Jr. is 8 years old. He has special needs. Both Mia and Ethan have a strong
18 bond with Mitchell, Jr., and are instrumental to his overall development.
19

20 (j) Any history of parental abuse or neglect of the child or a sibling of the
21 child.
22

23 CPS has not confirmed any parental abuse or neglect. Emotional abuse and
24 physical fighting are apparently not in the category of items investigated by CPS.
25

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

Neither parent has been charged with domestic violence. However, Christina

1 and Mia have been in several physical altercations.

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

4 Neither parent has committed an act of abduction.
5

6 The most important factor here is the preference of the children given
7 Christina's refusal to participate in therapy, her parenting style and poor relationship
8 with the children. Until these matters are resolved through therapy, there will likely
9 be more physical confrontations, which Mitchell would like to avoid. No parent
10 should emotionally blackmail their children or physically fight with them. Under
11 the circumstances, the children should be able to select which parent provides them
12 the care, comfort and security that will provide them the best possible chance for
13 normal development and success. For now, that is Mitchell.
14
15

16 Dated: October 21, 2019
17

18 **LAW OFFICE OF MITCHELL STIPP**

19 /s/ Mitchell Stipp, Esq.
20 MITCHELL STIPP, ESQ.
21 Nevada Bar No. 7531
22 LAW OFFICE OF MITCHELL STIPP
23 10120 W. Flamingo Rd., Suite 4-124
24 Las Vegas, Nevada 89147
25 Telephone: 702.602.1242
26 mstipp@stipplaw.com
27
28

24 ///

25 ///

26 ///

DECLARATION OF MITCHELL STIPP

I hereby declare and state as follows:

1. I am competent and willing to testify in a court of law as to the facts contained in this opposition/countermotion (which are incorporated herein by this reference).

2. I have personal knowledge of these facts, save those stated upon information and/or belief, and as to those matters, I believe them to be true.

/s/ Mitchell Stipp

Mitchell Stipp

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of October, 2019, I filed the foregoing using the Court's E-filing system, which provided notice to the e-service participants registered in this case.

By: */s/ Amy Hernandez*

An employee of the Law Office of Mitchell Stipp

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

Plaintiff/Petitioner

v.
Mitchell Stipp

Defendant/Respondent

Case No. D-08-389203-Z

Dept. H

**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.

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

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

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

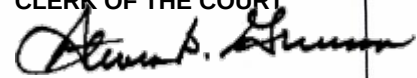
Step 3. Add the filing fees from Step 1 and Step 2.

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

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

Party filing Motion/Opposition: Mitchell Stipp Date 10/21/19

Signature of Party or Preparer /s/ Mitchell Stipp



1 **OST**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No.: 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)

15 Plaintiff,)

16 vs.)

17 MITCHELL STIPP,)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

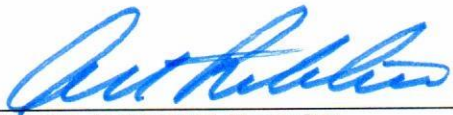
19 **ORDER SHORTENING TIME**

20 After reviewing the *Ex Parte Application for an Order Shortening Time* on
21 *Plaintiff's Emergency Motion for Temporary Primary Physical Custody and*
22 *Request for a Writ of Attachment Order for the Children and Attorneys Fees,* and
23 upon good cause showing:

24 IT IS HEREBY ORDERED that the hearing on said *Emergency Motion*,
25 currently scheduled for Nov. 19, 2019, at 10:00am a.m./p.m. is
26 shortened to November 12, 2019, at 9:00 a.m./p.m. in Dept. H/CR 3G
27 at the Regional Justice Center of said Court (but not on a Wednesday because
28

1 Plaintiff's counsel Ms. Fujii is on an Abuse/Neglect Track on Wednesdays in Dept.
2 K/Courtroom 22 with The Honorable Judge Cynthia Giuliani).

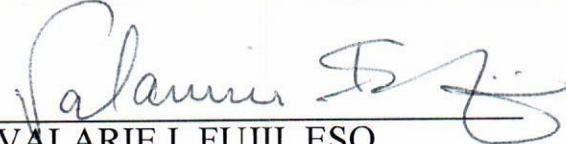
3 DATED this 10 day of October, 2019.
4

5 
6 DISTRICT COURT JUDGE 
7

8 Respectfully submitted by:

T ART RITCHIE, JR.

9 VALARIE I. FUJII & ASSOCIATES

10 
11

VALARIE I. FUJII, ESQ.

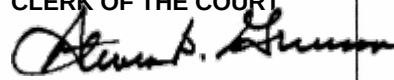
12 Nevada Bar No. 005955

13 704 South Sixth Street

14 Las Vegas, Nevada 89101

Attorney for Plaintiff

15 CHRISTINA CALDERON
16
17
18
19
20
21
22
23
24
25
26
27
28



1 **NEO**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)

15 Plaintiff,)

16 vs.)

17 MITCHELL STIPP,)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

19 **NOTICE OF ENTRY OF ORDER**

20 PLEASE TAKE NOTICE that the *Order Shortening Time* on *Plaintiff's*
21 *Emergency Motion for Temporary Primary Physical Custody and Request for*
22 *Writ of Attachment Order for the Children and Attorneys Fees*, in the above-

23

24

25

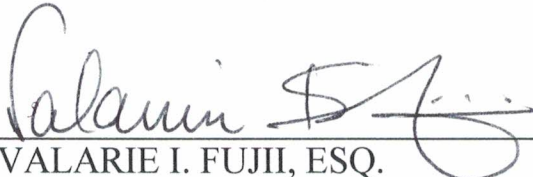
26

27

1 referenced matter was entered in the above-referenced Court on October 22, 2019,
2 a copy of which is attached hereto.

3 DATED this 22nd day of October, 2019.

4 VALARIE I. FUJII & ASSOCIATES

5 
6 VALARIE I. FUJII, ESQ.

7 Nevada Bar No. 005955

8 704 South Sixth Street

9 Las Vegas, Nevada 89101

10 Attorney for Plaintiff

11 CHRISTINA CALDERON

12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY that on this 22nd day of October, 2019, I served a true
14 and correct copy of the foregoing *Notice of Entry of Order*, via electronic service
15 pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR),
16 addressed as follows:

17 Radford J. Smith, Esq.
18 RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
19 Henderson, Nevada 89074
Attorney for Defendant
20 MITCHELL STIPP

21 Mitchell Stipp, Esq.
22 LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
23 Las Vegas, Nevada 89147
Attorney for Defendant
24 MITCHELL STIPP

25 

26 An employee of VALARIE I. FUJII & ASSOCS.

Steven D. Grierson

1 **OST**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No.: 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)

15 Plaintiff,)

16 vs.)

17 MITCHELL STIPP,)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **ORDER SHORTENING TIME**

20 After reviewing the *Ex Parte Application for an Order Shortening Time* on
21 *Plaintiff's Emergency Motion for Temporary Primary Physical Custody and*
22 *Request for a Writ of Attachment Order for the Children and Attorneys Fees*, and
23 upon good cause showing:

24 IT IS HEREBY ORDERED that the hearing on said *Emergency Motion*,
25 currently scheduled for Nov. 19, 2019, at 10:00am a.m./p.m. is
26 shortened to November 12, 2019, at 9:00 a.m./p.m. in Dept. H/CR 3G
27 at the Regional Justice Center of said Court (but not on a Wednesday because
28

1 Plaintiff's counsel Ms. Fujii is on an Abuse/Neglect Track on Wednesdays in Dept.
2 K/Courtroom 22 with The Honorable Judge Cynthia Giuliani).

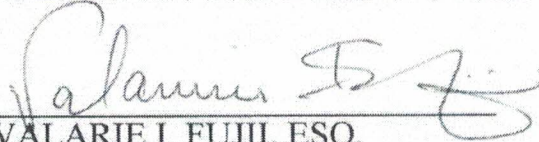
3 DATED this 10 day of October, 2019.

4
5
6 
7 DISTRICT COURT JUDGE 

8 Respectfully submitted by:

T ART RITCHIE, JR.

9 VALARIE I. FUJII & ASSOCIATES

10 

11 VALARIE I. FUJII, ESQ.

12 Nevada Bar No. 005955

13 704 South Sixth Street

14 Las Vegas, Nevada 89101

15 Attorney for Plaintiff

16 CHRISTINA CALDERON

ORIGINAL

ORDR

DISTRICT COURT
CLARK COUNTY, NEVADA

FILED IN OPEN COURT

10/22, 2019

CLERK OF THE COURT

By: Kathleen Prock
Deputy **KATHLEEN PROCK**

Christina Calderon

Plaintiff,

-VS-

Mitchell Stejs

Defendant.

Case No. D-08-389203-Z

Department: H

ORDER FOR SUPERVISED EXCHANGE

The court finds that it is in the best interest of the parties' child(ren) that the transfers for the Plaintiff's/Defendant's visitation be supervised pursuant to this Order. Therefore,
(circle one)

IT IS HEREBY ORDERED that because the Court finds that the parties have not or cannot pick up and drop off their child(ren) for visitation at an agreeable location in a fashion that is safe for the child(ren) physically and/or emotionally, the parties shall utilize Donna's House services.

IT IS FURTHER ORDERED that the exchange schedule will be in effect as of (date) 10/24/2019 ^{1st} provided BOTH parties complete orientation, for thirty (30) / sixty (60) / ninety (90) days and will occur as follows: exchange

Pickup will occur as follows:					Drop off will occur as follows:				
Wed / <u>Thurs</u> / Fri	Saturday / Sunday				<u>Thurs</u> / Fri	Saturday / Sunday			
<u>6 p.m.</u>	9 a.m.	12 noon	3 p.m.	6 p.m.	<u>6 p.m.</u>	9 a.m.	12 noon	3 p.m.	6 p.m.
7 p.m.	10 a.m.	1 p.m.	4 p.m.		7 p.m.	10 a.m.	1 p.m.	4 p.m.	
8 p.m.	11 a.m.	2 p.m.	5 p.m.		8 p.m.	11 a.m.	2 p.m.	5 p.m.	

IT IS FURTHER ORDERED _____

IT IS FURTHER ORDERED that the parties shall contact Donna's House at (702) 455-4229 to schedule orientation. Failure to contact Donna's House may result in the family's inability to use said services, and the Court may issue sanctions against the responsible party of parties.

IT IS FURTHER ORDERED that the cost of said services is \$10.00 per supervised visitation hour:

- 1) Fee shall be paid equally by both parties (i.e., \$5.00 per hour by each party); or
2) ☐ Plaintiff ☐ Defendant shall pay the whole amount of \$10 per supervised visitation hour; or
3) Fee for supervised exchange shall hereby be waived.

Said payments shall be paid directly to Donna's House, 601 N Pecos Rd, Bldg B, Las Vegas, NV. Said payment shall be made no later than the date of the exchange. Failure to pay may result in cancellation of the scheduled monitored visitation and the Court may issue sanctions against the responsible party or parties.

IT IS FURTHER ORDERED that the parties shall follow all rules and directives of Donna's House. Failure to follow all rules and directives may result in the immediate termination of services and the Court may issue sanctions against the responsible party or parties. The general rules are contained on the back of this order.

This matter is reset for:

Date: 11/12/2019 Time: 9:00 am
DEPT. H
COURTROOM 3G
RJC

DISTRICT JUDGE / COMMISSIONER

T Art Ritchie, Jr.

Attorney for Plaintiff: Fujie V.

Attorney for Defendant: Smith R.

AA000673

White: Court

Green: Plaintiff

Goldenrod: Defendant

Revised 08/5/10

COURT ORDER INSTRUCTIONS. PLEASE READ!!!

You have been ordered by the Court to contact the Family Mediation Center and/or Donna's House Central for services. Complete the information below and leave this form in the drop box outside the Department that heard your case. The information you provide will be used as contact information to set an appointment. There is a fee for all services.

CHECK ALL SERVICES ORDERED:

☐ FAMILY MEDIATION CENTER

If you are currently receiving public assistance your Family Mediation Center fees may be waived. Please bring written verification of your benefits to your appointment.

☐ OUTSOURCE EVALUATION SERVICES

☒ DONNA'S HOUSE CENTRAL

Case No. D-08-389203-2 (from your court documents)

IF AN INTERPRETER IS NEEDED, WHAT LANGUAGE: _____

Please note that it is the party's responsibility to pay the interpreter at the time services are rendered.

NAME STIPP, CHRISTINA CALDERON Date of Birth 2/5/75

Mailing Address 11757 Feinberg Place
Number and Street Apt. No.

Las Vegas NV 89138
City State Zip

Cell Phone 702-610-0032 Home/Work Phone _____

If telephone number is blocked, we may not be able to reach you.

Email Address (please print): ccstipp@gmail.com

Your Days Off _____ Work Hours _____

Attorney's Name VALARIE FUJII, BYRON MILLS

NAME OF MINOR CHILD(REN) AT ISSUE IN THIS CASE

First	Middle	Last	Date of Birth	Child resides with whom?
1. <u>Mia</u>	<u>Stipp</u>		<u>10/19/2004</u>	<u>Both</u>
2. <u>Ethan</u>	<u>Stipp</u>		<u>3/24/2007</u>	<u>Both</u>
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____

YOUR RELATIONSHIP TO THE CHILD(REN) AT ISSUE: MOTHER

(i.e., paternal grandmother, maternal uncle, etc.)

COURT ORDER INSTRUCTIONS. PLEASE READ!!!

You have been ordered by the Court to contact the Family Mediation Center and/or Donna's House Central for services. Complete the information below and leave this form in the drop box outside the Department that heard your case. The information you provide will be used as contact information to set an appointment. There is a fee for all services.

CHECK ALL SERVICES ORDERED:

☐ **FAMILY MEDIATION CENTER**

If you are currently receiving public assistance your Family Mediation Center fees may be waived. Please bring written verification of your benefits to your appointment.

☐ **OUTSOURCE EVALUATION SERVICES**

☒ **DONNA'S HOUSE CENTRAL**

Case No. D-08-389203-Z (from your court documents)

IF AN INTERPRETER IS NEEDED, WHAT LANGUAGE: _____

Please note that it is the party's responsibility to pay the interpreter at the time services are rendered.

NAME STIPP, MITCHELL DAVID Date of Birth 4-01-1975

Mailing Address 10120 W. Flamingo RD 4124
Number and Street Apt. No.

Las Vegas NV 89147
City State Zip

Cell Phone 702-378-1907 Home/Work Phone _____
If telephone number is blocked, we may not be able to reach you.

Email Address (please print): _____

Your Days Off _____ Work Hours _____

Attorney's Name Radford Smith

NAME OF MINOR CHILD(REN) AT ISSUE IN THIS CASE			Date of Birth	Child resides with whom?
First	Middle	Last		
1. <u>Mia</u>		<u>Stipp</u>	<u>10/19/04</u>	<u>Father</u>
2. <u>Ethan</u>		<u>Stipp</u>	<u>3/24/07</u>	<u>Father</u>
3. _____		_____	_____	_____
4. _____		_____	_____	_____

YOUR RELATIONSHIP TO THE CHILD(REN) AT ISSUE: FATHER

(i.e., paternal grandmother, maternal uncle, etc.)

Steven D. Grierson

NCOA

Name: Mitchell Stipp
Address: 10120 W. Flamingo Rd #4124
City/St/Zip: Las Vegas, NV 89147
Telephone: 702-602-1247
Email Address: MStipp@StippLaw.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Christina Calderon
Plaintiff,

vs.
Mitchell Stipp
Defendant.

Case No. D-08-389203-Z
Dept No. H

NOTICE OF CHANGE OF ADDRESS

PLEASE TAKE NOTICE that (☒ check one) ☐ Plaintiff / ☒ Defendant, has new mailing information and that the Court records should be changed to reflect:

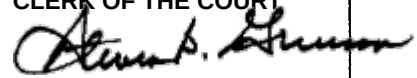
Name: Mitchell Stipp
Address: 10120 W. Flamingo Rd #4124
City/St/Zip: Las Vegas, NV 89147
Telephone: 702-378-1907
Email Address: MStipp@StippLaw.com

DATED this 23 day of October, 2019.

Submitted by: (Signature) ▶

Printed Name:

Mitchell Stipp
Mitchell Stipp



1 OSEH
2
3
4
5

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 *****

9 CHRISTINE CALDERON,

10 Plaintiff,

11 vs.

12 MITCHELL DAVID STIPP,

13 Defendant.

CASE NO.: D-08-389203-Z
DEPARTMENT H
RJC-Courtroom 3G

14 **ORDER SETTING EVIDENTIARY HEARING**

15 Date of Hearing: January 23, 2020

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

17 **IT IS HEREBY ORDERED** that the above-entitled case is set for an
18
19 Evidentiary Hearing in Department H on the 23rd day of January 2020, at the hour of
20 9:00 a.m. for one (1) day, at the Regional Justice Center, 200 Lewis Avenue,
21 Courtroom 3G, Las Vegas, Nevada.

22 **IT IS FURTHER ORDERED** that Discovery shall be completed no later than
23 January 13, 2020.

24 **IT IS FURTHER ORDERED** that filed Witness Lists must be delivered to
25 chambers at the Regional Justice Center at least one (1) judicial day prior to the
26 Evidentiary Hearing.
27
28

1 **IT IS FURTHER ORDERED** that Exhibits are not filed and must be delivered
2 to chambers at least one (1) judicial day prior to the Evidentiary Hearing for marking.

3 **IT IS FURTHER ORDERED** that no continuances will be granted to either
4 party unless written application is made to the Court, served upon opposing counsel
5 or proper person litigant, and a hearing held at least three (3) days prior to the
6 Evidentiary Hearing. *If this matter settles, please advise the Court as soon as*
7 *possible.*

8
9 DATED this 13 day of Nov., 2019.

10
11 
12 T. Arthur Ritchie, Jr.
13 DISTRICT COURT JUDGE
14 DEPARTMENT H

15
16 **CERTIFICATE OF SERVICE**

17 On or about the file stamp date, a copy of the foregoing Order Setting
18 Evidentiary Hearing was:

19 ☒ E-served pursuant to NEFCR 9; placed in attorney folder(s) at the RJC; or
20 mailed, via first-class mail, postage fully prepaid to:

21 Valarie I Fujii, Esq. for
22 Christina Calderon
23 PLAINTIFF

24 Radford J. Smith, Esq. for
25 Mitchell D. Stipp
26 DEFENDANT

27 
28 Katrina Rausch
 Judicial Executive Assistant
 Department H

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTACHMENT

DIRECTIONS FOR COMPLETING EXHIBIT LIST

****EXHIBITS ARE NOT FILED****

****FOR EVIDENTIARY HEARINGS AND TRIALS****

SUBMIT DIRECTLY TO OPPOSING PARTY AND JUDGE'S CHAMBERS

Put either Plaintiff or Defendant on the line before the word EXHIBITS.

Put your case number in the appropriate space.

If you are the Plaintiff, all of your exhibits will be identified by NUMBERS.

(Example: Exhibit 1, Exhibit 2, etc.)

If you are the Defendant, all of your exhibits will be identified by LETTERS OF THE ALPHABET. (Example: Exhibit A, Exhibit B, etc.)

You must identify each section of your exhibits and mark them with a tabbed page divider which identifies the exhibit. Exhibits are not to be bunched together in one group of papers and are to be numbered in the lower right corner.

Example: Exhibit 1 or Exhibit A

3 pages of bank statements would be tabbed with the appropriate number or letter and stapled together.

2 pages of employment information would be tabbed with the appropriate number or letter and stapled together.

1. Exhibits must be submitted to the opposing party by the Discovery cut-off date.
2. Two (2) copies of Exhibits must be submitted to the Department Chambers at the Regional Justice Center at least one (1) day prior to the hearing date for marking by the Court Clerk.

[illegible]

1 **SUBP**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 CHRISTINA CALDERON

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 CHRISTINA CALDERON,)

15 Plaintiff,)

16 vs.)

17 MITCHELL STIPP,)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

19 **SUBPOENA FOR GERARDO HERNANDEZ FOR DEPOSITION**

20 SUBPOENA X Regular Duces Tecum

21 **THE STATE OF NEVADA SENDS GREETINGS TO:**

22 Gerardo Hernandez
23 10620 West Alexander Road, #110
24 Las Vegas, Nevada 89129-3529

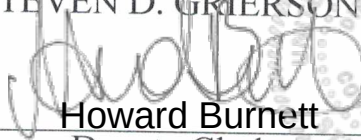
25 We command you, that all and singular, business and excuses being set
26 aside, you appear and attend, before a Notary Public, or before some other officer
27 authorized by law to administer oaths, **at the law offices of VALARIE I. FUJII,**
28 **ESQ., 704 South Sixth Street, Las Vegas, Nevada 89101, on January 7, 2020,**

1 at 11:30 a.m., then and there to testify at your deposition regarding knowledge of
2 facts and circumstances pertaining to this matter as a witness thereto.

3 If you fail to attend, you will be deemed guilty of contempt of Court and
4 liable to pay all losses and damages sustained thereby to the parties aggrieved and
5 forfeit ONE HUNDRED (\$100.00) DOLLARS in addition thereto.

6 Please see Exhibit "A" attached for information regarding the right of the
7 person subject to this Subpoena.
8

9
10 STEVEN D. GRIERSON, CLERK OF THE COURT

11 
12 Howard Burnett

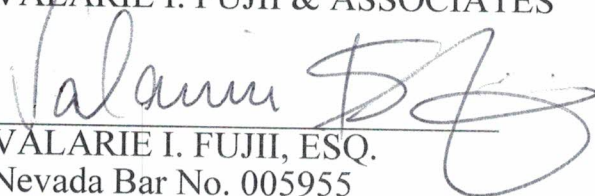
13 Deputy Clerk

14
15 Electronically Issued
16 12/11/2019

17 Date

18 Submitted by:

19 VALARIE I. FUJII & ASSOCIATES

20 
21 VALARIE I. FUJII, ESQ.

22 Nevada Bar No. 005955

23 704 South Sixth Street

24 Las Vegas, Nevada 89101

25 Attorney for Plaintiff

26 CHRISTINA CALDERON
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1 **EXHIBIT "A" - NEVADA RULES OF CIVIL PROCEDURE RULE 45**

2 **(c) Protection of Persons Subject to Subpoena.**

3 (1) A party or an attorney responsible for the issuance and service of a
4 subpoena shall take reasonable steps to avoid imposing undue burden or expense
5 on a person subject to that subpoena. The court on behalf of which the subpoena
6 was issued shall enforce this duty and impose upon the party or attorney in breach
of this duty an appropriate sanction, which may include, but is not limited to, lost
earnings and a reasonable attorney's fee.

7 (2) (A) A person commanded to produce and permit inspection and
8 copying of designated books, papers, documents or tangible things, or inspection
of premises need not appear in person at the place of production or inspection
unless commanded to appear for deposition, hearing or trial.

9 (B) Subject to paragraph (d)(2) of this rule, a person commanded to
10 produce and permit inspection and copying may, within 14 days after service of
the subpoena or before the time specified for compliance if such time is less than
11 14 days after service, serve upon the party or attorney designated in the subpoena
written objection to inspection or copying of any or all of the designated materials
12 or of the premises. If objection is made, the party serving the subpoena shall not
be entitled to inspect and copy the materials or inspect the premises except
13 pursuant to an order of the court by which the subpoena was issued. If objection
has been made, the party serving the subpoena may, upon notice to the person
14 commanded to produce, move at any time for an order to compel the production.
Such an order to compel production shall protect any person who is not a party or
15 an officer of a party from significant expense resulting from the inspection and
16 copying commanded.

17 (3) (A) On timely motion, the court by which a subpoena was issued shall
quash or modify the subpoena if it

18 (i) fails to allow reasonable time for compliance;
19 (ii) requires a person who is not a party or an officer of a
party to travel to a place more than 100 miles from the place where that person
20 resides, is employed or regularly transacts business in person, except that such a
person may in order to attend trial be commanded to travel from any such place
within the state in which the trial is held, or

21 (iii) requires disclosure of privileged or other protected
22 matter and no exception or waiver applies, or

23 (iv) subjects a person to undue burden.

24 (B) If a subpoena

25 (i) requires disclosure of a trade secret or other confidential
research, development, or commercial information, or

26 (ii) requires disclosure of an unretained expert's opinion or
information not describing specific events or occurrences in dispute and resulting
from the expert's study made not at the request of any party,

1 the court may, to protect a person subject to or affected by the subpoena, quash or
2 modify the subpoena or, if the party in whose behalf the subpoena is issued shows
3 a substantial need for the testimony or material that cannot be otherwise met
4 without undue hardship and assures that the person to whom the subpoena is
addressed will be reasonably compensated, the court may order appearance or
production only upon specified conditions.

5 **(d) Duties in Responding to Subpoena.**

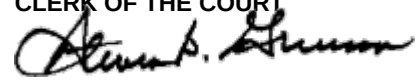
6 (1) A person responding to a subpoena to produce documents shall
7 produce them as they are kept in the usual course of business or shall organize and
label them to correspond with the categories in the demand.

8 (2) When information subject to a subpoena is withheld on a claim that it is
9 privileged or subject to protection as trial preparation materials, the claim shall be
made expressly and shall be supported by a description of the nature of the
10 documents, communications, or things not produced that is sufficient to enable the
demanding party to contest the claim.

AFFT

Valarie I. Fujii & Associates
Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, NV 89101
State Bar No.: 005955
Attorney(s) for: Plaintiff(s)

Electronically Filed
12/27/2019 7:32 PM
Steven D. Grierson
CLERK OF THE COURT



DISTRICT COURT FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon

vs

Mitchell Stipp

Plaintiff(s)

Defendant(s)

Case No.: D-08-389203-Z

Dept. No.: H/CR 3G AT RJC

Date: January 7, 2020

Time: 11:30am

AFFIDAVIT OF SERVICE

I, Ursula Dunn, being duly sworn deposes and says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, licensed to serve civil process in the State of Nevada under license #604, and not a party to or interested in the proceeding in which this affidavit is made. The affiant received the Subpoena for Gerardo Hernandez for Deposition; Notice of Taking Deposition of Gerardo Hernandez, on the 11th day of December, 2019 and served the same on the 14th day of December, 2019 at 6:31 PM by delivering a copy to the Witness, Gerardo Hernandez by leaving copies with Gerardo Hernandez, at 10620 W. Alexander Rd., #110, Las Vegas, NV 89129

Pursuant to NRS 239B.030 this document does not contain the social security number of any person.

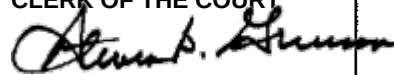
I declare under penalty of perjury under the law
of the state of Nevada that the foregoing is true and correct.
Executed this 18th day of December 2019


Ursula Dunn # R-2019-01108

Legal Process Service License # 604

WorkOrderNo1910558





1 **NOTC**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujii-lawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO. H/CR 3G at RJC

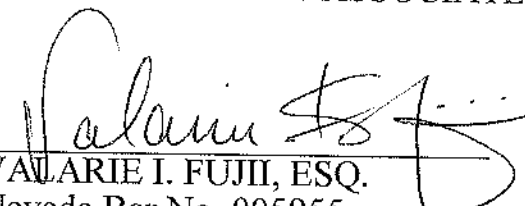
19 **NOTICE OF TELEPHONIC EDCR 5.602(d) CONFERENCE**

20 PLEASE TAKE NOTICE that a telephonic EDCR 5.602(d) Conference will
21 take place on **Tuesday, January 14, 2020, at 10:00 a.m.**, by and between
22 Plaintiff's counsel VALARIE I. FUJII, ESQ., of the law firm of VALARIE I.
23 FUJII & ASSOCIATES, and Defendant's counsel RADFORD SMITH, ESQ., of
24 the law firm of RADFORD J. SMITH, CHTD. **Ms. Fujii will initiate the call to**
25 **Mr. Smith at his office at 702-990-6448;** Defendant's counsel should contact
26 Plaintiff's counsel immediately if he would like to be called at a different number.

1 The issue to be discussed at the telephonic conference is Defendant
2 MITCHELL STIPP's inadequate responses to Plaintiff CHRISTINA
3 CALDERON's discovery requests, including Interrogatories, Requests for
4 Admissions, and Requests for Production of Documents, which was addressed in a
5 letter e-served on Mr. Smith on January 10, 2020, with supplemental responses
6 due on or before January 13, 2020, which is the Discovery Cut-Off.
7

8 DATED this 10th day of January, 2020.

9 VALARIE I. FUJII & ASSOCIATES

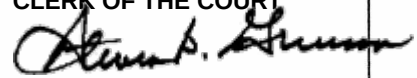
10
11 
12 VALARIE I. FUJII, ESQ.
13 Nevada Bar No. 005955
14 704 South Sixth Street
15 Las Vegas, Nevada 89101
16 Attorney for Plaintiff
17 CHRISTINA CALDERON
18
19
20
21
22
23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Radford J. Smith, Esq.
RADFORD J. SMITH, CHTD.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP

Mitchell Stipp, Esq.
LAW OFFICE OF MITCHELL STIPP
10120 W. Flamingo Rd., Suite 4-124
Las Vegas, Nevada 89147
Attorney for Defendant
MITCHELL STIPP

Theresa Hochlar



1 **PROD**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

12 **DISTRICT COURT, FAMILY DIVISION**

13 **CLARK COUNTY, NEVADA**

14 **CHRISTINA CALDERON,**)

15 Plaintiff,)

16 vs.)

17 **MITCHELL STIPP,**)

18 Defendant.)

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

19 **PLAINTIFF'S PRODUCTION OF DOCUMENTS AND**
20 **LIST OF WITNESSES PURSUANT TO NRCP 16.2**

21 COMES NOW, Plaintiff CHRISTINA CALDERON, by and through her
22 attorney of record, VALARIE I. FUJII, ESQ. of the law firm of VALARIE I.
23 FUJII & ASSOCIATES, and hereby submits the following Production of
24 Documents and List of Witnesses Pursuant to NRCP 16.2. as follows:

25

26

27

28

I.

LIST OF EXHIBITS

<u>Exhibit</u>	<u>Document Title</u>
1.	Decree of Divorce filed on March 6, 2008, incorporating the Marital Settlement Agreement (MSA) (BATES STAMPS PL00001-PL00035)
2.	Stipulation and Order Resolving Physical Custody, Timeshare, Child Support, and Parenting Matters filed on July 9, 2014 (BATES STAMPS PL00036-PL00051)
3.	Emails between the parties dated August 2019, which proves the Defendant's Contempt in his withholding the children from CHRISTINA (BATES STAMPS PL00052-PL00058)
4.	Pictures of MIA and CHRISTINA at Middle School Graduation on May 22, 2019; and picture of MIA that CHRISTINA took of her at summer music camp on June 21, 2019 (BATES STAMPS PL00059-PL00061)
5.	Email from CHRISTINA to the Defendant when MIA was found with her boyfriend at the park alone (co-parenting) (BATES STAMPS PL00062)
6.	Email from ETHAN's teacher Ms. Wandel regarding him receiving special recognition for showing kindness to a special needs child at school (BATES STAMPS PL00063)
7.	Donna Wilburn, MS, LMFT, Letter dated September 11, 2019, entitled "Urgent: Children in Crisis, Recommended Protocol Regarding Child Visitation Refusal" (BATES STAMPS PL00064-PL00067)
8.	Notice of Appearance by Radford J. Smith, Esq. as counsel on behalf of Defendant filed on September 24, 2019 (BATES STAMPS PL00068-PL00070)
9.	Reply to Opposition to Motion for Child Interview and Teenage Discretion filed on September 25, 2019 by Defendant solely and e-served by his wife Amy; Exhibits in Support of Reply to Opposition filed by Defendant on September 25, 2019, solely and e-served by his wife (BATES STAMPS PL00071-PL00115)
10.	Status Report filed by Defendant listing himself as co-counsel with Radford Smith, Esq., filed on October 7, 2019, and e-served by his wife Amy (BATES STAMPS PL00116-PL00121)

11.	Counsel's many objections to pleadings filed by Defendant: Objection to Status Report filed on 10-7-19; Objection to letter from Dr. Roy Lubits; Objection to Exhibits Improperly cut and pasted within Defendant's Motion for Child Interview in support of Motion (BATES STAMPS PL00122-PL00128)
12.	Affidavit of Plaintiff Christina Calderon in Support Of Order to Show Cause Against the Defendant for Willfully Disobeying the Custody Order; a Request for Immediate Return of the Children, Make up Visitation and an Award of Attorneys Fees dated August 29, 2019 (BATES STAMPS PL00129-PL00135)
13.	Affidavit of Christina Calderon in support of Emergency Motion for Temporary Primary Physical Custody dated October 9, 2019 (BATES STAMPS PL00136-PL00139)
14.	Supplemental Affidavit of Plaintiff Christina Calderon in Support Emergency Motion for Temporary Primary Physical Custody dated October 21, 2019 (BATES STAMPS PL00140-PL00143)
15.	Affidavit of Plaintiff Christina Calderon regarding Donna's House
16.	Declaration of Amy Stipp filed on September 6, 2019 (BATES STAMPS PL00144-PL00160)
17.	Declaration of Defendant Mitchell D. Stipp, attorney for Mitchell Stipp, Defendant filed on September 6, 2019 (BATES STAMPS PL00161-PL00177)
18.	Court Minutes from Hearings of October 1, 2019, and October 22, 2019 (BATES STAMPS PL00178-PL00181)
19.	Texts between Plaintiff Christina Calderon and the children from October 4, 2019 to the present (Responses to RPD's) (BATES STAMPS PL00182-PL00266)
20.	Proof that Plaintiff Christina Calderon paid attorney's fees to Valarie I. Fujii, Esq. (BATES STAMPS PL00267-PL00268)
21.	Emails by and between the parties (BATES STAMPS PL000269-PL00279)
22.	Additional Emails by and between the parties (BATES STAMPS PL00280-PL00487)
23.	Audio of conversation between the parties at Starbucks on May 17, 2019
	Any and all exhibits produced by Plaintiff;

Any and all pleadings in this matter filed by either party, including any and all exhibits attached thereto; and any and all correspondence and emails between the parties and/or counsel.

Plaintiff CHRISTINA CALDERON reserves the right to use any and all documentation produced or listed by the Defendant herein; and the Plaintiff further reserves the right to supplement this list prior to trial.

II.

LIST OF WITNESSES

1. CHRISTINA CALDERON (Plaintiff)
c/o Valarie I. Fujii, Esq.
704 South Sixth Street
Las Vegas, Nevada 89101

She is the Plaintiff and is expected to testify as to the relationship of the parties; her relationship with the children MIA and ETHAN; Defendant's relationship with the children; Plaintiff's parenting skills; Defendant's parenting skills; the actions of the Defendant; Defendant's motive for withholding the children; Defendant's reliance upon third parties for the physical and emotional welfare of the children; the affect the litigation has had on her, the children and their relationship; the physical and mental health of the parties and the children; Defendant's abuse, including its affects on the minor children; and/or any other matters related to the litigation of this action.

2. MITCHELL STIPP (Defendant)
c/o Radford Smith, Esq.
2470 St. Rose Parkway, #206
Henderson, Nevada 89074

He is the Defendant and is expected to testify as to the relationship of the parties; Plaintiff's relationship with the children MIA and ETHAN; Defendant's

1 relationship with the children; Plaintiff's parenting skills; Defendant's parenting
2 skills; the actions and motives of the Defendant in withholding the children from
3 Plaintiff; Defendant's reliance upon third parties for the emotional and physical
4 welfare of the children; the physical and mental health of the parties and the
5 children; and/or any other matters related to the litigation of this action.

6
7 3. Amy Stipp
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
10 Henderson, Nevada 89074

11 She is the Defendant's wife and is expected to testify as to her relationship
12 with the children MIA and ETHAN; her relationship with the Plaintiff;
13 Defendant's relationship with the children; Plaintiff's parenting skills;
14 Defendant's parenting skills; her parenting skills and her actions/inactions in
15 improving, worsening and/or aggravating the co-parenting problems between the
16 parties; her actions and motives in assisting and abetting the Defendant in
17 withholding the children from Plaintiff; Defendant's reliance upon third parties for
18 the emotional and physical welfare of the children; the physical and mental health
19 of herself, Defendant, and the children; and/or any other matters related to the
20 litigation of this action.

21 4. GERARDO HERNANDEZ
22 c/o Radford Smith, Esq.
23 2470 St. Rose Parkway, #206
24 Henderson, Nevada 89074

25 He is Amy Stipp's father and is expected to testify as to his care-giving of
26 the children MIA and ETHAN, and/or any other matters related to the litigation of
27 this action.

28

1 5. Martha Hernandez
2 c/o Radford Smith, Esq.
3 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

4 She is Amy Stipp's mother and is expected to testify as to her care-giving of
5 the children MIA and ETHAN, and/or any other matters related to the litigation of
6 this action.

7 6. Mia Stipp (minor child of the parties)
8 c/o Radford Smith, Esq.
9 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

10 Mia, Date of Birth: October 19, 2004, currently age 15 years and 3 months,
11 is the minor child of the parties, and is expected to testify regarding matters related
12 to the litigation of this action based upon the Court's direction.

13 7. Ethan Stipp (minor child of the parties)
14 c/o Radford Smith, Esq.
15 2470 St. Rose Parkway, #206
 Henderson, Nevada 89074

16 Ethan, Date of Birth: March 24, 2007, currently age 12 years and 10
17 months, is the minor child of the parties, and is expected to testify regarding
18 matters related to the litigation of this action based upon the Court's direction.

19 8. Donna Wilburn, LMFT
20 10655 Park Run Drive, #210
21 Las Vegas, Nevada 89144
 702-234-9325

22 Donna Wilburn is Plaintiff's therapist and is expected to testify as to her
23 Letter dated September 11, 2019, entitled "Urgent: Children in Crisis,
24 Recommended Protocol Regarding Child Visitation Refusal", and/or any other
25 matters related to the litigation of this action.
26

27
28

1 6. Elena Calderon
2 913 Hickory Park Street
3 Las Vegas, Nevada 89138
4 702-575-7465

5 Elena will testify as to the relationship between Plaintiff Christina Calderon
6 and the children MIA and ETHAN, and the relationship between the children and
7 their maternal relatives, and/or any other matters related to the litigation of this
8 action.

9 7. Nicholas Petsas
10 913 Hickory Park Street
11 Las Vegas, Nevada 89138
12 408-706-0636

13 Nicholas will testify as to the relationship between Plaintiff Christina
14 Calderon and the children MIA and ETHAN, and the relationship between the
15 children and their maternal relatives, and/or any other matters related to the
16 litigation of this action.

17 8. Peter Calderon
18 3136 Donnegal Bay Drive
19 Las Vegas, Nevada 89117
20 702-321-7819

21 Peter will testify as to the relationship between Plaintiff Christina Calderon
22 and the children MIA and ETHAN, and the relationship between the children and
23 their maternal relatives, and/or any other matters related to the litigation of this
24 action.

25 9. Antonia Calderon
26 3136 Donnegal Bay Drive
27 Las Vegas, Nevada 89117
28 702-759-5626

 Antonia will testify as to the relationship between Plaintiff Christina
Calderon and the children MIA and ETHAN, and the relationship between the

1 children and their maternal relatives, and/or any other matters related to the
2 litigation of this action.

3 10. Anthony Calderon
4 3136 Donnegal Bay Drive
5 Las Vegas, Nevada 89117
6 725-212-0747

7 Anthony will testify as to the relationship between Plaintiff Christina
8 Calderon and the children MIA and ETHAN, and the relationship between the
9 children and their maternal relatives, and/or any other matters related to the
10 litigation of this action.

11 11. Allison Morris
12 8725 Newport Isle Court
13 Las Vegas, Nevada 89117
14 702-219-4880

15 Allison will testify as to the relationship between Plaintiff Christina
16 Calderon and the children MIA and ETHAN, and/or any other matters related to
17 the litigation of this action.

18 12. Mindi Gellner
19 702-278-3213

20 Mindi will testify as to the relationship of the parties, the relationship
21 between Plaintiff Christina Calderon and the children MIA and ETHAN, and
22 Defendant's relationship with the children. Mindi will also testify as to her
23 experiences attempting to co-parent and raise a child with Defendant Mitchell
24 Stipp's brother, Marshal Stipp, and/or any other matters related to the litigation of
25 this action.

26 13. Misayo Lopez
27 702-510-0922
28

1 Misayo is the mother of Mia's boyfriend Joey Lopez, and is expected to
2 testify as to the Mia's relationship with Joey, and her interactions and experiences
3 with the parties, and/or any other matters related to the litigation of this action.

4 14. Mauricio Molina
5 702-767-1557

6 Mauricio will testify as to Ethan's baseball experience and his interactions
7 with the parties, and/or any other matters related to the litigation of this action.

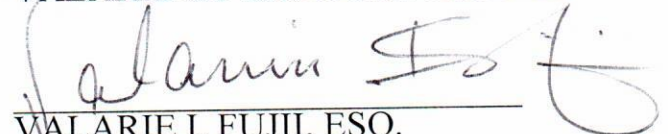
8 15. Scott Fogo
9 Faith Lutheran Middle & High School Principal
10 2015 South Hualapai Way
11 Las Vegas, Nevada 89117
12 702-804-4400

13 Scott will testify as to his interactions and experiences with the parties and
14 the children, and/or any other matters related to the litigation of this action.

15 Any and all witnesses identified by Defendant, including rebuttal witnesses.
16 Plaintiff reserves the right to supplement this list of witnesses, including those for
17 rebuttal and impeachment purposes.

18 DATED this 13th day of January, 2020.

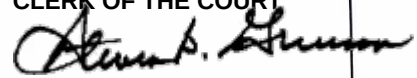
19 VALARIE I. FUJII & ASSOCIATES

20 

21 VALARIE I. FUJII, ESQ.
22 Nevada Bar No. 005955
23 704 South Sixth Street
24 Las Vegas, Nevada 89101
25 Attorney for Plaintiff
26 CHRISTINA CALDERON
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Kathie
An employee of VALARIE I. FUJII, ESQ.



1 **COM**
2 **VALARIE I. FUJII, ESQ.**
3 Nevada Bar No. 005955
4 **VALARIE I. FUJII & ASSOCIATES**
5 704 South Sixth Street
6 Las Vegas, Nevada 89101
7 (702) 341-6464 phone
8 (702) 734-6464 facsimile
9 vip@fujiiilawlv.com

10 Attorney for Plaintiff
11 **CHRISTINA CALDERON**

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

14 **CHRISTINA CALDERON,**
15 Plaintiff,

CASE NO.: D-08-389203-Z
DEPT. NO.: H/RJC CR 3G

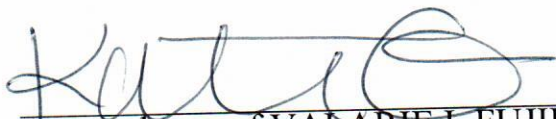
16 vs.

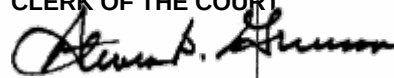
17 **MITCHELL STIPP,**
18 Defendant.

19 **CERTIFICATE OF MAILING**

20 I HEREBY CERTIFY that on the 13th day of January, 2020, I served a
21 USB flash drive of Starbucks conversation audio, referred to as Exhibit #23, in
22 Plaintiff's NRCP 16.2 Production of Documents, by placing the same in a sealed
23 envelope, via the United States Mail, first class postage fully pre-paid thereon,
24 addressed as follows:

25 **RADFORD J. SMITH, CHTD.**
26 Radford Smith, Esq.
27 2470 St. Rose Parkway, #206
28 Henderson, Nevada 89074
Attorney for Defendant
MITCHELL STIPP


An employee of VALARIE I. FUJII, ESQ.



MOT
VALARIE I. FUJII, ESQ.
Nevada Bar No. 005955
VALARIE I. FUJII & ASSOCIATES
704 South Sixth Street
Las Vegas, Nevada 89101
(702) 341-6464 phone
(702) 734-6464 facsimile
vip@fujiiilawlv.com

Attorney for Plaintiff
CHRISTINA CALDERON

DISTRICT COURT, FAMILY DIVISION

CLARK COUNTY, NEVADA

CHRISTINA CALDERON,	)		
	)	CASE NO.:	D-08-389203-Z
Plaintiff,	)	DEPT. NO.:	H/CR 3 at RJC
vs.	)		
	)		
MITCHELL STIPP,	)		
	)		
Defendant.	)	ORAL ARGUMENT	
	)	REQUESTED <u>XXX</u>	YES <u> </u> NO <u> </u>

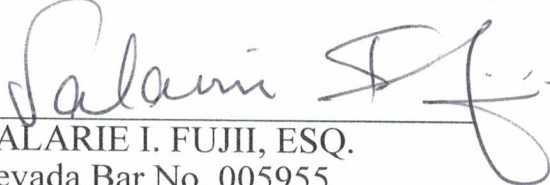
**PLAINTIFF'S MOTION TO COMPEL DEFENDANT'S DISCOVERY
RESPONSES, INCLUDING ANSWERS TO INTERROGATORIES AND
RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS;
FAILURE TO MAKE NRCP 16.2 DISCLOSURES AND PRODUCTIONS;
AND FOR AN AWARD OF ATTORNEY'S FEES AND COSTS**

COMES NOW, Plaintiff CHRISTINA CALDERON , by and through her
attorney of record, VALARIE I. FUJII, ESQ., and submits this *Motion to Compel
Defendant's Discovery Responses, Including Responses to Requests for
Production of Documents, Answers to Interrogatories and Request for
Admissions; Failure to Make NRCP 16.2 Disclosures and Productions; and for
an Award of Attorney's Fees and Costs*, in the above-referenced matter.

1 This Motion is made and based upon the pleadings and papers on file
2 herein, the Affidavit of Counsel, the Memorandum of Points and Authorities
3 herein below, and any oral argument which this Honorable Court permits at the
4 time of the hearing in this matter.
5

6 DATED this 14th day of January, 2020.

7 VALARIE I. FUJII & ASSOCIATES

8 
9 VALARIE I. FUJII, ESQ.

10 Nevada Bar No. 005955

11 704 South Sixth Street

12 Las Vegas, Nevada 89101

13 Attorney for Plaintiff

CHRISTINA CALDERON

14 **MEMORANDUM OF POINTS AND AUTHORITIES**

15 **I.**

16 **STATEMENT OF FACTS**

17
18 An evidentiary hearing is set in this case on Divorce Trial is set in this
19 matter for January 23, 2020. Discovery deadline was January 13, 2020. See Order
20 Setting Evidentiary Hearing filed on November 13, 2019. Therefore, time is of the
21 essence.
22

23 On December 10, 2019, Plaintiff CHRISTINA CALDERON propounded an
24 e-serviced utilizing NEFCR, written discovery to Defendant MITCHELL STIPP,
25 specifically Plaintiff's First Set of Interrogatories to Defendant, Plaintiff's First
26 Set of Request for Admissions to Defendant and Plaintiff's First Set of Requests
27
28

1 for Production of Documents to Defendant. Defendant's discovery responses
2 were due to Plaintiff's counsel on or before January 9, 2019.

3
4 On January 9, 2020 at 5:01 p.m. Defendant e-served his responses to
5 Interrogatories (**Exhibit 1**), Request for Admissions (**Exhibit 2**) and Requests for
6 Production of Documents (**Exhibit 3**). They did not include his counsel, Radford
7 J. Smith's signature, rather it was Defendant's electronic signature and the
8 certificate of mailing was e-signed by his wife.

9
10 Defendant's responses were non-responsive, inadequate and insufficient
11 pursuant to NRCP Rules 33, 34 and 35. Defendant objected to almost every
12 question included an objection. Specifically, many of his Answers and Responses
13 refer to his deposition testimony on January 7, 2020, however, those responses are
14 inadequate and must be supplemented with actual responses. See Rog. Responses
15 1,2,3, 4, 6, 7,8, 10, 11,12,13,14,15; RFA responses 1, 3, 4, 5, 7, 9, 11, 15, 16, 18,
16 19, 21, 26, 27, 28, 29.)

17
18 Likewise, Defendant made objections to Interrogatories and Request for
19 Production of Documents, including those related to "private", "confidential"
20 and/or "privileged" information and/or documentation; however, failed to provide
21 a privilege log and again failed to provide Answers and Responses to the requests.
22 See Rog. Responses 5, 9, 10, RFA responses

23
24 Defendant also objected and refused to respond to discovery claiming the
25 requests exceeded the number of Interrogatories listed. See Rog. Responses after
26 question no. 10, wherein after he claims the questions exceed the limit. (Rog
27
28

1 responses to no. 11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27 28, 29, 30,
2 31, 32, 33, 34, 35 and 36)

3
4 Finally, Defendant refused to respond to questions claiming the words were
5 not defined. See Exhibit 2, for example:

6 **REQUEST NO. 3:**

7 Admit that you have access to the children's social media accounts.

8 **RESPONSE NO. 3:**

9
10 Objection. The request is vague, ambiguous and overbroad because the
11 term "access" and "accounts are not defined.

12 **REQUEST NO. 4:**

13 Admit that as of December 10, 2019, you have not provided a Homecoming
14 photograph of Mia to Plaintiff.

15 **RESPONSE NO. 4:**

16
17 Objection. The request is vague, ambiguous and overbroad because the
18 term "Homecoming" is not defined.

19 **REQUEST NO. 9:**

20
21 Admit that you pay and or have paid Gerardo Hernandez' and Martha
22 Hernandez' rent and/or housing.

23 **RESPONSE NO. 9:**

24
25 Objection. The request is vague, ambiguous and overbroad because the
26 term "rent" is not defined.

1 On October 10, 2020 instant counsel e-served correspondence to Defendant
2 and his counsel requesting supplemental responses to the following ¹:

3 Supplemental Responses to Requests for Production of Documents 1, 2, 3,
4 4, 5, 6, 7, 9, 12, 13, 14, 15, 16, 17 and 18.

5 Supplemental Answers to **all** Interrogatories; and

6 Supplemental Responses to Requests for Admissions Nos. 1, 2, 3, 4, 5, 7, 9,
7 11, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 32, 33, 34, 35 and 36

8 See **Exhibit 4**, copy of correspondence identifying which specific discovery
9 responses were insufficient from Defendant asking for supplemental responses
10 before the end of discovery. The letter read as follows:

11 Dear Radford:

12 We have reviewed your client's discovery responses in this
13 matter, including his Answers to Interrogatories, Responses
14 to Requests for Admissions, and Responses to Requests for
15 Production of Documents, all of which were non-
16 responsive, inadequate, and insufficient pursuant to the
17 NRCP Rules 26, 33, 34, and 35.

18 Therefore, this correspondence will serve as notice that
19 your client's Answers and Responses must be
20 supplemented immediately. Specifically, any and all
21 Answers and Responses that refer us to his deposition
22 testimony on January 7, 2020, must be supplemented with
23 actual responses. Likewise, your client may make his
24 objections, including those related to "private",
25 "confidential" and/or "privileged" information and/or
26 documentation; however, he must still provide Answers
27 and Responses to the requests.

28 ¹ Letter is erroneously dated December 6, 2019 proof of e-service included

1 Your client must provide Supplemental Responses to all
2 Requests for Production of Documents **except** Nos. 8, 10
3 and 11; Supplemental Answers to **all** Interrogatories; and
4 Supplemental Responses to all Requests for Admissions
except Nos. 6, 8, 10, 12, 13, 14, 17, 24, 30 and 31.

5 Please have your client provide the Supplemental
6 Responses to us by **Monday, January 13, 2020, as that is**
7 **the close of discovery.** I am noticing a telephonic EDCR
8 5.602(d) Conference on Tuesday, January 14, 2020, at
9 10:00 a.m. between the two of us to discuss this matter if
10 we have not received your client's supplemental responses.
11 I will initiate the call to your office; therefore, please
12 contact me ASAP if you would like to be contacted on a
13 different number. You will be e-served with the Notice
14 shortly.

15 **As you know, EDCR 37(4) provides that "For purposes**
16 **of Rule 37(a), an evasive or incomplete disclosure,**
17 **answer, or response must be treated as a failure to**
18 **disclose, answer, or respond."** Should your client fail to
19 **provide his supplemental answers and responses by**
20 **January 13, 2020, we will have no choice but to file a** **Motion**
21 **to Compel Discovery Responses under NRCP**
22 **37(a)(3)(B)(iii).**

23 Defendant did not provide supplemental responses to Interrogatories,
24 Request for Production of Documents or Request for Admissions on or before
25 January 13, 2020. Moreover, Defendant failed to provide any production or
26 documentation prior to the discovery cut off of January 13, 2020. See Order
27 Setting Evidentiary Hearing filed 11-13-19. (**Exhibit 5**)

28 A Notice of Telephonic EDCR § 5.602 Conference was noticed for
Tuesday, January 14, 2020 at 10:00 a.m. (e-filed on January 10, 2020) (**Exhibit 6**).
At the scheduled time of the conference, counsel for Defendant Mr. Smith was
unavailable but did call counsel back within the hour. He was unfamiliar with

1 Defendant's responses nor aware of the discovery cut off deadline or the
2 correspondence e-served January 10, 2020 requesting supplemental responses.
3
4 Thus, counsel could not reach any agreement regarding supplemental responses at
5 the discovery conference.

6 Defendant has failed to provide any NRCP 16.2 Production during the
7 course of this litigation. In addition, he refers in many responses to a deposition
8 which is not in evidence and not published. Based upon the aforementioned, a
9 Motion to Compel is necessary so that Plaintiff can be prepared for the evidentiary
10 in a week. Defendant is in violation of NRCP Rule 37(a), NRCP 16.2 and EDCR
11 37(4) warranting relief in the form of striking exhibits, pleadings, precluding
12 documents and sanctions.
13

14
15 Those sanctions include awarding Plaintiff attorney's fees and costs for
16 being forced to file this Motion to compel Defendant to comply with the Nevada
17 Rules of Civil Procedure.
18

19 II.

20 LEGAL AUTHORITY

21 NRCP 37(a) provides as follows:

- 22 (a) Motion for order compelling discovery. A party, upon
23 reasonable notice to other parties and all persons
24 affected thereby, may apply for an order compelling
25 discovery as follows:
26
27 (2) Motion. If a deponent fails to answer a question
28 propounded or submitted under Rules 30 or 31, or a
corporation or other entity fails to make a designation
under Rule 30(b)(6) or 31(a), or a party fails to

1 answer an interrogatory submitted under Rule 33, or
2 if a party, in response to a request for inspection
3 submitted under Rule 34, fails to respond that
4 inspection will be permitted as requested or fails to
5 permit inspection as requested, any party may move
6 for an order compelling an answer, or a designation,
7 or an order compelling inspection in accordance with
8 the request. When taking a deposition on oral
9 examination, the proponent of the question may
10 complete or adjourn the examination before he
11 applies for an order.

12 If the Court denies the motion in whole or in part, it may
13 make such protective order as it would have been
14 empowered to make on a motion made pursuant to Rule
15 26(c). . . .

- 16 (4) Award of Expenses of Motion. If the motion is
17 granted, the court shall, after opportunity for hearing,
18 require the party to deponent whose conduct
19 necessitated the motion or the party or attorney
20 advising such conduct or both of them to pay the
21 moving party the reasonable expenses incurred in
22 obtaining the order, including attorney's fees, unless
23 the court finds that the opposition to the motion was
24 substantially justified or that other circumstances
25 make an award of expenses unjust.

26 If the motion is granted in part and denied in part, the court
27 may apportion the reasonable expenses incurred in relation
28 to the motion among the parties and persons in a just
manner. . .

NRCP 37 (b)(2) states:

- (2) Sanctions-Party. If a party or an officer, director, or
managing agent of a party or a person designated
under Rule 30(b)(6) or 31(a) to testify on behalf of a
party fails to obey an order to provide or permit
discovery, including an order made under supervision
(a) of this rule or Rule 35, or if a party fails to obey an
order entered under Rule 26(f), the court in which the

1 action is pending may make such orders in regard to
2 the failure as are just, and among other the following:

- 3 (A) An order that the matters regarding which the order
4 was made or any other designated facts shall be taken
5 to be established for the purposes of the action in
6 accordance with the claim of the party obtaining the
7 order;
- 8 (B) An order refusing to allow the disobedient party to
9 support or oppose designated claims or defenses, or
10 prohibiting him from introducing designated matters
11 in evidence;
- 12 (C) An order striking out pleading or parts thereof, or
13 staying further proceedings until the order is obeyed,
14 or dismissed the action or proceeding or any party
15 thereof, or rendering a judgment by default against
16 the disobedient party;
- 17 (D) In lieu of any of the foregoing orders or in addition
18 thereto, an order treating as a contempt of court the
19 failure to obey any orders except an order to submit to
20 a physical or mental examination;
- 21 (E) Where a party has failed to comply with an order
22 under Rule 35(a) requiring him to produce another for
23 examination, such orders as are listed in paragraphs
24 (A), (B) and (C) of the subdivision, unless the party
25 failing to comply shows that he is unable to produce
26 such person for examination.

21 In lieu of any of the foregoing orders or in addition thereto,
22 the court shall require the party failing to obey the order or
23 the attorney advising him or both to pay the reasonable
24 expenses, including attorney's fees, caused by the failure,
25 unless the court finds that the failure was substantially
26 justified or that other circumstances make an award of
27 expenses unjust."

26 EDCR 5.602. Discovery disputes states:

- 1 (a) Unless otherwise ordered, all discovery disputes
2 (except disputes presented at a pretrial conference or
3 at trial) must first be heard by the discovery hearing
4 master.
- 5 (b) Upon reasonable notice, the discovery hearing master
6 may direct the parties to appear for a conference with
7 the hearing master concerning any discovery dispute.
8 Unless otherwise directed, points and authorities need
9 not be filed prior to a conference noticed by the
10 hearing master. Counsel may not stipulate to vacate or
11 continue a conference without the hearing master's
12 consent.
- 13 (c) The hearing master may shorten or extend any of the
14 times for any discovery motion.
- 15 (d) A discovery motion must set forth that after a
16 discovery dispute conference or a good-faith effort to
17 confer, counsel were unable to resolve the matter
18 satisfactorily, detailing what attempts to resolve the
19 dispute were made, what was resolved and what was
20 not resolved, and why. A conference requires either a
21 personal or telephone conference between or among
22 the parties; if a personal or telephone conference was
23 not possible, the motion shall set forth the reasons.
24 Such a motion must be supported by affidavit.
- 25 (e) If the responding party failed to answer discovery, the
26 motion shall set forth what good-faith attempts were
27 made to obtain compliance. If, after request, the
28 responding party fails to participate in good faith in
the conference or to answer the discovery, the court
may require such party to pay to any other party the
reasonable expenses, including attorney fees, caused
by the failure.

Defendant has failed to respond to written discovery in spite of written
requests to his counsel that he must respond to the same. Plaintiff CHRISTINA
and her counsel are entitled to all relevant discovery that could bear on an issue

1 that exists or might exist in a case. See Marker v. Union Fidelity Life Insurance
2 Co., 125 F.R.D.121 (M.D.N.C. 1989).

3
4 Based on the fact that Defendant has refused to comply with the active
5 responsibilities necessary to ongoing litigation, especially since he is acting as the
6 counsel and party, Plaintiff CHRISTINA respectfully requests that the Court
7 compel him to respond to Plaintiff's First Set of Interrogatories and First Set of
8 Requests for Production of Documents, and Request for Admissions.
9

10 NRCP 16.2 states in relevant part as follows:

11 (d) Mandatory Initial Disclosures.

12 (1) Initial Disclosure Requirements.

13 (A) Concurrently with the filing of the financial
14 disclosure form, each party must, without
15 awaiting a discovery request, serve upon the
16 other party written and signed disclosures
17 containing the information listed in Rule
16.2(d)(2) and (3).

18 (B) A party must make these initial disclosures
19 based on the information then reasonably
20 available to that party and is not excused from
making the disclosures because:

21 (i) the party has not fully completed an
22 investigation of the case;

23 (ii) the party challenges the sufficiency of
24 another party's disclosures; or

25 (iii) another party has not made the required
26 disclosures.

27 (C) For each item set forth in Rule 16.2(d)(3), if the
28 disclosing party is not in possession of the

documents, the disclosing party must identify each such asset or debt that exists and disclose where information pertaining to each asset or debt may be found. If no such asset or debt exists, the disclosing party must specifically so state.

(2) Evidence Supporting Financial Disclosure Form. For each line item on the GFDF or DFDF, if not already evidenced by the other initial disclosures required herein, a party must provide the financial statement(s), document(s), receipt(s), or other information or evidence relied upon to support the figure represented on the form. If no documentary evidence exists, a party must provide an explanation in writing of how the figure was calculated.

(3) Evidence of Property, Income, and Earnings as to Both Parties.

(A) Bank and Investment Statements. A party must provide copies of all monthly or periodic bank, checking, savings, brokerage, investment, cryptocurrency, and security account statements in which any party has or had an interest for the period commencing 6 months before the service of the summons and complaint through the date of the disclosure.

(B) Credit Card and Debt Statements. A party must provide copies of credit card statements and debt statements for all parties for all months for the period commencing 6 months before the service of the summons and complaint through the date of disclosure.

(C) Real Property. A party must provide copies of all deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description, purchase price, and encumbrances of all real property owned by any party.

- 1 (D) Property Debts. A party must provide copies of
2 all monthly or periodic statements and
3 documents showing the balances owing on all
4 mortgages, notes, liens, and encumbrances
5 outstanding against all real property and
6 personal property in which the party has or had
7 an interest for the period commencing 6 months
8 before the service of the summons and
9 complaint through the date of the disclosure; or
10 if no monthly or quarterly statements are
11 available during this time period, the most
12 recent statements or documents that disclose
13 the information.
- 14 (E) Loan Applications. A party must provide
15 copies of all loan applications that a party has
16 signed within 12 months before the service of
17 the summons and complaint through the date of
18 the disclosure.
- 19 (F) Promissory Notes. A party must provide copies
20 of all promissory notes under which a party
21 either owes money or is entitled to receive
22 money.
- 23 (G) Deposits. A party must provide copies of all
24 documents evidencing money held in escrow or
25 by individuals or entities for the benefit of
26 either party.
- 27 (H) Receivables. A party must provide copies of
28 all documents evidencing loans or monies due
to either party from individuals or entities.
- (I) Retirement and Other Assets. A party must
provide copies of all monthly or periodic
statements and documents showing the value of
all pension, retirement, stock option, and
annuity balances, including individual
retirement accounts, 401(k) accounts, and all
other retirement and employee benefits and
accounts in which any party has or had an
interest for the period commencing 6 months

1 before the service of the summons and
2 complaint through the date of the disclosure; or
3 if no monthly or quarterly statements are
4 available during this time period, the most
5 recent statements or documents that disclose
6 the information.

7
8 (J) Insurance. A party must provide copies of all
9 monthly or periodic statements and documents
10 showing the cash surrender value, face value,
11 and premiums charged for all life insurance
12 policies in which any party has or had an
13 interest for the period commencing 6 months
14 before the service of the summons and
15 complaint through the date of the disclosure; or
16 if no monthly or quarterly statements are
17 available during this time period, the most
18 recent statements or documents that disclose
19 the information.

20
21 (K) Insurance Policies. A party must provide
22 copies of all policy statements and evidence of
23 costs of premiums for health and life insurance
24 policies covering either party or any child of
25 the relationship.

26
27 (L) Values. A party must provide copies of all
28 documents that may assist in identifying or
valuing any item of real or personal property in
which any party has or had an interest for the
period commencing 6 months before the
service of the summons and complaint through
the date of the disclosure, including any
documents that the party may rely upon in
placing a value on any item of real or personal
property (i.e., appraisals, estimates, or official
value guides).

(M) Tax Returns. A party must provide copies of
all personal and business tax returns, balance
sheets, profit and loss statements, and all
documents that may assist in identifying or
valuing any business or business interest for

1 the last 5 completed calendar or fiscal years
2 with respect to any business or entity in which
3 any party has or had an interest within the past
4 12 months.

5 (N) Proof of Income. A party must provide proof
6 of income of the party from all sources,
7 specifically including W-2, 1099, and K-1
8 forms, for the past 2 completed calendar years,
9 and year-to-date income information (paycheck
10 stubs, etc.) for the period commencing 6
11 months before the service of the summons and
12 complaint through the date of the disclosure.

13 (O) Personalty. A party must provide a list of all
14 items of personal property with an individual
15 value exceeding \$200, including, but not
16 limited to, household furniture, furnishings,
17 antiques, artwork, vehicles, jewelry, coins,
18 stamp collections, and similar items in which
19 any party has an interest, together with the
20 party's estimate of current fair market value
21 (not replacement value) for each item.

22 (P) Exhibits. A party must provide a copy of every
23 other document or exhibit, including
24 summaries of other evidence, that a party
25 expects to offer as evidence at trial in any
26 manner.

27 (f) Continuing Duty to Supplement and Disclose. The duty
28 described in this rule is a continuing duty, and each party
must make additional or amended disclosures whenever new
or different information is discovered or revealed. Such
additional or amended disclosures, including corrections to
a party's financial disclosure form, must be made not more
than 14 days after the party acquires additional information
or otherwise learns that in some material respect the party's
disclosure is incomplete or incorrect. However, if a hearing,
deposition, case management conference, or other
calendared event is scheduled less than 14 days from the
discovery date, then the update must be filed and served
within 24 hours of the discovery of new information.

1 (g) Failure to File or Serve Financial Disclosure Form or to
2 Produce Required Disclosures.

3 (1) If a party fails to timely file or serve the appropriate
4 financial disclosure form required by this rule, or the
5 required information and disclosures under this rule,
6 the court must impose an appropriate sanction upon
7 the party, the party's attorney, or both, unless specific
affirmative findings of fact are made that the violating
party has proven:

8 (A) either good cause for the failure by a
9 preponderance of the evidence or that the
10 violating party would experience an undue
hardship if the penalty is applied; and

11 (B) that other means fully compensate the non-
12 violating party for any losses, delays, and
13 expenses suffered as a result of the violation.

14 (2) Sanctions may include an order finding the violating
15 party in civil contempt of court, an order requiring the
16 violating party to timely file and serve the
17 disclosures, to pay the opposing party's reasonable
18 expenses, including attorney fees and costs incurred
19 as a result of the failure, and any other sanction the
20 court deems just and proper.

21 (3) Sanctions may additionally include an order refusing
22 to allow the violating party to support or oppose
23 designated claims or defenses, or prohibiting that
24 party from introducing designated matters in
25 evidence, and/or any other sanction the court deems
26 just and proper. These discretionary sanctions are
27 encouraged for repeat or egregious violations.
28

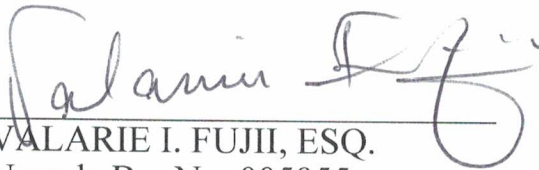
Defendant has failed to comply with NRCp 16.2 when he failed to produce
any documents or make any disclosures, especially since he is acting as both the
attorney as client. Defendant should be sanctioned as a result, as his failure to
comply with the Rules has rendered CHRISTINA and her counsel unable to

1 adequately prepare for Trial scheduled for January 23, 2020. Appropriate sanctions
2 for Defendant would include payment of CHRISTINA's attorney's fees herein, as
3 well as precluding Defendant from entering non-disclosed documents into evidence
4 and/or not allowing him to support or oppose designated claims or defenses, such
5 as not permitting him to oppose Plaintiff's requested relief in her Order to Show
6 Cause and/or Motion for Temporary Custody of the Minor Children.
7

8 In addition, Plaintiff is requesting that she be awarded attorney's fees from
9 Defendant in the amount of \$2,500.00 for being forced to file this Motion in order
10 to have Defendant comply with the Nevada Rules of Civil Procedure.
11

12 DATED this 14th day of January, 2020.
13

14 VALARIE I. FUJII & ASSOCIATES

15 
16

17 VALARIE I. FUJII, ESQ.
18 Nevada Bar No. 005955
19 704 South Sixth Street
20 Las Vegas, Nevada 89101
21 Attorney for Plaintiff
22 CHRISTINA CALDERON
23
24
25
26
27
28

1 **AFFIDAVIT OF VALARIE I. FUJII, ESQ.**

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

5 VALARIE I. FUJII, being first duly sworn, deposes and states:

6 1. Affiant is an Attorney at Law duly licensed to practice in all courts in
7 the State of Nevada;

8 2. Affiant is the attorney of record in this action, representing the
9 Plaintiff CHRISTINA CALDERON.
10

11 3. Written Discovery was propounded pursuant to NRCP Rules 33, 35,
12 and 36.

13 4. Defendant's responses were evasive and/or incomplete and thus,
14 correspondence was set requesting supplemental responses prior to discovery cut
15 off and an EDCR 5.602 Conference was noticed.
16

17 3. Defendant did not provide supplemental responses to Interrogatories,
18 Request for Production of Documents or Request for Admissions on or before
19 January 13, 2020. Moreover, Defendant failed to provide any production or
20 documentation prior to the discovery cut off of January 13, 2020 in violation of the
21 Order Setting Evidentiary Hearing filed 11-13-19. (**Exhibit 5**).
22

23 4. At the EDCR § 5.602 Conference Tuesday, January 14, 2020 at 10:00
24 a.m., counsel for Defendant Mr. Smith was unavailable but did call counsel back
25 within the hour. Mr. Smith was unfamiliar with Defendant's responses nor aware
26 of the discovery cut off deadline or the correspondence e-served January 10, 2020
27
28

1 requesting supplemental responses. Thus, Affiant and defense counsel could not
2 reach any agreement regarding supplemental responses at the discovery conference.
3

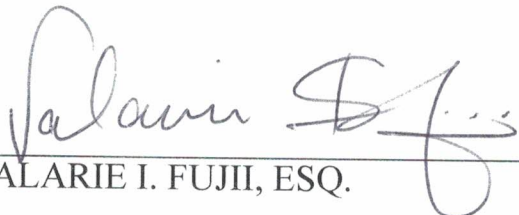
4 5. Defendant has never prepared or provided an NRCP 16.2 Production
5 during the course of this litigation.

6 6. The information and documentation requested in the discovery
7 requests and required to be disclosed pursuant to NRCP 16.2 are pertinent and
8 material facts relevant to the litigation in this case, and Plaintiff is entitled to this
9 information, which Defendant has failed to provide.
10

11 9. An Order compelling Defendant to respond to Plaintiff's discovery
12 requests and to serve an NRCP 16.2 Production of Documents is necessary in this
13 case in order to allow Plaintiff to have the adequate information and documentation
14 necessary to prepare for the evidentiary hearing January 23, 2019.
15

16 10. This Motion is not sought to delay, thwart or waste judicial resources.

17 FURTHER YOUR AFFIANT SAYETH NAUGHT.
18

19
20 
VALARIE I. FUJII, ESQ.

21 SWORN and SUBSCRIBED to this
22 14th day of January, 2020
23 by VALARIE I. FUJII, ESQ.

24 
25 NOTARY PUBLIC in and for
26 Said County and State
27
28

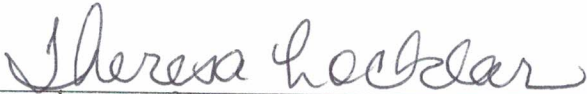


1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 14th day of January 2020, I served a true
3 and correct copy of the foregoing *Motion to Compel Defendant's Discovery*
4 *Responses, Including Answers to Interrogatories and Responses to Requests for*
5 *Production of Documents; Failure to Make NRCP 16.2 Disclosures and*
6 *Productions; and for an Award of Attorney's Fees and Costs* via electronic
7 service pursuant to the Nevada Electronic Filing and Conversion Rules (NEFCR),
8 addressed as follows:
9

10
11 Radford J. Smith, Esq.
12 RADFORD J. SMITH, CHTD.
13 2470 St. Rose Parkway, #206
14 Henderson, Nevada 89074
Attorney for Defendant

15 MITCHELL STIPP
16 Mitchell Stipp, Esq.
17 LAW OFFICE OF MITCHELL STIPP
18 10120 W. Flamingo Rd., Suite 4-124
19 Las Vegas, Nevada 89147
Attorney for Defendant
MITCHELL STIPP

20
21
22 
23 An employee of VALARIE I. FUJII & ASSOCS.
24
25
26
27
28

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

Christina Calderon
Plaintiff/Petitioner

Mitchell Stipp
Defendant/Respondent

Case No. D-08-389203-Z
Dept. H/CR 3G@RTC

**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.

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

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

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

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

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

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

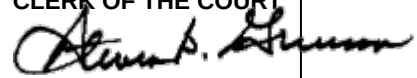
Party filing Motion/Opposition: Christina Calderon Date 01/14/20

Signature of Party or Preparer

Valanna F. [Signature]
attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

Electronically Filed
1/14/2020 1:13 PM
Steven D. Grierson
CLERK OF THE COURT



In the Matter of the Joint Petition for
Divorce of:
Mitchell David Stipp and Christina
Calderon Stipp

Case No.: D-08-389203-Z

Department H

NOTICE OF HEARING

Please be advised that the Plaintiff's Motion to Compel Defendant's Discovery Responses, Including Answers to Interrogatories and Responses to Requests for Production of Documents; Failure to Make NRCP 16.2 Disclosures and Productions; and for an Award of Attorney's Fees and Costs in the above-entitled matter is set for hearing as follows:

Date: February 28, 2020

Time: 1:00 PM

Location: Courtroom 15
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

AA000723