

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

ANTHONY JACOB MONAHAN
Appellant,

vs.

AMANDA KAITLYN HOGAN, F/K/A
AMANDA KAITLYN KING,
Respondent.

No. 82031

Electronically Filed
Nov 23 2020 01:19 p.m.

DOCKETING STATEMENT
CIVIL APPEALS
Elizabeth Brown
Clerk of Supreme Court

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Third Department 2
County Lyon Judge Honorable Leon Aberasturi
District Ct. Case No. 15-CV-00418

2. Attorney filing this docketing statement:

Attorney Nik C. Palmer Telephone (775)824-7070
Firm The Law Firm of Laub & Laub
Address 630 E. Plumb Lane, Reno, NV 89502

Client(s) Anthony Jacob Monahan

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Roderic A. Carucci, Esq. Telephone (775) 323-0400
Firm Carucci & Associates
Address 702 Plumas Street, Reno, NV 89509

Client(s) AMANDA KAITLYN HOGAN,

Attorney _____ Telephone _____

Firm _____

Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☒ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Monahan vs. Hogan, Case No. 78489 filed April 4, 2019.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is a relocation Matter. Mother filed a Motion to relocate to Virginia Beach, VA from Fallon, NV with the Parties minor child. Father opposed the Motion and Mother's move to Virginia Beach. The court held a hearing on September 15, 2020 and Mother's motion to relocate was granted by the Court. Plaintiff is appealing the court's Order allowing Mother to relocate.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The Court stated in its 9/15/2020 Order:

"The Court finds it is in the minor child's best interest to relocate with Mother to Virginia. The Court previously considered the best interest factors in its' November 20, 2019 Order which granted Mother primary physical custody of the minor child, and the relocation does not modify any prior best interest factor findings."

The court failed to address the best interest factors, which is required by 125C.007(1)(b). the court deferred to the best interest findings it had made in its 11/20/2019 order 10 months earlier. The Court also focused on the best interest of Mother's new child with her current husband not the child the Parties have in common.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

Assigned to the court of Appeals pursuant to NRAP 17(b)

14. Trial. If this action proceeded to trial, how many days did the trial last? 1

Was it a bench or jury trial? Bench

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from Oct 5, 2020

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served Oct 8, 2020

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ___, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Oct 28, 2020

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP4(a)(1)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) _____

(b) Explain how each authority provides a basis for appeal from the judgment or order:
This is a final Order granting Mother relocation with the minor child.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Anthony Monahan

Amanda Kaitlyn Hogan

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

None

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Anthony Monahan

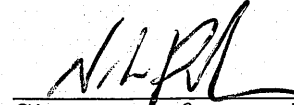
Name of appellant

Nik C. Palmer

Name of counsel of record

Nov 23, 2020

Date



Signature of counsel of record

Nevada, Washoe county

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 23rd day of November, 2020, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Roderic A. Carucci, Esq.
702 Plumas Street
Reno, NV 89502

Dated this 23rd day of November, 2020

M. Monahan

Signature

Case No. 15-CV-00418

Department: II

2015 APR 15 PM 4:12

The undersigned hereby affirms this document
does not contain a social security number.

COURT OF THE STATE OF NEVADA
THIRD JUDICIAL DISTRICT

Andrea Andersen

THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF LYON

Anthony Jacob Monahan
(Your name)

Petitioner,

PETITION TO ESTABLISH

vs

CUSTODY AND VISITATION

Amanda Katlynn King
(The other party's name)

Respondent.

Anthony Jacob Monahan
Petitioner, _____ (your name), acting in proper person, petitions
this Court for an Order judicially establishing custody and
visitation for the following minor children:

Child's Name	Child's Birthdate
<u>Makakai Jacob Monahan</u>	<u>July 18 2012</u>
_____	_____
_____	_____

Anthony Jacob Monahan
Petitioner, _____ states as follows:

I.

My present address is:

20 Spence Lane
Yerington NV 89447

1 I have lived at that address for: 1 (number) year.

2 Prior to living at my present address, I lived at:

3 404 Sandy ave Yerington NV 89447

4
5 I lived at that address for 1.5 (number) years.

7 **II.**

8 The child(ren) presently live at:

9 (mother's address unknown)

10
11 The child(ren) have lived at that address for 5 (number) months.

12 The child(ren) are presently living with Mother - Amanda King (State with whom the
13 children are presently living) and boyfriend Gilbert Beruman

14 Prior to the present address the child(ren) lived at:

15 unknown

16
17 And the child(ren) lived at that address for 8 (number) months

18 The child(ren) lived at the prior address with Mother - Amanda King (State with whom the
19 children lived at that address) and boyfriend Gilbert Beruman

20 **III.**

21 The other parent of the child(ren) is: Amanda Kablynn King (Name of the other parent)

22 That parent resides at:

23 unknown

24
25 The other parent has lived at that address for 5 (number) months

26 Prior to living at that present address, the other parent lived

27 at: unknown

The other parent lived at that address for 8 (number) months.

IV.

Select "YES" on the line in front of the statement that fits your circumstances.
Select "NO" on the line in front of the statement that does not fit your circumstances.

The paternity of the child(ren) has been established by:

Yes A voluntary acknowledgment of paternity was signed by both parents at the time of the child's birth and Father's name is on the birth certificate.

NO Paternity was established through a court proceeding in:

Name of Court _____

Address of Court _____

Date proceeding was held _____

Case Number of court proceeding _____

NO Through genetic testing, a copy of which is attached to this pleading.

NO The child(ren) have the Father's last name.

V.

Child Support
Select "YES" on each line in front of all of the statements that fit your circumstances and fill in the blanks regarding each of the "yes" answers.
Select "N/A" (not applicable) on each line in front of all of the statements that do not fit your circumstances.

N/A I am paying child support directly to the other parent in the amount of \$87.50 per week.

N/A I am paying child support through the District Attorney's Office in the amount of \$_____ per week.

N/A I am not paying child support.

1 N/A I am receiving child support directly from the other
parent in the amount of \$ 0 per week.

2 N/A I am receiving child support through the District
3 Attorney's Office in the amount of \$ 0 per week.

4 N/A Yes I am not receiving any child support.

5 N/A NO I am receiving welfare benefits for the child(ren).

6 N/A Yes The child(ren) is (are) on Medicaid.

7 N/A NO The child(ren) is (are) currently covered by health
8 insurance provided by Mother and the premiums are \$ _____
9 per week.

10 I wish this Court to enter an Order for child support as follows:
11 Judo Monahan Amanda King
_____ shall pay child support to _____ in the amount of \$ 250.00
12 per month, per child, for a total of \$ 250.00 per month, the
13 payment to be due on or before the 15th day of the month.

14
15
16 **Select "YES" on every line in front of the statement that fits your circumstances.**
17 **Select "NO" on those lines that are not applicable to your set of circumstances.**
18

19 This request is made based upon the following information:

20 NO The parent paying child support is unemployed and
21 therefore the child support should be set at the minimum
22 statutory requirement.

23 _____ The parent paying child support is employed and earns
24 \$ 1,600 per 2 weeks

25 NO The parent paying child support is capable of earning
26 \$ _____ per _____ but is currently unemployed and the child
support should be set at the minimum statutory amount
27 until employed and then the support should be reviewed.

28 NO The child support should be more than the statutory amount
because: _____

1 Yes The child support should be less than the statutory amount
2 because: I Jacob Monahan want joint legal
3 custody of the child Malakai Monahan

4 VI.

5 To my knowledge, the following custody and visitation orders have
6 been entered regarding the child(ren): NONE

7
8 **If any kind of custody or visitation orders have ever**
9 **been filed, including orders in Temporary Protective Orders,**
10 **regarding the child(ren), state the provisions of the orders.**
11 **If no orders have ever been filed type "NONE" in the space.**

12 Amenda King
13 Up to the present time, _____ has been the primary caretaker
14 and physical custodian of the child(ren).

15 I request that this Court enter a custody order granting the
16 following: 50/50 joint legal custody/visitation

17 **Select "YES" in the ONE space that describes the kind of custody**
18 **you want the court to order. Select "NO" in all the other spaces.**

19 Yes Joint legal and joint physical custody to the
20 Petitioner and the Respondent.

21 NO Joint Legal custody to the parties with primary
22 physical custody to the Petitioner.

23 NO Joint legal custody to the parties with primary
24 physical custody to the Respondent.

25 NO Other: _____

26 VIII.

1 Fully explain the type of contact both parents have had with the
2 child(ren), including physical contact, telephone contact, etc.

3 Mother has had contact with the child(ren) in the following
4 way: child lives with mother

5 Father had had contact with the child(ren) in the following
6 way: days mother works, father takes a day off
7 to see him until mother gets off work

8 **REGULAR WEEKLY/MONTHLY EXCHANGE AND VISITATION**

9 Visitation must be set out in specific detail, including a full
10 weekly or monthly schedule with the days the exchanges will take
11 place, the times of the exchanges, and who will provide
12 transportation. Without very specific visitation, an order will
13 not be granted. Terms such as "reasonable visitation" and
14 "visitation at reasonable times and places" will not be
15 accepted. If you are requesting supervised visitation, be very
16 specific as to who is going to act as supervisor.

17 I wish this Court to enter and Order for regular, specific,
18 weekly/monthly visitation and exchange of my child(ren) as
19 follows: every other week Monday through Sunday.

20 **HOLIDAY VISITATION**

21 You may add or subtract any holidays on the following list.
22 If you choose not to exchange the child(ren) on a specific holiday, type
23 "Not Applicable" in the spaces for that holiday. If no changes for the holidays are to be
24 made in the regular visitation schedule, state that clearly in the next paragraph and
25 type "Not Applicable" on the lines provided for the individual holidays.

26 The major holidays will be handled in the following manner:

27 (Name each specific holiday, such as Thanksgiving, Christmas, Easter, Passover,
28 Hanukkah) Thanksgiving, Christmas, Easter, all 50/50
holidays with alternating times.

29 Amanda King
30 New Year's Day will be alternated with _____ having the
31 child in the year 2016 and each other year thereafter.

32 Martin Luther King's Birthday will be alternated with
33 _____ having the child in the year _____ and each _____ year
34 thereafter. N/A

1 President's Day will be alternated with Amanda King having the
2 child in the year 2015 and each other year thereafter.

3 Memorial Day will be alternated with Amanda King having the
4 child in the year 2015 and each other year thereafter.

5 Fourth of July will be alternated with Jacob Monahan having the
6 child in the year 2015 and each other year thereafter.

7 Labor Day will be alternated with Jacob Monahan having the child
8 in the year 2015 and each other year thereafter.

9 Nevada Day will be alternated with Amanda King having the child
10 in the year 2015 and each other year thereafter.

11 Halloween will be alternated with Jacob Monahan having the child
12 in the year 2015 and each other or shared holiday year thereafter.

13 Veteran's Day will be alternated with shared holiday having the
14 child in the year _____ and each every year thereafter.

15 Child(ren)'s birthday will be alternated with both parents
16 having the child in the year _____ and each every year
17 thereafter.

18 Mother shall have the child on Mother's Day and Father shall
19 have the child on Father's Day.

20 Holidays not specifically time defined shall begin at 8:00
21 a.m. and end at 8:00 p.m. on that same day. The parent who has
22 the holiday will pick the child(ren) up and return the child(ren)
23 to the other parent at the end of the scheduled time.

24 Should a holiday fall on a three day weekend and it is the
25 other parent's weekend to have the child(ren), the three day
26 holiday will be handled as follows: Between the

27 Parents / split the weekend
28

Both parents

_____ shall have a block of time with the child(ren) for vacation purposes. That length of time for vacation period shall be 2 weeks Both parents shall notify the other parent, in writing, at least 2 (# of days or weeks) in advance of the choice of time.

WHEREFORE, Petitioner prays that this court enter an Order granting Petitioner's requests regarding custody, visitation and support as set forth above.

Date: 4/15/15

Judith Monahan
(Type Name)

[Signature]
(Signature)

20 Spence Lane Yerington
(Address) NV 89447

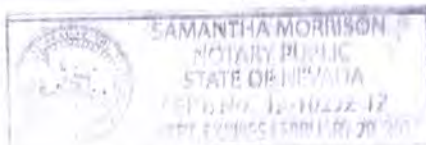
(Address)

775 315 1620
(Telephone)

SUBSCRIBED and SWORN to before me

This 15th day of April, 2015

Samantha Morrison
NOTARY PUBLIC



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

Anthony Jacob Monahan, being first duly sworn under penalties of perjury,
(Your name)

(Signature)

this 15th day of April, 2015.

On this _____ day of _____, _____, personally

_____, State of Nevada, _____,

NOTARY PUBLIC

FILED

2020 OCT -8 AM 10:40

TANYA SECURINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT.

Tanya Securine

1 CASE NO.: 15-CV-00418

2 DEPT. NO.: II

3 The undersigned hereby affirms this document
4 does not contain a social security number.

5
6
7
8 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
9 IN AND FOR THE COUNTY OF LYON

10
11 ANTHONY JACOB MONAHAN,

12 Plaintiff,

13 vs.

14 AMANDA KAITLYN HOGAN fka
15 AMANDA KAITLYN KING,

16 Defendant.

NOTICE OF ENTRY OF ORDER

17 To: Defendant, Anthony Monohan and his attorney of record Aaron Bushur, Esq.:

18 Please take notice that on October 5, 2020, this Honorable Court entered its "Order
19 After September 15 Hearing; Order Granting Motion to Relocate with Minor Child" in the
20 above captioned matter. A copy of the order is attached hereto as Exhibit 1.

21 DATED: October 7, 2020

22 Carucci and Associates
23 702 Plumas Street
24 Reno, Nevada 89509
25 (775) 323-0400

26 By:

Kelly A. VandeBurgt
Roderic A. Carucci, Esq.
Kelly A. VandeBurgt, Esq.
Attorneys for Amanda Hogan

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of Carucci & Associates and
3 on October 7, 2020, I served a true and correct copy of:

4 **Notice of Entry of Order**

5 by:

6 ☐ Placing an original or true copy thereof in a sealed envelope, postage prepaid for
7 collection and mailing in the United States Mail at Reno, Nevada

8 ☐ Personal Delivery

9 ☐ Facsimile to the following number: _____

10 ☒ Reno Carson Messenger Service

11 ☐ Certified Mail, Return Receipt Requested

12 ☐ E-Flex filing system

13 ☐ Electronic mail addressed to:

14 addressed to:

15 Aaron Bushur, Esq.
16 316 California Avenue #256
Reno, NV 89509


17
18 
19 Kelsi Bryant
Carucci and Associates

EXHIBIT A

EXHIBIT A

FILED

2020 OCT -5 AM 11:25

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Victoria Tovar DEPUTY

CASE NO.: 15-CV-00418

DEPT. NO.: 2

The undersigned hereby affirms this document
does not contain a social security number.

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LYON

ANTHONY JACOB MONAHAN,

Plaintiff,

vs.

AMANDA KAITLYN HOGAN fka
AMANDA KAITLYN KING,

Defendant.

ORDER AFTER SEPTEMBER 15, 2020

HEARING; ORDER GRANTING MOTION

TO RELOCATE WITH MINOR CHILD

The parties appeared before the Court on September 15, 2020, for a hearing on Defendant, Amanda Kaitlyn Hogan's ("Mother") Motion to Relocate, filed June 8, 2020. Plaintiff, Anthony Jacob Monahan ("Father"), was present and represented by counsel, Aaron Bushur, Esq. Defendant, Amanda Hogan, was present and represented by counsel, Roderic A. Carucci, Esq. of Carucci and Associates. The Court, having heard argument and testimony of the parties, having considered the pleadings and papers on file herein, and the Court being fully advised in the premises, now finds and orders as follows:

1 1. The Court has jurisdiction over the parties and the subject matter.

2 2. Nevada is the home state and habitual residence of the minor child.

3 3. The parties have one minor child the issue of their relationship: Malakai
4 Jaco Monahan, born July 18, 2012.

5 4. The Court's most recent custodial order was entered on November 20, 2019.
6 The parties share joint legal custody of the minor child. Mother has primary physical
7 custody of the minor child, subject to Father's custodial time.

8 Father presently exercises custody of Malakai for 10 continuous days each month
9 beginning on the first Friday of each month at approximately 5:00 p.m. and ending on the
10 second Monday morning thereafter, when school commences, or at approximately 5:00
11 p.m., if school is not in session.

12 5. Mother has been married to Brandon Hogan since August 28, 2018. Mr.
13 Hogan is a Lieutenant with the United States Navy on active duty. Mr. Hogan is
14 presently serving as a Top Gun flight instructor at the Fallon Naval Air Station. Mother
15 and Mr. Hogan reside in Fallon, Nevada, and Father resides in Yerington, Nevada.

16 6. Mother moved the Court for permission to relocate with the minor child
17 pursuant to NRS 125C.006 from Fallon, Nevada to Virginia Beach, Virginia on June 8,
18 2020. In her motion, Mother requested permission to relocate based upon Mr. Hogan's
19 reassignment to the United States Naval Base at Virginia Beach, Virginia beginning in
20 September, 2020.

21 7. Father filed an opposition to the motion on July 13, 2020, objecting to the
22 request to relocate.

23 8. The parties appeared for an evidentiary hearing on Mother's motion to
24 relocate on September 15, 2020. At that time, the Court received evidence and heard
25 testimony from the parties.

26 9. NRS 125C.007 provides statutory guidance to the Court regarding the factors
27 which must be considered in granting a petition to relocate. Having considered the factors
28 set forth in NRS 125C.007, the Court makes the following findings:

1 (1). In every instance of a petition for permission to relocate with a child
2 that is filed pursuant to NRS 125C.006 or 125C.0065, the relocating parent
must demonstrate to the court that:

3 (a) There exists a sensible, good-faith reason for the move, and the
4 move is not intended to deprive the non-relocating parent of his or her
parenting time;

5 The Court finds Mother has demonstrated a good-faith basis for
6 her request to relocate with the minor child. Mother's request is not
7 intended to deprive Father of his parenting time. Mother's Husband
8 is active duty military and has been reassigned to Virginia Beach,
9 Virginia.

10 (b) The best interests of the child are served by allowing the
11 relocating parent to relocate with the child; and

12 The Court finds it is in the minor child's best interest to
13 relocate with Mother to Virginia. The Court previously considered the
14 best interest factors in its' November 20, 2019 Order which granted
15 Mother primary physical custody of the minor child, and the relocation
16 does not modify any prior best interest factor findings. Mother's future
17 move based upon her Husband's reassignment was contemplated at
the time of the last custodial order.

18 (c) The child and the relocating parent will benefit from an actual
19 advantage as a result of the relocation.

20 The relocation will provide an improvement in the overall
21 quality of life for both the minor child and Mother. Mother testified
22 she researched the schools in Virginia and that the academic perfor-
23 mance is greater than the child's current school. The child will benefit
24 from greater educational opportunities in Virginia including access to
25 outside tutoring and other educational resources which are not readily
26 available to the child in Fallon. As Virginia Beach is a much larger
27 city, the child will also benefit from greater opportunities and
28 activities. Additionally, Mr. Hogan indicated he will receive a

1 promotion to the rank of Lieutenant Commander after the relocation
2 which will provide better economic opportunities for the minor child
3 and Mother. This increase in income will allow Mother the opportu-
4 nity to stay home with the minor child, and the child's half sibling. If
5 Mother is not permitted to relocate, her household will incur addi-
6 tional expenses for maintaining two households which is a disadvan-
7 tage to the child.

8 (2). If a relocating parent demonstrates to the court the provisions set forth
9 in subsection 1, the court must then weigh the following factors and the
10 impact of each on the child, the relocating parent and the non-relocating
11 parent, including, without limitation, the extent to which the compelling
12 interests of the child, the relocating parent and the non-relocating parent are
13 accommodated:

14 (a) The extent to which the relocation is likely to improve the
15 quality of life for the child and the relocating parent;

16 The relocation will improve the quality of life for both the minor
17 child and Mother. They will have better living accommodations, a
18 higher household income with Mr. Hogan's promotion and more
19 financial stability, educational advantages, and advantages associated
20 with residing in a much larger city.

21 (b) Whether the motives of the relocating parent are honorable and
22 not designed to frustrate or defeat any visitation rights accorded to
23 the non-relocating parent;

24 The Court finds Mother's request to relocate is honorable and
25 not designed to frustrate or defeat Father's visitation. Mother's
26 husband is active duty military and has been reassigned to duty in
27 another state. Mother's Husband's reassignment and the child's
28 possible relocation was contemplated at the last hearing.

(c) Whether the relocating parent will comply with any substitute
visitation orders issued by the court if permission to relocate is
granted;

There is no evidence that Mother would not comply with
supplemental orders regarding custody.

1 (d) Whether the motives of the non-relocating parent are honorable
2 in resisting the petition for permission to relocate or to what extent
3 any opposition to the petition for permission to relocate is intended to
secure a financial advantage in the form of ongoing support obligations or otherwise;

4 Father's motives in contesting the relocation are honorable and
5 the objection was filed in good faith. Father indicates he wishes to
6 maintain a relationship with the minor child.

7 (e) Whether there will be a realistic opportunity for the non-relo-
8 cating parent to maintain a visitation schedule that will adequately
9 foster and preserve the parental relationship between the child and
the non-relocating parent if permission to relocate is granted; and

10 While the relocation will have an impact upon Father's
11 relationship with the minor child, there are opportunities which will
12 allow Father to continue to maintain a relationship with the minor
13 child despite the relocation.

14 (f) Any other factor necessary to assist the court in determining
whether to grant permission to relocate.

15 This factor is not applicable.

16 10. After considering the evidence presented and the testimony of the parties,
17 and having weighed the above factors, the Court finds that Mother has met the threshold
18 requirements to grant the request to relocate with the minor child to the State of Virginia.
19 Relocation is in the minor child's best interest. Mother may relocate with the minor child
20 immediately.

21 11. Father shall have custodial time with the minor child during the child's
22 school breaks based upon the school calendar in the district in which the child will be
23 attending school.

24 A. Father shall have custody of the minor child the majority of the child's
25 summer break. Father's custodial time shall begin one week after the school year ends for
26 the summer and shall end one week before the new school year begins.

27 B. The parties shall equally share the child's Christmas Break from school. In
28 even numbered years, Father shall have the child for the second half of the break

(including the Christmas holiday), and Mother shall have the child for the first half of the break. In odd numbered years, Mother shall have the child for the second half of the break (including the Christmas holiday), and Father shall have the child for the first half of the break. Mother shall have Thanksgiving break in each year except 2020, when Father shall have the child from Wednesday before Thanksgiving, return on the following Sunday.

C. Father shall have custody of the minor child during the child's Spring Break each year.

D. Should Father choose to travel to Virginia Beach, Virginia where the minor child is residing, he shall be entitled to additional custodial time. Father shall provide at least 60 days advance notice of his intent to visit with the child in Virginia Beach. Notice shall be in writing. If Father travels to Virginia during a week day, the visit shall begin after school and end at 8:00 p.m. the same day. If Father travels to Virginia over the weekend, the visit shall begin at 8:00 a.m. and end at 10:00 p.m. the same day.

E. Father shall be solely responsible for the costs of air travel for the child for each visit. Father shall provide proof of purchase of plane tickets to Mother at least 30 days in advance of each visit or that visit will be forfeited. Father shall receive a downward deviation on his monthly child support obligation for the cost of travel. The Court will issue a separate order regarding child support which will address deviations for cost of travel.

F. The parties may modify the custodial schedule by mutual agreement in writing.

G. The non-custodial parent shall be entitled to communicate with the minor child telephonically during the child's reasonable waking hours. Mother shall provide a cell phone at her expense for the minor child on which Father may contact the child. The phone shall also be made available to the child at all times during Father's custodial time so that Mother may contact the child. The minor child shall be permitted to contact either parent at any time. Telephonic communication shall not be monitored by either parent

1 at any time.

2 H. Neither party shall disparage the other in the presence of the child, or allow
3 third parties to disparage the other parent in the presence of the child.

4 12. The parties shall continue to share joint legal custody of the minor child in
5 accordance with the prior order of this Court.

6 13. As Mother's husband is on active duty with the military and it is likely he
7 will be reassigned in the next few years, the parties expressly agreed on the record that
8 Mother may relocate with the minor child to any other location in the United States based
9 upon the reassignment. Mother shall provide Father with the appropriate advance notice,
10 but she is not required to obtain Father's permission before relocating. Should Father
11 object to the relocation, he may file a motion with the Court. Relocation outside of the
12 United States shall require either Father's written permission or permission from the
13 Court before relocation occurs. The parties stipulate that this Court shall retain exclusive
14 continuing jurisdiction over the minor child pursuant to the UCCJEA provided that
15 Father remains a resident of the State of Nevada.

16 14. Mother's request for an award of attorney's fees and costs based upon
17 allegations that Father wrongfully withheld consent to the relocation is denied. Each
18 party shall be responsible for their own attorney's fees and costs.

19 15. PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEAL-
20 MENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISH-
21 ABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359
22 provides that every person having a limited right of custody to a child or any parent
23 having no right of custody to the child who willfully detains, conceals or removes the child
24 from a parent, guardian or other person having lawful custody or a right of visitation of
25 the child in violation of an order of this court, or removes the child from the jurisdiction
26 of the court without the consent of either the court or all persons who have the right to
27 custody or visitation is subject to being punished for a category D felony as provided in
28 NRS 193.130.

16. The parties are hereby put on notice that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully detains a child in a foreign country.

IT IS SO ORDERED.

DATED this 2nd day of October, 2020.


DISTRICT JUDGE

CARUCCI AND ASSOCIATES
702 PLUMAS STREET RENO, NEVADA 89509
(775) 323-0400 FAX (775) 323-0466