

IN THE SUPREME COURT OF THE STATE OF NEVADA

MOHAMAD ALHULAIBI

Appellant,

vs.

AHED SAID SENJAB

Respondent.

Supreme Court No.: 82114

Supreme Court No.: 82121

Electronically Filed
Jun 23 2021 12:14 a.m.
District Court No.: D-20-606093-D
Elizabeth A. Brown
Clerk of Supreme Court

Appellant's Appendix – Volume II

Attorney for Appellant:

Marshal S. Willick, Esq.
Nevada Bar No. 2515
Richard L. Crane, Esq.,
Nevada Bar No. 9536
WILICK LAW GROUP
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
(702) 438-4100
Email: email@willicklawgroup.com

Attorneys for Respondent:

David Markman, Esq.
Nevada Bar No. 12440
Markman Law
4484 S. Pecos Rd, Ste. 130
Las Vegas, Nevada 89121
(702) 843-5899
Email: David@MarkmanLawfirm.com

APPENDIX INDEX

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1.	Statement of Legal Aid Representation and Fee Waiver (Pursuant to NRS 12.015)	3/24/2020	AA000001
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3.	Request for Issuance of Joint Preliminary Injunction	3/24/2020	AA000006
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5.	Joint Preliminary Injunction	3/26/2020	AA000008 - AA000009
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12.	Affidavit of Plaintiff in Support of Request for Summary Disposition of Decree of Divorce	4/15/2020	AA000030 - AA000031
13.	Plaintiff's Opposition to Defendant's Motion to Dismiss for Lack of Jurisdictional Requirements	4/24/2020	AA000032 - AA000045

14.	Exhibit in Support of Plaintiff's Opposition to Defendant's Motion to Dismiss for Lack of Jurisdictional Requirements	4/24/2020	AA000046 - AA000049
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19.	Confidential Exhibit of Plaintiff's Memorandum of Law in Opposition of Defendant's Motion to Dismiss	6/8/2020	AA000118 - AA000124
20.	Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Dismiss	6/8/2020	AA000125 - AA000145
21.	Exhibit in Support of Plaintiff's Memorandum of Law in Opposition of Defendant's Motion to Dismiss	6/8/2020	AA000146 - AA000211
22.	Defendant's Supplemental Briefing in Support of His Motion to Dismiss	6/8/2020	AA000212 - AA000218
23.	Confidential Exhibit in Support of Plaintiff's Memorandum of Law in Opposition of Defendant's Motion to Dismiss	6/11/2020	AA000219 - AA000225
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35.	Plaintiff's Opposition to "Mohamad Alhulaibi's Ex parte Petition/Motion for an Order Requiring Production of the Minor Child; For Issuance of a Warrant for the Pick-Up of the Minor Child; for an Order Preventing Abduction of the Minor Child Pursuant to NRS 125D; For a Return Order for the Minor Child to His Home Country of Saudi Arabia" and Plaintiff's Countermotion/Peititon for Abduction Prevention Measures, for Orders Prohibiting Removal of Child From Las vegas, for Court Safeguard of Child's Passport; For Limited Visitation by a Perpetrator of Domestic Violence; Stay of Order for Dismissal of Case; and for Attorney Fees and Costs.	7/1/2020	AA000293 - AA000321
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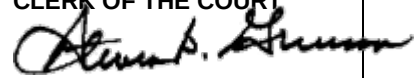
42.	Mohamad Alhulaibi's Reply in Support of Ex Parte Petition/Motion for an Order Requiring Production of the Minor Child; For Issuance of a Warrant for the Pick-Up of the Minor Child; for an Order Preventing Abduction of the Minor Child Pursuant to NRS 125D; For a Return Order for the Minor Child to His Home Country of Saudi Arabia and Mohamad's Motion to Strike Plaintiff's Supplement of Appellate Counsel Concerning the Pending Cross motions, NRS 125D Application, and Stay to Request on Appeal	7/28/2020	AA000415 - AA000440
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60.	Order Denying Relief	10/13/2020	AA000537 - 540
61.	Notice of Entry of Order Denying Relief	10/14/202	AA000541 - 545
62.	Certificate of Service	10/14/2020	AA000546
63.	Notice of Appeal	11/12/2020	AA000547 - 548
64.	Case Appeal Statement	11/12/2020	AA000549 - 553
65.	June 16, 2020 hearing Transcript	6/16/2020	AA000554- 578

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6 **DISTRICT COURT**
7 **FAMILY DIVISION**
8 **CLARK COUNTY, NEVADA**

9 ***

10 AHED SAID SENJAB,

11 Plaintiff,

12 vs.

13 MOHAMAD ABULHAKIM

14 ALHULAIBI,

15 Defendant.

CASE NO.: D-20-606093-D
DEPARTMENT H

16
17 **NOTICE OF ENTRY OF ORDER**

18 TO: ALL PARTIES AND/OR THEIR ATTORNEYS

19
20 Please take notice that the Findings of Fact, Conclusions of Law and Judgment
21 from the June 17, 2020 hearing was prepared and filed by the court. A copy of
22 the Findings of Fact, Conclusions of Law and Judgment is attached hereto, and
23 the following is a true and correct copy thereof.
24

25 I hereby certify that on or about the file stamp date the foregoing Notice of
26 Entry of Order was:
27
28

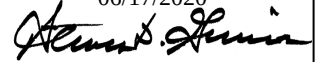
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☒ E-Served pursuant to NEFCR 9; or mailed, via first-class mail, postage
fully prepaid to:

April S. Green, Esq. for
PLAINTIFF

David Markman, Esq. for
DEFENDANT

Katrina Rausch
Katrina Rausch
Judicial Executive Assistant
Department H



CLERK OF THE COURT

1 FFCL
2
3
45 DISTRICT COURT
6 FAMILY DIVISION
7 CLARK COUNTY, NEVADA
8
9

10 AHED SAID SENJAB,

CASE NO. D-20-606093-D

11 Plaintiff,

DEPT NO. H

12 vs.

13 MOHAMAD ABULHAKIM

Date of Hearing: June 16, 2020

14 ALHULAIBI,

Time of Hearing: 9:00 a.m.

15 Defendant.
1617
18 **FINDINGS OF FACT, CONCLUSIONS OF LAW,**
19 **DECISION AND ORDER**20 This matter came on for hearing before Art Ritchie, District Court Judge,
21 Department H. Plaintiff was represented by her attorneys, Legal Aid Center of
22 Southern Nevada, and April S. Green, Esq. Defendant was represented by his
23 attorneys, Markman Law, and David Markman, Esq. This court considered the
24 papers and pleadings, the arguments of counsel, and for good cause stated in this
25 order, grants Mohamad Abulhakim Alhulaibi's motion to dismiss.
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1 **I. BACKGROUND**
2

3 This is a divorce case to dissolve a marriage between Ahed Said Senjab
4 and Mohamad Abulhakim Alhulaibi. Ms. Senjab and Mr. Alhulaibi are citizens
5 of Syria. They married in Saudi Arabia on February 17, 2018. The parties have
6 one minor child, Ryan Mohamad Alhulaibi, who was born on February 16, 2019.
7

8 Mohamad Abulhakim Alhulaibi obtained an F-1 Visa and came to the United
9 States to attend graduate school at UNLV in 2018. Mr. Alhulaibi alleged that
10 Ahed Said Senjab applied for an F-2 Visa in August, 2018, and that an F-2 Visa
11 was granted to her and the parties' child at the end of 2019. In December, 2019,
12 Mr. Alhulaibi returned to Saudi Arabia after the fall semester. Mr. Alhulaibi
13 alleged that he purchased round trip airline tickets on Turkish Airlines for
14 himself, Ahed Said Senjab, and the parties' child for travel to Nevada on January
15 13, 2020 with a return flight to Saudi Arabia on June 18, 2020.
16
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20 The parties and their child arrived in Las Vegas, Nevada, on January 13, 2020.
21 On February 14, 2020, Ahed Said Senjab filed an Application for Protective
22 Order, assigned Case No. T-20-203688-T. The Ex-Parte Application was
23 granted, and the matter was continued for consideration of an extension of the
24 order. The matter was heard on March 17, 2020 and on March 30, 2020. The
25 Hearing Master heard testimony from the parties and argument from counsel.
26
27
28

1 The court granted the request and extended the protective order until February 14,
2 2021. The Extended Protective Order was filed on March 30, 2020 and it
3 contains custody orders defining Ms. Senjab's physical custody time with Ryan
4 as Monday at 10:00 a.m. through Friday at 3:00 p.m., and Mr. Alhulaibi's
5 physical custody time with Ryan as Friday at 3:00 p.m. though Monday at 10:00
6 a.m.
7
8

9
10 Ahed Said Senjab filed a Complaint for Divorce on March 24, 2020. Ms.
11 Senjab seeks a divorce, child custody and support orders, and spousal support.
12 Mohamad Abulhakim Alhulaibi was served on March 25, 2020. Mr. Alhulaibi's
13 Motion to Dismiss was filed on April 14, 2020. Ms. Senjab filed her Opposition
14 on April 24, 2020 and Mr. Alhulaibi's Reply to Opposition was filed on May 13,
15 2020. Ms. Senjab filed Supplemental Exhibits on May 18, 2020 and on May 20,
16 2020.
17
18

19 The matter was heard on May 20, 2020. The parties appeared by telephone,
20 with counsel. Because of the timing of Plaintiff's filings, and because the court
21 requested additional briefing, the matter was continued to June 16, 2020.
22
23

24 Ahed Said Senjab filed a Memoranda of Law on June 8, 2020 and Mohamad
25 Abulhakim Alhulaibi filed a Supplemental Brief on June 8, 2020. On June 11,
26
27
28

1 2020, Ms. Senjab filed a third Supplemental Exhibit. The parties were present by
2 telephone and represented by counsel at the hearing on June 16, 2020.
3

4 **II. LEGAL STANDARD**

5
6 Subject matter jurisdiction is the power of the court to decide a particular
7 type of controversy. A party may file a motion asserting the defense of lack of
8 subject-matter jurisdiction pursuant to NRCP 12(b)(1). The court should dismiss
9 a case when a party fails to state a claim upon which relief can be granted. If a
10 court determines at any time that it lacks subject-matter jurisdiction, the court
11 must dismiss the action. NRCP 12(h)(3).
12
13

14 **III. FINDINGS AND CONCLUSIONS**

- 15 1. For this Nevada court to have subject matter jurisdiction to grant a
16 divorce, one of the parties must be a bona fide resident of the state of
17 Nevada.
18
- 19 2. NRS 125.020 (e) provides that the district court has jurisdiction to grant
20 a divorce if one of the parties has resided 6 weeks in the state before the
21 suit was brought.
22
- 23 3. Residence is synonymous with domicile. Physical presence, together
24 with intent, constitutes bona fide residence for divorce jurisdiction.
25
26 *Aldabe v. Aldabe*, 84 Nev 392, 441 P.2d 691 (1968).
27
28

- 1 4. Ahed Said Senjab has the burden to prove that she or Mohamad
2 Abulhakim Alhulaibi is a bona fide resident of the state of Nevada for
3 this court to grant a divorce.
4
- 5 5. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi have been
6 physically present in the state of Nevada for at least 6 weeks prior to the
7 filing of this divorce case.
8
- 9 6. This court finds that pursuant to state law, undocumented immigrants
10 who physically live in Nevada have been able to access Nevada courts
11 to obtain a divorce so long as they have been physically present in
12 Nevada, and so long as they establish a subjective intention to make
13 Nevada their home.
14
- 15 7. The Ninth Circuit Court of Appeals, in *Park v. Barr*, 946 F.3d 1096
16 (2020), held that federal law has preempted state law. The holding in
17 *Park*, bars nonimmigrants who come to the United States on a visa
18 issued pursuant to Title 8 of the United States Code from establishing
19 the subjective intent that is required to give this Nevada court subject
20 matter jurisdiction to grant a divorce.
21
- 22 8. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi are
23 nonimmigrants. Based on decisional law from the United States
24 Supreme Court, and the Ninth Circuit Court of Appeals, federal law will
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1 either allow or prohibit a nonimmigrant visa holder to establish
2 residency or domicile.

3
4 9. The Immigration and Nationality Act imposes limits on a state freedom
5 to define domicile. *Park v. Barr*, 946 F.3d 1096 (2020).

6
7 10. The federal law, prohibiting a nonimmigrant from establishing domicile,
8 continues even if a visa is overstayed. *Park v. Barr*, 946 F.3d 1096
9 (2020). In *Park*, Woul Park, a nonimmigrant, came to the United
10 States on a B-2 Visa, and stayed in the United States after the lawful
11 status had lapsed. The Ninth Circuit Court of Appeals held that Woul
12 Park was precluded from establishing lawful domicile in California by
13 operation of federal law.

14
15
16 11. The United States Supreme Court, in *Toll v. Moreno*, 458 US 1 (1982),
17 held that because Congress expressly allowed a nonimmigrant with a
18 G-4 visa to establish domicile to obtain in-state college tuition, state
19 law was precluded under the Supremacy Clause of the United States
20 Constitution.

21
22
23 12. Foreign students pursuing academic studies are classified as F-1.
24 Dependents of holders of an F-1 visa are classified as F-2 spouses or
25 dependents. The immigration status of an F-2 dependent is dependent
26 upon the F-1 student.

- 1 13. Under federal law, nonimmigrants that come to the United States
2 through F-1 and F-2 visas are required to maintain a residence in their
3 country of citizenship with no intention of abandoning it.
4
5 14. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi were permitted
6 to enter the United States on an express condition not to abandon the
7 foreign residence.
8
9 15. Congress has not permitted Ahed Said Senjab and Mohamad
10 Abulhakim Alhulaibi to lawfully form a subjective intent to remain in
11 the United States.
12
13 16. The Immigration and Nationality Act prevents Ahed Said Senjab and
14 Mohamad Abulhakim Alhulaibi from establishing the requisite intent to
15 remain in the United States/Nevada.
16
17 17. Congress expressly conditioned admission to the United States through
18 F-1 and F-2 visas on a stated intention not to abandon the foreign
19 residence.
20
21 18. Ahed Said Senjab's subjective intent to make Nevada her home is
22 precluded by Congress' definition of the nonimmigrant classification.
23
24 19. This court concludes that Nevada lacks subject matter jurisdiction to
25 grant a divorce.
26

27 /////

1 Therefore,

2 **ORDER**

3
4 **IT IS HEREBY ORDERED** that Mohamad Abulhakim Alhulaibi's
5 motion to dismiss is granted.
6

7 **IT IS FURTHER ORDERED** that this case is dismissed and closed with
8 the entry of this order.
9

10 Dated this 17th day of June, 2020

11 

12 03B A97 1706 ED86
13 T. Arthur Ritchie
14 DISTRICT COURT JUDGE
15 DEPARTMENT H
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DISTRICT COURT
CLARK COUNTY, NEVADA

Ahed Said Senjab, Plaintiff

CASE NO: D-20-606093-D

vs.

DEPT. NO. Department H

Mohamad Abulhakim Alhulaibi,
Defendant.

AUTOMATED CERTIFICATE OF SERVICE

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

Envelope ID: 6195153

Service Date: 6/17/2020

April Green, Esq.

asgreen@lacsns.org

Aileen Yeo

AYeo@lacsns.org

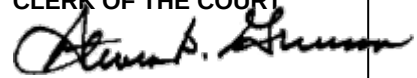
David Markman

David@MarkmanLawfirm.com

AA000246

27

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1 **RTPR**
2 **APRIL S. GREEN, ESQ.**
3 Nevada Bar No.: 8340C
4 **BARBARA E. BUCKLEY, ESQ.**
5 Nevada Bar No.: 3918
6 **LEGAL AID CENTER OF SOUTHERN NEVADA, INC.**
7 725 East Charleston Blvd.
8 Las Vegas, NV 89104
9 (702) 386-1415 Direct/Fax
10 (702) 386-1070 Ext. 1415
11 asgreen@lacsns.org
12 Attorneys for Plaintiff

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

AHED SAID SENJAB,	)	
	)	
Plaintiff,	)	Case No.: D-20-606093-D
	)	
vs.	)	Dept. No.: H
	)	
MOHAMAD ALHULAIBI,	)	
	)	
Defendant.	)	

REQUEST TRANSCRIPT OF PROCEEDINGS

Plaintiff requests preparation of a transcript of the proceedings before the district court,
as reflected in the attached Request for Transcript Estimate.

I hereby certify that on June 17, 2020, the attached Request for Transcript Estimate was
emailed to Transcript Video Services at videorequests@clarkcountycourts.us.

On June 18, 2020, an Estimated Cost of Transcript was received from Transcript Video
Services, attached hereto.

As Plaintiff is a client of a program for Legal Aid, all transcripts were requested

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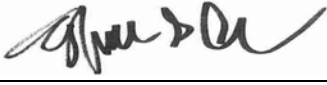
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1 pursuant to Nevada Revised Status, Section 12.015. Statement of Legal Aid Representation
2 attached.

3 Dated this 18th day of June, 2020.
4

5 **LEGAL AID CENTER OF SOUTHERN NEVADA,**
6 **INC.**

7
8 By: 

APRIL S. GREEN, ESQ.

Nevada Bar No.: 8340

BARBARA E. BUCKLEY, ESQ.

Nevada Bar No.: 3918

725 East Charleston Blvd.

Las Vegas, NV 89104

(702) 386-1415 Direct/Fax

(702) 386-1070 Ext. 1415

asgreen@lacsns.org

Attorneys for Plaintiff
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COPY

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

AHED SAID SENJAB,) CASE NO. D-20-606093-D
Plaintiff,) DEPT. H
vs.)
MOHAMAD ABULHAKIM ALHULAIBI,)
Defendant.)

ESTIMATED COST OF EXPEDITED TRANSCRIPT

The office of Transcript Video Services received a request for transcript estimate from April S. Green, Esq., on June 17, 2020, for the following proceedings in the above-captioned case:

JUNE 16, 2020

for original transcript and one copy.

The estimated cost of the transcript is \$205.00. Payment in the amount of \$205.00 must be paid directly to **VERBATIM REPORTING & TRANSCRIPTION** prior to work commencing on the transcript. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 18th day of June, 2020.

Sherry Justice
Sherry Justice, Transcriber II
Transcript Video Services

Transcript ESTIMATE amount of _____ Direct Pay Invoice # _____

Received this _____ day of _____, 2020.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.
ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.
COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

AA000249

29

29

1 **ORDR**
2 **APRIL S. GREEN, ESQ.**
3 Nevada Bar No.: 8340C
4 **BARBARA E. BUCKLEY, ESQ.**
5 Nevada Bar No.: 3918
6 **LEGAL AID CENTER OF SOUTHERN NEVADA, INC.**
7 725 East Charleston Blvd.
8 Las Vegas, NV 89104
9 (702) 386-1415 Direct/Fax
10 (702) 386-1070 Ext. 1415
11 asgreen@lacsnc.org
12 Attorneys for Plaintiff

13 **DISTRICT COURT**
14 **FAMILY DIVISION**
15 **CLARK COUNTY, NEVADA**

16 AHED SAID SENJAB,)
17)
18 Plaintiff,) Case No.: D-20-606093-D
19 vs.) Dept. No.: H
20)
21 MOHAMAD ALHULAIBI,)
22)
23 Defendant.)

24 **ORDER WAIVING COST OF TRANSCRIPT OF PROCEEDINGS**

25 Having read Plaintiff's Request for transcript of proceeding, and other good cause
26 appearing,

27 **IT IS HEREBY ORDERED** that pursuant to NRS 12.015(3) the Clerk of Court shall
28 allow the preparation of the transcript for the June 16, 2020 hearing without charge.

Dated this 18th day of June, 2020.

Dated this 18th day of June, 2020

29 
30 **DISTRICT COURT JUDGE**
31 D5A 702 BD08 FBC1
32 T. Arthur Ritchie

33 **LEGAL AID CENTER OF SOUTHERN**
34 **NEVADA, INC.**

35 By: 
36 **APRIL S. GREEN, ESQ.**
37 Nevada Bar No.: 8340C
38 **BARBARA E. BUCKLEY, ESQ.**
39 Nevada Bar No.: 3918
40 725 East Charleston Blvd.
41 Las Vegas, NV 89104

1 (702) 386-1415 Direct/Fax
2 (702) 386-1070 Ext. 1415
3 asgreen@lacsu.org
4 Attorneys for Defendant
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DISTRICT COURT
CLARK COUNTY, NEVADA

Ahed Said Senjab, Plaintiff

CASE NO: D-20-606093-D

vs.

DEPT. NO. Department H

Mohamad Abulhakim Alhulaibi,
Defendant.

AUTOMATED CERTIFICATE OF SERVICE

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

Envelope ID: 6199492

Service Date: 6/18/2020

April Green, Esq.

asgreen@lacsns.org

Aileen Yeo

AYeo@lacsns.org

David Markman

David@MarkmanLawfirm.com

AA000252

30

30

FILED

JUN 18 2020

Ann D. Robinson
CLERK OF COURT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

AHED SAID SENJAB,) CASE NO. D-20-606093-D
Plaintiff,) DEPT. H
vs.)
MOHAMAD ABULHAKIM ALHULAIBI,) **ERRATA**
Defendant.)
_____)

ESTIMATE OF TRANSCRIPT

The office of Transcript Video Services received a request for transcript estimate from April S. Green, Esq., on June 17, 2020, and received an order on June 18, 2020, signed by The Honorable T. Arthur Ritchie, Judge, that pursuant to NRS 12.015(3) the requested transcript is to be prepared without charge for the following proceedings in the above-captioned case:

JUNE 16, 2020

for original transcript and one copy.

The estimated cost of the transcript is \$205.00. Fees are waived.

DATED this 18th day of June, 2020.

Sherry Justice

SHERRY JUSTICE, Transcriber II
Transcript Video Services

Transcript ESTIMATE amount of \$ _____ Check# _____ CC _____ Cash _____ Clerk _____

Received this _____ day of _____, 2020.

This is only an **estimate**. Upon completion of transcript(s), a balance may be due, or you may receive a refund of your deposit if overpayment is greater than \$15.00.

NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

ITEMS LEFT BEYOND NINETY DAYS ARE SUBJECT TO DISPOSAL WITHOUT REFUND.

COUNTY RETENTION POLICY APPROVED BY INTERNAL AUDIT.

AA000253

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DISTRICT COURT
CLARK COUNTY, NEVADA

Divorce - Complaint

COURT MINUTES

June 22, 2020

D-20-606093-D Ahed Said Senjab, Plaintiff
vs.
Mohamad Abulhakim Alhulaibi, Defendant.

June 22, 2020 11:00 AM Minute Order

HEARD BY: Ritchie, T. Arthur, Jr. COURTROOM: RJC Courtroom 03G

COURT CLERK: Prock, Kathy

PARTIES PRESENT:

Ahed Said Senjab, Plaintiff, Not Present April S. Green, Attorney, Not Present

Mohamad Abulhakim Alhulaibi, Defendant, Not Present David Markman, Attorney, Not Present

Ryan Mohamad Alhulaibi, Subject Minor, Not Present

JOURNAL ENTRIES

For the reasons expressed in the FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER filed June 18, 2020, COURT ORDERED,

Mohamad Abulhakim Alhulaibi's Motion To Dismiss is GRANTED.

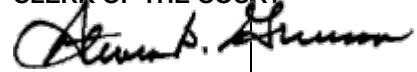
COURT FURTHER ORDERED, this case is DISMISSED and CLOSED with the entry of this Order.

INTERIM CONDITIONS:

FUTURE HEARINGS:

32

32



PET/MOT
DAVID MARKMAN, ESQ.
Nevada Bar No. 12440
MARKMAN LAW
4484 S. Pecos Rd Ste. 130
Las Vegas, Nevada 89121
Phone: (702) 843-5899
Fax: (702) 843-6010
Attorneys for Mohamad Alhulabi

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AHED SAID SENJAB

Plaintiff,

vs.

MOHAMAD ALHULAIBI

Defendants.

CASE NO.: D-20-606093-D

DEPT. NO.: H

ORAL ARGUMENT REQUESTED

**MOHAMAD ALHULAIBI'S EX PARTE PETITION/MOTION FOR AN ORDER
REQUIRING PRODUCTION OF THE MINOR CHILD; FOR THE ISSUANCE OF A
WARRANT FOR THE PICK-UP OF THE MINOR CHILD; FOR AN ORDER
PREVENTING ABDUCTION OF THE MINOR CHILD PURSUANT TO NRS 125D;
FOR A RETURN ORDER FOR THE MINOR CHILD TO HIS HOME COUNTRY OF
SAUDI ARABIA**

Defendant Mohamad Alhulaibi ("Mohamad") by and through his counsel of record MARKMAN LAW hereby submits this Ex Parte Petition/Motion For An Order Requiring Production Of The Minor Child; For The Issuance Of A Warrant For The Pick-Up Of The Minor Child; For An Order Preventing Abduction Of The Minor Child Pursuant To NRS 125d; and for a Return Order For The Minor Child To His Home Country Of Saudi Arabia.

This Motion is made and based upon the following Memorandum of Points and Authorities along with Exhibits and any oral argument the Court may consider.

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PLEASE TAKE NOTICE that the undersigned will bring the foregoing Petition/Motion on for hearing before the above-entitled Court on the ____ day of _____, 2020 at the hour of ____ o'clock ____m., of said date, in Department __ at the Family Court, 601 N. Pecos Road, Las Vegas, Nevada 89101.

MARKMAN LAW

MEMORANDUM OF POINTS AND AUTHORITIES

On March 24, 2020, Ahed Senjab (“Plaintiff” or “Ahed”) filed a complaint for Divorce. Thereafter, Mohamad filed a motion to dismiss based on lack of subject matter jurisdiction. After briefing including supplemental briefing this Court granted Mohamad’s motion to dismiss based on lack of subject matter jurisdiction.

2

1 order for the minor child to his home state of Saudi Arabia. Mohamad is not submitting himself
2 to the jurisdiction of this Court by way of this requested relief, which is based upon the Court's
3 temporary emergency jurisdiction to deal with the very real possibility of Ahed's further
4 abduction. This Court as it has already ruled lacks jurisdiction over the parties marriage,
5 including the issue of child custody.¹

6 **I. FACTS**

7 Mohamad and Plaintiff are both citizens of Syria. Mohamad and Plaintiff were married on
8 February 17th, 2018 in the Country of Saudi Arabia. Mohamad and Plaintiff have one son
9 together, Ryan Mohamad Alhulaibi ("Minor Child"), born in Saudi Arabia on February 16,
10 2019. The minor child is not a citizen of the United States.

11 On March 24, 2020, Ahed Senjab ("Plaintiff" or "Ahed") filed a complaint for Divorce.
12 Thereafter, Mohamad filed a motion to dismiss based on lack of subject matter jurisdiction.
13 After briefing including supplemental briefing this Court granted Mohamad's Motion to
14 Dismiss based on lack of subject matter jurisdiction. Please see attached as **Exhibit 1**, a true
15 and correct copy of this Court's Order dismissing the divorce complaint for lack of subject
16 matter jurisdiction. Mohamad further incorporates all findings of fact and conclusions of law
17 from this Court's June 17, 2020 Order.

18
19 After this Court granted Mohamad's motion to dismiss, Ahed has deprived Mohamad from
20 seeing the Minor Child. Mohamad has no way to contact Ahed regarding the well being and
21 safety of the minor child. Mohamad's counsel received an email from Ahed's counsel on June
22 19, 2020, at 1:30pm, only an hour and a half before Mohamad's time to pick up the minor child,
23

24
25 ¹ See NRS 125D.160(2); NRS 125.470(2); NRS 125A.335(1). The uniform acts go along way toward avoiding a
26 "Catch-22" by providing limited immunity- a party participating in a UCCJEA proceeding has immunity from both
accidental appearance and from service of civil process while litigation the proceedings or while physically present
to participate in them. NRS 125A.265. This immunity provision covers a party to a child custody proceeding."

1 that Ahed would not be bringing the minor child as the shelter Ahed was staying at was on
2 lockdown due to the virus. Please see attached as **Exhibit 2**, a true and correct copy of
3 Correspondence between Counsel for Ahed and Mohamad regarding the quarantine and the
4 pick-up of the minor child, the email thread relevant to this Petition starts after the first email.
5 Thereafter, Mohamad's counsel reiterated that an order was still in place for the exchange of
6 the minor child and further inquired about the lockdown. Id. After which, Ahed's counsel
7 confirmed that Ahed was in lockdown and that Ahed's Counsel confirmed with the shelter
8 personnel that there was a lockdown. Id. During the week following the initial email-exchange,
9 Mohamad's counsel followed up with Ahed's counsel regarding the quarantine. Ahed's counsel
10 continued to confirm that Ahed was still in quarantine. Id.

12 On June 26, 2020, Mohamad's counsel sent a follow up email to Ahed's Counsel, regarding
13 picking up the minor child, at which point Ahed's counsel stated that the Minor Child is in
14 quarantine as well. Id. Subsequently, Mohamad's counsel asked to be provided with medical
15 records for the Minor Child as Mohamad is worried about the health and safety of the Minor
16 Child. Id. At which point Ahed's counsel responded that she has not heard that either of them
17 have the virus and that they may be on lockdown for other reasons. Id. Mohamad's counsel
18 responded to the email within three minutes seeking clarification of the lockdown, as of the
19 time of the filing of this motion he has not received a response. Id.

21 Mohamad has called the Las Vegas Metropolitan Department ("LVMPD") on each
22 weekend that he was deprived of his court ordered right to physical custody of the minor child.
23 Attached as **Exhibit 3** are true and correct copies of all documents related to Mohamad's contact
24 with Las Vegas Metropolitan Department seeking assistance with enforcing the Court order.
25

A. The Court Should Detain Ahd until the Minor Child is Produced

As this Court is aware from Mohamad's Motion to Dismiss, Ahd has very few ties to the United States, this is her first time in the Country, she has a brother in law that lives in the State of Maryland. The remainder of her family resides in Saudi Arabia, indeed, she has already violated the terms of her F-2 Visa, and is not even legally able to remain in the United States. It is entirely possible that should Ahd leave this jurisdiction, she will find a way to go underground and Mohamad will never see his son again.

NRS 125D.190 give the Court authority to use whatever measure are necessary to recover the child including but not limited to, as detailed in 125D.190(5):

- (a) Issue a warrant to take physical custody of the child pursuant to NRS 125D.200 or the law of this State other than this chapter;
- (b) Direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination pursuant to the provisions of this chapter or the law of this State other than this chapter; or
- (c) Grant any other relief allowed pursuant to the law of this State other than this chapter.

This Court has the authority to have Ahd detained, brought before the Court and ordered to produce the child. This is exactly what the Court needs to do in this situation. Any future determination of custody can and should be left for the child's home state and habitual residence i.e. Saudi Arabia.

Accordingly, in compliance with NRS 125D.170, Mohamad hereby petitions the Court to exercise its power to prevent the abduction of the minor child. The following is provided as required by statute:

1. The minor child is Ryan Mohamad Alhulaibi, born February 19, 2019, in Saudi Arabia.

2. It is believed that the child is currently in Las Vegas. The exact location of the child's residence is unknown; however, Mohamad believes the child is residing at the Safe Nest Shelter.

3. Ahed Said Senjab, the natural mother of the child, is believed to be currently residing in Las Vegas, current residence unknown but believed to be Safe Nest Shelter.

4. An Extended Order for Protection Against Domestic Violence was granted against Mohamad in T-20-203688-T. Mohamad, vehemently denies the allegations in the Protection Order. The Court issuing the Protection Order still granted Mohamad visitation with the Minor Child from Friday 3:00pm until Monday at 10:00am, which Ahed is directly violating. Mohamad is filing a Motion to Dissolve the Protection Order concurrently with this instant Petition or soon hereafter, based in part on documentary evidence Mohamad has been able to gather during the pendency of the Motion to Dismiss and Ahed's direct violation of the Protection Order.

5. No party to this action has been arrested for any crimes.

6. The Minor Child is currently 1.5 years old and prior to his time in the United States beginning January 13, 2020, which was only supposed to be temporary with all parties to return to Saudi Arabia on June 18, 2020, he has lived his entire life in Saudi Arabia.

In accordance with NRS 125D.180(1) , the Court is to look at the following facts when determining if there is a credible risk of abduction of the child:

a) ***Has previously abducted or attempted to abduct the child.*** Ahed is only here on a temporary visa (F-2 Visa, dependent of Mohamad), in which she has already violated the conditions set in the Visa. She is currently withholding the child from Mohamad and her actual whereabouts are unknown. Ahed has very few ties to the United States, and has no intention of fostering a continuing relationship between Mohamad and the Minor Child.

1 **b) Has threatened to abduct the child.** As Ahed is only here on a temporary basis and has
2 now absconded with the child, after an earlier attempt to abscond with the child to the State of
3 Maryland, it is clear that she presents a significant risk of abduction. As Ahed has been living in
4 a shelter for almost five months, if she absconds with the child it may be impossible to locate her
5 based on her ability and willingness to live in a shelter for extended periods of time.

6 **c) Has recently engaged in activities that may indicate a planned abduction, including:**

7 **(1) Abandoning employment:** Upon information and belief, Ahed does not work.

8 **(2) Selling a primary residence:** Ahed does not own a residence and is believed to be living
9 in a shelter. Making it easy for her to pick up and leave.

10 **(3) Terminating a lease:** Ahed is not believed to have a lease and is believed to be living in
11 a shelter. Making it easy for her to pick up and leave.

12 **(4) Closing bank or other financial management accounts, liquidating assets or destroying**
13 **financial documents, or conducting any unusual financial activities:** We are unaware of this at
14 this time. Ahed may be receiving financial resources from her family but otherwise unaware how
15 Ahed has any financial resources. Ahed has no email, telephone or any other means for her to
16 communicate regarding the well being of the child to Mohamad.

17 **(5) Applying for passport or visa or obtaining travel documents for the respondent, a family**
18 **member or the child:** Ahed has her passport but is not believed to have any travel documents for
19 the Minor Child, but upon information and belief Ahed has applied for some form of asylum in
20 the United States for herself and the Minor Child. Therefore, Ahed may have applied for other
21 travel related documents for the Minor Child but Mohamad is unaware of any such documents.

22 **(6) Seeking to obtain the child's birth certificate or school or medical record:** Mohamad is
23 unaware of Ahed obtaining any of these records. Ryan is allegedly in quarantine but no medical
24 records have been produced to Mohamad.

1 **d) Has engaged in domestic violence, stalking, or child abuse or neglect:** Other than
2 kidnapping the minor child, which is certainly a form of abuse and/or neglect, Ahed may have
3 medically neglected the child as this is the second time within the last four months, that the Minor
4 child was hospitalized and/or quarantined while in Ahed's care. Mohamad is currently without
5 knowledge of the Minor Child's health other than the representations from Ahed's counsel that
6 the Minor Child is quarantined.

7 **e) Has refused to follow a child custody determination:** Ever since this Court granted
8 Mohamad's Motion to Dismiss, Ahed has refused to follow the child custody determination in
9 the Protection Order in case T-20-203688-T. Which granted Mohamad custody with the minor
10 child from Friday at 3:00pm until Monday at 10:00am. Please see **Exhibit 3**.

11 **f. Lacks strong familial, financial, emotional, or cultural ties to the State or the United**
12 **States:** Ahed has limited familial and emotional ties to the United States. Ahed's first time in the
13 United States was when she arrived in January, as a dependent to Mohamad's student visa.
14 Ahed's only known family is a brother in law that resides in the State of Maryland. Ahed is no
15 longer allowed to be legally present in this country. Ahed has no financial ties to the United
16 States.

17 **g. Has strong familial, financial, emotional, or cultural ties to another State or country:**
18 Ahed is a citizen of Syria. Ahed prior to arriving in America was residing in Saudi Arabia with
19 strong familial, financial, emotional, and cultural ties as that is where her family lives including
20 her parents and siblings. Ahed's family has significant financial resources in Saudi Arabia.

21 **h. Is likely to take the child to a country that:**

22 **(1) Is not a party to the Hague Convention on the Civil Aspects of**
23 **International Child Abduction and does not provide for the extradition of an**
24 **abducting parent or for the return of an abducted child.** Not applicable.

25 **(2) Is a party to the Hague Convention on the Civil Aspects of International**
26 **Child Abduction but:**

27 **(I) The Hague Convention on the Civil Aspects of International Child**
Abduction is not in force between the United States and that country: Not Applicable.

1 (II) *Is noncompliant according to the most recent compliance report*
2 *issued by the United States Department of State.* Not Applicable

3 (III) *Lacks legal mechanisms for immediately and effectively enforcing*
4 *a return order pursuant to the Hague Convention on the Civil Aspects of*
5 *International Child Abduction.* Not Applicable.

6 (3) *Poses a risk that the child's physical or emotional health or safety would*
7 *be endangered in the country because of specific circumstances relating to the child*
8 *or because of human rights violations committed against children.* Not Applicable.

9 (4) *Has laws or practices that would:*

10 (I) *Enable the respondent, without due cause, to prevent the petitioner*
11 *from contacting the child.* Not Applicable.

12 (II) *Restrict the petitioner from freely traveling to or exiting from the*
13 *country because of the petitioner's gender, sexual orientation, gender identity or*
14 *expression, nationality, marital status or religion.* Not Applicable.

15 (III) *Restrict the child's ability legally to leave the country after the child*
16 *reaches the age of majority because of the child's gender, sexual orientation, gender*
17 *identity or expression, nationality or religion.* Unaware of any restrictions that apply
18 to this situation.

19 (5) *Is included by the United States Department of State on a current list of*
20 *state sponsors of terrorism;* Not Applicable.

21 (6) *Does not have an official United States diplomatic presence in the*
22 *country.* The United States has a diplomatic presence in the Country.

23 (7) *Is engaged in active military action or war, including a civil war, to which*
24 *the child may be exposed:* Not Applicable.

25 i. *Is undergoing a change in immigration or citizenship status that would adversely affect*
26 *the Respondent's ability to remain in the United States legally.* As noted, the parties were only
27 in the United States on a student visa. Based on Mohamad's current understanding Ahed is now
here illegally.

 j. *Has had an application for United States citizenship denied.* Not Applicable.

 k. *Has forged or presented misleading or false evidence on government forms or*
supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a
social security card, a driver's license, or other government-issued identification card or has
made misrepresentation to the United States Government. Mohamad vehemently denies Ahed's
claims of physical violence. Ahed has provided false evidence regarding allegations of threatened
physical abuse or actual physical abuse. Mohamad, believes that Ahed has submitted false
evidence to the U.S. Government regarding physical violence in an attempt to gain permanent
status in the United States.

 l. *Has used multiple names to attempt to mislead or defraud.* Not applicable to our
knowledge.

 m. *Has engaged in any other conduct the court considers relevant to the risk of abduction.*
Ahed has no phone, email, or contact information so that Mohamad may check on the wellbeing

1 of the Minor Child. Ahed has previously prevented Mohamad from seeing the child while the
2 Minor Child was in the hospital. Ahed and/or her attorney waited until shortly before Mohamad's
3 time to pick up the Minor Child to inform Mohamad that she was not bringing the Minor Child
4 to the Court ordered drop off. Ahed has taken Mohamad's sim card chip which can be used to
5 obtain government documents in Saudi Arabia. Mohamad believes Ahed's family is
6 orchestrating the unfounded abuse allegations based on their desire to use Ahed to obtain
7 residence in the United States. That Ahed never made any allegations of abuse until after
8 Mohamad informed her they were not staying in the United States after he completed his
9 education.

10 There is a credible and likely risk that Ahed will abscond with the Minor Child. She has
11 already prevented Mohamad from seeing the Minor Child even though she knows there is a Court
12 Order to provide the Minor Child to Mohamad every Friday. Ahed has concealed the
13 whereabouts of the Minor Child and prevented Mohamad from receiving any information about
14 the Minor Child's wellbeing or medical issues. Ahed has previously attempted to leave Nevada
15 with the child to go to the State of Maryland with the Minor Child before being admonished
16 against leaving the state by LVMPD.

17 **B. The Court should issue a warrant for the Pick-up of the Minor Child**

18 The Court after review of this *Ex Parte Petition*, can grant an immediate warrant to take
19 physical custody of the child as long as the Court determinations pose a credible risk that the
20 child is imminently likely to be wrongfully removed. See NRS 125D.200.

21 Mohamad believes that Ahed will abscond with the Minor Child if the Court does not
22 intervene – where she goes would be anyone's guess. Based on her recent conduct and their being
23 no contact with Mohamad, it is safe to say that she does not want Mohamad to have any contact
24 with their son and that she will do everything in her power to interfere with his relationship by
25 concealing her whereabouts and withholding the minor child from Mohamad in spite of the child
26 custody determination.

27 Accordingly, Mohamad requests this Court issue an Ex Parte warrant for the immediate
recovery of his son until the Court has a chance to hear this matter without the imminent threat
of further abduction pending. Mohamad believes that after the Court hears from him and Ahed,

the child's passport should be held and the child should be returned to Saudi Arabia, his home state and habitual residence for a determination of his custodial arrangements on the merits, performed by the court with jurisdiction to do so under the UCCJEA.

C. A Return Order Should Issue Ordering the Minor Child to be Returned to His Habitual Residence of Saudi Arabia as it is in the Minor Child's Best Interest to Have This Matter heard in the Country of his Habitual Residence

This Court should issue a return order or a substantially similar order so that Mohamad can return to Saudi Arabia with his minor child. [T]he Supreme Court of the United States has indicated that the Hague Convention "is based on the principle that the best interests of the child are well served when decisions regarding custody rights are made in the country of habitual residence." Cook v. Arimitsu, No. A19-1235, 2020 WL 1983223, at *3 (Minn. Ct. App. Apr. 27, 2020); *citing* Abbott v. Abbott, 560 U.S. 1, 20, 130 S. Ct. 1983, 1995 (2010); *see also* Monasky, 140 S. Ct. at 723 (recognizing that the "core premise" of the Hague Convention is that the children's best interests are generally "best served when custody decisions are made in the child's country of habitual residence").

A child wrongfully removed from her country of "habitual residence" ordinarily must be returned to that country. Monasky v. Taglieri, 140 S. Ct. 719 (2020). The Convention ordinarily requires the **prompt** return of a child wrongfully removed or **retained** away from the country in which she habitually resides. (*emphasis added*) Monasky v. Taglieri, 140 S. Ct. 719, 723 (2020); *citing* Art. 12, Treaty Doc., at 9 (cross-referencing Art. 3, *id.*, at 7); *see also* Chafin v. Chafin, 568 U.S. 165, 180, 133 S. Ct. 1017, 1028, 185 L. Ed. 2d 1 (2013) (The Hague Convention mandates the prompt return of children to their countries of habitual residence.) When a Court does not order the prompt return of a child, the child loses precious months in which the child could have been readjusting to life in her country of habitual residence. *See* Chafin 568 U.S. at 178. Even when a country is not a party to the Hague convention, the court can properly order the return of a minor child. *See* Ogawa v. Ogawa, 125 Nev. 660, 670–71, 221 P.3d 699, 706 (2009); *see also* Davis v. Ewalefo, 131 Nev. 445, 454, 352 P.3d 1139, 1145 (2015)(courts have

“decline[d] to adopt a bright-line rule prohibiting out-of-country visitation by a parent whose country has not adopted the Hague Convention or executed an extradition treaty with the United States.”); *see also* Long v. Ardestani, 241 Wis.2d 498, 624 N.W.2d 405, 417 (Wis.Ct.App.2001) (finding no cases that “even hint” at a rule that provides, “as a matter of law that a parent ... may not take a child to a country that is not a signatory to the Hague Convention if the other parent objects”).

Here, the minor child is being wrongfully retained in the United States and is being prevented from returning to his country of habitual residence and those precious months in which the minor could be readjusting to life in his habitual residence are being lost while the minor child is shuffled back and forth between his father’s apartment and a shelter. This court should order the immediate return of the minor child to Saudi Arabia.

III. CONCLUSION

Based on the above, Mohamad respectfully requests this Court enter the following findings and orders:

1) Finding that Ahed has wrongfully retained the child in the State of Nevada and that there is a credible risk that Ahed will flee the State or the country and never return with the minor child;

2) Immediately prevent Ahed from leaving the State or the country with the child by detaining Ahed until she produces the Minor Child, ordering the turnover of the any documentation she is in possession of related to the Minor Child’s travel, and by issuing an Ex Parte Warrant for Mohamad to take physical custody of the minor child;

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1 3) Set a date for both parties to be heard on this matter in accordance with NRS
2 125D.200(2), or the next judicial day after issuance of the Warrant.

3 4) For a return order of the minor child to Saudi Arabia;

4 5) For any relief that this Court deems just and proper.
5

6 Dated this 29th day of June, 2020.

7 MARKMAN LAW

8
9 By: /s/ DAVID MARKMAN

10 DAVID MARKMAN, ESQ.

11 Nevada Bar No. 12440

12 4484 S. Pecos Rd. #130

13 Las Vegas, Nevada 89121

14 (702) 843-5899

15 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of MARKMAN LAW, and that on this 29th day of June 2020, I caused the foregoing document entitled Mohamad Alhulaibi's Ex Parte Petition/Motion For An Order Requiring Production Of The Minor Child; For The Issuance Of A Warrant For The Pick-Up Of The Minor Child; For An Order Preventing Abduction Of The Minor Child Pursuant To NRS 125d; and for a Return Order For The Minor Child To His Home Country Of Saudi Arabia.

, to be served as follows:

- ☒ [X] pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ [] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ [] pursuant to EDCR 7.26, to be sent via **facsimile**, by duly executed consent for service by electronic means;
- ☐ [] sent out for hand-delivery via Receipt of Copy.

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

APRIL GREEN, ESQ.
Nevada Bar 8340C
BARBARA BUCKLEY
Nevada Bar No. 3918
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 E. Charleston Blvd.
Las Vegas, NV 89104
asgreen@lacsno.org

/s/ David Markman
David Markman, Esq.

DECLARATION OF MOHAMAD ALHULAIBI

1. I, Mohamad Alhulaibi, do solemnly swear to testify herein to the truth, the whole truth and nothing but the truth.
2. That I am the Defendant in the above-entitled action.
3. That I am above the age of majority and am competent to testify to the facts contained in this declaration.
4. That I make this declaration in support of the foregoing Petition/Motion.
5. That the Exhibits attached to the Petition/Motion attached as Exhibits 1-3 are true and accurate copies of said documents.
6. That I have read said Petition/Motion and hereby certify that the facts set forth in the Points and Authorities attached thereto are true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters, I believe them to be true. I incorporate said facts into this declaration as though fully set forth herein.

Dated this 29 day of June, 2020



Mohamad Alhulaibi

EXHIBIT 1

EXHIBIT 1

1 FFCL
2
3
4

5 DISTRICT COURT
6 FAMILY DIVISION
7 CLARK COUNTY, NEVADA
8
9

10 AHED SAID SENJAB,
11 Plaintiff,

CASE NO. D-20-606093-D
DEPT NO. H

12 vs.

13 MOHAMAD ABULHAKIM
14 ALHULAIBI,
15 Defendant.

Date of Hearing: June 16, 2020
Time of Hearing: 9:00 a.m.

16
17
18 **FINDINGS OF FACT, CONCLUSIONS OF LAW,**
19 **DECISION AND ORDER**

20 This matter came on for hearing before Art Ritchie, District Court Judge,
21 Department H. Plaintiff was represented by her attorneys, Legal Aid Center of
22 Southern Nevada, and April S. Green, Esq. Defendant was represented by his
23 attorneys, Markman Law, and David Markman, Esq. This court considered the
24 papers and pleadings, the arguments of counsel, and for good cause stated in this
25 order, grants Mohamad Abulhakim Alhulaibi's motion to dismiss.
26
27

1 **I. BACKGROUND**
2

3 This is a divorce case to dissolve a marriage between Ahed Said Senjab
4 and Mohamad Abulhakim Alhulaibi. Ms. Senjab and Mr. Alhulaibi are citizens
5 of Syria. They married in Saudi Arabia on February 17, 2018. The parties have
6 one minor child, Ryan Mohamad Alhulaibi, who was born on February 16, 2019.
7

8 Mohamad Abulhakim Alhulaibi obtained an F-1 Visa and came to the United
9 States to attend graduate school at UNLV in 2018. Mr. Alhulaibi alleged that
10 Ahed Said Senjab applied for an F-2 Visa in August, 2018, and that an F-2 Visa
11 was granted to her and the parties' child at the end of 2019. In December, 2019,
12 Mr. Alhulaibi returned to Saudi Arabia after the fall semester. Mr. Alhulaibi
13 alleged that he purchased round trip airline tickets on Turkish Airlines for
14 himself, Ahed Said Senjab, and the parties' child for travel to Nevada on January
15 13, 2020 with a return flight to Saudi Arabia on June 18, 2020.
16
17
18
19

20 The parties and their child arrived in Las Vegas, Nevada, on January 13, 2020.
21 On February 14, 2020, Ahed Said Senjab filed an Application for Protective
22 Order, assigned Case No. T-20-203688-T. The Ex-Parte Application was
23 granted, and the matter was continued for consideration of an extension of the
24 order. The matter was heard on March 17, 2020 and on March 30, 2020. The
25 Hearing Master heard testimony from the parties and argument from counsel.
26
27
28

1 The court granted the request and extended the protective order until February 14,
2 2021. The Extended Protective Order was filed on March 30, 2020 and it
3 contains custody orders defining Ms. Senjab's physical custody time with Ryan
4 as Monday at 10:00 a.m. through Friday at 3:00 p.m., and Mr. Alhulaibi's
5 physical custody time with Ryan as Friday at 3:00 p.m. though Monday at 10:00
6 a.m.
7
8

9
10 Ahed Said Senjab filed a Complaint for Divorce on March 24, 2020. Ms.
11 Senjab seeks a divorce, child custody and support orders, and spousal support.
12 Mohamad Abulhakim Alhulaibi was served on March 25, 2020. Mr. Alhulaibi's
13 Motion to Dismiss was filed on April 14, 2020. Ms. Senjab filed her Opposition
14 on April 24, 2020 and Mr. Alhulaibi's Reply to Opposition was filed on May 13,
15 2020. Ms. Senjab filed Supplemental Exhibits on May 18, 2020 and on May 20,
16 2020.
17
18

19 The matter was heard on May 20, 2020. The parties appeared by telephone,
20 with counsel. Because of the timing of Plaintiff's filings, and because the court
21 requested additional briefing, the matter was continued to June 16, 2020.
22
23

24 Ahed Said Senjab filed a Memoranda of Law on June 8, 2020 and Mohamad
25 Abulhakim Alhulaibi filed a Supplemental Brief on June 8, 2020. On June 11,
26
27
28

1 2020, Ms. Senjab filed a third Supplemental Exhibit. The parties were present by
2 telephone and represented by counsel at the hearing on June 16, 2020.
3

4 **II. LEGAL STANDARD**

5
6 Subject matter jurisdiction is the power of the court to decide a particular
7 type of controversy. A party may file a motion asserting the defense of lack of
8 subject-matter jurisdiction pursuant to NRCP 12(b)(1). The court should dismiss
9 a case when a party fails to state a claim upon which relief can be granted. If a
10 court determines at any time that it lacks subject-matter jurisdiction, the court
11 must dismiss the action. NRCP 12(h)(3).
12
13

14 **III. FINDINGS AND CONCLUSIONS**

- 15 1. For this Nevada court to have subject matter jurisdiction to grant a
16 divorce, one of the parties must be a bona fide resident of the state of
17 Nevada.
18
- 19 2. NRS 125.020 (e) provides that the district court has jurisdiction to grant
20 a divorce if one of the parties has resided 6 weeks in the state before the
21 suit was brought.
22
- 23 3. Residence is synonymous with domicile. Physical presence, together
24 with intent, constitutes bona fide residence for divorce jurisdiction.
25
26 *Aldabe v. Aldabe*, 84 Nev 392, 441 P.2d 691 (1968).
27
28

- 1 4. Ahed Said Senjab has the burden to prove that she or Mohamad
2 Abulhakim Alhulaibi is a bona fide resident of the state of Nevada for
3 this court to grant a divorce.
4
- 5 5. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi have been
6 physically present in the state of Nevada for at least 6 weeks prior to the
7 filing of this divorce case.
8
- 9 6. This court finds that pursuant to state law, undocumented immigrants
10 who physically live in Nevada have been able to access Nevada courts
11 to obtain a divorce so long as they have been physically present in
12 Nevada, and so long as they establish a subjective intention to make
13 Nevada their home.
14
- 15 7. The Ninth Circuit Court of Appeals, in *Park v. Barr*, 946 F.3d 1096
16 (2020), held that federal law has preempted state law. The holding in
17 *Park*, bars nonimmigrants who come to the United States on a visa
18 issued pursuant to Title 8 of the United States Code from establishing
19 the subjective intent that is required to give this Nevada court subject
20 matter jurisdiction to grant a divorce.
21
- 22 8. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi are
23 nonimmigrants. Based on decisional law from the United States
24 Supreme Court, and the Ninth Circuit Court of Appeals, federal law will
25
26
27
28

1 either allow or prohibit a nonimmigrant visa holder to establish
2 residency or domicile.
3

4 9. The Immigration and Nationality Act imposes limits on a state freedom
5 to define domicile. *Park v. Barr*, 946 F.3d 1096 (2020).
6

7 10. The federal law, prohibiting a nonimmigrant from establishing domicile,
8 continues even if a visa is overstayed. *Park v. Barr*, 946 F.3d 1096
9 (2020). In *Park*, Woul Park, a nonimmigrant, came to the United
10 States on a B-2 Visa, and stayed in the United States after the lawful
11 status had lapsed. The Ninth Circuit Court of Appeals held that Woul
12 Park was precluded from establishing lawful domicile in California by
13 operation of federal law.
14

15
16 11. The United States Supreme Court, in *Toll v. Moreno*, 458 US 1 (1982),
17 held that because Congress expressly allowed a nonimmigrant with a
18 G-4 visa to establish domicile to obtain in-state college tuition, state
19 law was precluded under the Supremacy Clause of the United States
20 Constitution.
21

22
23 12. Foreign students pursuing academic studies are classified as F-1.
24 Dependents of holders of an F-1 visa are classified as F-2 spouses or
25 dependents. The immigration status of an F-2 dependent is dependent
26 upon the F-1 student.
27

- 1 13. Under federal law, nonimmigrants that come to the United States
2 through F-1 and F-2 visas are required to maintain a residence in their
3 country of citizenship with no intention of abandoning it.
4
5 14. Ahed Said Senjab and Mohamad Abulhakim Alhulaibi were permitted
6 to enter the United States on an express condition not to abandon the
7 foreign residence.
8
9 15. Congress has not permitted Ahed Said Senjab and Mohamad
10 Abulhakim Alhulaibi to lawfully form a subjective intent to remain in
11 the United States.
12
13 16. The Immigration and Nationality Act prevents Ahed Said Senjab and
14 Mohamad Abulhakim Alhulaibi from establishing the requisite intent to
15 remain in the United States/Nevada.
16
17 17. Congress expressly conditioned admission to the United States through
18 F-1 and F-2 visas on a stated intention not to abandon the foreign
19 residence.
20
21 18. Ahed Said Senjab's subjective intent to make Nevada her home is
22 precluded by Congress' definition of the nonimmigrant classification.
23
24 19. This court concludes that Nevada lacks subject matter jurisdiction to
25 grant a divorce.
26

27 /////

1 Therefore,

2 **ORDER**

3
4 **IT IS HEREBY ORDERED** that Mohamad Abulhakim Alhulaibi's
5 motion to dismiss is granted.
6

7 **IT IS FURTHER ORDERED** that this case is dismissed and closed with
8 the entry of this order.
9

10 Dated this 17th day of June, 2020

11 

12 03B A97 1706 ED86
13 T. Arthur Ritchie
14 DISTRICT COURT JUDGE
15 DEPARTMENT H
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EXHIBIT 2

EXHIBIT 2



David Markman <david@markmanlawfirm.com>

Ahed Senjab v. Mohamad Alhulaibi; D-20-606093-D - Motion to Dismiss

15 messages

david markman <david@markmanlawfirm.com>
To: Asgreen@lacs.org

Sun, Apr 19, 2020 at 11:30 AM

April,

I filed a motion to dismiss on behalf of my client, Mohamad. You were not on the e-service list, so service was done through the mail. Please find a courtesy copy attached if you have not already received it. Please also find a copy of the Notice of Hearing attached. I will also mail a copy of the notice of hearing, as required by service rules.

Please feel free to contact me if you do not want me to mail the Notice of Hearing (based on Covid-19) or to discuss any of the matters further.

Respectfully,

--

David Markman, Esq.
Attorney**MARKMAN LAW**
4484 S. Pecos Rd. Suite #130
Las Vegas NV 89121
Tel: 702-843-5899 / Fax: 702-843-6010
David@Markmanlawfirm.com

MAIL CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachments are intended solely for the addressee(s) and may contain confidential and/or legally privileged information. If you are not the intended recipient of this message or if this message has been addressed to you in error, please immediately alert the sender by reply e-mail and then delete this message and any attachments. If you are not the intended recipient, you are notified that any use, dissemination, distribution, copying, or storage of this message or any attachment is strictly prohibited. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege.

2 attachments **FS - Motion to Dismiss.pdf**
3489K **Notice of Hearing.pdf**
41K

April Green <ASGreen@lacs.org>
To: david markman <david@markmanlawfirm.com>

Fri, Jun 19, 2020 at 1:30 PM

Mr. Markman, I got an email from Ahed. Safe Nest is on quarantine due to the virus and she cannot drop the child off and they are not supposed to leave the shelter. As I get more information, I will keep you posted.

April Green

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Fri, Jun 19, 2020 at 2:59 PM

April,

Thank you for letting me know. Please let me know as soon as you have more information. I understand that coronavirus is an issue and we all have to adjust to these trying times, but Mohamad wants to be able to pick up the minor child as soon as possible.

As you know, even though the divorce case is dismissed the TPO order still governs and Mohamad is entitled to his timeshare as ordered by the Court. If it is determined that Coronavirus has not caused a lockdown of the shelter and instead that this is being used as a tactic to impede Mohamad's custody time, Mohamad will put this issue before the appropriate court.

Have a good weekend!

Thank you,
[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Fri, Jun 19, 2020 at 3:16 PM

Understood; I confirmed it with shelter personnel to make sure. Thanks

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Mon, Jun 22, 2020 at 1:00 PM

April,

Are there any updates about the shelter? Do you have a contact number for the shelter personnel that you spoke with so that I can discuss the lockdown with them? My client has reached out to the shelter and they informed him that the shelter is not in a lockdown.

Thank you,
[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Mon, Jun 22, 2020 at 1:06 PM

I asked Lynette Jones from Safe Nest to give you a call; thanks.



April S. Green, Esq.

Directing Attorney, Family Justice Project

Legal Aid Center of Southern Nevada, Inc.

725 E. Charleston Blvd.

Las Vegas, NV 89104

702-386-1415 direct/fax

702-386-1070 ext. 1415

asgreen@lacsns.org

www.lacsns.org

Legal Aid Center of Southern Nevada, Inc. is a 501 (c) (3) organization
and your contribution may qualify as a federally recognized tax deduction.



Legal Aid Center E-Newsletter

Please remember Legal Aid Center of Southern Nevada in your estate plan.

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacsns.org>

Mon, Jun 22, 2020 at 1:07 PM

Thank you. I appreciate it.

[Quoted text hidden]

April Green <ASGreen@lacsns.org>
To: David Markman <david@markmanlawfirm.com>

Mon, Jun 22, 2020 at 1:08 PM

No problem, if she does not call you by tomorrow; please let me know.

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacsns.org>

Mon, Jun 22, 2020 at 1:11 PM

Thanks. Will do.

[Quoted text hidden]

April Green <ASGreen@lacsns.org>
To: David Markman <david@markmanlawfirm.com>

Tue, Jun 23, 2020 at 2:56 PM

This is the message I just received from Safe Nest:

Hello Ms. April,

Unfortunately, I am unable to communicate with adverse party's Attorney do to confidentiality. Ahed is still quarantining until next week. She will need to follow up.

Best Regards,

Lynette Jones



April S. Green, Esq.

Directing Attorney, Family Justice Project

Legal Aid Center of Southern Nevada, Inc.

725 E. Charleston Blvd.

Las Vegas, NV 89104

702-386-1415 direct/fax

702-386-1070 ext. 1415

asgreen@lacs.org

www.lacs.org

Legal Aid Center of Southern Nevada, Inc. is a 501 (c) (3) organization
and your contribution may qualify as a federally recognized tax deduction.



Legal Aid Center E-Newsletter

Please remember Legal Aid Center of Southern Nevada in your estate plan.

From: David Markman <david@markmanlawfirm.com>

Sent: Friday, June 19, 2020 3:00 PM

[Quoted text hidden]

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Fri, Jun 26, 2020 at 12:13 PM

April,

Are there any updates regarding the quarantine? Is Ryan part of the quarantine or can he leave Safe Nest? Mohamad would like to pick up Ryan today.

Please let me know as soon as possible.

Thank you,
[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Fri, Jun 26, 2020 at 12:55 PM

He is included; let me forward this inquiry to Lynette Jones.

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Fri, Jun 26, 2020 at 2:03 PM

Okay. Thanks. Please provide any medical records for Ryan too. Mohamad is worried about the health of his son.

Respectfully,
[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Fri, Jun 26, 2020 at 2:05 PM

OK, will do although I have not heard that either of them have the virus; it may be that they are on lock down other reasons.

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Fri, Jun 26, 2020 at 2:08 PM

Okay. Can you please find out and confirm the reasons they are on lockdown? As Mohamad is very concerned about the health of Ryan and he is entitled to the information about his son's health

[Quoted text hidden]

EXHIBIT 3

EXHIBIT 3

As a duly appointed representative of the owner of this property, I hereby warn you that you are trespassing upon this property as defined by the Nevada Revised Statute 207.200. If you do not leave these premises immediately, you will be subject to arrest for a misdemeanor. Your subsequent return to the premises after being duly warned not to return will subject you to immediate arrest for trespassing.

IMPORTANT INFORMATION

Suspect's Name _____

Date Trespassed _____

Time _____

Date of Birth / I.D. No. _____

Officer _____

P# _____

CURFEW TIMES FOR PERSONS UNDER 18

SCHOOL NIGHTS (Sun.-Thurs.)
10:00PM - 5:00AM

**All Other Nights, Holidays and
Summer Vacations (Fri. & Sat.)**
Midnight - 5:00AM

STRIP CURFEW TIMES
9:00 PM (Fri., Sat. & Legal Holidays)
Please report violations to
LVMPD at (702) 828-3111

AA000287

MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

AHED SAID SENJAB

Plaintiff/Petitioner

v.

MOHAMAD ALHULAIBI

Defendant/Respondent

Case No. D-20-606093-D

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: David Markman, Esq. Date 6/29/2020

Signature of Party or Preparer /s/ David Markman, Esq.

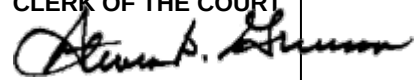
AA000288

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
6/30/2020 8:46 AM
Steven D. Grierson
CLERK OF THE COURT



Ahed Said Senjab, Plaintiff

vs.

Mohamad Abulhakim Alhulaibi, Defendant.

Case No.: D-20-606093-D

Department H

NOTICE OF HEARING

Please be advised that the Defendant's Mohamad Alhulaibi's Ex Parte Petition/Motion for an Order Requiring Production of the Minor Child; For the Insuance of a Warrant for the Pick-Up of the Minor Child; For an Order Preventing Abduction of the Minor Child Pursuant to NRS 125D; For a Retrurn Order for the mInor Child to His Home Country of Saudi Arabia in the above-entitled matter is set for hearing as follows:

Date: August 04, 2020

Time: 11:00 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/ Tonya Mulvenon
Deputy Clerk of the Court

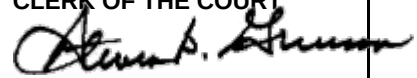
CERTIFICATE OF SERVICE

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/ Tonya Mulvenon
Deputy Clerk of the Court

34

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NOTC
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
APRIL S. GREEN, ESQ.
Nevada Bar No.: 8340C
BARBARA E. BUCKLEY, ESQ.
Nevada Bar No. 3918
725 E. Charleston Blvd.
Las Vegas, Nevada 89104
Phone (702) 386-1415
asgreen@lacs.org

Attorneys for Plaintiff

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

AHED SAID SENJAB,
Plaintiff,

vs.

MOHAMAD ABULHAKIM ALHULAIBI,
Defendant.

CASE NO: D-20-606093-D
DEPT. NO: H

NOTICE OF ASSOCIATION AS CO-COUNSEL

TO: MOHAMAD ABULHAKIM ALHULAIBI, Defendant, and

TO: DAVID MARKMAN, ESQ., Attorney for Defendant.

Marshal S, Willick, Esq., and the WILICK LAW GROUP hereby associates

1 themselves with April Green, Esq., of the LEGAL AID CENTER OF SOUTHERN NEVADA
2 as counsel for Plaintiff, Ahed Said Senjab.

3 **DATED** this 1st day of July, 2020.

4 Respectfully Submitted by:
5 WILICK LAW GROUP

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

7 MARSHAL S. WILICK, ESQ.
8 Nevada Bar No. 2515
9 RICHARD L. CRANE, ESQ.
10 Nevada Bar No. 9536
11 3591 E. Bonanza Rd., Suite 200
12 Las Vegas, Nevada 89110
13 (702) 438-4100
14 Attorneys for Plaintiff
15
16
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 1st day of July, 2020, I caused the above and foregoing entitled document *Notice of Association as Co-Counsel*, to be served as follows:

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

[] Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.

[] By hand delivery with signed Receipt of Copy.

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

To the following at the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
MARKMAN LAW
4484 S. Pecos Road, Ste. 130
Las Vegas, Nevada 89121
Attorneys for Defendant

April S. Green, Esq.
Barbara E. Buckley, Esq.
Legal Aid Center of Southern Nevada, Inc.
725 E. Charleston Blvd
Las Vegas, NV 89104
Co-Counsel for Plaintiff

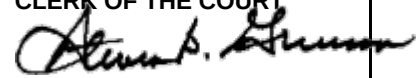
/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

P:\wp19\SENJAB,A\DRAFTS\00447045.WPD\jj

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35



OPPC
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
APRIL S. GREEN, ESQ.
Nevada Bar No.: 8340C
BARBARA E. BUCKLEY, ESQ.
Nevada Bar No.: 3918
725 East Charleston Blvd.
Las Vegas, NV 89104
(702) 386-1415 Direct/Fax
(702) 386-1070 Ext. 1415
asgreen@lacs.org

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

AHED SAID SENJAB,	)	
Plaintiff,	)	Case No.: D-20-606093-D
vs.	)	Dept. No: H
MOHAMED ALHULAIBI,	)	Date of Hearing:
Defendant.	)	Time of Trial:
	)	ORAL ARGUMENT: Yes

PLAINTIFF'S OPPOSITION TO
"MOHAMAD ALHULAIBI'S EX PARTE PETITION/MOTION FOR AN
ORDER REQUIRING PRODUCTION OF THE MINOR CHILD; FOR THE
ISSUANCE OF A WARRANT FOR THE PICK-UP OF THE MINOR CHILD;
FOR AN ORDER PREVENTING ABDUCTION OF THE MINOR CHILD
PURSUANT TO NRS 125D; FOR A RETURN ORDER FOR THE MINOR
CHILD TO HIS HOME COUNTRY OF SAUDI ARABIA"

AND

PLAINTIFF'S COUNTERMOTION/PETITION
FOR ABDUCTION PREVENTION MEASURES, FOR ORDERS
PROHIBITING REMOVAL OF CHILD FROM LAS VEGAS, FOR COURT
SAFEGUARD OF CHILD'S PASSPORT; FOR LIMITED VISITATION BY A
PERPETRATOR OF DOMESTIC VIOLENCE; STAY OF ORDER FOR
DISMISSAL OF CASE; AND FOR ATTORNEY FEES AND COSTS

1 **I. INTRODUCTION**

2 Ahed has appealed the decision in this Court as to its jurisdiction to proceed
3 in a divorce and custody action. Return of the minor child to the Defendant will
4 result in his leaving the country with the minor child and destroying the subject of the
5 appeal.

6 Defendant's *Motion* is without merit and only works to frustrate the legal
7 process in this country. His claim of using NRS 125D as a basis for the return of the
8 child is misplaced as that statute is to protect the child from abduction *from this*
9 *country* and taking the child out of the jurisdiction of the Nevada Courts. Ahed seeks
10 to remain within this jurisdiction until her legal remedies are exhausted.

11
12 **POINTS AND AUTHORITIES**

13 **II. FACTS**

14 The parties were married on February 17, 2018 in Saudi Arabia.

15 MOHAMAD moved to Las Vegas, Nevada in August, 2018, under a F1 student
16 Visa.

17 Upon receiving an "F-2" Visa as dependents under Defendant's student "F-1"
18 Visa, AHED and the parties' minor child moved to Las Vegas, Nevada on or about
19 January 13, 2020.

20 On information and belief, the Defendant works at the University of Nevada,
21 Las Vegas as a graduate assistant. He was also a student at UNLV and alleges that
22 he graduated in May of 2020 although his education may continue. Ahed is not
23 currently employed.

24 The parties separated on or around February 10, 2020 due to severe domestic
25 violence in the relationship. A police report was filed on February 10, 2020, alleging
26
27

1 domestic battery. The domestic violence included verbal, physical and economic
2 abuse.¹

3 Following the incident on February 10, 2020, Ahed and the minor child went
4 to Safe Nest, a local domestic violence shelter.

5 On February 14, 2020, Ahed filed an application for and was granted a
6 Temporary Protection Order (TPO) which was extended for one (1) year. The
7 protection order in Case No. T-20-203688-T was extended until February 14, 2021,
8 and stated in pertinent part:

9 The Court, having jurisdiction under and meeting the requirements of Chapter
10 125A of the Nevada Revised Statutes (UCCJEA), grants to the Applicant
11 temporary custody of the following minor child of the parties: Ryan Ahulaibi,
12 DOB 2-161-19.

13 The application for a TPO details several incidents of domestic battery,
14 physical violence, verbal abuse, and emotional abuse. Ahed alleges that Defendant
15 verbally abused her constantly, including intimidating her with profanity and threats.
16 The threats made included to take the child from her and physical threats including
17 threats to kill her family members in Saudi Arabia.

18 The application also indicated the intimidation Defendant levied on Ahed
19 including calling her “his waitress” and degrading and humiliating her by calling her
20 animal names. He also demanded her to kiss his hands and feet in a degrading
21 manner.

22 The Defendant perpetrated all of this domestic violence in the presence of the
23 minor child which equates to abuse.
24

25
26 ¹ It is interesting to note that the Defendant’s *Motion* is completely devoid of any mention
27 of this incident or the involvement of the police.

1 Ryan fears his father and often wakes up crying and screaming, inconsolable,
2 especially when the Defendant is screaming at or being physically violent with Ahd.²

3 It is uncontroverted that Ahd has always been and continues to be the primary
4 custodian of the child caring for all his needs since he was born and that she had
5 never been separated from the child. Defendant can't make a similar claim.

6 Ahd also alleges that Defendant does not provide adequate care for their child,
7 placing himself before both Ahd and the minor child, often demanding Ahd stop
8 breast feeding or otherwise caring for the child so she can comply with his demands.

9 Ahd filed for divorce from the Defendant on March 24, 2020, and retained an
10 attorney to pursue independent immigration relief for herself and the minor child.³

11 Although this Court dismissed her divorce action, a notice of Appeal is being
12 filed. Moreover, her immigration petition is meritorious and is expected to provide
13 an independent path to citizenship for herself and the child.

14 Ahd is fearful that the Defendant will abduct the child, as he has threatened
15 to do, and refuse her contact. If that happens, it is expected that the Defendant will
16 return to Saudi Arabia or another middle eastern country that does not respect the
17 rights of women or mothers. The minor child will be denied contact with his mother
18 and the subject of the Appeal will be destroyed.

19 20 **III. OPPOSITION**

21 **A. The Minor Child Should Remain with Ahd**

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25 ² The child sees this violence which could have a negative impact on his future development.

26 ³ This alone, vests this Court with jurisdiction to grant the divorce and to entertain the child
27 custody action.

1 As indicated above, Ahed has always been the primary caregiver to the minor child.
2 It is questionable if the Defendant can even change a diaper let alone provide proper
3 care for the toddler.

4 NRS 125C.0025 provides:

5 1. When a court is making determination regarding the physical
6 custody of a child, there is a preference that joint physical custody would be
in the best interest of a minor child if:

7 (a) The parents have agreed to an award of joint physical custody or so
agree in open court at a hearing for the purpose of determining the physical
8 custody of the minor child; or

9 (b) A parent has demonstrated, or has attempted to demonstrate but has had
his or her efforts frustrated by the other parent, an intent to establish a
meaningful relationship with the minor child.

10 2. For assistance in determining whether an award of joint physical
custody is appropriate, the court may direct that an investigation be conducted.

11
12 NRS 125C.0035(1) directs that “in any action for determining physical custody
13 of a minor child, the sole consideration is the best interests of the child.” In the case
14 at bar, there is no question that Ahed has been the de facto primary caregiver to the
15 minor child both before and after they came to the United States. Continuity of those
16 arrangements would be in the child’s best interest.

17 Ahed has contended that the Defendant has a reckless disregard for the child’s
18 best interest by committing domestic violence in his presence. The profane, loud
19 verbal, and other abuse against the mother while she is caring for the minor child was
20 consistent throughout the relationship.

21 NRS 125C.0035 creates a presumption against custody to an abusive or
22 neglectful parent, against custody to a parent who has committed domestic violence
23 against the other parent or the child, against custody to a parent who cannot provide
24 for the child’s physical, developmental and emotional needs and the Court must
25 consider the nature of relationship of the child with each parent. Finally, the court
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1 must consider the threat of abduction, especially when the purpose is to deprive the
2 Court of jurisdiction – in this case the Appeal.

3 A protection order was granted for a year upon Ahed's credible showing of
4 victimization. She alleged child abuse and neglect as well including threats to take
5 the child from her and to kill members of her family. All the facts point to
6 maintaining primary custody to Ahed pending the Appeal and to protect the child
7 from abduction by ordering temporary supervised visitation for the Defendant.

8
9 The court must consider the specific list of factors posited in NRS 125C.0035
10 in determining the best interest of the children:

11 ***(a) The wishes of the child if the child is of sufficient age and capacity***
12 ***to form an intelligent preference as to his custody.***

13 The minor child is not of an age to form an intelligent preference as to their
14 custody.

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

16 Not applicable.

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

20 Despite being absent for a substantial period of time during the child's life, and
21 the fact that he has provided nearly no care for the minor child, Ahed has done and
22 will do what she can to continue facilitating the Defendant's relationship with the
23 child as long as the child is protected from abuse and abduction.

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

25 There is high level of conflict between the parties due to the Defendant's
26 controlling behavior, verbal and physical abuse, and threats to remove the children
27

1 from the country. In order for the parties' relationship to improve, the Defendant
2 needs to prove that he is not a flight risk and that he is actually capable of caring for
3 the child.

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

6 Ahed hopes the parties can cooperate in the future to meet the child's needs,
7 however that will require some effort on the Defendant's part

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

9 Ahed is of sound mind and health. She has no known medical problems. Ahed
10 believes that the Defendant is physically healthy, but believes that he may need
11 counseling to assist with his violent tendencies.
12

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

15 The child is developing normally, but may not if the physical and verbal abuse
16 were to continue and if he is separated from his mother.
17

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

19 Ahed is extremely close and has bonded with the child as she handles pretty
20 much every aspect of his life, including, but not limited to his food, medical care,
21 discipline, mentoring, and bathing. It is believed that the child perceives the
22 Defendant as someone who is just present in the home and not as a caretaker.
23

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

26 The child has no siblings.
27
28

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

3 The child has been a witness to the ongoing abuse of Ahd by the Defendant.

4 Though we have no record of the child actually being physically abused, the
5 Defendant's behavior in the presence of the child is de facto abuse and neglect.

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

9 There is an active TPO that has been extended for one year that indicates that
10 the Defendant has engaged in domestic violence against Ahd.

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

14 The Defendant has threatened to abscond with the minor child, however,
15 because of the preventive measures taken by Ahd, she has not allowed that to occur.
16 In sum, Ahd has done, and will continue to do, everything to ensure the minor
17 child's needs are met every day.

18 As all of the factors outlined under NRS 125C.0035 support Ahd's requested
19 relief, she should be confirmed as the children's primary custodian subject to the
20 Defendant's rights of reasonable supervised visitation, provided the abduction
21 prevention measures detailed below are adhered.

22
23 **B. The Court Should Not Issue a Pick-Up Order**

24 Although the Defendant couches his request on the claim that Ahd has
25 "kidnaped" the child, he fails to even discuss the fact that his domestic violence has
26
27

1 resulted in a one year TPO. It isn't mentioned once in his *Motion*; not even to deny
2 that the violence took place.

3 The Defendant has indicated repeatedly to Ahed throughout their relationship
4 while in the United States that he would remove the children from the United States
5 and she would never see the child again.

6 In any event, and one thing we apparently agree on, we do believe there is a
7 basis for this Court to institute abduction prevention measures such as securing the
8 children's and parents' passports in an effort to disturb any effort by the Defendant
9 to leave the United States with the child and to institute supervised visitation to
10 ensure the child is not spirited away.

11
12 **C. The Defendant Should Not be Awarded Primary Physical Custody**
13 **of the Child**

14 As detailed above and below, the Defendant has never been the child's primary
15 caretaker and there is even less reason to change that now.

16 As further evidence of her role as the child's caregiver:

- 17 (1) Ahed changed the child's diapers nearly 100% of the time – The
18 Defendant would bring the children to Ahed when they needed
19 changing rather than doing it himself;
- 20 (2) When the child was sick, Ahed stayed up to comfort and care for
21 him – The Defendant never once woke to care for the child and
22 regularly complained about his crying/inability to sleep;
- 23 (3) Ahed has always handled the daily responsibility to bathe the
24 child, get him dressed, brush his hair and ensure his teeth are
25 brushed – The Defendant did not participate in any of these daily
26 activities;

1 (4) Ahed has taken the child to all of their doctor appointments since
2 birth, including those appointments where they received their
3 immunizations – The Defendant was not present;

4 (5) Ahed is also the primary planner and preparer of meals for the
5 child – The Defendant does not prepare meals;

6 Despite having a limited role in the child’s life, and being gone for months at
7 the beginning of the parties marriage and the life of the child, the Defendant suddenly
8 wants to be the child’s primary caretaker. His suggestion that Ahed is “unsafe” and
9 “will abduct the child,” is simply absurd. At no point in time during their entire
10 relationship did the Defendant ever express opposition to the child being under
11 Ahed’s care, which is why he left the children in her exclusive care and actually
12 demands that she be exclusively responsible for the child’s care.

13 Only when Ahed could take no more abuse, called the police, and filed for
14 divorce did the Defendant suddenly want to be portrayed as a loving and caring
15 father.

16 Accordingly, his request for primary physical custody must be denied.

17 18 **IV. COUNTERMOTION**

19 **A. Ahed’s Appeal has Merit and a Stay Should Issue**

20 We believe that the Appeal has merit and that the controlling case law in
21 Nevada will result in this Court being able to exercise jurisdiction over the parties and
22 their marriage. Additionally, the Court made no findings to support why it did not
23 have jurisdiction over the child custody issue which we believe is solidly proper
24 before this Court under the tenets of the UCCJEA.⁴

25
26
27 ⁴ The UCCJEA is codified at NRS 125A *et seq.*

1 We believe that the Court has misperceived that legal definition of residence
2 and domicile. These terms have different meanings in different disciplines of the law.
3 Specifically, the definition of these terms is different between domestic relations
4 cases and immigration cases.

5 Additionally, the Court did not consider that Ahed's desire to seek a different
6 immigration status due to the Defendant's domestic violence also changed her status
7 which provided jurisdiction for this Court to act.

8 Lastly, we believe that this Court – and this Court alone – had subject matter
9 jurisdiction over the custody of the minor child under the UCCJEA and should not
10 have dismissed the case on that ground.

11 This Court has an obligation to protect the subject of the Appeal pending its
12 resolution. Returning the child to the Defendant, even for weekend visitation, could
13 destroy that subject and worse, deprive Ahed of her rights as a parent.

14 NRCP Rule 62 provides for an automatic 10 judicial day stay on execution of
15 judgments.⁵ We ask the Court to stay enforcement of the dismissal until resolution
16 of the appeal.

17 The rules explicitly contemplate that a litigant placed in a situation like Ahed's
18 can and should file a motion for stay first in the District Court. Specifically, the
19 Nevada Rules of Appellate Procedure (NRAP) state:

20 A party must ordinarily move first in the district court for the following relief:
21
22

23 ⁵ **(a) Automatic Stay; Exceptions – Injunctions and Receiverships.** Except as stated
24 herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement
25 until the expiration of 10 days after service of written notice of its entry. Unless otherwise ordered
26 by the court, an interlocutory or final judgment in an action for an injunction or in a receivership
27 action shall not be stayed during the period after its entry and until an appeal is taken or during the
28 pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending,
modifying, restoring, or granting of an injunction during the pendency of an appeal.

1 (A) a stay of the judgment or order of, or proceedings in, a district court
2 pending appeal or resolution of a petition to the Supreme Court or Court of
3 Appeals for an extraordinary writ;
4 (B) approval of a supersedeas bond; or
5 (C) an order suspending, modifying, restoring or granting an injunction while
6 an appeal or original writ petition is pending.

7 Here, we ask that the Court issue a stay on enforcement of the dismissal
8 pending the appeal, to not allow the Defendant unsupervised access to the minor
9 child, and to provide other safeguards requested in this *Counter-motion*.

10 This Court has the authority to stay enforcement of the *Order* pending the
11 disposition of Ahed's appeal, and should do so before the subject of the appeal is
12 destroyed.

13 A stay is necessary to preserve the status quo and the subject of the Appeal.

14 Pending appellate review of this case, the Defendant should not be permitted
15 to remove the child from the Court's jurisdiction to avoid a tragic separation of
16 mother and child. The only way this Court can accomplish that goal is to require
17 supervised visitation by the Defendant with the minor child. As a further protective
18 measure, the child's passport should be turned over to either the Court or Appellate
19 Counsel to hold until resolution of the Appeal.

20 Lastly, this Appeal should result in controlling law that will impact future
21 immigrants that are the victims of domestic violence. This Court should allow the
22 case to proceed and protect both mother and child.

23 **B. This Court Should Issue Abduction Prevention Measures to Ensure**
24 **The Defendant Does Not Abscond With the Minor Child**

25 NRS 125D.190 gives the Court authority to use whatever measures are
26 necessary to prevent a parent from abducting minor children. As detailed in
27 125D.190, this Court can issue the following orders:

- 28 3. An abduction prevention order may include one or more of the
following:

- 1 (a) An imposition of travel restrictions that require that a party
2 traveling with the child outside a designated geographical area
3 provide the other party with the following:
4 (1) The travel itinerary of the child;
5 (2) A list of physical addresses and telephone numbers at
6 which the child can be reached at specified times; and
7 (3) Copies of all travel documents;
8 (b) A prohibition of the respondent directly or indirectly:
9 (1) Removing the child from this State, the United States or
10 another geographic area without permission of the court
11 or the petitioner's written consent;
12 (2) Removing or retaining the child in violation of a child
13 custody determination;
14 (3) Removing the child from school or a child care or similar
15 facility; or
16 (4) Approaching the child at any location other than a site
17 designated for supervised visitation;
18 (c) A requirement that a party register the order in another state as
19 a prerequisite to allowing the child to travel to that state;
20 (d) With regard to the child's passport:
21 (1) A direction that the petitioner place the child's name in
22 the United States Department of State's Child Passport
23 Issuance Alert Program;
24 (2) A requirement that the respondent surrender to the court
25 or the petitioner's attorney any United States or foreign
26 passport issued in the child's name, including a passport
27 issued in the name of both the parent and the child; and
28 (3) A prohibition upon the respondent from applying on
behalf of the child for a new or replacement passport or
visa;
(e) As a prerequisite to exercising custody or visitation, a
requirement that the respondent provide:
(1) To the United States Department of State's Office of
Children's Issues and to the relevant foreign consulate or
embassy, an authenticated copy of the order detailing
passport and travel restrictions for the child;

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- (2) To the court:
 - (I) Proof that the respondent has provided the information in subparagraph (1); and
 - (II) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child;
 - (3) To the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that Convention is in effect between the United States and the destination country, unless one of the parties objects; and
 - (4) A written waiver pursuant to the provisions of the Privacy Act, 5 U.S.C. § 552a, as amended, with respect to any document, application or other information pertaining to the child authorizing its disclosure to the court and the petitioner; and
 - (f) Upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child custody determination issued in the United States.
4. In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:
- (a) Limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary, and order the respondent to pay the costs of supervision;
 - (b) Require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney's fees and costs if there is an abduction; and
 - (c) Require the respondent to obtain education on the potentially harmful effects to the child from abduction.

This Court has the authority to have the Defendant detained, brought before the Court, and ordered to produce the minor child's passports for safekeeping. It can also

1 issue orders placing the child with the parent that presents no threat of unlawfully
2 removing the child. This is exactly what the Court needs to do in this situation.

3 Accordingly, in compliance with NRS 125D.170, Ahed hereby petitions the
4 Court to exercise its power to prevent the abduction of the minor child. The
5 following is provided as required by the statute:

- 6 1. The minor child is Ryan Mohamad Alhulaibi (“Ryan”), born
7 February 16, 2019
- 8 2. The child is currently safe with Ahed in her care and is currently
9 housed in the Safe Nest home for abused women.
- 10 3. The Defendant, the natural father of the children, is currently
11 residing in Las Vegas.
- 12 4. The Defendant recently filed an action to prevent the
13 abduction/retention of the minor children but does not explain
14 where she would go. The Defendant has been found to have
15 engaged in domestic violence against Ahed
- 16 5. No party to this action has been arrested for any crimes though a
17 police report as to the DV has been filed..
- 18 6. The child is currently 1.5 years of age and has resided exclusively
19 in Las Vegas, Nevada since his and his mother’s arrival in the
20 United States. The child’s habitual residence and home state is
21 Nevada.⁶

22
23 ⁶ See NRS 125A.305:

24 (a) This State is the home state of the child on the date of the commencement of the proceeding
25 or was the home state of the child within 6 months before the commencement of the proceeding and
26 the child is absent from this State but a parent or person acting as a parent continues to live in this
27 State;

28 (b) A court of another state does not have jurisdiction pursuant to paragraph (a) or a court of the
home state of the child has declined to exercise jurisdiction on the ground that this State is the more

7. In accordance with NRS 125D.180(1), the Court is to look at the following factors when determining if there is a credible risk of abduction of the child:

- a. ***Has previously abducted or attempted to abduct the child.*** Not Applicable.
- b. ***Has threatened to abduct the child.*** The Defendant has made multiple threats to abduct the minor child and remove him from the United States. The Defendant made such threats even in his *Motion* where he states it is his intention to take the child to Saudi Arabia where Ahed will be forbidden from seeing the child.
- c. ***Has recently engaged in activities that may indicate a planned abduction, including:***
 - (1) ***Abandoning employment.*** The Defendant is a temporary employee and can leave the job at any time.
 - (2) ***Selling a primary residence.*** The parties do not own a home.
 - (3) ***Terminating a lease.*** We believe that the Defendant can leave his current residence at any time.
 - (4) ***Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities.*** What assets the parties do have, are all under the control of the Defendant.
 - (5) ***Applying for a passport or visa or obtaining travel documents for the respondent, a family member or the child.*** Both the Defendant and the minor child have passports which are in the Defendant's custody and control. Additionally, even if the Court seizes the passports, Saudi Arabia will issue new passports at the request of the Defendant no matter what this Court orders.
 - (6) ***Seeking to obtain the child's birth certificate or school or medical records.*** Not Applicable.
- d. ***Has engaged in domestic violence, stalking, or child abuse or neglect.*** The Defendant has regularly engaged in controlling and abusive

appropriate forum pursuant to NRS 125A.365 or 125A.375 and:

- (1) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and
- (2) Substantial evidence is available in this State concerning the child's care, protection, training and personal relationships;
- (c) All courts having jurisdiction pursuant to paragraph (a) or (b) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child pursuant to NRS 125A.365 or 125A.375; or
- (d) ***No court of any other state would have jurisdiction pursuant to the criteria specified in paragraph (a), (b) or (c).*** [Emphasis added]

behavior. He refused to allow her any autonomy and did not let her have any money to have any semblance of a life outside of the home. A TPO has been issued to protect Ahd from further abuse.

- e. *Has refused to follow a child custody determination.*** The only order in place allows the Defendant weekend visitation, but does not provide for the protection against abduction. Any visitation should be supervised to ensure that the Defendant does not abscond with the child.
- f. *Lacks strong familial, financial, emotional or cultural ties to the State or the United States.*** The Defendant has no familial and emotional ties to the United States. He also has money and assets overseas.
- g. *Has strong familial, financial, emotional or cultural ties to another State or country.*** The Defendant has strong ties with Saudi Arabia and Syria. Neither of this countries are signatories to the Hauge Convention on Child Abduction and are widely known for thier abusive stance on women's rights.
- h. *Is likely to take the child to a country that:***
- (1) *Is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child.*** Is not a signatory.
 - (2) *Is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:***
 - (I) *The Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country.*** Not a signatory.
 - (II) *Is non-compliant according to the most recent compliance report issued by the United States Department of State.*** This is true with all middle eastern countries including Saudi Arabia and Syria.
 - (III) *Lacks legal mechanisms for immediately and effectively enforcing a return order pursuant to the Hague Convention on the Civil Aspects of International Child Abduction.*** True for all middle eastern countries.
 - (3) *Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children.*** If the child is taken to Syria, the current civil war would pose a threat to the safety of the child. Additionally, if the child is taken to Saudi Arabia, the mother will be kept from the child under Sharia Law and that would endanger the welfare of the child.
 - (4) *Has laws or practices that would:***
 - (I) *Enable the Respondent, without due cause, to prevent the Petitioner from contacting the child.*** True in all middle eastern countries where the Defendant has indicated he has ties.

- (II) ***Restrict the Petitioner from freely traveling to or exiting from the country because of the Petitioner's gender, nationality, marital status or religion.*** True in all middle eastern countries where the Defendant has ties.
- (III) ***Restrict the child's ability legally to leave the country after the child reaches the age of majority because of the child's gender, nationality or religion.*** We are unaware of any mandatory military service requirements in the countries the Defendant has ties to but we believe that the minor child would be restricted from leaving due to religious and cultural restrictions.
- (5) ***Is included by the United States Department of State on a current list of state sponsors of terrorism.*** Syria is listed. Though Saudi Arabia is not listed, it is common knowledge that known wanted terrorists have been radicalized in this country.
- (6) ***Does not have an official United States diplomatic presence in the country.*** The United States does have a diplomatic presence in the country.
- (7) ***Is engaged in active military action or war, including a civil war, to which the child may be exposed.*** Is true in Syria.
- i. ***Is undergoing a change in immigration or citizenship status that would adversely affect the Respondent's ability to remain in the United States legally.*** The Defendant – as far as we know – has not moved to extend his F1 visa. If he does not renew or continue his education, he will be required to leave the country.
- j. ***Has had an application for United States citizenship denied.*** Not Applicable.
- k. ***Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a social security card, a driver's license or other government-issued identification card or has made a misrepresentation to the United States Government.*** Though currently not applicable, the United States is aware that a new passport will be issued by the Saudi government at the request of the Defendant. This same opportunity is not afforded Ahed as she is a female.
- l. ***Has used multiple names to attempt to mislead or defraud.*** Not Applicable.
- m. ***Has engaged in any other conduct the court considers relevant to the risk of abduction.*** Beyond the threats and the domestic violence, this is not applicable.

There is a credible and likely risk that The Defendant will abscond with the minor child. He has made multiple threats to do so and all it would take is one instance where he makes good on those threats before Ahed will be left with no

1 contact or information relating to their child's whereabouts. This is preventable and
2 should be prevented by this Court.

3
4 **C. Ahed Should Receive an Award of Attorney's Fees and Costs**

5 NRS 125.040(1)(c) makes provision for the Court to order one party to provide
6 funding necessary for the other party to carry on or defend his or her suit. In support
7 of this tenet, the Nevada Supreme Court held in *Sargeant*⁷ that each party should be
8 given "the opportunity to meet (his or her) adversary on an equal basis." In the event
9 Ahed does not receive a preliminary award of at least \$15,000, especially considering
10 the international ties and money that the Defendant has undoubtedly stashed away,
11 she will not be afforded such an opportunity.

12 The fees requested are reasonable pursuant to NRS 18.010(b) and NRS
13 125.105(3). The Nevada Legislature amended NRS 18.010, dealing with awards of
14 attorney's fees. The revised rule states that fees may be awarded:

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

27 [Emphasis added].

28 But for the Defendant's threatening to remove the child from the United States,
and now filing a bogus *Motion* for the child's "return", Ahed would not have been
required to retain counsel and seek the assistance of the family court. The Defendant

⁷ *Sargeant v. Sargeant*, 88 Nev. 223, 495 P.2d 618 (1972).

1 should certainly not be rewarded for his conduct. Accordingly, it is imperative that
2 Ahed receive a preliminary award of her fees and costs.

3 With specific reference to Family Law matters, the Court has adopted
4 “well-known basic elements,” which in addition to hourly time schedules kept by the
5 attorney, are to be considered in determining the reasonable value of an attorney’s
6 services qualities, commonly referred to as the *Brunzell*⁸ factors:

7 1. *The Qualities of the Advocate*: his ability, his training,
8 education, experience, professional standing and skill.

9 2. *The Character of the Work to Be Done*: its difficulty, its
10 intricacy, its importance, time and skill required, the responsibility imposed
11 and the prominence and character of the parties where they affect the
12 importance of the litigation.

13 3. *The Work Actually Performed by the Lawyer*: the skill, time and
14 attention given to the work.

15 4. *The Result*: whether the attorney was successful and what
16 benefits were derived.

17 Each of these factors should be given consideration, and no one element should
18 predominate or be given undue weight.⁹ Additional guidance is provided by
19 reviewing the “attorney’s fees” cases most often cited in Family Law.¹⁰

20 The *Brunzell* factors require counsel to make a representation as to the
21 “qualities of the advocate,” the character and difficulty of the work performed, and
22 the work actually performed by the attorney.

23 ⁸ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

24 ⁹ *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).

25 ¹⁰ Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within
26 the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89
27 Nev. 540, 516 P.2d 103 (1973), *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980), *Hybarger v.*
Hybarger, 103 Nev. 255, 737 P.2d 889 (1987).

1 First, respectfully, we suggest that the supervising counsel is A/V rated, a
2 peer-reviewed and certified (and re-certified) Fellow of the American Academy of
3 Matrimonial Lawyers, and a Certified Specialist in Family Law.

4 Richard L. Crane, Esq., the attorney primarily responsible for drafting this
5 document, has been practicing exclusively in the field of family law since he was
6 licensed and under the direct tutelage of supervising counsel.

7 As to the “character and quality of the work performed,” we ask the Court to
8 find our work in this matter to have been adequate, both factually and legally; we
9 have diligently reviewed the applicable law, explored the relevant facts, and believe
10 that we have properly applied one to the other.

11 The fees charged by paralegal staff are reasonable, and compensable, as well.
12 The tasks performed by staff in this case were precisely those that were “some of the
13 work that the attorney would have to do anyway [performed] at substantially less cost
14 per hour.”¹¹ As the Court reasoned, “the use of paralegals and other nonattorney staff
15 reduces litigation costs, so long as they are billed at a lower rate,” so “reasonable
16 attorney’s fees’ . . . includes charges for persons such as paralegals and law clerks.”

17 Justin K. Johnson, paralegal with the WILICK LAW GROUP, was primarily the
18 paralegal on this case. Justin earned a Certificate of Achievement in Paralegal
19 Studies and was awarded an Associates of Applied Science Degree in 2014 from
20 Everest College. He has been a paralegal for a total of five years; assisting attorney’s
21 in several aspects of law.
22
23
24
25

26 ¹¹ *LVMPD v. Yeghiazarian*, 129 Nev. 760, 312 P.3d 503 (2013) citing to *Missouri v. Jenkins*,
27 491 U.S. 274, 295-98 (1989).

1 The work actually performed will be detailed on a billing summary provided
2 to the Court upon request (redacted as to confidential information), consistent with
3 the requirements under *Love*.¹²

4
5 **V. CONCLUSION**

6 Ahed respectfully submits her *Opposition and Countermotion* and requests that
7 the Court grant the following relief:

- 8 1. Deny the Defendant's *Motion* in its entirety.
- 9 2. Award temporary primary physical custody of the parties' minor
10 child to Ahed.
- 11 3. Require the Defendant to turn over his and the minor child's
12 passport for safekeeping.
- 13 4. Require supervised visitation to protect the child from abduction
14 during the pendency of the Appeal.
- 15 5. Issue a stay of enforcement of the order dismissing Ahed's
16 *Complaint for Divorce and Custody* pending resolution of the
17 Appeal.

18 *****

19 *****

20 *****

21 *****

22 *****

23 *****

24 *****

25
26 _____
27 ¹² *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

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- 6. Award Ahed \$15,000 in preliminary attorney’s fees so she can meet the Defendant on equal footing in Court. And,
- 7. Any other relief that this Court deems just and proper.

DATED this 1st day of July, 2020.

Respectfully Submitted By:

WILLICK LAW GROUP

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

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 E. Bonanza, Suite 200
Las Vegas, Nevada 89110-2101
(702) 438-4100 Fax (702) 438-5311
Attorneys for Plaintiff

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

/s/Ahed Said Senjab

AHED SAID SENJAB

Justin Johnson

From: April Green <ASGreen@lacs.org>
Sent: Wednesday, July 01, 2020 2:41 PM
To: Richard Crane
Cc: Justin Johnson
Subject: FW: Consent



April S. Green, Esq.
Directing Attorney, Family Justice Project
Legal Aid Center of Southern Nevada, Inc.
725 E. Charleston Blvd.
Las Vegas, NV 89104
702-386-1415 direct/fax
702-386-1070 ext. 1415
asgreen@lacs.org
www.lacs.org

Legal Aid Center of Southern Nevada, Inc. is a 501 (c) (3) organization
and your [contribution](#) may qualify as a federally recognized tax deduction.



[Legal Aid Center E-Newsletter](#)

Please remember Legal Aid Center of Southern Nevada in your estate plan.

From: Ahd Sinjab <ahdsinjab@gmail.com>
Sent: Wednesday, July 1, 2020 2:37 PM
To: April Green <ASGreen@lacs.org>
Subject: Re: Consent

Yes

April Green <ASGreen@lacs.org>: ١ يوليُو، ٢٠٢٠ في ٢:٢١ م، كتب

To: Ahed Senjab:

Do you authorize the Legal Aid Center of Southern Nevada by April Green and Richard Crane of the Willick Law Group

to sign opposition papers and countermotion in response to Mohamad's motion for production of the child, and related relief?

Thank you, April Green



April S. Green, Esq.

Directing Attorney, Family Justice Project

Legal Aid Center of Southern Nevada, Inc.

[725 E. Charleston Blvd.](#)

[Las Vegas, NV 89104](#)

702-386-1415 direct/fax

702-386-1070 ext. 1415

asgreen@lacsns.org

www.lacsns.org

Legal Aid Center of Southern Nevada, Inc. is a 501 (c) (3) organization
and your [contribution](#) may qualify as a federally recognized tax deduction.



[Legal Aid Center E-Newsletter](#)

Please remember Legal Aid Center of Southern Nevada in your estate plan.

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 1st day of July, 2020, I caused the above and foregoing document to be served as follows:

- [X] Pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system.
- [] By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- [] Pursuant to EDCR 7.26, to be sent via facsimile, by duly executed consent for service by electronic means.
- [] By hand delivery with signed Receipt of Copy.
- [] By First Class, Certified U.S. Mail.

To the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
Markman Law
4484 S. Pecos Rd. Ste 130
Las Vegas, Nevada 89121
Attorney for Defendant

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

P:\wp19\SENJAB\A\DRAFTS\00447060.WPD\jj

DISTRICT COURT

CLARK COUNTY, NEVADA

AHED SAID SENJAB,

Plaintiff/Petitioner

-v.-

MOHAMED ALHULAIBI,

Defendant/Respondent

Case No. D-20-606093-DDepartment 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 Opposition: Willick Law Group Date: 7/1/20

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

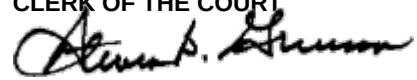
36

36

FDF

Name: APRIL GREEN,, ESQ
Address: 725 E Charleston Blvd
Las Vegas, Nevada 89104
Phone: 702-386-1415
Email: asgreen@lacsns.org
Attorney for Plaintiff
Nevada State Bar No. 8340C

Electronically Filed
7/2/2020 4:15 PM
Steven D. Grierson
CLERK OF THE COURT



8th Judicial District Court
Clark County, Nevada

<u>AHED SAID SENJAB</u> Plaintiff, vs. <u>MOHAMAD ALHULAIBI</u> Defendant.	Case No. <u>D-20-606093-D</u> Dept. <u>H</u>
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GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (first, middle, last) AHED RIYADH SENJAB
2. How old are you? 23
3. What is your date of birth? 01/12/1997
4. What is your highest level of education? Some College

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ check one)
☒ No
☐ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)

2. Are you disabled? (☒ check one)
☒ No
☐ Yes If yes, what is your level of disability? _____
What agency certified you disabled? _____
What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: _____ Date of Hire: _____ Date of Termination: _____
Reason for Leaving: _____

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending 7/2/2020 my gross year to date pay is 0.00.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=	\$0.00	×	52	=	\$0.00	÷	12	=	\$0.00
Hourly Wage		Number of hours worked per week		Weekly Income		Weeks		Annual Income		Months		Gross Monthly Income

Annual Salary

	÷	12	=	\$0.00
Annual Income		Months		Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other: _____			
Total Average Other Income Received			\$0.00

Total Average Gross Monthly Income (add totals from B and C above)	\$0.00
---	---------------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	0.00
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	
10.	Union Dues	
11.	Other: (Type of Deduction) _____	
Total Monthly Deductions (Lines 1-11)		0.00

Business/Self-Employment Income & Expense Schedule

A. Business Income:

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ _____

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other: _____			
Total Average Business Expenses			0.00

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money **you** spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me	Other Party	For Both
Alimony/Spousal Support				
Auto Insurance				
Car Loan/Lease Payment				
Cell Phone				
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...				
Credit Card Payments (minimum due)				
Dry Cleaning				
Electric				
Food (groceries & restaurants)				
Fuel				
Gas (for home)				
Health Insurance (not deducted from pay)				
HOA				
Home Insurance (if not included in mortgage)				
Home Phone				
Internet/Cable				
Lawn Care				
Membership Fees				
Mortgage/Rent/Lease				
Pest Control				
Pets				
Pool Service				
Property Taxes (if not included in mortgage)				
Security				
Sewer				
Student Loans				
Unreimbursed Medical Expense				
Water				
Other: _____				
Total Monthly Expenses	0.00			

Household Information

- A.** Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st	RYAN MOHAMAD ALHULAIBI	2-16-2019	MOM	YES	NO
2 nd					
3 rd					
4 th					

- B.** Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education				
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other: _____				
Total Monthly Expenses	0.00	0.00	0.00	0.00

- C.** Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value		Total Amount Owed		Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		\$	-	\$	=	\$ 0.00	
2.		\$	-	\$	=	\$ 0.00	
3.		\$	-	\$	=	\$ 0.00	
4.		\$	-	\$	=	\$ 0.00	
5.		\$	-	\$	=	\$ 0.00	
6.		\$	-	\$	=	\$ 0.00	
7.		\$	-	\$	=	\$ 0.00	
8.		\$	-	\$	=	\$ 0.00	
9.		\$	-	\$	=	\$ 0.00	
10.		\$	-	\$	=	\$ 0.00	
11.		\$	-	\$	=	\$ 0.00	
12.		\$	-	\$	=	\$ 0.00	
13.		\$	-	\$	=	\$ 0.00	
14.		\$	-	\$	=	\$ 0.00	
15.		\$	-	\$	=	\$ 0.00	
Total Value of Assets (add lines 1-15)		\$0.00	-	\$0.00	=	\$ 0.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		\$	
2.		\$	
3.		\$	
4.		\$	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 0.00	

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) HAVE retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ 0.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ 0.00.
4. I currently owe my attorney a total of \$ 0.00.
5. I owe my prior attorney a total of \$ 0.00.

IMPORTANT: Read the following paragraphs carefully and initial each one.

_____ I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

_____ **I have attached a copy of my 3 most recent pay stubs to this form.**

_____ **I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.**

_____ **I have not attached a copy of my pay stubs to this form because I am currently unemployed.**

A.G.
Signature

7/12/2020
Date

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this 2nd day of July, ²⁰²⁰~~2017~~, I caused the above and foregoing document to be served as follows:

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

To the litigant(s) listed below at the address, e-mail address, and/or facsimile number indicated below:

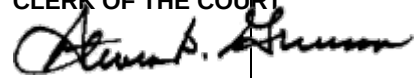
David Markman, Esq
Markman Law
4484 S. Pecos Road, Ste 130
Las Vegas, Nevada 89121
Attorneys for Defendant

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

37

37



1 **OPP**

2 **DAVID MARKMAN, ESQ.**

3 Nevada Bar No. 12440

4 **MARKMAN LAW**

5 4484 S. Pecos Rd Ste. 130

6 Las Vegas, Nevada 89121

7 Phone: (702) 843-5899

8 Fax: (702) 843-6010

9 Attorneys for Mohamad Alhulabi

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 * * * * *

13 AHED SAID SENJAB

14 Plaintiff,

15 vs.

16 MOHAMAD ALHULAIBI

17 Defendants.

CASE NO.: D-20-606093-D

DEPT. NO.: H

ORAL ARGUMENT REQUESTED

18 **DEFENDANT'S OPPOSITION TO PLAINTIFF'S COUNTERMOTION**

19 Defendant Mohamad Alhulaibi ("Mohamad") by and through his counsel of record
20 MARKMAN LAW hereby opposes Plaintiff's countermotion/petition for abduction prevention
21 measures filed by Plaintiff Ahed Senjab ("Ahed" or "Plaintiff").

22 This Opposition is made and based upon the following Memorandum of Points and
23 Authorities along with Exhibits and any oral argument the Court may consider.

24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I. INTRODUCTION**

26 Plaintiff's countermotion is an attempt to remain in the United States and deprive Mohamad
27 from seeing his son. Plaintiff continues to exploit her minor child and use the system to further her
28 agenda. The law is clear that the Minor Child should be returned to his home country.

II. FACTS

Nevada is not the home state of the Minor Child. This Court's previous order established that

1 Nevada is not the minor child's home state. A custody order was issued in T-20-203688-T and has
2 remained a lawful court order. Since this Court's Order dismissing the divorce case, Plaintiff has
3 unlawfully deprived Mohamed from seeing his son. Mohamad was unaware of the minor child's
4 whereabouts and the health of his minor son until today, July 15, 2020. Mohamad has filed a
5 Motion to Dissolve the Protection Order. Mohamad's first contact in over a month with the minor
6 child was today, July 15, 2020, over videophone. On or about July 5, 2020, Mohamad filed a
7 petition for custody in Saudi Arabia.
8

9 **III. ANALYSIS**

10 **A. A Stay Should Not Issue**

11 **1. Plaintiff has violated the Custody Orders Issued in the State**

12 Plaintiff's countermotion is a scattershot of inflammatory and conclusory remarks but with little
13 substance or relevant case law. Plaintiff filed a petition for temporary restraining order and was
14 granted an extended protection order. In the extended order Mohamad was given custodial time
15 with his son three days of the week. Mohamad followed the court's emergency custody orders
16 and always made sure to pick up and return the minor child as ordered by the Court. After this
17 Court, properly determined, that it did not have jurisdiction over the divorce and hence initial
18 jurisdiction over child custody, Plaintiff stopped following the emergency custody orders. Please
19 see attached as **Exhibit 1**, emails between counsel regarding custody exchange.

20 **2. Plaintiff's attempt to relitigate her change in immigration status fails.**

21 Plaintiff in her countermotion is attempting to relitigate the issues that this Court ruled on
22 mainly that Plaintiff has sought a different immigration status. In the hearing on June 16, 2020,
23 this Court took notice of the supplemental exhibit that purports to change Plaintiff's immigration
24 status and correctly determined that no such change in status had been effectuated. Plaintiff
25 continuously discusses her independent path to legal residency but fails again to produce any
26 evidence of this purported change.
27
28

1 **3. A Return Order of the Minor Child to Saudi Arabia does not moot the appeal.**

2 Plaintiff then argues that by ordering the return of the minor child to his Home State it will
3 destroy the subject of appeal but the United States Supreme Court has addressed this very issue
4 and held the complete opposite. The United States Supreme Court has continuously ruled that a
5 minor child should be promptly returned to their country of habitual residence so that they do not
6 lose precious months that could be spent readjusting to life in their country of habitual residence.
7

8 The Hague Convention mandates the prompt return of children to their countries of habitual
9 residence. Monasky v. Taglieri, 140 S. Ct. 719 (2020); Chafin v. Chafin, 568 U.S. 165, 180, 133
10 S. Ct. 1017, 1028, 185 L. Ed. 2d 1 (2013). “But such return does not render this case moot; there
11 is a live dispute between the parties over where their child will be raised, and there is a possibility
12 of effectual relief for the prevailing parent.” Chafin, 568 U.S. at 180. “Ms. Chafin argues that
13 this case is moot because the District Court lacks the authority to issue a re-return order either
14 under the Convention or pursuant to its inherent equitable powers. But that argument—which
15 goes to the meaning of the Convention and the legal availability of a certain kind of relief—
16 confuses mootness with the merits.” Id.
17
18

19 In Chafin the U.S. Supreme Court discusses how even if a government would not
20 cooperate it does not render an appeal moot or require a stay:

21 The Court reasons that “As to the effectiveness of any relief, Ms. Chafin asserts
22 that even if the habitual residence ruling were reversed and the District Court were
23 to issue a re-return order, that relief would be ineffectual because Scotland would
24 simply ignore it. But even if Scotland were to ignore a U.S. re-return order, or
25 decline to assist in enforcing it, this case would not be moot. The U.S. courts
26 continue to have personal jurisdiction over Ms. Chafin, may command her to take
27 action even outside the United States, and may back up any such command with
28 sanctions. Enforcement of the order may be uncertain if Ms. Chafin chooses to defy
 it, but such uncertainty does not typically render cases moot. Courts often
 adjudicate disputes where the practical impact of any decision is not assured. For
 example, courts issue default judgments against defendants who failed to appear or
 participate in the proceedings and therefore seem less likely to comply. Similarly,

1 the fact that a defendant is insolvent does not moot a claim for damages. Chafin,
2 568 U.S. at 174-175.

3 The Chafin court goes on and holds that “[i]f losing parents were effectively guaranteed
4 a stay, it seems likely that more would appeal, a scenario that would undermine the goal of prompt
5 return and the best interests of children who should in fact be returned.” Chafin, 568 U.S. 165,
6 179, 133 S.Ct. 1017, 1027

7
8 Here, the whole point of Plaintiff’s appeal is to remain in the United States with the Minor
9 Child. This will effectively either require Mohamad to violate immigration law or to go another
10 prolonged period without seeing his son. As the U.S. Supreme Court has held allowing the filing
11 of an appeal to delay the return of the Minor Child to his home state undermines the goal of
12 prompt return and the best interests of the child. There is no reason to delay the return of the
13 minor child to his Home State, the Plaintiff lost based on the law in the 9th Circuit. Further, there
14 is nothing in Mohamad’s conduct to show that Mohamad will not follow the Court’s Orders
15 regardless of where he resides in the world. Mohamad has followed all orders to date and has
16 much more significant ties to the United States than Plaintiff. Plaintiff was in the United States
17 for the first time when she arrived as a dependent to Mohamad’s VISA in January. Mohamad has
18 been to the United States off and on for the last five years.

19
20
21 Additionally, Plaintiff argues for the status quo, but the Plaintiff comes to this court with
22 unclean hands, because the status quo was for Mohamad to continue receiving his court ordered
23 time share. Plaintiff unilaterally changed the status quo by withholding the minor child, first
24 under the pretense of a quarantine at Safe Nest and currently under the guise that the Petition for
25 Return Order somehow changed the Court Ordered time share. Please see **Exhibit “1”**.

26
27 **4. The request for Court Ordered Supervision should be denied**

28 Furthermore, Plaintiff argues this Court should order supervised visitation of the Defendant

1 with the minor child. As Plaintiff could be tragically separated from seeing the minor child if
2 Mohamad takes the child to Saudi Arabia, despite the fact that Plaintiff has the ability to seek
3 custody in Saudi Arabia. Plaintiff again cites to no case law for the supervised visitation
4 proposition, only that the mother could be separated from the minor child and it would be tragic.
5 The United States Court of Appeals, First Circuit in da Silva held that a party must show by clear
6 and convincing evidence that there is a grave risk that return would expose the child to physical
7 or psychological harm. da Silva v. de Aredes, 953 F.3d 67, 73 (1st Cir. 2020). The da Silva Court
8 goes on and states that “the harm must be ‘something greater than would normally be expected
9 on taking a child away from one parent and passing [the child] to another.’ da Silva v. de Aredes,
10 953 F.3d 67, 73 (1st Cir. 2020) *citing* Walsh v. Walsh, 221 F.3d 204, 218 (1st Cir. 2000). This
11 defense is not “a vehicle to litigate (or relitigate) the child's best interests.” da Silva v. de Aredes,
12 953 F.3d 67, 73 (1st Cir. 2020) *citing* Danaipour, 286 F.3d at 14.

14 In da Silva, the Court found the claims of abuse against the minor child were that the minor
15 was essentially abused from seeing the instances of conflict between her parents, or that the
16 conflict between her parents demonstrates that minor would be at grave risk of da Silva abusing
17 her in the future. da Silva v. de Aredes, 953 F.3d 67, 73 (1st Cir. 2020) The Appellate Court
18 noted that while da Silva “on occasion ... engaged in some degree of physical assault or abuse,”
19 the abuse was not so severe as in Walsh. The court found that da Silva never abused A.C.A.
20 Unlike in Walsh, the “physical assault or abuse” here never resulted in any hospital visits by de
21 Aredes, police complaints, or arrests. And de Aredes's own testimony about the abuse was often
22 conflicting or inconsistent.” da Silva v. de Aredes, 953 F.3d 67, 74 (1st Cir. 2020)

23 The U.S. Supreme Court in Monasky followed the same rationale regarding abuse allegations:

25 “Monasky raised below an Article 13(b) defense to Taglieri's return petition. In
26 response, the District Court credited Monasky's “deeply troubl[ing]” allegations of
27 her exposure to Taglieri's physical abuse. App. to Pet. for Cert. 105a. But the
28 District Court found “no evidence” that Taglieri ever abused A.M.T. or otherwise
disregarded her well-being. *Id.*, at 103a, 105a. That court also followed Circuit
precedent disallowing consideration of psychological harm A.M.T. might
experience due to separation from her mother. *Id.*, at 102a. Monasky does not

1 challenge those dispositions in this Court.”

2 Monasky v. Taglieri, 140 S. Ct. 719, 729 (2020)

3
4 Here, Plaintiff alleges that Mohamad abused her but the allegations have shown to be
5 inconsistent and conflicting. There are no allegations that Mohamad ever abused the minor child.
6 While there was a singular police complaint, the officers that responded the day prior did not find
7 any allegations of abuse, Plaintiff has never alleged she went to the hospital, and Mohamad has
8 not been arrested or charged with any crimes related to any alleged abuse.

9 “The decision whether to order supervised visitation must depend, however, on the particular
10 facts of the case, and the unwillingness of the noncustodial parent's native country to enforce the
11 trial court's custody order is not controlling.” Al-Zouhayli v. Al-Zouhayli, 486 N.W.2d 10, 13
12 (Minn. Ct. App. 1992). In Al-Zouhayli, the appellate court found some past statements and
13 conduct troubling about the party’s intention to remove the minor child to either Syria or Saudi
14 Arabia but when looking at the totality of the circumstances determined that court ordered
15 visitation was not in the minor child’s best interest. The trial court in that matter was required to
16 balance the harmful effect of supervised visitation on the parent-child relationship against the
17 risk of abduction. Id. When the sole allegation of endangerment is risk of abduction, the district
18 court should weigh the harmful effect of supervised visitation on the parent-child relationship
19 against the risk of abduction to determine the best interests of the child. Olupo v. Olupo, No. C8-
20 02-109, 2002 WL 1902892, at *2 (Minn. Ct. App. Aug. 20, 2002) *citing Al-Zouhayli v. Al-*
21 *Zouhayli*, 486 N.W.2d 10, 13 (Minn.App.1992).

22 Here, Mohamad has not made any substantiated threats of abduction. The only party that ever
23 tried to leave the state with the minor child was Plaintiff as shown by the Police officer’s report
24 from February 9, 2020. Mohamad has always maintained the child’s best interest, Plaintiff
25 “offered” to allow Mohamad to see his son while supervised but it would have to be at the police
26 station or at child haven. Mohamad declined the visitation not because he did not want to see his
27 son but because he had the minor child’s best interest in mind and he did not want to potentially
28

1 expose his child to Covid-19, especially after the minor child just came out of “quarantine” for
2 Covid-19.

3 Lastly, Plaintiff has not shown there are any substantiated threats that Mohamad would take
4 the minor child from Nevada before being lawfully allowed to do the same. Mohamad has done
5 everything above aboard and has come to this Court for all of his requested relief. Even prior to
6 any Court Order, Mohamad listened to the LVMPD metro officers that responded on February
7 9th, 2020, that told him to contact LVMPD if he needed to get anything from his apartment which
8 he did on February 10th, 2020. Therefore, this Court should deny Plaintiff’s requested relief.
9

10 **B. Mohamad cannot abduct the Minor Child from Nevada as this Court has already**
11 **Ordered it does not have Subject Matter Jurisdiction over the Divorce and thereby**
12 **ruled that Nevada is not the Minor Child’s Home State.**

13 Mohamad cannot abduct the minor child as this is not the minor’s home state. If this Court
14 dissolves or modifies the TPO since there is no longer emergency jurisdiction and issues a return
15 order, this case can be closed, and the Minor Child can return to his home state. On or about July
16 5, 2020, Mohamad filed a Petition for Custody in Saudi Arabia. As of the time of the filing of
17 the instant Motion, Ahed still has time to file her response to Mohamad’s Saudi Arabia Petition.
18 Please see attached as **Exhibit 2** a true and correct copy of the Petition.
19

20 **1. The Minor is not safe because he lives at Safe Nest**

21 Plaintiff argues that the minor child is safe with Plaintiff at Safe Nest, but the minor child has
22 been to the hospital once since starting to live at the shelter and was recently “quarantined” in
23 the shelter to protect his health. Mohamad is still uncertain regarding the purpose of the
24 quarantine, or whether the minor child was tested for Covid-19, as there are apparently no
25 medical records for the “quarantine” or related treatment. Mohamad has requested the medical
26 records related to the quarantine and nothing has been produced. Please see **Exhibit 1**. This is
27 the second time since Plaintiff has moved the Minor Child into the shelter that there has been
28

1 potential exposure to Covid-19, the first time was in March and were shown in medical records
2 produced by Plaintiff in Exhibit D to her Opposition to Dissolve the TPO, attached her as **Exhibit**

3 **3.**

4
5 Furthermore, on or about March 31, 2020, during the first time Plaintiff had prevented
6 Mohamad from seeing his son and solely while in Plaintiff's custody for the prior six weeks the
7 minor child was found to have iron deficiency anemia secondary to inadequate dietary iron
8 intake. Please see **Exhibit 3**.

9
10 Moreover, on July 15, 2020, Mohamad was finally "allowed" to communicate with his son
11 through a video conference and Mohamad noticed bruising under his son's eye.

12 **2. Plaintiff has not followed the Custody Order and Mohamad has always complied with**
13 **the Court Orders**

14 The only unlawful actions taken regarding child custody is Plaintiff unlawfully withholding
15 the minor child from Mohamad. Regrettably, Plaintiff does not address in her counter motion,
16 that she is the only party to violate the child custody orders. Plaintiff despite refusing to allow
17 Mohamad his lawfully allowed custodial time, comes to this court seeking relief, knowing that
18 if she does not get her requested relief, she will do as before and continue to prevent Mohamad
19 from seeing his son. Mohamad has been consistent throughout and has continuously followed
20 the Court Orders, he followed the Court Orders while attending school and followed the Court
21 Orders after graduating from school.
22

23
24 **3. Mohamad continues to vehemently deny the domestic abuse allegations**

25 Mohamad denies Plaintiff's allegations of abuse and has brought a motion to dissolve the
26 Protection Order. Mohamad has maintained from the outset the allegations are fabricated to
27 further Plaintiff's agenda to establish residency in the United States. Mohamad has not been
28

1 charged with any crime related to the police report filed on February 10, 2020. Mohamad has
2 filed a motion to dissolve the TPO originally in front of the TPO Court but was continued to this
3 Court's calendar on August 4, 2020.

4
5 **4. Mohamad has not made any substantiated threats of absconding with the minor child**

6 Plaintiff then goes on to state that Mohamad made threats in his motion to take the Child to
7 Saudi Arabia. Mohamad does not make threats in the motion, Mohamad has been consistent and
8 clear about his intentions this whole time. Mohamad of course wants to take the Minor Child to
9 Saudi Arabia, that is the stated purpose of the Motion but it is not a threat, it is done lawfully by
10 placing the issues in front of the Court. Mohamad has never hid the fact that he wants to leave
11 the United States with the minor child. If the Minor Child is forced to remain in the United
12 States, then Mohamad will have a choice to make and that is to either be deprived from seeing
13 his son or to violate immigration law. This Court should not place Mohamad in a situation to
14 have to make that choice, Mohamad has complied with the law and as soon as Plaintiff lost, she
15 stopped following the law.
16
17

18 **5. Plaintiff has already tried to leave Nevada to go to Maryland with the Minor Child**

19 Plaintiff argues that Mohamad has not stated were he believes Plaintiff would go if she
20 abducted the minor child, but Mohamad was clear he believes Plaintiff would go to Maryland as
21 that is where she told police she was going when she called LVMPD on February 9th. If Plaintiff
22 does not go to Maryland, Mohamad believes she will go anywhere to further her agenda to live
23 in the United States. Mohamad believes Plaintiff is exploiting their minor child as a pawn to
24 further her end game of obtaining legal residency. Plaintiff comes from a wealthy family, she
25 attended private school growing up, has completed the majority of her requirements for an
26 undergraduate degree, and has significant amounts of jewelry and gold with her parents in Saudi
27
28

1 Arabia. Please see attached as **Exhibit 4** photos of some of Plaintiff's gold and jewelry,
2 screenshots of her families Facebook profiles for their import/export business and restaurants.
3 Further, despite having significant wealth, Plaintiff has shown that she is willing to stay in a
4 shelter to further her agenda of gaining residency in the United States. The fact that Plaintiff has
5 significant assets in Saudi Arabia and that it would be hard to determine all the assets without
6 expending significant resources is yet another reason that this is the improper jurisdiction.
7

8 Mohamad reiterates that all of Plaintiff's actions are with the intent to further her objection
9 of obtaining lawful residency status including her exploitation of their minor child.
10

11 **6. Plaintiff has not provided any evidence that she will be deprived due process in Saudi**
12 **Arabia or that the Courts will not consider the best interest of the child**

13 Other than to state that Plaintiff will be afforded due process in Saudi Arabia and that the
14 custody arrangement will consider the child's wellbeing, Mohamad will not address all of
15 Plaintiffs conclusory allegations regarding the law of Saudi Arabia as this Court has determined
16 Nevada is not the minor child's home state. Furthermore, Plaintiff's counter-motion is devoid of
17 any actual reference to the law in Saudi and only uses tropes and "common knowledge" as a way
18 to excite emotion. Plaintiff should be excluded from introducing anything related to the law in
19 Saudi Arabia in her reply as she did not produce even a modicum of law related to her allegations
20 in her counter-motion only common knowledge stereotypes.
21

22 The Plaintiff essentially requests this Court to make the United States a place where a Saudi
23 citizen, resident or businessman, or a long list of other countries cannot bring their family. As
24 Plaintiff's requested relief would allow for a wife to threaten divorce the minute, the parties
25 stepped foot on United States soil and that no court in the United States should require the minor
26 child to return to their home country. Even though Saudi Arabia has significant ties and full
27 diplomatic relations with the United States, including the fact that Saudi Arabia is the second
28

1 leading source of imported oil to the United States. Please see attached as **Exhibit 5**, a document
2 downloaded from the United States State Department. Plaintiff's requested relief should be
3 denied.
4

5 **C. Plaintiff's request for attorney's fees should be denied.**

6 **NRS 125.040 Orders for support and cost of suit during pendency of action.**

7 1. In any suit for divorce the court may, in its discretion, upon application by
8 either party and notice to the other party, require either party to pay moneys
9 necessary to assist the other party in accomplishing one or more of the following:

10 Plaintiff's arguments that she should be awarded attorney's fees lacks merit. First, NRS
11 125.040 only grants attorney's fees for a suit in divorce. The divorce has been dismissed and
12 therefore this court should not grant fees as the provision is not applicable. Second, Mohamad is
13 a graduate student that is no longer employed. Third, Mohamad has retained his counsel through
14 the Modest Means Program through the Nevada State bar and pays his own attorney \$75.00 per
15 hour. Lastly, Mohamad's motion for a return order is not "bogus" it is substantiated in law and
16 only had to be brought because Plaintiff has withheld the minor child.
17

18 Mohamad won his motion to dismiss the divorce case and has been dragged back into
19 relitigating the issues since Plaintiff will not produce the minor child. If anyone should be paying
20 attorney's fees it should be Plaintiff to Mohamad as her case was dismissed and now she will not
21 return the minor child to his home state. Nor will plaintiff allow Mohamad to physically see his
22 son pursuant to the Court Orders. The only reason the motion for a return order had to be filed
23 was to prevent Plaintiff from trying an end around attempt at establishing Nevada as the home
24 state of the Minor Child after the previous divorce was dismissed. Therefore, Plaintiff's request
25 for attorney's fees should be denied and this Court should grant Mohamad his attorney's fees.
26

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Dated this 15th day of July, 2020.

By: /s/ DAVID MARKMAN
 DAVID MARKMAN, ESQ.
 Nevada Bar No. 12440
 4484 S. Pecos Rd. #130
 Las Vegas, Nevada 89121
 (702) 843-5899
 Attorneys for Mohamad Alhulaibi

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Pursuant to NRCP 5(b), I certify that I am an employee of MARKMAN LAW, and that as 15th day of July 2020, I caused the foregoing document entitled MOHAMAD'S MOTION TO DISMISS AND AFFIDAVIT OF SERVICE TO PLAINTIFF'S COUNTERMOTION, to be served as follows:

- ☒ pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCPP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via **facsimile**, by duly executed consent for service by electronic means;
- ☐ sent out for hand-delivery via Receipt of Copy.

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

APRIL GREEN, ESQ.
Nevada Bar 8340C
BARBARA BUCKLEY
Nevada Bar No. 3918
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 E. Charleston Blvd.
Las Vegas, NV 89104
asgreen@lacsns.org

/s/ David Markman
David Markman, Esq.

EXHIBIT 1

EXHIBIT 1



David Markman <david@markmanlawfirm.com>

D-20-606093-D, Ahed Said Senjab, Plaintiffvs.Mohamad Abulhakim Alhulaibi

15 messages

David Markman <david@markmanlawfirm.com>

Fri, Jul 10, 2020 at 12:38 PM

To: April Green <Asgreen@lacs.org>, richard@willicklawgroup.com, email@willicklawgroup.com

Please let me know if your client will be providing the minor child today pursuant to the Court Order that is in place?

Thanks,

--

David Markman, Esq.
Attorney

MARKMAN LAW

4484 S. Pecos Rd. Suite #130

Las Vegas NV 89121

Tel: 702-843-5899 / Fax: 702-843-6010

David@Markmanlawfirm.com

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April Green <ASGreen@lacs.org>

Fri, Jul 10, 2020 at 1:40 PM

To: David Markman <david@markmanlawfirm.com>

Cc: Marshall Willick <marshal@willicklawgroup.com>

Mr. Markman:

As you know, in response to your motion to dissolve the TPO, we counter-moved for supervised visitation; moreover, both parties have motions for abduction prevention measures, among other things, pending before Dept H. The prior visitation orders have been suspended in essence until the 8-4-20 hearing. Judge Norheim deferred those issues to Judge Ritchie to be heard on August 4, 2020.

Having said that, perhaps we could try and agree to some voluntary abduction prevention measures. For instance, we could stipulate to visitation by audio or video pending the August 4th hearing. Our client is amenable to a short, supervised visit next Friday, July 17th subject to the ability of Safe Nest to arrange staffing and transportation to facilitate the visit.

Please advise.

April Green

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.n.org>
Cc: Marshall Willick <marshal@willicklawgroup.com>

Fri, Jul 10, 2020 at 2:26 PM

April,

As discussed in my motion to dissolve and as the Judge acknowledged yesterday, a motion does not change a lawful court order and the Court will have the power to determine if your client is in contempt at the hearing on August 4, 2020. A modification of a Court Order can only be done by a Judge that has the proper jurisdiction to make that decision.

To help protect against protection issues, my client is willing to give me the Minor's passport for safekeeping and to hold it during his court scheduled visitation time. I do not want to have to safekeep the passport but I will if it will provide my client the opportunity to have his son. I will send you an email of a copy of the passport when it is in my possession and will declare under penalty of perjury that I will not give the passport back to my client until the minor child is back with Ahed.

Also, I would like to remind you that my client has not once violated the Court order regarding visitation or contact with Ahed. Additionally, he graduated on May 17th, had the minor child and his passport for the following month prior to your client withholding the minor and never tried to abscond with the minor child.

Please let me know your thoughts on the above.

Thank you,

[Quoted text hidden]

Marshall Willick <marshal@willicklawgroup.com>
To: David Markman <david@markmanlawfirm.com>, April Green <ASGreen@lacs.n.org>

Fri, Jul 10, 2020 at 3:00 PM

Hi, David:

I know I am only appellate counsel in this matter, but some of my recent experiences might be useful, at the risk of stepping on April's toes

I frequently act as an expert witness in malpractice and other cases, and provided an expert opinion in a case against a local attorney in an analogous situation. It, too, was a 125D matter. The mother (in that case) absconded with the child to non-signatory Russia; while the lawyer for dad had been aware of threats, he took no action to prevent the abduction and was held liable for essentially facilitating a kidnap. Ethics charges were lodged against mom's counsel, too.

While your offer is appreciated, I am quite aware from prior cases that certain countries (notably including Saudi Arabia) will provide instant replacement passports upon request to at least certain citizens, apparently including the class of which your client is a member. So an offer to hold an existing passport for him or for the child is useless. He may already have duplicates, which I also know can be done from prior cases.

I suggest that if in fact your client is indeed primarily interested in seeing his child, rather than creating grist for litigation, let us construct an abduction-resistant means of facilitating it, such as contact in a police substation or (better) at Donna's house or other established facility for supervision, so that you, and I, and April, do not find ourselves drawn in as

participants in further litigation by those looking for someone to blame for an abduction that should not be permitted to occur.

Thanks.

Marshal

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: Marshal Willick <marshal@willicklawgroup.com>
Cc: April Green <ASGreen@lacs.org>

Fri, Jul 10, 2020 at 4:25 PM

Marshal,

I appreciate your thoughts on this matter and was under the assumption that your firm is now representing Ahed in the district court case as well based on your filing of the opposition to Mohamad's motion for production of the minor child.

It does not sound like the facts in the instant case are similar to your facts. My client has yet to make any substantiated threat to unlawfully remove the child from the United States. My client has had the minor child on the weekends after he graduated from UNLV and returned the minor child pursuant to the court order. Further, the District Court has ruled it does not have subject matter jurisdiction regarding the divorce, no stay from the order has been issued, and no appeal has been filed.

Additionally, the only allegations regarding my client wanting to unlawfully remove the minor child from the United States is from your client. Also I am willing to take the passport as a preventive measure from my client removing the child from the United States. I will concede that me taking the passport is not a fool proof method, but the same could be said about your client having the minor child, as for all we know she has already gotten a replacement passport for the minor child.

For clarification purposes, the passports are from Syria, the parties were married in Saudi Arabia and the minor child's home state is Saudi Arabia. There is no need for my client to have obtained a replacement passport as he currently has the minor's passport. Nor do I believe a passport could be reissued in a matter of days.

In normal circumstances my client would be willing to go to any of the aforementioned places. Due to coronavirus and the rising rates in the state, he is not interested in anything that could risk his health or the minor child's health, which according to the latest guidelines would be indoor areas. My client would like to take his child to the park. If you have a proposal about how Mohamad can take his son to the park that would meet your criteria he is more than willing to move forward with such a proposal. Mohamad does not want to wait another weekend to see his son, so he would like a plan put forward that would allow him to see his son this weekend.

I look forward to hearing from you.

Thank you,
[Quoted text hidden]

Marshal Willick <marshal@willicklawgroup.com>
To: David Markman <david@markmanlawfirm.com>
Cc: April Green <ASGreen@lacs.org>, Justin Johnson <justin@willicklawgroup.com>

Sat, Jul 11, 2020 at 4:21 PM

Hi, David:

Sorry for the delayed response; I was in a conference until after 5 on Friday and only saw your note after hours.

Yes, for logistics' sake, we have associated in at the district court level as well, although April is still lead and we are on board primarily as appellate counsel.

I don't think debating how "substantiated" your client's threats of absconding with the child might be is productive, and I do not find the fact that he did not do so for a couple of weeks evidence of much. In the Russian case (actually, there were two of them, about 6 months apart, but that detail is not really relevant), pretty much exactly the same set up (shared custody or visitation, without major incident) was in place until the unannounced disappearances.

The actual Notice of Appeal will be on file shortly; the attorney handling that matter was involved in a very serious accident and while he has been released from the hospital to recuperate at home, he will be out of commission for some time, at least; I apologize for any inconvenience from the delays.

Any concerns about our client and passports would be misplaced – women are not granted the same latitude, and in any event, she is the one trying to stay here and she has no income or other resources; there is no rational reason to believe she would or could go anywhere.

As to yours, well, I was the designated Nevada referral counsel for the National Center for Missing and Exploited Children (NCMEC) for about 15 years and yes, certain countries (and Saudi Arabia is one of them) have been known to produce replacement passports on a same day basis.

I do have to quibble about the child's Home State – I teach this subject; the child's Home State is Nevada. Our CLE materials on the subject are posted on our web site.

I concur with your requests to minimize infection risks for everyone concerned. I am not, however, the proper person to coordinate anything – I have no direct contact with our client, nor even the ability to reach her, and have to ask that any logistics or arrangements be made through April and LACSN. I do not know if they are monitoring their email over the weekend, and again apologize for not being able to respond yesterday between 4:30 and 5.

Do let me know if there is something that I might do to be helpful while we attend to the legal filings and submissions. Best wishes; stay safe.

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>

Mon, Jul 13, 2020 at 1:33 PM

To: Marshal Willick <marshal@willicklawgroup.com>

Cc: April Green <ASGreen@lacs.org>, Justin Johnson <justin@willicklawgroup.com>

Marshal,

You are correct there is no need to debate the facts, similarities or law in the emails. I mainly wanted to reiterate the fact that I would be willing to hold the passport as that was part of the relief requested in your opposition, albeit that in your opposition the court would hold the passports.

I am sorry to hear about the attorney in your office. I hope he will be okay. Short of moving the hearing please let me know if there is anything I can do to accommodate your office.

We obviously disagree about Nevada being the home state of the minor child but if you have materials that are dispositive of the issue I will gladly review the same.

April, please let me know what you propose so my client can see his son that will also minimize the risk of the minor child and my client potentially contracting Covid-19, while also alleviating your concerns about my client absconding with the minor. In the meantime, please let me know if a video call can be set up sooner than later so my client can see his son as it has now been almost a whole month since he has seen him last.

Thanks,

[Quoted text hidden]

April Green <ASGreen@lacs.org>

Mon, Jul 13, 2020 at 3:03 PM

To: David Markman <david@markmanlawfirm.com>, Marshall Willick <marshal@willicklawgroup.com>

Cc: Justin Johnson <justin@willicklawgroup.com>

OK; will get back to you by tomorrow.

[Quoted text hidden]

April Green <ASGreen@lacs.org>

Tue, Jul 14, 2020 at 1:01 PM

To: David Markman <david@markmanlawfirm.com>, Marshall Willick <marshal@willicklawgroup.com>

Mr. Markman,

I have discussed your client's request with our client. Safe Nest is not able to provide supervisors for in person visits. Therefore, we would like to set up video contact for your client; please give me a couple of days that would work for him during the week leading up to the hearing on August 4, 2020.

Thank you, April Green



April S. Green, Esq.

Directing Attorney, Family Justice Project

Legal Aid Center of Southern Nevada, Inc.

725 E. Charleston Blvd.

Las Vegas, NV 89104

702-386-1415 direct/fax

702-386-1070 ext. 1415

asgreen@lacs.org

www.lacs.org

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and your contribution may qualify as a federally recognized tax deduction.



Legal Aid Center E-Newsletter

Please remember Legal Aid Center of Southern Nevada in your estate plan.

From: David Markman <david@markmanlawfirm.com>
Sent: Friday, July 10, 2020 4:26 PM
To: Marshall Willick <marshal@willicklawgroup.com>
Cc: April Green <ASGreen@lacs.org>

[Quoted text hidden]

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>
Cc: Marshall Willick <marshal@willicklawgroup.com>

Tue, Jul 14, 2020 at 4:05 PM

My client's availability to talk to his son is wide open. If you give us date, time, and the procedure, he will make himself available. Please also let me know if there is any other way for my client to visit his son in person. Thanks,

[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Wed, Jul 15, 2020 at 11:54 AM

How about Sunday and Wednesday at 1:30? If so, may she call him on his cell number?

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Wed, Jul 15, 2020 at 11:56 AM

Starting today at 1:30?

[Quoted text hidden]

April Green <ASGreen@lacs.org>
To: David Markman <david@markmanlawfirm.com>

Wed, Jul 15, 2020 at 11:57 AM

Yes, she will video call him on his cell, OK?

[Quoted text hidden]

David Markman <david@markmanlawfirm.com>
To: April Green <ASGreen@lacs.org>

Wed, Jul 15, 2020 at 12:06 PM

7/15/2020

david markman Mail - D-20-606093-D, Ahed Said Senjab, Plaintiffvs.Mohamad Abulhakim Alhulaibi

Yes, that works. Thanks.

[Quoted text hidden]

April Green <ASGreen@lacs.org>

Wed, Jul 15, 2020 at 12:15 PM

To: David Markman <david@markmanlawfirm.com>

welcome

[Quoted text hidden]

EXHIBIT 2

EXHIBIT 2

بسم الله الرحمن الرحيم

رقم الطلب: (4151987550)

تاريخ الطلب : (14 / 11 / 1441)



المملكة العربية السعودية
وزارة العدل

المرفقات :

صحيفة الدعوى

----- (بيانات المدعي) -----

البيانات الشخصية :

الاسم / محمد عبد الحكيم الحليبي الحليبي الجنس / ذكر الجنسية / سوري هل هو سجين / لا
نوع الإثبات / إقامة نظامية رقم الإثبات / 2162179390 المهنة /

جهة العمل :

نوع جهة العمل : / لا يعمل اسم جهة العمل /

عنوان الإقامة:

الدولة / السعودية

الحي / الشارع / الإمام البخاري رقم العقار / رقم الوحدة /
الوصف /

العنوان الوطني:

رقم المبنى / 89 الشارع / الإمام البخاري الحي /
رقم الوحدة / 10 الرمز البريدي / الرقم الإضافي /

البريد الإلكتروني:

M.hul@outlook.com

الهاتف:

الرقم / 0599544638

----- (بيانات المدعي) -----

البيانات الشخصية :

الاسم / عبد الحكيم يونس الحليبي الحليبي الجنس / ذكر الجنسية / سوري هل هو سجين / لا
نوع الإثبات / إقامة نظامية رقم الإثبات / 2094759244 المهنة /

جهة العمل :

نوع جهة العمل : / لا يعمل اسم جهة العمل /

عنوان الإقامة:

الدولة / السعودية

الحي / الشارع / الإمام البخاري رقم العقار / رقم الوحدة /
الوصف /

العنوان الوطني:

رقم المبنى / 89 الشارع / الإمام البخاري الحي /
رقم الوحدة / 10 الرمز البريدي / الرقم الإضافي /

البريد الإلكتروني:

AA000352

----- (بيانات المدعى عليه) -----

البيانات الشخصية :

الاسم / عهد - سنجاب سنجاب الجنس / ذكر الجنسية / سوري هل هو سجين / لا
 نوع الإثبات / إقامة نظامية رقم الإثبات / 2128825813 المهنة /

جهة العمل :

نوع جهة العمل : / لا يعمل اسم جهة العمل /

عنوان الإقامة:

الدولة /

الحي / الشارع / رقم العقار / رقم الوحدة /
 الوصف /

العنوان الوطني :

رقم المبنى / 89 الشارع / الإمام البخاري الحي /
 رقم الوحدة / 10 الرمز البريدي / الرقم الإضافي /

البريد الإلكتروني :

Ahdsinjab@gmail.com

الهواتف :

الرقم / 0530152357

----- (بيانات الدعوى) -----

تصنيف الدعوى
 دعوى حضانة

إشارة إلى طلب المدعى عليها من المدعي/ محمد عبدالحكيم الحليبي الطلاق منه كزوجة , وحيث أنه يوجد بين المدعي والمدعى عليها طفل لا يتجاوز السنتين من العمر , وتتطلب تربيته ورعايته عناية فائقة واهتمام وحرص وهذه الأمور لا تتوافر بالمدعى عليها , حيث أن سبب الطلاق راجع إلى طلبها ونظراً لأن المدعي يتمتع بالأهلية اللازمة والمؤهلات والاحتياجات لرعاية الطفل وتربيته بالإضافة لوجود بيئة مناسبة لذلك من خلال منزل الجد والجددة للطفل , لذا نطلب من فضيلتكم النظر بطلب المدعين والحكم لهم بحضانة الطفل للأسباب المذكورة مع استعدادهم لتلبية جميع المتطلبات والتعهدات التي تكون بمصلحة الطفل.

المحكمة محكمة الاحوال الشخصية بمكة المكرمة

طلبات المدعى عليها بتسليم الطفل لوالده المدعي. الحكم لصالح المدعي (والد الطفل) بحضانة الولد نظراً لما يتمتع به من أهلية وإمكانيات.

أسانيد صور عن صك الزواج _ صور عن دعوى المدعى عليها لطلب الطلاق _ صور عن إثباتات الأطراف.
 الدعوى

.....: التوقيع

مقدم الطلب أو ممثله : محمد عبدالحكيم الحليبي

طباعة

EXHIBIT 3

EXHIBIT 3

UNLV General Pediatrics Clinic
Phone: 702-944-2828
1524 Pinto Lane 3rd Floor
LAS VEGAS NV 89106-4195

Date: Mar 31, 2020

Patient Name: Ryan Alhulaibi
Address: 3900 meadows lane
LAS VEGAS NV 89107
Home phone: 702-383-3536

MRN: 1000433344

DOB: 02/16/2019

Patient Weight
03/31/20 9.582 kg (36 %, Z= -0.36)*

* Growth percentiles are based on WHO (Boys, 0-2 years) data.

**Rx: multivitamin-mineral-iron (PEDIATRIC
MULTIVITAMIN-IRON) 750 unit-400 unit-10 mg/mL
drops drops** Order ID (37061421)

Route: oral

RX Ref #:

Sig: Take 1 mL by mouth daily.

Qty: **90 (Ninety) mL**

Refill: **1 (One)** Days Supply:

Dx: Iron deficiency anemia secondary to inadequate dietary
iron intake (D50.8)

Signature: 

Prescriber: Jordana Boneh, MD
NPI: 1992067748

Security features: (**) Border for quantity and refill amount, microprint
signature line visible at 5x magnification must show "original prescription",
and this description.

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P00034

AA000355

100.4° F



AFTER VISIT SUMMARY

Ryan Alhulibi MRN: 1000433344

Adenovirus infection 3/15/2020 - 3/20/2020 UMC PEDIATRICS 702-383-3939 UMC Hospital 702-383-2000

Instructions



Your child's medications have changed

- STOP giving your child:
 - acetaminophen 160 mg/5 mL elixir
 - DESITIN 40 % paste
 - ibuprofen 100 mg/5 mL suspension (MOTRIN)

Review your child's updated medication list below.

Testing for COVID-19 were negative. Testing was sent out to outside Lab.
* Both patients negative.
Alexandra LSN (702) 629-0093



Activity Instructions

Post-Discharge Activity: Normal activity as tolerated.
Normal activity as tolerated.



Diet Instructions

Pediatric Discharge Diet: Return to previous diet
Diet type: Return to previous diet

You are allergic to the following

Date Reviewed: Mar 16, 2020 Reviewed By: Abigail Jayne Canda, RN: Reviewed

Accurate as of: Mar 20, 2020 2:30 PM

Allergen	Reactions	Deletion Reason
Milk	Not Noted	
Wheat Flour	Not Noted	

You are intolerant to the following

Date Reviewed: Mar 16, 2020 Reviewed By: Abigail Jayne Canda, RN: Reviewed

Accurate as of: Mar 20, 2020 2:30 PM

No active intolerances/contraindications

Call all or have Shelter bring you back if he gets worse.

EXHIBIT 4

EXHIBIT 4



سنباب التجارية

تجارة أدوات ومواد البناء ومعامل الرخام و الحجر

[Timeline](#)[About](#)[Friends](#)[Photos](#)[More ▼](#)[Add Friend](#)

Do you know سنباب?

[Add Friend](#)

To see what he shares with friends, send him a friend request.

Intro



Damascus University



Self-Employed



Lives in Damascus, Syria



From Damascus, Syria











EXHIBIT 5

EXHIBIT 5

[← SAUDI ARABIA](#)

★ ★ ★

U.S. Relations With Saudi Arabia

BILATERAL RELATIONS FACT SHEET

BUREAU OF NEAR EASTERN AFFAIRS

NOVEMBER 26, 2019

Share 

More information about Saudi Arabia is available on the Saudi Arabia Page and from other Department of State publications and other sources listed at the end of this fact sheet.

U.S.-SAUDI ARABIA RELATIONS

Following recognition in 1931, the United States and Saudi Arabia established full diplomatic relations, with exchange of credentials and the first U.S. ambassadorial posting to Jeddah, in 1940. Saudi Arabia's unique role in the Arab and Islamic worlds, its holding of the world's second largest reserves of oil, and its strategic location all play a role in the long-standing bilateral relationship between the Kingdom and the United States. The United States and Saudi Arabia have a common interest in preserving the stability, security, and prosperity of the Gulf region and consult closely on a wide range of regional and global issues. Saudi Arabia plays an important role in working toward a peaceful and prosperous future for the region and is a strong partner in security and counterterrorism efforts and in military, diplomatic, and financial cooperation. Its forces works closely with U.S. military and law enforcement bodies to safeguard both countries'

national security interests. The United States and Saudi Arabia also enjoy robust cultural and educational ties with some 55,000 Saudi students studying in U.S. colleges and universities and scores of educational and cultural exchange visitors each year. The United States also provides promising youth and emerging Saudi leaders the opportunity to experience the United States and its institutions through the International Visitor Leadership Program and various other exchange programs.

U.S. Assistance to Saudi Arabia

The United States and Saudi Arabia have a longstanding security relationship. Saudi Arabia is the United States' largest foreign military sales (FMS) customer, with more than \$100 billion in active FMS cases. Through FMS, the United States has supported three key security assistance organizations in Saudi Arabia—the Ministry of Defense, the National Guard, and the Ministry of Interior. Since the 1950s, the U.S. Army Corps of Engineers has also played a vital role in military and civilian construction in Saudi Arabia.

Additional programs support closer cultural, educational, and institutional ties between the United States and Saudi Arabia. The U.S.-Saudi partnership is rooted in more than seven decades of close friendship and cooperation, enriched by the exchange opportunities that are key to the promotion of mutual understanding and the long-term development of ties between our two peoples. In cooperation with the Government of Saudi Arabia, the United States provides technical support in areas such as education, trade, and economic development.

Bilateral Economic Relations

The United States and Saudi Arabia enjoy a strong economic relationship. The United States is Saudi Arabia's second largest trading partner, and Saudi Arabia is one of the United States' largest trading partners in the Middle East. Saudi Arabia is the second leading source of imported oil for the United States, providing just under one million barrels per day of oil to the U.S. market. The United States and Saudi Arabia have signed a Trade Investment Framework Agreement. Saudi Arabia launched its Vision 2030 program in April 2016, laying out plans to diversify the economy, including through increased trade and investment with the United States and other countries.

Saudi Arabia's Membership in International Organizations

Saudi Arabia participates in a number of international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization. Saudi Arabia also is an observer to the Organization of American States.

Bilateral Representation

The Ambassador is John P. Abizaid and Deputy Chief of Mission is Martina Strong; other principal embassy officials are listed in the Department's Key Officers List.

Saudi Arabia maintains an **embassy** in the United States at 601 New Hampshire Avenue NW, Washington, DC 20037; tel. 202-342-3800.

More information about Saudi Arabia is available from the Department of State and other sources, some of which are listed here:

U.S. Embassy

History of U.S. Relations With Saudi Arabia

Office of the U.S. Trade Representative Country Page

U.S. Census Bureau Foreign Trade Statistics

Export.gov International Offices Page

Library of Congress Country Studies

Travel Information

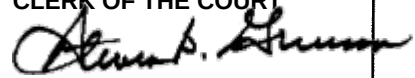
TAGS

Bureau of Near Eastern Affairs

Saudi Arabia

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1 **NOA**
2 **WILICK LAW GROUP**
3 **MARSHAL S. WILICK, ESQ.**
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Pro-Bono Attorneys for Plaintiff

10 **DISTRICT COURT**
11 **FAMILY DIVISION**
12 **CLARK COUNTY, NEVADA**

13 **AHED SAID SENJAB,**
14 **Plaintiff,**

15 **vs.**

16 **MOHAMAD ABULHAKIM ALHULAIBI,**
17 **Defendant.**

CASE NO: D-20-606093-D
DEPT. NO: H

DATE OF HEARING: 6/16/2020
TIME OF HEARING: H

18 **NOTICE OF APPEAL**

19 NOTICE is hereby given that Plaintiff, Ahed Said Senjab, hereby appeals to the
20 Supreme Court of the State of Nevada from the *Findings of Fact, Conclusions of*
21 *Law, Decision and Order* entered in this action on 17th day of June, 2020.

22 DATED this 16th day of July, 2020.

23 **WILICK LAW GROUP**



24 **MARSHAL S. WILICK, ESQ.**
25 Nevada Bar No. 2515
26 3591 E. Bonanza Road, Suite 200
27 Las Vegas, NV 89110-2101
28 (702) 438-4100
Pro-Bono Attorneys for Plaintiff/Appellant

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CERTIFICATE OF SERVICE

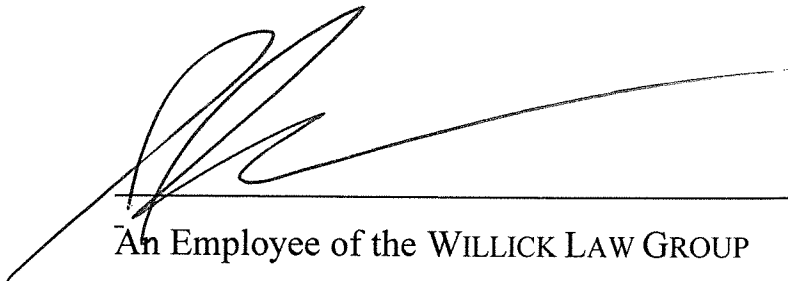
Pursuant to NRCPP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 16th day of July, 2020, I caused the above and foregoing entitled document *Notice of Appeal*, to be served as follows:

- ☒ [X] By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ [] Pursuant to NRCPP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ [] By hand delivery with signed Receipt of Copy.
- ☐ [] By First Class, Certified U.S. Mail.

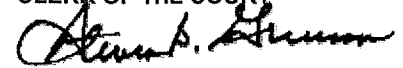
To the following at the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
Markman Law
4484 S. Pecos Road, Ste. 130
Las Vegas, Nevada 89121
Attorneys for Defendant

April S. Green, Esq.
Barbara E. Buckley, Esq.
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 East Charleston Blvd.
Las Vegas, NV 89104
Co-Counsel for Plaintiff


An Employee of the WILICK LAW GROUP

P:\wp19\SENJAB\A\DRAFTS\00446449.WPD\jj



SOLA
APRIL S. GREEN, ESQ.
Nevada Bar No. 8340C
BARBARA BUCKLEY, ESQ.
Nevada Bar No. 3918
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 East Charleston Blvd.
Las Vegas, Nevada 89104
(702)386-1070, Ext. 1415
Attorneys for Plaintiff

CASE NO: D-20-606093-D
Department: To be determined

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

AHED SAID SENJAB,

Plaintiff,

vs.

MOHAMAD ALHULAIBI,

Defendant,

Case No.:

Dept. No.:

STATEMENT OF LEGAL AID REPRESENTATION
AND FEE WAIVER (PURSUANT TO NRS 12.015)

Party Filing Statement:

☒ Plaintiff/Petitioner

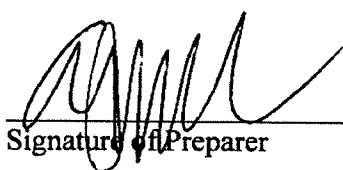
☐ Defendant/Respondent

STATEMENT

AHED SAID SENJAB, Plaintiff herein, has qualified and been accepted for placement as a direct client of LEGAL AID CENTER OF SOUTHERN NEVADA, a nonprofit organization providing free legal assistance to indigents in Clark County, Nevada, and is entitled to pursue or defend this action without costs as defined in NRS 12.015.

Dated: March 24, 2020

APRIL S. GREEN, ESQ.
Printed Name of Preparer

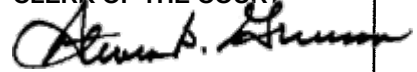

Signature of Preparer

Submitted by:

LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 East Charleston Blvd.
Las Vegas, Nevada 89104
(702)386-1070, Ext. 1415
Attorneys for Plaintiff

39

39



1 **ASTA**
2 **WILICK LAW GROUP**
3 **MARSHAL S. WILICK, ESQ.**
4 Nevada Bar No. 2515
5 3591 E. Bonanza Road, Suite 200
6 Las Vegas, NV 89110-2101
7 Phone (702) 438-4100; Fax (702) 438-5311
8 email@willicklawgroup.com
9 Attorney for Defendant
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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

AHED SAID SENJAB,
Plaintiff,

vs.

MOHAMAD ABULHAKIM ALHULAIBI,
Defendant.

CASE NO: D-20-606093-D
DEPT. NO: H

DATE OF HEARING: 6/16/2020
TIME OF HEARING: H

APPELLANT'S CASE APPEAL STATEMENT

Pursuant to Rule 3(f)(3) of the Nevada Rules of Appellate Procedure, Plaintiff/Appellant, Ahed Said Senjab, by and through her attorney, Marshal S. Willick, Esq., of the WILICK LAW GROUP, hereby submits her Case Appeal Statement.

1. Name of Appellant filing this Case Appeal Statement:

a. Ahed Said Senjab

2. Identify the Judge issuing the decision, judgment, or order appealed from, the District Court Case Number, and the caption of the District Court case:

- 1 a. The Honorable T. Arthur Ritchie, Eighth Judicial District Court
2 Judge, Family Division, case number D-20-606093-D, Ahed Said
3 Senjab v. Mohamad Abulhakim Alhulaibi.

4 **3. Identify each Appellant and the name and address of counsel for**
5 **each Appellant:**

- 6 a. Appellant: Ahed Said Senjab
7 b. Counsel for Appellant: Marshal S. Willick Esq.
8 Appellate: Nevada Bar No. 2515
9 WILLICK LAW GROUP
10 3591 E. Bonanza Road Suite 200
11 Las Vegas, Nevada 89110
12
13 Trial: April S. Green, Esq.
14 Nevada Bar No. 8340
15 725 East Charleston
16 Las Vegas, Nevada 89104

17 **4. Identify each Respondent and the name and address of appellate**
18 **counsel, if known, for each Respondent (if the name of a**
19 **Respondent's appellate counsel is unknown, indicate as much and**
20 **provide the name and address of that Respondent's trial counsel):**

- 21 a. Respondent: Mohamed Alhulaibi
22 b. Counsel for Respondent: David Markman, Esq.
23 Nevada Bar No. 12440
24 MARKMAN LAW
25 4484 S. Pecos Road, Ste 130
26 Las Vegas, Nevada 89121

27 **5. Indicate whether any attorney identified above in response to**
28 **question 3 or 4 is not licensed to practice law in Nevada and, if so,**
29 **whether the district court granted that attorney permission to**
30 **appear under SCR 42 (attach a copy of any district court order**
31 **granting such permission):**

- 32 a. All counsel referenced above are licensed to practice law in the
33 State of Nevada.

34 **6. Indicate whether Appellant was represented by appointed or**
35 **retained counsel in the district court:**

- 36 a. Appellant was represented by pro-bono counsel, April Green,
37 Esq., during the district court proceedings. See Number 3.

b. Respondent was represented by retained counsel, David Markman, Esq., during the district court proceedings. See Number 4.

7. Indicate whether Appellant is represented by appointed or retained counsel on appeal:

a. Appellant has retained (pro bono) Marshal S. Willick, Esq., to represent her in the Appeal proceedings.

8. Indicate whether Appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

a. A Statement of Legal Aid Representation was filed by the LEGAL AID CENTER OF SOUTHERN NEVADA on behalf of the Appellant on March 24, 2020.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed):

a. Appellant commenced this case in the Eighth Judicial District Court on March 24, 2020 by filing a "*Complaint for Divorce*" represented by April Green, Esq.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court:

a. This is a divorce action including child custody; the district court order dismissed the action in its entirety.

1 **11. Indicate whether the case has previously been the subject of an**
2 **appeal to or original writ proceeding in the Supreme Court and,**
3 **if so, the caption and Supreme Court docket number of the prior**
4 **proceeding:**

5 a. This case has not previously been the subject of an appeal or an
6 original writ proceeding in the Supreme Court.

7 **12. Indicate whether this Appeal involved child custody or visitation:**

8 a. This Appeal involves child custody and visitation.

9 **13. If this is a civil case, indicate whether this Appeal involves the**
10 **possibility of settlement:**

11 a. It is possible, but Ms. Senjab believes that this case will not settle.

12 DATED this 13th day of July, 2020.

13
14 WILLICK LAW GROUP

15 

16 MARSHAE S. WILLICK, ESQ.
17 Nevada Bar No. 2515
18 3591 E. Bonanza Road, Suite 200
19 Las Vegas, NV 89110-2101
20 (702) 438-4100
21 Attorneys for Plaintiff/Appellant

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 17th day of July, 2020, I caused the above and foregoing entitled document *Case Appeal Statement*, to be served as follows:

- ☒ [X] By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ [] Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ [] By hand delivery with signed Receipt of Copy.
- ☐ [] By First Class, Certified U.S. Mail.

To the following at the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
Markman Law
4484 S. Pecos Road, Ste. 130
Las Vegas, Nevada 89121
Attorneys for Defendant

April S. Green, Esq.
Barbara E. Buckley, Esq.
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 East Charleston Blvd.
Las Vegas, NV 89104
Co-Counsel for Plaintiff

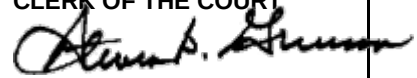
/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

P:\wp19\SENJAB,A\DRAFTS\00446665.WPD\jj

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SUPP
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Plaintiff

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

AHED SAID SENJAB,
Plaintiff,

vs.

MOHAMAD ALHULAIBI,
Defendant.

CASE NO: D-20-606093-D
DEPT. NO: H

DATE OF HEARING: 8/4/2020
TIME OF HEARING: 11:00 am

ORAL ARGUMENT

Yes **X** No

**SUPPLEMENT OF APPELLATE COUNSEL
CONCERNING THE PENDING CROSS-MOTIONS, NRS 125D
APPLICATION, AND STAY REQUEST ON APPEAL**

I. INTRODUCTION

The Willick Law Group has accepted the *pro bono* placement of the appeal of Plaintiff, Ahed Senjab, in the appeal from the order of dismissal; we have also, on a more limited basis, associated in the district court action for the proceedings remaining pending the appeal. As part of those efforts, appellate counsel submits the following as a supplement to Plaintiff's *Opposition* filed on July 2, 2020.

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1 **II. SUPPLEMENT TO OPPOSITION**

2 **A. The Legal Test for Issuance of a Stay**

3 Stay motions are ordinarily to be presented to the district court under NRC
4 62. The tests applied in considering whether to grant a stay was set forth in *Fritz*
5 *Hansen*¹ and reiterated in the revised NRAP 8(c):

6 (1) Whether the object of the appeal or writ petition will be defeated if the stay
7 is denied;

8 (2) Whether appellant/petitioner will suffer irreparable or serious injury if the
9 stay is denied;

10 (3) Whether respondent/real party in interest will suffer irreparable or serious
11 injury if the stay is granted; and

12 (4) Whether appellant/petitioner is likely to prevail on the merits in the appeal
13 or writ.

14 The elements are individually examined below.

15 **1. The Object of the Appeal Would Be Defeated by Lack of a**
16 **Stay**

17 As expressed in her original opposition, Ahed is fearful that Mohamed will
18 abduct the child, as he has threatened to do both in his filings and in his private
19 comments to her, and refuse her contact. If that happens, it is expected that
20 Mohamed will return to Saudi Arabia or another middle eastern country that does not
21 respect the rights of women or mothers. The minor child will be denied contact with
22 his mother and the subject of the Appeal will be effectively destroyed, as the reversal
23 would be ineffectual to achieve the requests made in the *Complaint for Divorce*.

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¹ *Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 6 P.3d 982 (2000).

1 **2. “Irreparable Harm” – Plaintiff**

2 As to custody, Ahed is considered a lesser human having fewer rights than men
3 in the Middle East.² If a stay is denied, Mohamad would have little difficulty
4 ensuring she is never allowed to see her son again. As to the divorce itself, refusing
5 to grant the stay could conceivably permit the case to go forward, after appeal and
6 remand, but it would be a hollow exercise if the most important aspect of the case was
7 permanently removed.

8 Not granting Ahed’s request for a stay would cause her irreparable harm.

9
10 **3. “Irreparable Harm” – Defendant**

11 The Defendant would receive no harm from a stay as he would not lose
12 anything by waiting for the Appeal to resolve. His son would not be beyond his
13 reach. While there are temporary difficulties arranging for visitation compatible with
14 preventing abduction, due to Ahed’s utter poverty, living in a shelter, and the ongoing
15 pandemic, all of those difficulties are being addressed and should be resolvable in the
16 near term. As to the divorce itself, Mohamed loses absolutely nothing by issuance
17 of the stay of the dismissal, other than the ability to further injure Ahed economically
18 and otherwise, with impunity.

19
20 **4. Likelihood of Prevailing**

21 There are many factors that show Ahed has a high likelihood prevailing on her
22 appeal. Among these are that child custody should be retained no matter the ruling
23 on divorce jurisdiction under the UCCJEA, and the reality that national case law for
24 decades, which the Nevada Supreme Court is expected to endorse, indicates that the

25 _____
26 ² In most Sharia law countries, it requires affidavits from two (or three) women to weigh
27 equally against one of a man; as detailed in the cases listed below, there is a pervasive absence of
28 either due process or equal protection in such countries, which is why they have been labeled to
“violate fundamental principles of human rights” under the UCCJEA and otherwise. *See* NRS
125A.225(3).

1 divorce can and should be permitted to proceed here irrespective of concerns about
2 “domicile” under federal immigration law.

3
4 **a. Child Issues Must Be Heard Here (UCCJEA**
5 **Jurisdiction)**

6 Subject matter jurisdiction over child custody is governed by the UCCJEA,³
7 and is a completely distinct analysis from divorce jurisdiction.⁴ It is not discretionary,
8 and there are no “gray areas.” Every state (except Massachusetts) has adopted the
9 UCCJEA as its controlling authority on the issue of child custody jurisdiction.

10 The objectives of the UCCJEA are to prevent jurisdictional conflicts and re-
11 litigation of child custody issues, and to deter child abduction.⁵ The UCCJEA
12 addresses those objectives by limiting to *one* court – usually the “home state” court
13 – the authority to make custody determinations, even though more than one court may
14 have personal jurisdiction over the parties and a legitimate interest in the parent-child
15 relationship.⁶ The UCCJEA thus elevates “home state” to central importance in
16 custody determinations.⁷

17 A child’s “home state” is the state in which a child lived with a parent or a
18 person acting as a parent for at least 6 consecutive months, including any temporary

19
20 ³ NRS 125A.305.

21 ⁴ The test is considerably different from the personal jurisdiction test for divorce – the statute
22 states on its face that “physical presence of, or personal jurisdiction over, a party or a child is not
23 necessary or sufficient to make a child custody determination.” NRS 125A.305(3). *See generally*
24 Marshal Willick, *The Basics of Family Law Jurisdiction*, 22 Nev. Fam. L. Rep., Fall, 2009, at 11,
updated (and part of the Clark County Family Court Benchbook), posted at
<http://willicklawgroup.com/published-works/>.

25 ⁵ UCCJEA § 101 (1997), cmt., 9 U.L.A. 657 (1999); *see also, e.g., Ruffier v. Ruffier*, 190
26 S.W.3d 884, 889 (Tex. App. 2006).

27 ⁶ *See Ogawa v. Ogawa*, 125 Nev. 660, 221 P.3d 699 (2009), citing to *Hart v. Kozik*, 242
28 S.W.3d 102, 106-07 (Tex. App. 2007).

⁷ *See* NRS 125A.305.

1 absence from the state, immediately before commencement of a child custody
2 proceeding.⁸ Where, as here, the child and both parents have left a prior state and
3 moved to this state when proceedings have been filed, only this state has jurisdiction
4 to proceed, and the prior state has no authority to do so.⁹

5 The applicable test is for “residence” under Nevada law (meaning actual
6 physical location), not “domicile.”¹⁰ The official comments to the UCCJEA make it
7 clear that the statutory language is intended to deal with where the people involved
8 ***actually live***, not with any sense of a technical domicile.

9 Here, the child is 1.5 years of age and has resided exclusively in Las Vegas,
10 Nevada for most of that time. As discussed below, Mohamed conflates “home state”
11 with “habitual residence,”¹¹ making his assertions irrelevant (as well as legally
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14 ⁸ NRS 125A.085(1).

15 ⁹ See NRS 125A.305:

16 (a) This State is the home state of the child on the date of the commencement of the proceeding
17 or was the home state of the child within 6 months before the commencement of the proceeding and
18 the child is absent from this State but a parent or person acting as a parent continues to live in this
19 State;

20 (b) ***A court of another state does not have jurisdiction pursuant to paragraph (a) or a court of***
21 ***the home state of the child has declined to exercise jurisdiction on the ground that this State is the***
22 ***more appropriate forum pursuant to NRS 125A.365 or 125A.375 and:***

23 (1) ***The child and the child’s parents, or the child and at least one parent or a person acting***
24 ***as a parent, have a significant connection with this State other than mere physical presence;*** and

25 (2) ***Substantial evidence is available in this State concerning the child’s care, protection,***
26 ***training and personal relationships;***

27 (c) All courts having jurisdiction pursuant to paragraph (a) or (b) have declined to exercise
28 jurisdiction on the ground that a court of this State is the more appropriate forum to determine the
custody of the child pursuant to NRS 125A.365 or 125A.375; or

(d) ***No court of any other state would have jurisdiction pursuant to the criteria specified in***
paragraph (a), (b) or (c).

[Emphasis added.]

¹⁰ *Davis v. Ewalefo*, 131 Nev. 445, 352 P.3d 1139 (2015) (“Ewalefo’s and E.D.’s residency
made Nevada E.D.’s “home state” as defined in NRS 125A.085 when Davis filed this action”).

¹¹ See Mohamed’s *Opposition* filed July 15.

incorrect, as discussed below). “Home State” and “habitual residence” are completely different things.¹²

No other “state” has jurisdiction for multiple reasons, including that (1) that everyone has left the prior state; (2) there is no Home State that could exercise CEJ under American UCCJEA definitions; and (3) since all parties had been in Nevada for months at the time the proceedings were brought here, this state has a significant connection with the parties and child and the only relevant evidence is here. Additionally, as detailed below, neither Syria nor Saudi Arabia is eligible to be considered a “state” for UCCJEA purposes, so there *is* no “other state” to consider, even if one of the parents was still living there.

In short, Nevada, and *only* Nevada, can legitimately assert child custody jurisdiction, and the courts of this state have the duty to protect the children within its borders irrespective of any dispute over the power of its courts to grant a divorce to foreign nationals lawfully residing here. Ahed is very likely to prevail in this appeal and, at minimum, obtain an order that this Court has the authority and the obligation to decide all issues of child custody, visitation, and support.

b. Syria and Saudi Arabia are Ineligible to be Considered “States” under the UCCJEA

In multiple filings, including his *Opposition* filed on July 15, Mohamed informs the Court of his intention to remove the child to Saudi Arabia as soon as possible,¹³ and further (at 7) that he has already filed a petition for custody in Saudi Arabia although neither party nor the child lives there.

¹² See *Ogawa v. Ogawa*, 125 Nev. 660, 221 P.3d 699 (2009).

¹³ In a burst of illogic, Mohamed asserts (at 7) that he *cannot* “abduct” the child because this Court has given him permission to take the child and leave by reason of its dismissal of the divorce complaint, which he asserts constitutes a “ruling” that Nevada is not the child’s home state. This Court made no such ruling and in fact never did a UCCJEA analysis at all.

1 If that petition had been filed in another American state, or even another
2 western country, this Court might have duties to have a UCCJEA conference due to
3 a “simultaneous proceeding.” There is no such duty here.

4 As found by a large number of states, neither Saudi Arabia nor Syria can be
5 considered a “state” under the UCCJEA because they are Sharia law countries that
6 “violate fundamental principles of human rights” and are therefore barred from being
7 considered places of “simultaneous proceedings” under the UCCJEA.¹⁴ Neither is a
8 signatory to the Hague Convention on the Civil Aspects of International Child
9 Abduction, and both are on the State Department’s list of non-compliant countries.¹⁵

11 ¹⁴ See NRS 125A.225(3); see also, e.g., *Ali v. Ali*, 279 N.J. Super. 154, 652 A.2d 253 (1994)
12 (“the law of the Sharia court was arbitrary and capricious and could not be sanctioned by the court,
13 which used the best interest of the child as the overriding concern”; “the law of the Sharia court with
14 regard to custody determinations offended the public policy of New Jersey”); *Ivaldi v. Ivaldi*, 147
15 N.J. 190, 685 A.2d 1319 (1996) (“[I]f the Moroccan court denies the father procedural due process
16 or refuses to consider Lina’s best interests, the Family Part may then refuse to enforce the Moroccan
17 decree”); *Mustafa v. Elfadli*, 2013-Ohio-1644 (2013) (“A decree of divorce will not be recognized
18 by comity where it was obtained by a procedure which denies due process of law in the real sense
19 of the term, or was obtained by fraud, or where the divorce offends the public policy of the state in
20 which recognition is sought, or where the foreign court lacked jurisdiction” (quoting *Kalia v. Kalia*,
21 151 Ohio App. 3d 145, 783, N.E.2d 623, and finding that the Sudanese divorce proceeding denied
22 the wife due process); *Charara v. Yatim*, 78 Mass. App. Ct. 325, 937 N.E.2d 490 (2010) (“the
23 probate court properly concluded that no deference was due the custody order issued by the Jaafarite
24 Court because the order was no made in ‘substantial conformity’ with Massachusetts law regarding
25 the best interest of the children, in according with Mass. Gen. Laws Ann. ch. 209B, § 14. Rather, the
26 Jaafarite Court only considered the father’s fitness when awarding custody”); *Alkhairy v. Aloum*, 104
27 Va. Cir. 324 (2020) (the “Jordanian divorce was not granted comity because there were no
28 reasonable residency and domiciliary requirements prior to the divorce proceedings being instituted
where the husband filed the divorce through an agent (a relative) in Jordan, neither the husband nor
the wife were present for the divorce, notice to the wife of the proceedings was subsequently posted
to her parents’ home in Jordan, the parties were residents and domiciliaries of Virginia, the marital
home was located in Virginia, and both parties were employed in Virginia”); *Melika v. Eskaros*,
2019 IL App (1st) 182192-U. There are many others.

¹⁵ [https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/
understanding-the-hague-convention/convention-countries.html](https://travel.state.gov/content/travel/en/Intercountry-Adoption/Adoption-Process/understanding-the-hague-convention/convention-countries.html). The State Department reports that
neither Syria nor Saudi Arabia are signatories to the 1980 Hague Convention on the Civil Aspects
of International Child Abduction (Hague Abduction Convention), nor are there any bilateral
agreements in force between Syria or Saudi Arabia and the United States concerning international
parental child abduction that would permit recovery of such children once removed.

1 Syria is an active war zone. The fact that no children removed to either country has
2 any realistic chance of being recovered is a factor this Court should consider when
3 deciding custodial and visitation orders.¹⁶

4 Mohamed's filing of a supposed "custody" case in Saudi Arabia is irrelevant
5 for UCCJEA purposes except to put this Court on notice of his intention to remove
6 the child from this country and permanently remove decisions as to his custody from
7 anything that could be considered a legitimate legal process compatible with
8 fundamental notions of due process, equal protection, and human rights.

9
10 **c. The Supreme Court is Likely to Reverse the Order of**
11 **Dismissal as to Divorce Jurisdiction**

12 NRS 125.020(1) provides five bases for finding jurisdiction to grant a divorce,
13 and *all* are applicable here.¹⁷ The statute on its face and case law going back a
14 century makes it clear that Nevada law is concerned with *residence*, not domicile, as
15 a basis for divorce jurisdiction.¹⁸

16 With due respect, the ruling of a federal court as to interpretations of
17 immigration law are not controlling; as the United States Supreme Court has
18 repeatedly stated: "We have consistently recognized that 'the whole subject of the
19 domestic relations of husband and wife, parent and child, belongs to the laws of the
20

21 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/International-Parental-Child-Abduction-Country-Information/SaudiArabia.html>.

22
23 ¹⁶ See, e.g., *Davis v. Ewalefo*, 131 Nev. 445, 352 P.3d 1139 (2015) (where a credible threat
24 exists that a parent would abduct or refuse to return a child, the Hague Convention status of other
25 countries is very relevant; noting that some courts have adopted "a bright-line rule prohibiting
out-of-country visitation" to those places in those circumstances).

26 ¹⁷ (a) In which the cause therefor accrued; (b) In which the defendant resides or may be
27 found; (c) In which the plaintiff resides; (d) In which the parties last cohabited; and (e) If plaintiff
resided 6 weeks in the State before suit was brought.

28 ¹⁸ See, e.g., *State v. District Court*, 68 Nev. 333, 232 P.2d 397 (1951) (finding that physical
presence in the county for 6 weeks was required even when the cause of action accrued here).

1 States and not to the laws of the United States.’’¹⁹ Even those scholars concerned
2 with potential interstate full faith and credit issues relating to divorce decrees based
3 on residence have recognized that every state has the right to grant a divorce based
4 on the residence of a person within its territorial borders.²⁰

5 For many decades, this state has permitted military members to file as divorce
6 plaintiffs despite having domicile elsewhere, and despite federal law stating that
7 neither members nor their spouses gain or lose domicile or residence by virtue of
8 being stationed here.²¹ Many other states do the same, and have for many decades,
9 with decisions from their appellate courts repeatedly upholding the jurisdiction of
10 their courts to grant those divorces.²² **This** Court explicitly considered, and rejected,
11 an attack on its jurisdiction to grant a divorce in a military case where the opposing
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16 ¹⁹ *Rose v. Rose*, 481 U.S. 619, 625, 107 S. Ct. 2029, 95 L. Ed.2d 599 (1987).

17 ²⁰ See Roddy M. Ligon, Jr., *Is Domicile a Jurisdictional Prerequisite to a Valid Divorce*
18 *Decree?*, U.S. A.F. JAG BULL., Jan. 1961. In this case, since Mohamed is present in this state and
19 has had the opportunity to litigate any questions of jurisdiction, he is foreclosed from challenging
the jurisdiction of our courts in any other forum, ever. *Sherrer v. Sherrer*, 334 U.S. 343, 345 (1948).

20 ²¹ The Servicemembers Civil Relief Act (“SCRA”), 50 U.S.C. App. §§501-597b1, was
21 amended by the “Military Spouses Residency Relief Act” in 2010 to essentially extend to spouses
of military personnel the protections previously afforded just to military members:

22 A spouse of a military member accompanying a servicemember who is on military
23 orders who relocates from one State to another neither loses nor gains a domicile or
24 State of residence by that relocation for purposes of federal or State voting rights or
taxation.

25 ²² See, e.g., *Wallace v. Wallace*, 320 P.2d 1020 (N.M. 1958) (it is “within the power of the
26 legislature to establish reasonable bases of jurisdiction other than domicile. . . . Assuming that
27 appellant is correct in his contention that the parties were not domiciled in New Mexico at the time
instant action was filed, does it follow that the court was without jurisdiction? We think not.”);
28 *Wheat v. Wheat*, 318 S.W.2d 793, 797 (Ark. 1958) (upholding state law based on residency rather
than domicile); *Craig v. Craig*, 56 P.2d 464 (Kan. 1936) (upholding divorce based on residence
rather than domicile).

1 party claimed that the military member remained a domiciliary of Oregon and
2 therefore could not file here despite being a resident for years.²³

3 Residential intent has been defined as the intent to remain in Nevada
4 permanently, or to make it home for at least an indefinite time;²⁴ it is undisputed that
5 Ahed has that intent, irrespective of any considerations of “domicile.”

6 The Nevada Supreme Court noted in *Lewis v. Lewis*²⁵ that in a prior opinion,
7 it had construed the divorce laws such that “actual corporeal presence was necessary
8 to the establishment of such a residence as would give a court jurisdiction to grant a
9 divorce,” and that the Nevada Legislature had re-enacted the law using the same
10 language after the Court had so held, and therefore had “legislatively adopted” the
11 Court’s construction.²⁶

12 In *Williams v. North Carolina*,²⁷ the United States Supreme Court held:

13 *Subject matter jurisdiction over the marriage itself is present as long as the*
14 *court has personal jurisdiction over either of the parties to the marriage, and*
15 *every state is required under the Full Faith and Credit clause of the United*
16 *States Constitution to recognize decrees entered by other states had such*
17 *personal jurisdiction over one party and afforded notice in accordance with*
18 *procedural due process.*

22 ²³ See *Lowman v. Lowman*, No. 06D367478D (expressly rejecting motion based on alleged
23 lack of subject matter jurisdiction on the basis of the plain language of NRS 125.020).

24 ²⁴ *Lamb v. Lamb*, 57 Nev. 421, 430, 65 P.2d 872, 875 (1937); see also *Latterner v. Latterner*,
51 Nev. 285, 290, 274 P. 194, 195 (1929).

25 ²⁵ *Lewis v. Lewis*, 50 Nev. 419, 425, 264 P. 981, 982 (1928).

26 ²⁶ Since *Lewis* the legislature has “re-enacted” the same statute another three times.

27 ²⁷ *Williams v. North Carolina*, 317 U.S. 287 (1942); see also *Sherrer v. Sherrer*, 334 U.S.
343 (1947); *Coe v. Coe*, 334 U.S. 378 (1947).

1 Since Ahed filed a Complaint for Divorce in Nevada, she has subjected herself,
2 personally, to the jurisdiction of the court.²⁸ Since the court has personal jurisdiction
3 over Ahed, it has subject matter jurisdiction over the marriage.

4 In short, the public policy and other considerations relating to divorce
5 jurisdiction resemble those for child custody jurisdiction, and indicate that Ahed is
6 very likely to prevail in this appeal on that point as well. As one commentator put it:
7 “It is not clear how making it practically impossible for parties to divorce benefits the
8 parties themselves or society as a whole, and the concern that individuals have
9 effectively been denied access to divorce has induced some states not to require
10 domicile in other contexts as well.”

11
12 **B. Mohamed’s Hague Arguments are Irrelevant; Impact on NRS 125D**
13 **Applications**

14 Mohamed goes on at length (at 3-7) about the Hague Convention in his most
15 recent Opposition, filed on July 15, 2020. However, no Hague case has been filed –
16 there are very strict procedural and substantive requirements for such cases, the *first*
17 of which is that both countries allegedly at issue are signatories to the Hague
18 Convention. Neither Syria nor Saudi Arabia is such a state, however, making the
19 entirety of Mohamed’s arguments and citations utterly irrelevant.²⁹

20 If the Court requires more detailed briefing on the Hague Convention, we can
21 supply it, but at the end of that process this Court would find that even if the
22 Convention is relevant and at issue in this case – and it isn’t – Nevada is the Habitual
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27 ²⁸ *See Vaile v. District Court*, 118 Nev. 262, 44 P.3d 506 (2002).

28 ²⁹ *Ogawa v. Ogawa*, 125 Nev. 660, 221 P.3d 699 (2009).

1 Residence of the child, Ahed is necessarily exercising “rights of custody” under the
2 law,³⁰ and no removal would be appropriate under any legal standard.

3 In the meantime, this Court *does* have pending before it applications under
4 NRS 125D, which provides in part that “wrongful removal” is exactly what Mohamed
5 is threatening – “the taking of a child that breaches rights of custody or visitation
6 given or recognized pursuant to the law of this State.”³¹ Mohamed’s admissions of
7 an intent to remove the child from the jurisdiction in derogation of Ahed’s custodial
8 rights is definitionally a statement of intent to violate Ahed’s rights of custody and
9 the child’s best interest under NRS 125C.0035(1).

10 Mohamed’s statement of intent provides the Court with jurisdiction to impose
11 an NRS 125D order, since the jurisdictional section of the Nevada enactment³²
12 includes the express statement that “A court of this State has temporary emergency
13 jurisdiction pursuant to NRS 125A.335 if the court finds a credible risk of abduction.”
14

15 **III. CONCLUSION**

16 Ahed respectfully requests that the Court grant the following relief:

- 17 1. Deny the Defendant’s *Motion* in its entirety.
- 18 2. Award temporary primary physical custody of the parties’ minor
19 child to Ahed, as a matter of emergency jurisdiction, pending
20 conclusion of the appeal.
- 21 3. Require the Defendant to turn over his and the minor child’s
22 passport for safekeeping.

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25 ³⁰ NRS 125C.0015 provides that parents *have* joint legal and physical custody of their child
26 until otherwise ordered by a court of competent jurisdiction. No such order has ever been made.

27 ³¹ NRS 125D.120. Again, Ahed is *necessarily* exercising “rights of custody” under Nevada
28 law.

³² NRS 125D.160.

- 1 4. Require supervised visitation to protect the child from abduction
2 during the pendency of the appeal.
3 5. Issue a stay of enforcement of the order dismissing Ahed's
4 *Complaint for Divorce and Custody* pending resolution of the
5 appeal.
6 6. Any other relief that this Court deems just and proper.

7 DATED this 17th day of July, 2020.

8 Respectfully Submitted By:
9 WILICK LAW GROUP

10 

11 MARSHAL S. WILICK, ESQ.
12 Nevada Bar No. 2515
13 RICHARD L. CRANE, ESQ.
14 Nevada Bar No. 9536
15 3591 East Bonanza Road, Suite 200
16 Las Vegas, Nevada 89110-2101
17 Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 17th day of July, 2020, I caused the above and foregoing entitled document *Case Appeal Statement*, to be served as follows:

- ☒ [X] By placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada.
- ☐ [] Pursuant to NRCP 5(b)(2)(D), by email by duly executed consent for service by electronic means.
- ☐ [] By hand delivery with signed Receipt of Copy.
- ☐ [] By First Class, Certified U.S. Mail.

To the following at the address, email address, and/or facsimile number indicated below:

David Markman, Esq.
Markman Law
4484 S. Pecos Road, Ste. 130
Las Vegas, Nevada 89121
Attorneys for Defendant

April S. Green, Esq.
Barbara E. Buckley, Esq.
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 East Charleston Blvd.
Las Vegas, NV 89104
Co-Counsel for Plaintiff

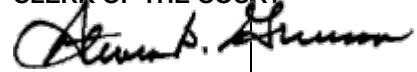
/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

P:\wp19\SENJAB,A\DRAFTS\00446665.WPD\jj

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PET/MOT
DAVID MARKMAN, ESQ.
Nevada Bar No. 12440
MARKMAN LAW
4484 S. Pecos Rd Ste. 130
Las Vegas, Nevada 89121
Phone: (702) 843-5899
Fax: (702) 843-6010
Attorneys for Mohamad Alhulabi

**DISTRICT COURT
CLARK COUNTY, NEVADA**

AHED SAID SENJAB

Plaintiff,

vs.

MOHAMAD ALHULAIBI

Defendants.

CASE NO.: D-20-606093-D

DEPT. NO.: H

ORAL ARGUMENT REQUESTED

**MOHAMAD ALHULAIBI'S REPLY IN SUPPORT OF EX PARTE
PETITION/MOTION FOR AN ORDER REQUIRING PRODUCTION OF THE MINOR
CHILD; FOR THE ISSUANCE OF A WARRANT FOR THE PICK-UP OF THE MINOR
CHILD; FOR AN ORDER PREVENTING ABDUCTION OF THE MINOR CHILD
PURSUANT TO NRS 125D; FOR A RETURN ORDER FOR THE MINOR CHILD TO
HIS HOME COUNTRY OF SAUDI ARABIA
AND
MOHAMAD'S MOTION TO STRIKE PLAINTIFF'S SUPPLEMENT OF APPELLATE
COUNSEL CONCERNING THE PENDING CROSS MOTIONS, NRS 125D
APPLICATION, AND STAY TO REQUEST ON APPEAL**

Defendant Mohamad Alhulaibi ("Mohamad") by and through his counsel of record
MARKMAN LAW hereby submits this Ex Parte Petition/Motion For An Order Requiring
Production Of The Minor Child; For The Issuance Of A Warrant For The Pick-Up Of The Minor
Child; For An Order Preventing Abduction Of The Minor Child Pursuant To NRS 125d; and for
a Return Order For The Minor Child To His Home Country Of Saudi Arabia.

1 This Motion is made and based upon the following Memorandum of Points and
2 Authorities along with Exhibits and any oral argument the Court may consider.
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4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **I. INTRODUCTION**

6 On March 24, 2020, Ahed Senjab (“Plaintiff” or “Ahed”) filed a complaint for Divorce.
7 Thereafter, Mohamad filed a motion to dismiss based on lack of subject matter jurisdiction. After
8 briefing including supplemental briefing this Court granted Mohamad’s motion to dismiss based
9 on lack of subject matter jurisdiction.

10 Since the time this Court granted Mohamad’s motion to dismiss, Ahed has deprived
11 Mohamad from seeing the minor child, despite the order in T-20-203688-T, granting Mohamad
12 physical custody of Ryan from Friday at 3:00pm to Monday at 10:00am. Mohamad is concerned
13 about the well being and safety of his child, as the alleged basis for deprivation of seeing his
14 minor child is that Ahed and the minor are in quarantine due to the virus. Mohamad, therefore
15 asks this Court to take emergency jurisdiction for the sole and limited purpose of issuing a return
16 order for the minor child to his home state of Saudi Arabia. Mohamad is not submitting himself
17 to the jurisdiction of this Court by way of this requested relief, which is based upon the Court’s
18 temporary emergency jurisdiction to deal with the very real possibility of Ahed’s further
19 abduction. This Court as it has already ruled lacks jurisdiction over the parties marriage,
20 including the issue of child custody.¹ Since the filing of the underlying Motion, Mohamad has
21 filed a Motion to Dissolve the protection Order and if this Court will not hear the Motion to
22 Dissolve on the merits, it should incorporate the facts in the Motion to Dissolve into this motion
23 for purposes of continued and vehement denial of the alleged abuse.

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25 ¹ See NRS 125D.160(2); NRS 125.470(2); NRS 125A.335(1). The uniform acts go along way toward avoiding a
26 “Catch-22” by providing limited immunity- a party participating in a UCCJEA proceeding has immunity from both
accidental appearance and from service of civil process while litigation the proceedings or while physically present
to participate in them. NRS 125A.265. This immunity provision covers a party to a child custody proceeding.”

1 **I. ANALYSIS**

2 **A. This Court Should not Entertain Ahed's attempts to shift the Focus from a Return**
3 **order to the Best Interest of the Child Standard**

4 This Court should not entertain Ahed's attempts to muddy up the waters by addressing the
5 best interest of the Child Standard. The UCCJEA no longer allows courts to exercise jurisdiction
6 on the basis of best interest of the child. An official comment to section 14-13-201 states that the
7 "best interest" language of the UCCJA was eliminated because it "tended to create confusion
8 between the jurisdictional issue and the substantive custody determination." People In Interest of
9 A.B-A., 2019 COA 125, ¶¶ 38-39, 451 P.3d 1278, 1286. This Court has already determined that
10 it does not have jurisdiction over the divorce and child custody.

11 To address some of the factual issues, before Ahed had deprived Mohamad from seeing his
12 son, Mohamad had been watching his son three days a week, while also changing his son's
13 diapers. The Minor child would routinely gain weight while living with Mohamad as he was
14 getting healthier and more balanced meals. There is no disputing that Ahed has deprived
15 Mohamad from seeing his son for over 2.5 months while in the United States, to say that those
16 terms should be continued, can hardly be shown to be in the best interest of the Minor Child.
17 Ahed has shown how readily and easily she is willing to deprive her son from having a connection
18 with his father and it is disingenuous for her to state that she will facilitate a relationship between
19 Mohamad and his son, when she has clearly shown she will do everything in her power to destroy
20 said relationship.

21 Mohamad has filed a motion to dissolve the protection order, vehemently denies the
22 allegations of abuse contained in the protection order, and continues to be the only parent to abide
23 by court orders. For the sake of argument, and only for the sake of argument, even if this Court
24 found some of those abuse allegations true, the case law throughout the United States does not
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1 allow for abuse allegations to deprive the Home State/Habitual Residence² from hearing the
2 custody matters. “Many cases for relief under the Convention arise from a backdrop of domestic
3 strife. Spousal abuse, however, is only relevant under Article 13(b) if it seriously endangers the
4 child. The Article 13(b) inquiry is not whether repatriation would place the respondent parent's
5 safety at grave risk, but whether so doing would subject the child to a grave risk of physical or
6 psychological harm.” Souratgar v. Lee, 720 F.3d 96, 103–04 (2d Cir. 2013); *citing* Charalambous
7 v. Charalambous, 627 F.3d 462, 468 (1st Cir.2010) (per curiam). “We have also been careful to
8 note that ‘[s]poradic or isolated incidents of physical discipline directed at the child, or some
9 **limited incidents aimed at persons other than the child, even if witnessed by the child, have**
10 **not been found to constitute a grave risk.’” Ermini v. Vittori, 758 F.3d 153, 164–65 (2d Cir.**

11 2014); *see also* Khan v. Fatima, 680 F.3d 781, 787 (7th Cir.2012).
12 Here, there are no allegations that Mohamad ever raised even a finger to his son. The only
13 allegations of abuse against the minor child all stem from Ahed claiming that Mohamad abused
14 her and that somehow capitulates to abuse against the Minor Child. Further, Mohamad
15 vehemently denies and has denied from the outset that he has ever abused Ahed. In fact he has
16 provided pictures and texts attached to the Motion to Dissolve from the days on which Ahed
17 claimed abuse, and the days after the claimed abuse, and not one of those messages or pictures
18 show any abuse, let alone severe and sustained abuse. The protection order itself held that “there
19 is no evidence to prove the Adverse Party (Mohamad) would not be fit to care for the child.” *See*,
20 March 30, 2020 Court Minutes.

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23 ² Mohamad is aware that the Hague convention is not available in this matter but as in Ogawa the Court can issue
24 return orders in substantial compliance with Hague case law authority and can look to case law interpreting the
25 Hague to determine how to deal with an international custody dispute (Even when a country is not a party to the
26 Hague convention, the court can properly order the return of a minor child.) *See* Ogawa v. Ogawa, 125 Nev. 660,
27 670–71, 221 P.3d 699, 706 (2009). Further, the Hague Convention was the foundation for the UCCJEA. In re
Marriage of O.T. & Abdou El Alaoui Lamdaghri, No. E058911, 2018 WL 6242412, at *19 (Cal. Ct. App. Nov. 29,
2018), reh'g denied (Dec. 20, 2018)

Ahed then argues that she is closely bonded to the child, and that the one-year old child perceives Mohamad as someone who is present in the home. This appears to be another self-serving argument, first, how would Ahed know the relationship of Mohamad with his son as she has not seen them together since February 9th and they have not shared a home since that time. Second, interpreting how a one year old sees or perceives his mother and/or father seems to be a ludicrous proposition, especially when Ahed has done everything in her power to prevent Mohamad from being more closely bonded with his son. Ahed has recently “allowed” Mohamad to have videoconferences with his son, during these videoconferences, his son is overjoyed when Mohamad gets on the videoconference, probably because he misses his father.

B. The Court Should Issue a Pick-Up order as Requested.

Ahed is very clever in turning around the proposition that she has absconded with the Minor Child into an argument about the fact that domestic violence was never discussed in the underlying motion. First, the underlying motion discusses the TPO and that Mohamad has filed a motion to dissolve the TPO. Second, the record is littered with discussions about the TPO and Mohamad vehemently denying the allegations contained in the protection order.

It should be clear that Ahed is the only party to deprive the Minor Child from the other party. Ahed does not contest that there is currently a Court Order that gives Mohamad the minor child three days a week and that she has failed to comply with the court order. Ahed has never once contested that she told the Police on February 9th, 2020, that she was going to the State of Maryland with the minor child. All the acts Ahed claims that Mohamad has threatened, Ahed has actually done and this Court should not deprive Mohamad from seeing his son any longer. Nor should this Court deprive Mohamad from returning to Saudi Arabia with his son.

C. Defendant should be granted Physical Custody of the Minor Child to return to Saudi Arabia.

1 This Court should grant Mohamad physical custody for the sole purpose of returning with
2 the minor child to Saudi Arabia. After which the parties can have the custody matters decided by
3 the Saudi Arabia Courts. This Court may also look at immigration status when determining child
4 custody. "Since the child's best interests are paramount in custody matters, we conclude that a
5 district court has the discretion to consider a parent's immigration status and its derivative effects
6 as a factor in determining custody." Rico v. Rodriguez, 121 Nev. 695, 701, 120 P.3d 812, 816
7 (2005). The Court should look at Ahed's immigration status and violation of the status as a factor
8 when determining the best interests of the minor child, because what happens if Immigration and
9 Customs Enforcement, takes the mother into custody for violating Immigration, it would also
10 subject the Minor Child to being put into a detention center until mother and son were either
11 exported or granted residency.

12 1) Ahed claims to have changed the diapers 100% of the time. This is simply untrue and
13 does not account for the time Mohamad had the Minor Child three times a week. Also, on March
14 15, 2020, after Ahed filed her TPO and before Mohamad was awarded his child custody days,
15 the minor child went to the hospital with a fever and a **diaper rash**.

16 2) Mohamad was involved and cared for his child while the child was sick and to schedule
17 doctors visits.

18 3) Mohamad has handled daily responsibilities of the minor and there were no complaints
19 of the child not being bathed when Mohamad had the minor child for three days a week.

20 4) Mohamad has been involved with the minor child's doctor appointments including
21 scheduling the appointments and taking the minor child to doctor visits at UNLV.

22 5) Mohamad has prepared meals for the minor child and the minor child would routinely
23 gain weight from eating healthier and more balanced meals when he was in Mohamad's care.

24 Mohamad has been present and cared for the Minor Child. Mohamad also attended school
25 full time while caring for the Minor Child. The fact that Ahed was home with the minor while
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1 Mohamad was at school should not weigh against him. Mohamad became concerned with Ahd's
2 decisions when they were no longer in the minor child's best interest. As discussed in previous
3 Motions and the Motion to dissolve the Protection Order, Ahd has significant wealth and the
4 fact that she continues to live in a shelter that has twice put her son's life in jeopardy due to
5 Covid-19, has caused Mohamad grave concern. The fact that she has continuously attempted to
6 destroy the relationship between father and son has Mohamad concerned for the well being of
7 his son. The fact that Ahd tried to leave to the State of Maryland is what caused Mohamad to
8 be concerned that Ahd would abduct the child. The fact remains the minor child should be
9 returned to Saudi Arabia and the only way to effectuate that is by giving physical custody to
10 someone that will follow the law.

11 **MOTION TO STRIKE SUPPLEMENT OF APPELLATE COUNSEL CONCERNING**
12 **THE PENDING CROSS-MOTIONS, NRS 125D APPLICATION, AND STAY REQUEST**
13 **ON APPEAL**

14 Defendant Mohamad Alhulaibi ("Mohamad" or "Defendant") by and through his counsel of
15 record MARKMAN LAW hereby files this Motion to Strike Plaintiff's Supplement of Appellate
16 Counsel Concerning the Pending Cross-Motions, NRS 125D Application, and Stay Request on
17 Appeal.

18 This Motion is made and based upon the following Memorandum of Points and
19 Authorities along with Exhibits and any oral argument the Court may consider.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. INTRODUCTION**

22 On June 29, 2020, Mohamad filed an *Ex Parte* Petition for an Order Requiring Production of
23 the Minor Child. Plaintiff filed an opposition brief on July 1, 2020 along with a Countermotion
24 for Abduction Prevention Measures, for Orders Prohibiting Removal of Child from Las Vegas,
25 for Court Safeguard of Child's Passport, for Limited Visitation by a Perpetrator of Domestic
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1 Violence, Stay of Order for Dismissal of Case, and for Attorney Fees and Costs. Mohamad filed
2 his opposition to the Countermotion on July 15, 2020. Two days later – and well after the July
3 13, 2020 due date for Plaintiff to oppose Mohamad’s June 29, 2020 Petition – Plaintiff filed a
4 Supplement of Appellate Counsel Concerning the Pending Cross-Motions, NRS 125D
5 Application, and Stay Request on Appeal (the “Supplemental Brief”).

6 Rule 2.20 of the Eighth Judicial District Court Rules sets forth the rules governing motion
7 practice in this Court. While Rule 2.20 provides for opposition and reply briefs after a motion is
8 filed, supplemental briefing “will only be permitted if filed within the original time limitations
9 [for filing of the motion, opposition, and reply brief]³ or by order of the court.” See, EDCR
10 2.20(i). Pursuant to NRCp 12(f), “the Court may order stricken from any pleading any
11 insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”

12 Plaintiff’s Supplemental Brief should be stricken for at least three reasons. First, the
13 Supplemental Brief should be stricken because it is an unauthorized opposition filed without
14 permission from this Court. Rather than follow EDCR 2.20’s mandate to obtain permission to
15 file the Supplemental Brief, Plaintiff simply filed the rogue pleading in a transparent, improper
16 effort to bolster arguments contained in her July 1, 2020 Opposition and to include legal authority
17 that was not contained in the same. Plaintiff’s tactic should not be approved by this Court.

18 Plaintiff’s Supplemental Brief should also be stricken because, in addition to being an
19 unauthorized filing, it is unfairly prejudicial to Defendant. See, e.g., *Wailua Assocs. v. Aetna*
20 *Cas. & Sur. Co.*, 183 F.R.D. 550, 553-54 (D.Haw. 1998) (noting that key rationale for Rule 12(f)
21 motions is to avoid unfair prejudice.) Plaintiff had her chance to oppose Mohamad’s Petition
22 (and did so) and it is unfair to permit Plaintiff to raise new issues and arguments in a supplemental
23 brief that is not contemplated by the Nevada Rules of Civil Procedure. Moreover, it is unfair,
24 and contrary to the intent of the Nevada Rules to permit a party to raise new issues in a final,

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26 ³ No supplemental briefing was filed within the time limits set forth in EDCR 2.20.

1 supplemental brief, thereby depriving Defendant an opportunity to rebut and refute the new
2 arguments. It is also unfair to require a party to file multiple supplemental briefs above and
3 beyond the motion, the opposition, and reply brief contemplated in EDCR 2.20.

4 Finally, Plaintiff's Supplemental Brief should be stricken because it was untimely filed. As
5 noted above, Defendant's Petition was filed on June 29, 2020. Under EDCR 2.20(e), a party
6 opposing a motion must do so within fourteen (14) days after service of the motion. Here,
7 Defendant's Petition was filed on June 29, 2020. As such, any Opposition filed by Plaintiff was
8 due on or before July 13, 2020. While Plaintiff's July 1, 2020 Opposition should have been her
9 last bite at the apple, even assuming Plaintiff had a full fourteen (14) days in which to file a
10 supplement, the Supplemental Brief at issue here is still untimely as it was filed on July 17, 2020
11 – four days after the final due date for an opposition brief. Plaintiff's untimely filing should be
12 stricken accordingly.

13 **II. ANALYSIS**

14 **A. A Stay Should Not be Issued and the Minor Child should be Returned to his Home** 15 **State of Saudi Arabia**

16 The Nevada Appellate Court cites to In re Yaman approvingly, for the proposition that jurisdictional
17 challenges should be handled in a speedy fashion. In re Yaman is also central to this motion for discussion
18 of interpreting of how to deal with child custody laws from countries that have cultural differences from
19 UCCJEA Courts. In re Yaman, 105 A.3d 600, 613-14 (N.H. 2014) (concluding that the UCCJEA does
20 not require a full evidentiary hearing; rather it aims for the speedy resolution of jurisdictional challenges)
21 Chaker v. Adcock, 464 P.3d 412 (Nev. App. 2020)

22 **1. The Object of the appeal would not be defeated if Mohamad is allowed to Return** 23 **home with the minor child**

24 As discussed in the opposition to the countermotion and as the U.S. Supreme Court found in
25 *Chafin*, the object of appeal would not be defeated by a lack of stay. First, as discussed Mohamad,
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1 has not made any threats to remove the minor child prior to this Court issuing orders to allow the
2 same. Second, Ahd is the only party to withhold the Minor child from the other party, first under
3 the pretense of a “quarantine” and then under the guise that a filed petition/motion some how
4 changes Court Orders. Ahd has the ability to file oppositions, countermotions, and supplements
5 in the matter of days but when it came to her filing a motion to modify child custody she failed
6 to file anything in a timely manner. Ahd instead chose to unilaterally withhold the minor child
7 and has now come to this Court seeking relief, even though she will not follow Court Orders that
8 are in place when they are adverse to her.

9 The object of the appeal is not moot and would not be defeated if this Court does not issue a
10 stay, nor would a reversal be ineffectual as this Court could issue orders regarding the return of
11 the minor child. “[S]uch return does not render this case moot; there is a live dispute between the
12 parties over where their child will be raised, and there is a possibility of effectual relief for the
13 prevailing parent.” Chafin, 568 U.S. at 180. “[i]f losing parents were effectively guaranteed a
14 stay, it seems likely that more would appeal, a scenario that would undermine the goal of prompt
15 return and the best interests of children who should in fact be returned.” Chafin, 568 U.S. 165,
16 179, 133 S.Ct. 1017, 1027. “As to the effectiveness of any relief, Ms. Chafin asserts that even if
17 the habitual residence ruling were reversed and the District Court were to issue a re-return order,
18 that relief would be ineffectual because Scotland would simply ignore it. But even if Scotland
19 were to ignore a U.S. re-return order, or decline to assist in enforcing it, this case would not be
20 moot.”

21 The United States Supreme Court in Chafin held that a return order does not moot an appeal,
22 even if the country the Minor was returned to would not assist in enforcing the re-return order
23 because as discussed courts can still have personal jurisdiction over the parties and issue
24 sanctions. In Ahd’s opposition, she argues that the minor child will be denied contact with his
25 mother, but she cites to no provision of Saudi Law that allows for the deprivation of the minor
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1 from the mother, nor does she address the fact that if she wants to have custody of the minor she
2 can advocate for custody in the Saudi Arabia courts. She again makes conclusory allegations to
3 stoke emotional response, rather than citations to law. The only reason the mother would not be
4 allowed to see the minor child is if she fails to respond to the custody petition filed in Saudi
5 Arabia.

6 **2. “Irreparable Harm” - Plaintiff**

7 Ahed continues to make allegations without citing Saudi law, for instance she argues that
8 Mohamad would have little difficulty ensuring she is never allowed to see her son again, but
9 again cites to no U.S. Case Law or to any Saudi Law that stands for this proposition. In her
10 footnote, she states that it requires two or three affidavits for her to equal one man, and that the
11 UCCJEA has found the Middle East to “violate fundamental principles of human rights, but not
12 a single case cited by Ahed comes to that conclusion. In fact, no Court in our sister state of
13 California or in the Federal Court system has reached this conclusion, “Section 3405, subdivision
14 (c) requires a showing that a country violates fundamental principles or human rights. The
15 UCCJEA provides no definition of this term. In California, no case has found that the custody
16 laws of any country meet this exception. (See In re Marriage of Fernandez-Abin, 191
17 Cal.App.4th at p. 1040, fn. 20 [Mexico custody laws do not violate fundamental principles of
18 human rights]; Sareen, 153 Cal.App.4th at p. 376 [India custody laws do not violate principles
19 of human rights].) Further, in the federal courts under the related Hague Convention, which was
20 the foundation for the UCCJEA, it has not found a country that meets such a high standard.
21 (See Souratgar v. Fair (2d Cir. 2013) 720 F.3d 96, 108 [in addressing exception of denying
22 fundamental rights and freedoms when Shari'a courts were involved the United States Court of
23 Appeals found that no federal court had applied the exception and it also would not]; In
24 re Matter of Yaman (2014) 167 N.H. 82, 93-94.) In Yaman, the court found the Turkish custody
25 laws, which did not allow for joint custody or due process, were not so “egregious” or “utterly
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1 shocking” as to violate fundamental principles of human rights. In re Marriage of O.T. & Abdou
2 El Alaoui Lamdaghri, No. E058911, 2018 WL 6242412, at *19 (Cal. Ct. App. Nov. 29,
3 2018), reh'g denied (Dec. 20, 2018).

4 In this case, Ahed’s supplement is simply another attempt to inflame emotions without
5 citing to relevant law. Further, as will be discussed *infra*, the cases cited in the supplement by
6 Ahed are often misconstrued. Ahed will have the opportunity to seek custody in Saudi Arabia of
7 the minor child and nothing in the supplement changes that analysis. Whether Ahed will seek
8 custody in Saudi Arabia, is completely up to her, but her desire not to participate in the Saudi
9 Arabia Court should not be construed as irreparable harm.

10 **3. “Irreparable Harm” – Defendant**

11 Mohamad has already suffered irreparable harm. Mohamad has not seen his son since this
12 Court ruled on his Motion to Dismiss. There were no temporary difficulties with arranging for
13 Mohamad to see his son. Ahed simply did not provide Mohamad his son, first under the guise
14 that they were in quarantine (no evidence has been provided that they actually quarantined) and
15 currently that the petition for return order somehow changed a lawful Court Order. Ahed did not
16 seek relief from this Court regarding modification of custody and has knowingly and willfully
17 violated Court orders for well over a month. This Court should issue relief to Mohamad for all
18 of the time he has already lost with his son based on NRS 125C.020:

19 **NRS 125C.020 Rights of noncustodial parent: Additional visits to compensate for**
20 **wrongful deprivation of right to visit.**

21 1. In a dispute concerning the rights of a noncustodial parent to visit his
22 or her child, the court may, if it finds that the noncustodial parent is being
23 wrongfully deprived of his or her right to visit, enter a judgment ordering the
custodial parent to permit additional visits to compensate for the visit of which the
noncustodial parent was deprived.

24 This Court should go even further and recognize the prejudice Mohamad has endured
25 based on the lost opportunities to interact his son in the United States and take a page from the

1 New York Court Systems on willful disobedience of a Child Court order as described in Chue v.
2 Clark:

3 The husband has been prejudiced by her conduct as he has lost opportunities to
4 interact with his children as the order permits. The wife's disobedience frustrated
5 and impeded the father's right to be with his child, a right which has been deemed
6 to be "far more precious than property rights." *Entwistle v. Entwistle*, 61 A.D.2d
7 380, 384, 402 N.Y.S.2d 213 (2nd Dept.1978), quoting from *May v. Anderson*, 345
8 U.S. 528, 533, 73 S.Ct. 840, 97 L.Ed. 1221 (1953). Willful interference with a
9 noncustodial parent's right to visitation is so inconsistent with the best interests of
10 the children as to, *per se*, raise a strong probability that the offending party is unfit
11 to act as a custodial parent. *Matter of Ross v. Ross*, 68 A.D.3d 878, 890 N.Y.S.2d
12 127 (2nd Dept.2009). In this case, the interim judgment laid out specific terms for
the father's visitation and the wife, in undisputed conduct, has *988 failed to follow
its dictates. *Mullen v. Mullen*, 80 A.D.3d 981, 913 N.Y.S.2d 925 (3rd Dept.2011).
There is no claim that the custody provisions are indefinite or lack
specifics. *Wallace B.O. v. Christine R.S.-O.*, 12 A.D.3d 1057, 784 N.Y.S.2d 447
(4th Dept.2004) (contempt not found only if the judgment is "fatally indefinite and
uncertain"). Chue v. Clark, 46 Misc. 3d 973, 987–88, 999 N.Y.S.2d 676, 687 (Sup.
Ct. 2014).

13 Further, Ahed has chosen to live in poverty and in the shelter, Ahed has significant wealth in
14 Saudi Arabia and has completed three years of college education, but Ahed has chosen not to
15 work or use her wealth while in the United States most likely to further her narrative of being
16 disadvantaged. If the stay is issued then Mohamad loses his right to see his son, or face possible
17 immigration sanctions, which he is likely already facing while waiting for this Court's upcoming
18 ruling, especially, if this Court grants the absurd relief Plaintiff is requesting that Mohamad turn
19 over his passport. Its confounding how on the one hand Ahed says that the ninth Circuit has no
20 right to determine divorce law when it intersects with immigration law but on the other hand
21 Ahed argues this Court should directly impede Mohamed's right to leave the United States and
22 actually asks this Court to knowingly contribute to Mohamad violating immigration laws. See
23 Plaintiff's conclusion on Page 13, Paragraph 3.

24 **4. Ahed is likely to lose on the Merits**

25 Ahed will likely lose her appeal on the divorce. Further, even if she were to win her appeal
26 on the divorce issue, she will certainly lose regarding the issue of child custody and so there is

1 no reason to issue a stay. The supplement is an attempt to relitigate divorce jurisdiction and
2 should be stricken from the record as being untimely as well as for its blatant attempt to re-argue
3 divorce jurisdiction which Ahed already had the opportunity to oppose in the underlying motion
4 to dismiss. Ahed's appeal does not discuss child custody and no credence should be given to the
5 child custody arguments but in an abundance of caution will be discussed *infra*.

6 **a. Child Custody Must be Heard in the Child's Home State of Saudi Arabia**

7 No party disputes that the Minor Child arrived in the United States on or about January 13,
8 2020. No party disputes that the Complaint for divorce and custody was filed on or about March
9 24, 2020. The time that elapsed from the Minor Child's arrival in the United States until the filing
10 of the Complaint was barely over two months. "Temporary absences do not interrupt the six-
11 month pre-complaint residency period necessary to establish home state jurisdiction". Ogawa v.
12 Ogawa, 125 Nev. 660, 662, 221 P.3d 699, 700 (2009). "[A]nother aspect of the home state
13 analysis, necessarily requires consideration of the parents' intentions, as well as other factors
14 relating to the circumstances of the child's or family's departure from the state where they had
15 been residing." In re Aiden L., 16 Cal. App. 5th 508, 518, 224 Cal. Rptr. 3d 400, 408 (2017);
16 *citing* In re Marriage of Nurie (2009) 176 Cal.App.4th 478, 493, fn. 12, 98 Cal.Rptr.3d 200.
17 Courts have also ruled that temporary absences even when the entire family was temporarily
18 absent from the state, would not deprive the Home State from having jurisdiction. In Sarpel, the
19 Court held that despite the entire family leaving to Turkey for 5 months and 29 days, and the
20 father being the only person or child to return before 6 months expired, and the father not filing
21 a petition for almost another two months following his return, that the move to Turkey "was not
22 intended to be a permanent move, characterizing the children's stay in Turkey from such time as
23 a temporary absence." Sarpel v. Eflanli, 65 So. 3d 1080, 1084 (Fla. Dist. Ct. App. 2011); *see also*
24 Awad v. Noufal, 280 So. 3d 522, 523 (Fla. Dist. Ct. App. 2019).

1 Here, as in Sarpel, Mohamad’s move to the United States was not permanent and was only
2 temporary to allow Mohamad to finish his education. The complaint was filed roughly 2.5 months
3 after the parties came to the United States and as such Saudi Arabia where the minor had lived
4 his whole life prior to coming to the United States is the Home State. Mohamad has maintained
5 that his and the Minor Child’s time in the United States was meant to only be temporary. Further,
6 as required by his VISA status Mohamad has maintained residence in Saudi Arabia for which he
7 has no intention of giving up.

8 The UCCJEA “mandates that any foreign nation must be treated as if it were a state within
9 the United States for purposes of jurisdiction and inter-court cooperative mechanisms. The
10 UCCJEA is not a reciprocal act. There is no requirement that the foreign country enact a
11 UCCJEA equivalent.” S.B. v. W.A., 38 Misc. 3d 780, 809, 959 N.Y.S.2d 802 (Sup. Ct.
12 2012), aff’d sub nom. Badawi v. Wael Mounir Alesawy, 135 A.D.3d 792, 24 N.Y.S.3d 683
13 (2016). The statute “is designed to eliminate jurisdictional competition between courts in matters
14 of child custody[, with] [j]urisdictional priority . . . conferred to a child’s ‘home state’ ” Id. “The
15 UCCJA turned out to have exploitable loopholes allowing for concurrent jurisdiction in more
16 than one state, which encouraged jurisdictional competition ... and forum shopping.” David Carl
17 Minneman, Annotation, Construction and Operation of Uniform Child Custody Jurisdiction and
18 Enforcement Act, 100 A.L.R.5th 1, 1 (2002)... the purposes of the UCCJEA, as described by its
19 promulgating body, the National Conference of Commissioners on Uniform State Laws,
20 are, inter alia, to “ ‘[a]void jurisdictional competition and conflict with courts of other States
21 in matters of child custody,’ ” to “ ‘[d]iscourage the use of the interstate system for
22 continuing controversies over child custody,’ ” and to “ ‘[a]void relitigation of
23 custody decisions of other States in this State.’ ” In re Guardianship of K.B., 172 N.H. 646, 649–
24 50 (2019). The UCCJEA is intended to eliminate competition between courts in matters of child
25 custody, with **jurisdictional priority conferred to a child’s home state**. S.B. v. W.A., 38 Misc.

3d 780, 809, 959 N.Y.S.2d 802 (Sup. Ct. 2012), aff'd sub nom. Badawi v. Wael Mounir Alesawy,
135 A.D.3d 792, 24 N.Y.S.3d 683 (2016)

Home state is defined in Nevada as:

NRS 125A.085 “Home state” defined. “Home state” means:

1. The state in which a child lived with a parent or a person acting as a parent for at least 6 consecutive months, including any temporary absence from the state, immediately before the commencement of a child custody proceeding.

Saudi Arabia remains the Child’s Home State, his stay in the United States has only been temporary. The UCCJEA was created to eliminate exploitable loop-holes and forum shopping. Ahed’s arguments are intended to create a new loophole despite the fact that she has created the conditions for Mohamad having not already having returned to Saudi. Mohamed has filed a petition for custody in Saudi. Mohamad wants to see his son. Mohamad has been unilaterally deprived of seeing his son despite Child Custody Orders that allow to see his son. Mohamad will likely not be able to reenter the United States to get his son after he leaves. If the Court does not order the return of the Minor Child to his Home State he will almost certainly be deprived from seeing his son for another great length of time. To require Mohamad to have to leave this Country to “live” in Saudi Arabia just to file a Complaint while Ahed defies Court orders is an illogical request. Ahed has come to this Court with unclean hands, as she denies Mohamad his right to see his son despite the TPO Court’s ruling that he is a fit parent. Nothing in the record shows that there has been any change regarding Mohamad’s fitness as a parent. Mohamad continues to maintain residence in Saudi Arabia and intends to return there after this Court’s ruling on August 4th, 2020, regardless of its ultimate outcome.

b. Saudi Arabia is a State for Purposes of the UCCJEA

There are numerous cases from all over the court in both Federal and State court that have held that countries with Sharia Law and countries that are not a part of the Hague Convention can be considered a state and afforded comity. “The defendant also suggests that this court should find that the Abu Dhabi judgment of divorce violates the public policy of the State of New York

1 by virtue of the fact that the laws of the UAE are based upon Sharia law. Although the Sharia
2 may serve as the primary source for the laws of the UAE, the plaintiff is entitled to more than a
3 visceral review of the judgment of divorce by this court to determine if any of its provisions
4 violate our domestic public policy. While parts of Sharia law governing personal status would
5 indeed violate our domestic policy, such as laws allowing husbands to practice polygyny and use
6 of physical force to discipline their wives, or laws prohibiting Muslim women from marrying
7 non-Muslims, the Abu Dhabi judgment of divorce does not regulate the parties' conduct, but
8 determines the financial issues between the parties, which include spousal and child support, and
9 a distributive award based upon the mahr agreement, and child custody. None of the principles
10 used by the Abu Dhabi courts in the parties' divorce action may be considered violative of our
11 public policy.” S.B. v. W.A., 38 Misc. 3d 780, 799–800, 959 N.Y.S.2d 802 (Sup. Ct. 2012), aff'd
12 sub nom. Badawi v. Wael Mounir Alesawy, 135 A.D.3d 792, 24 N.Y.S.3d 683 (2016); see also
13 In re Makhoul, 695 N.W.2d 503 (Table), 2005 WL 159159 (Iowa Ct. App., Jan. 26, 2005)
14 (unreported)(Court gave custody to custody order entered in Jordan based on Sharia law, partly
15 because the Court was particularly put off by the mother’s repeated attempts to deny the father
16 any custody.)

17 The UCCJEA does not provide exceptions for foreign countries that have no diplomatic
18 jurisdiction with the United States to be deemed anything but a State, nor should a Court read
19 that exception into the Statute. People In Interest of A.B-A., 2019 COA 125, ¶ 45, 451 P.3d 1278,
20 1287. **“That a foreign jurisdiction's law is different from ours is not an indication that it**
21 **violates fundamental principles of human rights, and, therefore, that is not the test under**
22 **the UCCJEA.”** Matter of Yaman, 167 N.H. 82, 105 A.3d 600, 611 (2014). **“ ‘the fundamental**
23 **principles of the requested State relating to the protection of human rights and**
24 **fundamental freedoms,’** which has been interpreted by the United States Department of State
25 as **‘utterly shock[ing] the conscience or offend[ing] all notions of due process.’** Coulibaly v.

1 Stevance, 85 N.E.3d 911, 917 (Ind. Ct. App. 2017); citing
2 Matter of Yaman, 167 N.H. 82, 105 A.3d 600, 611 (2014) (quoting *Toland v. Futagi*, 425 Md.
3 365, 40 A.3d 1051, 1058 (2012)). The UCCJEA comment similarly notes that the provision “is
4 a traditional one in international agreements, [but] is invoked only in the most egregious cases.”
5 UCCJEA, § 105 cmt. The comment also seeks to narrow the reviewing court's focus by providing
6 that “the court's scrutiny should be on **the child custody law of the foreign country** and not on
7 other aspects of the other legal system.” Coulibaly v. Stevance, 85 N.E.3d 911, 917 (Ind. Ct.
8 App. 2017)(*emphasis added*); see also Banerjee v. Banerjee, 2017-245 (La. App. 3 Cir.
9 12/13/17), 258 So. 3d 699, 707.

10 “It is apparent to us, however, that the simple fact that a foreign jurisdiction's law differs from
11 our own or strikes us as outdated is insufficient to establish a violation of fundamental principles
12 of human rights. Id. See *Yaman*, 105 A.3d at 611 (“**That a foreign jurisdiction's law is**
13 **different from ours is not an indication that it violates fundamental principles of human**
14 **rights, and, therefore, that is not the test under the UCCJEA.**”). See also Blair, *supra*, at 565
15 (“The commentary to Section 105(c) reflects the drafters' concern that the provision not become
16 the basis for magnifying every difference between the U.S. legal system and that of a foreign
17 nation to virtually stymie effective application of the UCCJEA in international cases.”).

18 Here, Ahed has provided nothing that shows the Courts of Saudi Arabia will make a decision
19 about child custody that is utterly shocking to the conscience or so offensive to due process.
20 Instead she repeats her self-serving and unfounded statements that she has suffered abuse, despite
21 the discrepancies in her allegations, the confounding timing of her allegations, and the location
22 of the bruises being limited to her legs. Court’s across the United States have repeatedly held that
23 they will not create a bright line rule depriving another country of determining child custody
24 matters as long the courts do not violates fundamental principles of human rights in regards to
25 child custody laws.

Courts interpreting the UCCJEA's Escape clause (commonly known as the human rights exception) routinely look to Article 20 of the Hague convention for assistance in interpreting the clause. People In Interest of A.B.-A., 2019 COA 125, ¶ 29, 451 P.3d 1278, 1285. The Article 20 defense is to be "restrictively interpreted and applied." *U.S. State Dep't, Hague International Child Abduction Convention: Text and Legal Analysis*, Pub. Notice 957, 51 Fed. Reg. 10,494, 10,510 (Mar. 26, 1986). The defense is to be invoked only on 'the rare occasion that return of a child would utterly shock the conscience of the court or offend all notions of due process.' *Id.* It "is not to be used ... as a vehicle for litigating custody on the merits or for passing judgment on the political system of the country from which the child was removed." *Id.* We note that this defense has yet to be used by a federal court to deny a petition for repatriation. Fed. Jud. Ctr., *The 1980 Hague Convention on the Civil Aspects of International Child Abduction: A Guide for Judges* 85 (2012). Souratgar v. Lee, 720 F.3d 96, 108–09 (2d Cir. 2013)

"In urging the Article 20 exception in this case, Lee insists broadly that Syariah Courts are incompatible with the principles "relating to the protection of human rights and fundamental freedoms" of this country. **While this general assertion might find sympathy among some in this country as a political statement, we decline to make this categorical ruling as a legal matter.** Moreover, Lee has failed to show that the issue of custody is likely to be litigated before Singapore's Syariah Court. Given that failure, we are not inclined to conclude simply that the presence of a Syariah Court in a foreign state whose accession to the Convention has been recognized by the United States is *per se* violative of "all notions of due process." 51 Fed. Reg. 10, 510 (Mar. 26, 1986). Souratgar v. Lee, 720 F.3d 96, 108–09 (2d Cir. 2013)(*Emphasis added*).

"Under Article 13(b), a grave risk of harm from repatriation arises in two situations: "(1) where returning the child means sending him to a zone of war, famine, or disease; or (2) in cases of serious abuse or neglect, or extraordinary emotional dependence, when the court in the country of habitual residence, *for whatever reason*, may be incapable or unwilling to give the child

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FILED

JUL 21 2020

Shirley L. Johnson
CLERK OF COURT

1 TRANS

2 ORIGINAL

3
4
5 EIGHTH JUDICIAL DISTRICT COURT

6 FAMILY DIVISION

7 CLARK COUNTY, NEVADA

8
9 AHED SAID SENJAB,) CASE NO. D-20-606093-D
10 Plaintiff,) DEPT. H
11 vs.)
12 MOHAMAD ABULHAKIM ALHULAIBI,)
13 Defendant.)
14

15 BEFORE THE HONORABLE T. ARTHUR RITCHIE, JR.

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 TUESDAY, JUNE 16, 2020

18 APPEARANCES:

19 The Plaintiff: AHED SAID SENJAB
20 For the Plaintiff: APRIL S. GREEN, ESQ.
21 725 E. Charleston Blvd.
Las Vegas, Nevada 89104

22 The Defendant: MOHAMAD ABULHAKIM ALHULAIBI
23 For the Defendant: DAVID MARKMAN, ESQ.
4484 S. Pecos Rd.
Suite 130
24 Las Vegas, Nevada 89121

25 Court Certified Interpreter: SAAD MUSA

AA000390

1 LAS VEGAS, NEVADA

TUESDAY, JUNE 16, 2020

2 P R O C E E D I N G S

3 (THE PROCEEDING BEGAN AT 09:00:58.)

4 THE COURT: Good morning. My name is Art Ritchie. I'm
5 the judge responsible for your case. Case number is D606093.

6 MS. GREEN: Good morning, Your Honor.

7 THE COURT: Well, all right. We're -- we're here for
8 prejudgment proceedings on the Senjab, Alhulaibi matter. We
9 have the plaintiff and the defendant present by phone,
10 pursuant to administrative order. We have counsel, who will
11 confirm in a minute.

12 And the plaintiff is assisted by a court certified
13 interpreter, who will interpret the proceedings and state his
14 appearance. Now, because we have an interpreter for one of
15 the parties, I have to be careful and you need to be careful
16 to give the interpreter enough time to translate the
17 proceedings for the plaintiff.

18 Okay. You ready to go?

19 MS. GREEN: Yes, Your Honor.

20 THE COURT: Okay. Very good.

21 MR. MARKMAN: Yes, Your Honor.

22 THE COURT: Mister interpreter, will you state your
23 appearance for the record?

24 THE INTERPRETER: My name is Saad Musa, S-A-A-D, M-U-S-A.
25 And the language we're doing today is Arabic.

1 THE COURT: Excellent. So if the proceedings -- I mean,
2 we are on the phone. We're not in the same room. If the
3 proceedings become confusing or we start talking too loudly,
4 please interject and -- and, you know, let us help you do your
5 job. Okay?

6 THE INTERPRETER: Thank you. I will.

7 THE COURT: Okay. I'm gonna call the case again. And
8 then I'll pause. And I'll let you interpret.

9 THE INTERPRETER: Very good.

10 THE COURT: This is the Senjab, Alhulaibi matter. We are
11 on the record in the Regional Justice Center. Pursuant to
12 administrative order, the parties and counsel are appearing by
13 telephone.

14 Ms. Green, will you please state your appearance for
15 the plaintiff?

16 MS. GREEN: Yes, Your Honor. April Green from the Legal
17 Aid Center, Bar Number 8340, for the plaintiff, Ahed Senjab.

18 THE COURT: Mister interpreter, do you need to interpret
19 that? Thank you.

20 Mr. Markman, will you state your appearance for the
21 defendant?

22 MR. MARKMAN: Good morning, Your Honor. David Markman on
23 behalf of Mi- Mohamad. Bar Number 12440.

24 THE COURT: This is the time set by the Court to consider
25 the motion to dismiss. It was filed by the defendant. This

1 matter was heard on May 20th and continued to today's date.
2 It was continued for two primary reasons. One is that the
3 plaintiff filed exhibits on the 18th and on the day of the
4 hearing on May 20th; and because the legal issue of whether or
5 not federal law prevents the plaintiff from establishing an
6 essential element of the claim, required additional briefing.
7 The Court has reviewed the motion, the response, the reply and
8 the additional memorandum that was filed on June 8th.

9 I set this matter today also so that counsel would
10 have a full opportunity to make a argument prior to the
11 decision on the motion to dismiss.

12 Before we hear from Mr. Markman and then Ms. Green,
13 I want to confirm, since the review of the papers do not show
14 contested facts that I will summarize in a minute, it does not
15 appear that there is any dispute of fact that the parties were
16 married in Saudi Arabia on February 17th, 2018.

17 THE INTERPRETER: What was the date, Your Honor?

18 THE COURT: February 17th, 2018.

19 It does not appear contested that the defendant
20 obtained an F-1 visa and came to the United States to attend
21 graduate school at UNLV in 2018. It does not appear contested
22 that the plaintiff applied for a visa in 2018 and that that F-
23 2 visa was granted to her in 2019. It does not appear
24 contested that the defendant purchased air travel and traveled
25 with himself, his wife and the parties' child to Nevada on

1 January 13th, 2020.

2 The Court also is gonna make note that there is a
3 protective order against domestic violence. And that that
4 protective order was heard and extended and is in effect until
5 February 14th, 2021. It also does not appear contested that
6 the plaintiff was physically present in the state of Nevada
7 from January 13th until she filed -- well, until the present
8 and was physically present in Nevada for more than six weeks
9 prior to the filing of this case in March of 2020.

10 Okay. Now, Mr. Markman, it appears that the request
11 for dismissal is based on the essential element of intent
12 related to the establishment of residence or domicile. Is
13 that right?

14 MR. MARKMAN: For the divorce, Your Honor, that is
15 correct.

16 THE COURT: Okay. Well, this is a divorce case.

17 MR. MARKMAN: Right. Right. For the divorce aspect of
18 it, for the child custody aspect of it, it's based on the, you
19 know, not being the home state of the child.

20 THE COURT: Well, okay. They -- I...

21 Go ahead, madam -- mister interpreter.

22 THE INTERPRETER: Sure.

23 THE COURT: If this Court has no subject matter
24 jurisdiction, then the relief is a dismissal of the case
25 without regard to any custody orders or support orders or a

1 dissolution order.

2 Okay. So, Mr. Markman, you have asked the Court to
3 find that Congress has, through the passage of federal law,
4 preempted state law related to intent because of the F-2 visa
5 that the plaintiff had, came here with; right?

6 MR. MARKMAN: That is correct, Your Honor.

7 THE COURT: Okay. And the basis of that -- the basis of
8 that argument is this Ninth Circuit 2020 case, the Park versus
9 Bar case. Is that right?

10 MR. MARKMAN: Yes, Your Honor, along with all of the
11 other cases, I think they're on point, which is Toll v.
12 Moreno; Elkins v. Moreno; Carlson v. Reed; and to some extent,
13 Monasky versus Taglieri.

14 THE COURT: Okay. Well, if I understand your argument,
15 you're saying that Congress precludes the establishment of
16 intent to remain in the United States or Nevada. Is that your
17 argument?

18 MR. MARKMAN: Yes, Your Honor, my -- my argument...

19 I apologize to mister interpreter.

20 THE COURT: Okay. I'm gonna give you, I guess, a few
21 minutes to sort of frame the argument in the manner that you
22 see fit. So make a brief argument establishing the points as
23 you want, Mr. Markman.

24 MR. MARKMAN: Thank you, Your Honor. And so my argument
25 essentially are is that -- is that Park v. Barr, Toll v.

1 Moreno and all of the cases say that a non-immigrant alien is
2 not able to form the subjective intent to have a domicile in
3 the United States. Thereby the -- thereby she doesn't have a
4 domicile, which means she does not have subject matter juris-
5 jurisdiction to file a divorce complaint in Nevada or any
6 other state in the United States. I think (indiscernible)...

7 THE COURT: All right. You have to -- you have to break
8 it up a little, Mr. Markman, for the interpreter.

9 MR. MARKMAN: I think there is also a question whether
10 she had the subjective intent to remain in -- in Nevada, as
11 well, because on February 9th when the police came out, she
12 said her brother-in-law was on the way from the state of
13 Maryland.

14 THE COURT: Yeah, but don't -- they -- I -- I...

15 MR. MARKMAN: (Indiscernible).

16 THE COURT: I don't...

17 You can interpret that. And then I just want to
18 interrupt on that argument. Okay?

19 All right. Mr. Markman, I don't want the record to
20 be confused that the subjective intent of the plaintiff is a
21 factual issue that must be resolved in her favor. And so you
22 can't get a motion to dismiss on that type of argument. It
23 has to be a legal or an uncontested matter. Okay? So let the
24 interpreter interpret that.

25 Also, Mr. Markman, I want to comment on the Toll

1 case because that's the U.S. Supreme Court case. And it
2 supports this notion of the supremacy clause in the United
3 States Constitution. But that had nothing to do with divorce.
4 It had to do with whether Congress had allowed a non-immigrant
5 to get in-state tuition at a college in violation of the state
6 law. Okay? So it would be only ar- argued to support this
7 notion that if Congress allows or prescribes, then that
8 supercedes state law.

9 MR. MARKMAN: And -- and -- and, yes, Your Honor, I think
10 that case along with a couple of the others goes strictly to
11 the point that that has a subjective intent for domicile based
12 on the type of visa that you enter the United States on.

13 THE COURT: Is there anything else that you wanted to
14 mention or -- or emphasize from your filings that -- before I
15 hear from Ms. Green?

16 MR. MARKMAN: (Indiscernible). There's a couple of
17 things I wanted to address and -- and from her supplement or
18 from plaintiff's supplement, which is -- and -- and I don't
19 know, I guess, where the Court's going, but if there's any
20 change in subjective intent, I don't think the information is
21 confidential. I think (indiscernible) I had to read that
22 clause. Though my understanding of that clause is that is it
23 confidential to say identifying information such as where she
24 lives, i.e. SafeNest, which they've already disclosed? But I
25 think information that becomes necessary to make a ruling on

1 this case, I think we're entitled to it whether it's redacted
2 or not for certain information.

3 THE COURT: All right. Mr. Markman, I'm not -- I'm not
4 sure how material it is. It's basically a document showing
5 that she's making claims that affect her status. And no
6 different than if a single person came here on an F-1 visa,
7 wanted to marry somebody, as long as they made a timely
8 request, they could try to change their status. So it -- it's
9 related to domestic violence allegations. It's a form that --
10 it has nothing to do with -- with your argument, I don't
11 think.

12 But it's a -- so the -- the Court also, you know, in
13 -- in resear- researching the U.S. Code, you know, the
14 immigration laws are 100s of pages long. But they -- you
15 know, the theme of the plaintiff's case is, you know, involves
16 allegations of domestic violence, too, so. And that -- that
17 goes to, I guess, immigration issues that are not related to
18 the divorce. And -- and the basis for issuing some orders
19 related -- not related to the divorce case.

20 Okay. Mr. Markman, is there anything else that you
21 wanted to mention before I hear from Ms. Green?

22 MR. MARKMAN: I -- I apologize again, mister interpreter.
23 And I guess just, I'd like to address that point. Mohamad,
24 vehemently denies the allegations of domestic abuse -- abuse.
25 And -- and we would also ask for the dissolution of the TPO

1 because when -- and you can see from the reply, the -- the
2 notes from the police officer that came out, when she -- when
3 plaintiff told the police, it was verbal only. Mohamad told
4 the police. It was verbal only. And -- and she had credited
5 -- she had told the police that she was waiting for the
6 brother-in-law from Maryland to come. So what changed from
7 February 10th? Mohamad isn't the person that called the
8 police solely to pick up belongings from his apartment because
9 everything rides in that regard...

10 THE COURT: Let me just interrupt you.

11 MR. MARKMAN: All right.

12 THE COURT: Because you have all this -- you have all
13 this in writing. Let the interpreter interpret.

14 THE INTERPRETER: Okay. Thank you. Thank you.

15 THE COURT: The domes- the domestic violence case, the T
16 case is not on calendar. Any request to dissolve it or modify
17 it, needs to be brought in that case. That case is separate
18 and apart from the divorce case. But you have in writing and
19 reference in your argument that he disputes the factual
20 allegations.

21 Mr. Markman, I want to visit with Ms. Green.

22 MR. MARKMAN: Thank you, Your Honor.

23 THE COURT: Okay.

24 All right. Ms. Green...

25 MS. GREEN: Yes, Your Honor.

1 THE COURT: You can tell from the Court's comments in --
2 on May 20th and, you know, that this defense is -- was a
3 pretty novel attack on a divorce case. And that's why I
4 wanted you to have an opportunity to brief it and for the
5 Court to consider it. I know you've read this -- this Park
6 case. And you may have even researched the commentary in the
7 fallout from this case. But I'm curious as to what your
8 points are in response to the legal principle that it
9 establishes.

10 MS. GREEN: Your Honor, the Park case is whether the
11 other alliant cases relied upon by the defendant simply are
12 wholly distinguishable from this case because in those cases,
13 they were -- they were not divorce cases, for the most part;
14 and I have a client who has (indiscernible) she may have come
15 here on a -- an F-2 visa. But while she was here, things
16 happened, which, you know, were the subject of a granted and
17 extended protection order.

18 THE COURT: Again the protective...

19 MS. GREEN: (Indiscernible)...

20 THE COURT: The protective order is not on -- not on this
21 hearing. She was granted a protective order. And this has
22 nothing to do with the divorce. The issue is whether a
23 fundamental element of subject matter jurisdiction can be
24 satisfied by her. Let the interpreter...

25 MS. GREEN: (Indiscernible).

1 THE COURT: ...interpret, please, for your client. Now
2 let me just tell you about the Barr case. In California, like
3 Nevada, has recognized that undocumented folks would have
4 access to the court for divorce purposes. And the holding in
5 the Ninth Circuit in January of this year, says that -- well,
6 let me just read what the commentary says. It says that under
7 today's ruling, undocumented immigrants are no longer deemed
8 citizens of California for the purpose of requesting a
9 divorce. So they can no longer get divorced here since
10 federal law preempts California law to the contrary.

11 Now I have reviewed and had an opportunity to review
12 cases from around the country that predate this case by, some
13 of them, 40 years that have allowed state action. But this
14 Ninth Circuit case is a precedent that this Court has to
15 consider. We're in the Ninth Circuit. And if federal law
16 preempts this notion of intent, then the Court has to explain
17 why it's not following this precedent.

18 MS. GREEN: Your Honor, the Court should not follow that
19 higher precedent for one day for the reason another federal
20 law filed on in particular has given victims of domestic
21 violence the right to self petition to obtain their own path
22 to citizenship in this country if they meet certain criteria.

23 In this case, our client has met that criteria. Her
24 intent to reside in Nevada were formed after certain
25 incidences (indiscernible) gave the right to pursue the

1 federal law would stop to protect victims and it did not
2 distinguish whether they were non-residents or how they got
3 here in terms of the kinds of visa. It was based on your
4 victimization. And that is what's happened here.

5 And I attached the confidential record for the
6 Court's viewing to demonstrate that it's a meritorious
7 application, which has already been certified by law
8 enforcement to show that she has a meritorious and direct to
9 path to citizenship herself.

10 So this Court should not preclude her from following
11 through and obtaining her right to a path to citizenship which
12 this, our federal authorities, have granted to the domestic
13 violence victims, simply because of how she came into this
14 country.

15 So if anything, we have competing statutes which
16 need to be resolved, you know, by the Court. She has a
17 (indiscernible) path to citizenship. And based on that, she
18 was able to form an intent to remain in this state. And she
19 did form that. And she had that intent at the time she filed
20 her complaint for divorce. So that is the distinguishing
21 factor that distinguishes her case from all of the
22 (indiscernible) cases that the defendant relied upon as well
23 as the ones their self by authority would be observed...

24 THE COURT: Why don't you give Mr. Musa...

25 MS. GREEN: (Indiscernible)...

1 THE COURT: Why don't you give Mr. Musa a chance. Jesus,
2 he's gonna have to interpret about three minutes of dialog
3 there. Break it up. Okay.

4 THE INTERPRETER: I will try.

5 THE COURT: Okay. Go on, Ms. Green.

6 MS. GREEN: So this is a distinguishing factor, Your
7 Honor. And this is why those cases are not dispositive on our
8 own case and bar. And we're asking you to deny the motion to
9 dismiss. This Court has personal jurisdiction over both the
10 parties. They have systematic and continuous presence here,
11 numerous contacts, including the child. Nevada is the most
12 appropriate form to make orders for the child. Even if
13 (indiscernible)...

14 THE COURT: All right. You're -- you're -- you're.
15 Okay. Finish your thought, please.

16 MS. GREEN: Judge, I know the Court doesn't have all day.
17 So I wanted to just (indiscernible)...

18 THE COURT: No, I -- I'm -- I'm -- you gotta break it up
19 for the interpreter so that he can interpret...

20 THE INTERPRETER: Yeah.

21 THE COURT: ...for your client.

22 MS. GREEN: Okay. Sorry. I'm so sorry, Your Honor. I'm
23 on a roll.

24 THE COURT: All right. Well...

25 MS. GREEN: (Indiscernible)...

1 THE COURT: First of all, let -- let -- let him -- I
2 mean, finish your thought.

3 MS. GREEN: I'm asking the Court to also exercise
4 jurisdiction over the minor child (indiscernible)...

5 THE COURT: All right. Well, look. I -- I don't wanna
6 -- I don't wanna -- just like -- just -- I wanna focus on the
7 -- on the dismissal issue because this Court is not the home
8 state of the child. The -- the Uniform Child Custody
9 Jurisdiction Enforcement Act allows this Court to assume
10 jurisdiction in the divorce case only under an emergency
11 temporary basis or under a (indiscernible) basis. And that
12 would be dependent on this case proceeding.

13 And the Court has -- I mean, the -- the Court knows
14 the custody is being managed on a split-week schedule pursuant
15 to the TPO. But we're not -- we're not having -- I mean, your
16 client was here for two months. The child is -- home state is
17 not Nevada. And the only reason why the Court, if the divorce
18 case proceeds, would address custody would be on an emergency
19 or temporary basis because no other court that has
20 jurisdiction has a case. Now...

21 MS. GREEN: (Indiscernible)...

22 THE COURT: The -- this case, or this motion, does
23 nothing to address or affect your client's attempt to remain
24 in the United States pursuant to Violence Against Women Act
25 from 2005 or any other law that would allow her to stay.

1 The whole point of the Park case...

2 MS. GREEN: I'm gonna disagree with that, Your Honor.

3 THE COURT: Well, that's fine. The whole point of the
4 case, of -- of Park, was that she had a path to citizenship by
5 marrying an American citizen. So the standard can't be that a
6 plaintiff has a path to citizenship and therefore the federal
7 law should be ignored.

8 MS. GREEN: (Indiscernible).

9 THE COURT: Okay. All right. The, you know, this is --
10 I see the Court as very concerned about this dispute. I'm
11 concerned because the issue of intent is so subjective and is
12 not really scrutinized by the court. We don't ask people
13 whether they're documented, undocumented, on a visa, not on a
14 visa. And, you know, when this issue is raised, it requires
15 the Court to look at authority that -- I mean I -- the -- the
16 results seems harsh in that if the Court determines that
17 there's federal preemption and that she can't establish
18 intent, the divorce is dismissed. Before I do that, I want
19 every opportunity to look and see whether that's required.

20 The fact of the matter is, is that if this Court
21 determines that this authority is not controlling, I need to
22 explain why it's not controlling. And, you know, the -- the
23 arguments in writing don't go to the central issue which is,
24 does Congress preempt or preclude that necessary element for
25 subject matter jurisdiction? And we had an opposition to the

1 motion. We had a supplemental brief. We've had exhibits.
2 And none of that has shown that there is a prohibition or a
3 prescription.

4 MS. GREEN: Your Honor, I would only respond by saying
5 that the bottom line is that she meets the Nevada requirement
6 to file a complaint here. She had the intent to remain. And
7 she has been here for six weeks. Under federal law she has
8 the right to pursue a path to citizenship. And she has done
9 that. And based on that, she should be able to get a divorce
10 in Nevada.

11 And the Court -- and I -- I object to -- disagree
12 that the Court cannot exercise jurisdiction over the child
13 because no other country, state has any order regarding this
14 child. The parties are present here, numerous contacts here.
15 This is the most appropriate forum for the child. At the very
16 least, emergency jurisdiction should be exercised until other
17 things pan out, including the mother's immigration papers, of
18 which the child is a derivative and then has his own
19 independent right to remain here pursuant to that
20 (indiscernible) petition.

21 THE COURT: Okay. Anything else, Ms. Green, before I
22 hear from Mr. Markman?

23 MS. GREEN: No, Your Honor.

24 THE COURT: All right. Mr. Markman, do you have any
25 comments that you need to offer in reply?

1 MR. MARKMAN: Your Honor, I -- I think you're correct
2 when you say that she -- that obviously doesn't affect her
3 ability to remain in America. And that if this Court is going
4 to decide anything about her independent right to citizenship,
5 I'll just add the -- the document because that was turning on.
6 I think it's important. And I don't think it's privileged
7 information regarding...

8 THE COURT: Yeah, I -- I -- I didn't really. We were
9 talking about the filing on the 11th of June, right?

10 MR. MARKMAN: It'd be -- it -- I -- I don't know if it
11 was on the 11th of June as referenced in the -- the June 8th
12 supplement. They said it was gonna be provided to you for in
13 camera review.

14 THE COURT: Yeah, there was a filing in June 11th.

15 MR. MARKMAN: So.

16 THE COURT: It's described as a confidential document.
17 If it was material, it would have to be provided to you. But
18 I can tell you that basically what it is is a government form
19 that outlines allegations of domestic violence.

20 MR. GREEN: Your Honor told me to clarify it with a
21 certification.

22 THE COURT: It's a document that's a government document
23 for her to try to remain in the United States as a victim of
24 domestic violence. Isn't that right, counsel?

25 MS. GREEN: Yes, but I -- it was submitted to show that

1 it had been certified by the governmental authority.

2 (Indiscernible)...

3 THE COURT: It was received by them and signed by them.

4 There's that -- I -- they -- this -- look. The -- if this
5 case goes forward, then the issue of custody will have to be
6 resolved. And the issue of the standard of proof and the
7 claims, like domestic violence claims, would be adjudicated.

8 All right. One of the things, counsel, that the
9 Court asked for when this motion was filed, was to determine
10 whether or not there was any question about the federal law,
11 specifically 8 U.S.C., concerning -- yeah.

12 And I guess I just want to clarify since this is
13 important to the Court, Ms. Green, that her argument is that
14 the Violence Against Women Act or other allegations that she's
15 made is the reason why this Court should deny the motion to
16 dismiss, not because federal law prescribes her stating an
17 intent to -- or I guess federal law -- federal law prohibits a
18 non-immigrant from establishing domicile. So you're not
19 saying that federal law doesn't prohibit her from establishing
20 domicile. You're saying these other reasons are the reasons
21 why the Court should deny the motion to dismiss.

22 MS. GREEN: I'm saying that those cases are
23 (indiscernible)...

24 THE COURT: Okay. Hold on. Hold on. Before you answer
25 the question, let the interpreter interpret...

1 MS. GREEN: Oh.

2 THE COURT: ...please.

3 THE INTERPRETER: Yeah.

4 Go ahead, Ms. Green.

5 MS. GREEN: I was saying, Your Honor, that she, under the
6 Nevada law, never required them to file for a divorce. And
7 that those cases -- the -- the -- that Park -- all of those
8 cases relied upon by the defendant are not dispositive as to
9 whether she can proceed with a divorce action in this state
10 because after coming here she was able to go on intent. Based
11 on things that happened to her, she had a path to citizenship.
12 She pursued it. She's entitled to it. She -- it was
13 meritorious.

14 So she should not be barred because she's no longer
15 a non-immigrant. She's an immigrant as a result of rights
16 that she obtained after coming here. She met the definement
17 in Nevada for a divorce. And she should be given the right to
18 pursue it. (Indiscernible)...

19 THE COURT: That's the whole point of this Park case.
20 She had the ability to get a divorce under California law.
21 And the Ninth Circuit Court of Appeals said, federal law
22 preempts California law. That's the whole point of that case.
23 So it doesn't matter that she has a subjective intent under
24 Nevada law. If federal law preempts, she can't have that
25 intent. That's the whole point I'm making, Ms. Green. Is

1 that a legal principle that binds the Court to dismiss this
2 case?

3 MS. GREEN: No, Your Honor, it does not bind this Court
4 to dismiss the case because federal law under the VAWA program
5 stated that overarching laws to protect people in her very
6 situation. So it -- for me it would be an absurd result to
7 say that because of the way she came here as a non-immigrant
8 under a student visa, she's forever precluded from using the
9 court for Nevada (indiscernible) of her subsequent to her
10 arriving here that gave her other rights.

11 I think the other case is different than this case
12 because VAWA was, you know, based on all the legislative
13 intent and everything behind it was put in place to address
14 situations like this. It's -- and that's different from
15 somebody marrying somebody and -- and being able to pursue
16 citizenship who goes by VAWA for me supersedes the immigration
17 rules regarding non-immigrant and they're agreeing that they
18 will return to their country of or- of origin -- of origin.
19 What happened to her after she got here is what gave rise to
20 rights that supersede the immigration rules regarding going
21 back and stating an intent to return to your domicile.

22 THE COURT: Yeah, well, I can't -- I can't necessarily
23 disagree with this notion that the in- unintended consequences
24 of this decision are shocking to me. If you read the
25 commentary concerning it (indiscernible) just since it was

1 entered in January of 2020, it -- it -- it could prevent non-
2 immigrants from accessing state courts who have lived in the
3 jurisdiction for a long time. But that's exactly what it
4 says.

5 And so, if -- the issue is, does the Court deny the
6 motion, essentially ignoring the precedent from the Ninth
7 Circuit or does it grant the motion and allow an appellate
8 court to determine that it's unconstitutional or that it's not
9 controlling law? I mean, that's what I'm struggling with.

10 I'm gonna be issuing a written decision this week.
11 And, you know, I do see significant problems because we don't
12 ask people whether they're documented or undocumented or
13 immigrants or non-immigrants or what type of visas they
14 brought here. If a witness says that they're a resident of
15 Nevada with intent, we accept that at face value and we give
16 them access to state courts.

17 And this particular decision and the people that are
18 dealing with the fallout of it and, of course, California
19 courts have been closed for a couple of months, maybe they're
20 not even dealing with this, suggest that millions of
21 Californians who are non-immigrants or undocumented may not
22 have state courts for divorce, which sounds insane to me
23 especially from the Ninth Circuit Court of Appeals.

24 But that's exactly what this holding suggests
25 because it basically says folks with visas who are preempted

1 by federal law from establishing intent, that -- if they can't
2 establish intent, then this Court has no subject matter
3 jurisdiction. And the Court would have to grant the motion
4 under Rule 12.

5 And I can see -- I'm very -- you can tell the
6 Court's very uncomfortable with that. But that's -- that's
7 why we've had this briefing. And that's why we've had this
8 hearing with this dialogue. And, you know, either way the
9 case is gonna go up under review. If I deny the motion to
10 dismiss, I imagine that there's a sound basis for review. And
11 if I grant the motion to dismiss, I guess there will be a
12 sound basis for review.

13 But we -- we keep con- we keep talking about
14 different principles. We're talking about getting a divorce
15 case. That's not a fundamental exercise. Her rights to
16 change her status or to get asylum or to seek relief from the
17 Violence Against Women Act has nothing to do, at least from
18 the -- when I read the Violence Against Women Act and I looked
19 at the immigration laws, it doesn't make exceptions for
20 divorce cases. It talks about whether you can physically stay
21 in the United States. Okay?

22 And if you -- if -- you know, I looked for that
23 authority because if the Violence Against Women Act basically
24 trumped federal law related to the ability to -- to access
25 courts or file divorces, I mean, I've looked all over the

1 country for cases that would stand for that proposition. I
2 haven't seen one.

3 So, you know, if the appellate review of this case
4 reveals that, then maybe that will help. But we have a Ninth
5 Circuit Court of Appeals decision that's six-months old that
6 raises a severe question about whether or not your client can
7 get a divorce in Nevada. And that is where we're at.

8 The -- madam -- mister interpreter, do your best on
9 that last sort of dialogue. I'm sorry.

10 THE INTERPRETER: Yeah.

11 THE COURT: Obviously the written decision will be an
12 order that is focused on the motion to dismiss. But the
13 dialogue that we've had on the record here today, the comments
14 of the Court, the comments of council should be, I guess,
15 incorporated by reference to the decision that the Court's
16 gonna enter.

17 Mr. Markman...

18 MS. GREEN: Thank you, Your Honor.

19 THE COURT: ...Ms. Green, I -- I will do my best. Today
20 I'm a little busy. I've got an evidentiary hearing this
21 afternoon. But I will try to have an order out by Thursday.

22 MS. GREEN: Okay.

23 THE COURT: Any question before I need to go?

24 MS. GREEN: No, Your Honor.

25 MR. MARKMAN: No questions, Your Honor.

1 THE COURT: All right. You guys take care. Thank you
2 very much.

3 MS. GREEN: Thank you.

4 (THE PROCEEDING ENDED AT 10:52:55.)
5

6 * * * * *

7
8 ATTEST: I do hereby certify that I have truly and
9 correctly transcribed the video proceedings in the above-
10 entitled case to the best of my ability.

11
12 
13 SHERRY JUSTICE,
14 Transcriber II
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adequate protection.” *Blondin IV*, 238 F.3d at 162 (quotation marks omitted). The potential harm to the child must be severe, and the “[t]he level of risk and danger required to trigger this exception has consistently been held to be very high.” *Norden–Powers v. Beveridge*, 125 F.Supp.2d 634, 640 (E.D.N.Y.2000) (citing cases). The grave risk involves not only the magnitude of the potential harm but also the probability that the harm will materialize. *Van De Sande v. Van De Sande*, 431 F.3d 567, 570 (7th Cir.2005).” *Souratgar v. Lee*, 720 F.3d 96, 103 (2d Cir. 2013). This “ ‘grave risk’ exception is to be interpreted narrowly, lest it swallow the rule.” *Simcox v. Simcox*, 511 F.3d 594, 604 (6th Cir.2007); *Blondin II*, 189 F.3d at 246 (warning that permissive invocation of the affirmative defenses “would lead to the collapse of the whole structure of the Convention by depriving it of the spirit of mutual confidence which is its inspiration” (quotation marks and citation omitted)). *Souratgar v. Lee*, 720 F.3d 96, 103 (2d Cir. 2013).

The court in *Souratgar* took the general analysis that Ahed proposes in the instant case and disregarded it as nothing more than a mere trope and not something that could be used to make a categorical ruling as a legal matter. This Court should follow the same analysis used in *Sourtagar* and reach the ultimate conclusion that nothing in Saudi’s Law prohibits Saudi residents from having their and their minor child’s home state/country from hearing child custody matters.

Even when courts have had the opportunity to determine jurisdiction for child custody and have considered laws of another country that would be utterly shocking to people within the United States, they did not deny the Country (Home State of the Minor) from determining child custody, instead they performed the proper analysis and only considered if the child custody laws violate fundamental principles of human rights. “The comments to the UCCJEA make it clear that our scrutiny is limited to Mali's child custody law and not on other aspects of its legal system, including the law (or absence of law) concerning [Female Gentile Mutilation]. At oral argument, Mother suggested we should nevertheless find Mali's failure to outlaw FGM to be relevant

1 because the practice of FGM is, as a general matter, likely to affect children. But consideration
2 of every law likely to affect children would throw the doors wide open—laws regarding civil
3 rights, education, health care, housing, and inheritance, to name just a few, would all be fair game
4 in evaluating a foreign custody decree. Such an approach would put the courts of this state in the
5 untenable position of passing judgment on the entire legal system of a foreign country, a result
6 plainly at odds with the clearly stated intent of the drafters of UCCJEA.” Coulibaly v. Stevance,
7 85 N.E.3d 911, 920–21 (Ind. Ct. App. 2017). “Mother’s remaining arguments suffer the same
8 infirmity—she essentially asks us to look beyond Mali’s custody law to conclude that Mali’s legal
9 system and culture are, on the whole, so oppressive to women that no custody order issued in
10 that country could be enforceable in the United States. We are in no position to make such a
11 judgment, and the language of the UCCJEA prohibits us from attempting to do so. Mother has
12 not established that Mali’s child custody laws violate fundamental principles of human rights,
13 and she is consequently unable to avoid enforcement of the Malian custody decree.” *Id.*
14

15 The Coulibaly Court also discussed parental preferences of the child custody system and
16 determined that despite the discriminatory nature, in the not too distant past, the United States
17 also had parental custody preferences. “Moreover, even if we confine our analysis to Mali’s child
18 custody law as written, we find no violation of fundamental human rights. Mother essentially
19 argues that any “presumption of custody is a violation of the fundamental right for a parent to the
20 care, custody, and control of the child.” But custodial preferences are not foreign to American
21 jurisprudence. Indeed, gender-based custody preferences were the norm in the United States in
22 the not-so-distant past.”...”If the only difference between the custody laws of Maryland and
23 Pakistan is that Pakistani courts apply a paternal preference the way Maryland courts once
24 applied the maternal preference, the Pakistani order is entitled to comity.”...[S]imilar to the
25 traditional maternal preference in that they both are based on very old notions and assumptions
26

1 (which are widely considered outdated, discriminatory, and outright false in today's modern
2 society) concerning which parent is best able to care for a young child and with which parent that
3 child best belongs.” Coulibaly v. Stevance, 85 N.E.3d 911, 918–20 (Ind. Ct. App. 2017)

4 “Jurisdictional issue is limited to determining whether another forum is available with
5 jurisdiction which will determine the child custody issue in accord with minimum due process
6 and award custody on the basis of the best interests of the child. Collateral matters relating to the
7 culture, mores, customs, religion, or social practices in that other forum are not only irrelevant to
8 the question of jurisdiction but also such cultural comparisons have no place in the ultimate
9 custody award. State ex rel. Rashid v. Drumm, 824 S.W.2d 497, 505 (Mo. Ct. App. 1992); *See*
10 *e.g. Waites v. Waites*, 567 S.W.2d 326, 333 (Mo. banc 1978).

11 The matter at hand requires us to consider the meaning of “opportunity to be heard” in the
12 context of courts of foreign countries; and, in doing so, we reject the respondent's contention that
13 we must apply American standards of due process. When considering procedural standards in
14 courts different from our own, the analysis is not about our views of proper
15 procedure. *See Simmonds v. Parks*, 329 P.3d 995, 1016 (Alaska 2014) (discussing due process
16 requirements under the full faith and credit clause of the Indian Child Welfare Act when granting
17 comity to a parental rights termination and child custody order). Rather, the “opportunity to be
18 heard” analysis “is flexible, and the concept should be applied in a manner which is appropriate
19 in the terms of the nature of the proceeding” in the foreign court.

20 In the instant case, Saudi Arabia is an available forum, and affords the litigants the right to
21 due process and makes its determination while considering the best interest of the Child. This
22 Court should not apply American standards of due process and should find like many courts
23 before it that the culture, mores, and customs are irrelevant to the determination on whether the
24 Minor Child’s Home State of Saudi Arabia should be allowed to hear the custody matter. See
25 attached Declaration from **Hani Yousef Al-Saadawi** attached as Exhibit 1.

c. Law Cited By Ahed Is Inapposite to The Facts Of This Case

Ahed cites to numerous cases that purport to show that United States Courts as a matter of fact do not allow child custody matters to be heard in a middle eastern country and will give no deference to a middle eastern court's decisions. Ahed repeatedly misconstrues the facts of the cases that purport to show her arguments. For instance, at footnote 16, Ahed cites to Nevada case Davis v. Ewalefo, for the proposition that courts have adopted "a bright line rule prohibiting out-of-country visitation" to non-Hague countries. When in fact the case says "unless a credible threat exists that a parent would abduct or refuse to return a child, courts have 'decline[d]' to adopt a bright-line rule prohibiting out-of-country visitation by a parent whose country has not adopted the Hague Convention or executed an extradition treaty with the United States.'" Davis v. Ewalefo, 131 Nev. 445, 454, 352 P.3d 1139, 1145 (2015)(emphasis added). Ahed conveniently leaves out the word declined in her analysis of the case.

Ahed cites to Ali v. Ali, for the proposition that the "the law of the Sharia court was arbitrary and capricious" but fails to discuss the fact that New Jersey was the home state of the Minor Child not Gaza, that the party attempting to enforce the Sharia Court order did not provide a copy of the decree and therefore the New Jersey court could not determine if the best interests of the child analysis was applied in the custody matter, and that there was a lack of notice to the other party. Ali v. Ali, 279 N.J. Super. 154, 167, 652 A.2d 253, 259 (Ch. Div. 1994).

Ahed then cites to Ivaldi v. Ivaldi, for the proposition that the father was denied due process and the court would not enforce the decree. Ahed declined to provide the ultimate outcome of the case which was "We trust, however, that the Moroccan court will consider the child's best interests in fashioning a custody order. In that regard, the Hague Convention on Jurisdiction seeks to assure that the best interests of the child is the primary consideration in all international disputes involving children...We trust further that the Moroccan court will consider the parties' separation agreement, including its provision calling for the application of New Jersey law. Our

goal is to further the purposes of the Act and of the Hague Convention on Jurisdiction by avoiding jurisdictional competition while simultaneously discouraging parents from unilaterally removing their children to obtain a more favorable forum.” Ivaldi v. Ivaldi, 147 N.J. 190, 206–07, 685 A.2d 1319, 1327–28 (1996). Ahed also declined to provide the Court’s analysis for why it ultimately declined to assume jurisdiction “If the Family Part dismisses this action, the dismissal will not preclude a New Jersey court from subsequently reviewing the enforceability of the Moroccan custody decree. For example, if the Moroccan court denies the father procedural due process or refuses to consider Lina's best interests, the Family Part may then refuse to enforce the Moroccan decree. *See Ali v. Ali*, 279 N.J.Super. 154, 164–67, 652 A.2d 253 (Ch.Div.1994) (declining to recognize Gaza decree because no notice was given to mother and because Sharia Court did not apply best-interests-of-the-child test)” Ivaldi v. Ivaldi, 147 N.J. 190, 205–06, 685 A.2d 1319, 1327 (1996).

Ahed then cites to Mustafa v. Elfaldi, for the proposition that comity will not be afforded when due process is denied. But Ahed declines to discuss that the Court denied comity because “The trial court found Husband had filed an answer and counterclaim to Wife's complaint, in which he invoked the trial court's jurisdiction, requested a fair and equitable division of the parties' assets and liabilities, and sought custody of the minor child. Husband never mentioned the Sudanese divorce in his answer or counterclaim. Additionally, the Sudanese proceeding denied Wife due process. Wife was never served with notice of the proceeding or participated therein. Husband participated in absentia. Additionally, the Sudan Divorce Certificate was not authenticated.” Mustafa v. Elfadi, 2013-Ohio-1644, ¶¶ 19-20.

While discussing Chara v. Yatim, Ahed fails to mention that the Massachusetts court held that Lebanon was not the minor child’s Home State and therefore the Jaafarite Court did not have subject matter jurisdiction. Charara v. Yatim, 78 Mass. App. Ct. 325, 330–31, 937 N.E.2d 490,

495 (2010). Additionally, as Ahed pointed out in her opposition page 5, line 8, Massachusetts is not a UCCJEA state, and the analysis would thus be different.

Lastly, Alkhairy v. Atoum, is a family court decision from Virginia that is not even on Westlaw, published or unpublished. The issue in Alkhairy was about notice to the party, the court also took issue with the Jordanian order because there was no residency or domiciliary requirements prior to initiating divorce.

To sum it up the decisions in the cases that Ahed cites are not what they purport to be. In the instant case, there has been no denial of due process or order issued by a Saudi Court that violates fundamental principles of human rights as related to child custody. This court should decline to hear the child custody matter, as it declined to hear the divorce matter.

II. CONCLUSION

Based on the above, Mohamad respectfully requests this Court enter the findings as requested in the motion for return order. Further, for each of the foregoing reasons, Plaintiff's Supplemental Brief should be stricken. Nevertheless, if the Court decides to entertain Plaintiff's Supplemental Brief, and the Court, for any reason, is not inclined to grant Defendant's Petition, Defendant respectfully requests an opportunity to file a Supplemental Opposition to Plaintiff's Counter-motion.

Dated this 28th day of July, 2020.

MARKMAN LAW

By: /s/ DAVID MARKMAN
DAVID MARKMAN, ESQ.
Nevada Bar No. 12440
4484 S. Pecos Rd. #130
Las Vegas, Nevada 89121
(702) 843-5899
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of MARKMAN LAW, and that on this 28th day of July 2020, I caused the foregoing document entitled REPLY in Support of Mohamad Alhulaibi's Ex Parte Petition/Motion For An Order Requiring Production Of The Minor Child; For The Issuance Of A Warrant For The Pick-Up Of The Minor Child; For An Order Preventing Abduction Of The Minor Child Pursuant To NRS 125d; and for a Return Order For The Minor Child To His Home Country Of Saudi Arabia.

, to be served as follows:

- ☒ [X] pursuant to EDCR 8.05(a), EDCR 8.05(f), NRCP 5(b)(2)(D) and Administrative Order 14-2 captioned "In the Administrative Matter of Mandatory Electronic Service in the Eighth Judicial District Court," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system;
- ☐ [] by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada;
- ☐ [] pursuant to EDCR 7.26, to be sent via **facsimile**, by duly executed consent for service by electronic means;
- ☐ [] sent out for hand-delivery via Receipt of Copy.

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

APRIL GREEN, ESQ.
Nevada Bar 8340C
BARBARA BUCKLEY
Nevada Bar No. 3918
LEGAL AID CENTER OF SOUTHERN NEVADA, INC.
725 E. Charleston Blvd.
Las Vegas, NV 89104
asgreen@lacsns.org

/s/ David Markman
David Markman, Esq.

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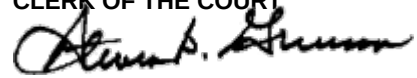


EXHIBIT 1
REPLY IN SUPPORT OF RETURN ORDER
DECLARATION OF HANI YOUSEF AL-
SAADAWI

EXHIBIT 1
REPLY IN SUPPORT OF RETURN ORDER
DECLARATION OF HANI YOUSEF AL-
SAADAWI

1 DCLR

2 DAVID MARKMAN, ESQ.

3 Nevada Bar No. 12440

4 MARKMAN LAW

5 4484 S. Pecos Rd Ste. 130

6 Las Vegas, Nevada 89121

Phone: (702) 843-5899

Fax: (702) 843-6010

Attorneys for Mohamad Alhulabi

DISTRICT COURT
CLARK COUNTY, NEVADA

AHED SAID SENJAB

Plaintiff,

vs.

MOHAMAD ALHULAIBI

Defendants.

CASE NO.:

DEPT. NO.:

DECLARATION OF HANY YOUSSEF

ABDUL-ATI AL SAADAWY

1) I am Hany Youssef Abdul-Ati Al Saadawy, Ministry of Justice License No. 38719, I am over the age of 18 years and competent to testify. My statement is attached hereto and is two pages in Arabic.

2) Address : P.O Box 2067 Makkah Al Mukharramah 21955, Saudi Arabia

3) Phone Number: 966125100000 Ext 3683 Cell Phone: 966531896176

4) Email hansaadawi2009@hotmail.com/ H.alsaadawi@aljureic.com

4) I declare under the penalty of perjury under the laws of the state of Nevada that the facts I have provided in my attached statement are true and correct.

Signed at (city and State): Makkah, Saudi Arabia

Date

11/8/2020

Signature



CERTIFIED TRANSLATION



ترجمة معتمدة

Taha Mohammed Al-Edreesi For Translation

مكتب طه محمد الحسن الإدريسي للترجمة

C.R 4030279920

س.ت: ٤٠٣٠٢٧٩٩٢٠

License No.:720

ترخيص رقم: ٧٢٠

Chamber of Commerce Membership No.: 228194

رقم عضوية الغرفة التجارية ٢٢٨١٩٤

عالم الترجمة الاحترافية

CERTIFICATION

شهادة

Dr. Taha Al-Edresi Certified-Translation Office in Jeddah, Kingdom of Saudi Arabia hereby does certify that the attached Document /s is/are a true and Complete Translation for the original Text without any responsibility for the contents thereof.

بهذا يشهد مكتب د. طه محمد الحسن الإدريسي للترجمة المعتمدة بجدة، المملكة العربية السعودية أن الوثيقة / الوثائق المرفقة هنا هي ترجمة صحيحة وكاملة للنص الأصلي- المرفق صورة منه مع الترجمة- دون أدنى مسؤولية عن محتوياتها.

Dr. Taha Mohammed Al-Edreesi

د. طه محمد الإدريسي

المدير العام



جدة - شارع الستين - مقابل أسواق بن داوود - جوال ٠٥٤٩٥٧٤٨١٤ - المملكة العربية السعودية

Jeddah - Sitteen St. - Opp. Bin Dawood Markets - Mobile 0549574814 - Kingdom of Saudi Arabia

E-mail : tarjama.world@gmail.com

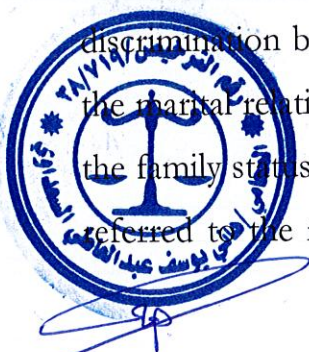
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Procedures of Divorce, Abdicative Divorce, Custody, and Visitation in Accordance with the Laws and Regulations Applicable and Followed in the Kingdom of Saudi Arabia:



First: - Subject of Divorce and Abdicative Divorce:

- Based on article (240) of Legal Procedures Code and out of what is emphasized by article (10) of Basic Statute by the State with strengthening family bonds, whereas family is the basic core of society and emphasizing what is stated by article (15) of Child Protection Law issued in the year of 1436 H., which illustrated the parents' responsibility towards their children, whereas the laws and regulations have ensured that the child shall and must enjoy his rights and decreed its protection and the most significant of which are: child right to live and grow up among united family, his right to live a decent life, in addition to his right in education and proper health care, etc... Due to the significance of working on governing the procedures, which ensure preserving the family and strengthening its bonds and out of willingness to regulate the procedures of treating quarrel between spouses, which will contribute in preserving the marital life and restoring it as the case may be. The family status will be treated upon separation between the spouse by working on minimizing the effect of separation of spouses on children and their rights and obligations towards them. These procedures shall support and be in the best interest of children, without deeming them as a party in any dispute arising between the spouses, whereas article (33/16) of regulations of code of procedures came as a complementary part to the procedures taken in regard of reconciliation dated: 29/11/1440 H., article (33/16) of the implementing regulations of code of procedures aimed at the establishment of specific procedures for applications of separation cases between spouses with all conditions, whether with divorce, abdicative divorce, or through the termination of contract of marriage and whether the applicant was the husband or the wife (without discrimination between the spouses), with what ensures pursuing the continuance of the marital relation. In case that was not possible, these procedures ensure regulating the family status after separation, if there were children and then the spouses shall be referred to the reconciliation committee (experts) whether directly or via electronic



means, in order to pursue reconciliation first and restore the marital bond between them and treating quarrel reasons, if possible. Therefore, details of article (33/16) mentioned hereinabove have stated the following: if any of the spouses filed for divorce or abdicative divorce or termination of contract of marriage (marital relation between them) and they had a child, the Court shall take the following actions:

1. Referral of the application or case – as the case may be – to the reconciliation center (experts), whereas reconciliations process shall be initiated in the presence of spouses within a period not exceeding 20 days from the submission date and in case the spouses have reconciled, the reconciliation shall be recorded in a report and this report shall be deemed as an executive bond.
2. If reconciliation processes between the spouses was a failure, a reconciliation process regarding custody, visitation, and alimony cases shall be put forth and if this process was a success, then that shall be recorded in a report of the reconciliation agreement (experts) and it shall be deemed as an executive bond. The application of proof of divorce or abdicative divorce shall be referred to the department concerned in the court to register it.
3. The cases, in which the spouses failed to reconcile, shall be referred to the concerned court in order to oversee it.
4. The competent department in Court of Personal Status shall – in any event – settle the cases of alimony, custody, and visitation within a period not exceeding 30 days from the date of first session.

Second: Custody: Order of Custody Entitlement of Family Regarding Children in Accordance with the Laws and Regulations in the Kingdom of Saudi Arabia:

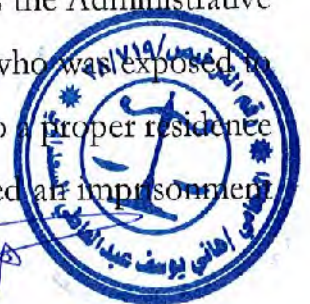
1. Both the father and mother are entitled to custody as long as they are married.
2. The mother in event of separation (divorce).
3. Mother's mother (grandmother).
4. Father.



The competent courts oversee the subject of children custody by pursuing the best interest of the child in custody, without discrimination between the spouses, so whenever the mother is more suitable than the father for the child in custody, then she shall have the custody, whereas the period necessary for children custody is until age of discretion, whereas the Court of Personal Status shall be the competent authority in regard of regulating and arranging the custody procedures between spouses to ensure the best interest of the child. Enforcing courts works on the executions of decisions and judgements after its issue directly and immediately. The laws and regulations demands that the person who enjoy the custody right to be well behaved, honorable, fair and morally conscious. The laws and regulations in the Kingdom of Saudi Arabia have sided with the mother in the subject of child custody in the event that she possesses the conditions required for custody and that by placing her first in order in custody, in addition to immediately finalizing the procedures of custody cases.

Third: Domestic Violence and Abuse:

The Kingdom of Saudi Arabia has regulated the matters related to domestic violence and abuse through law of protection from harm issued in 1435 H. and the society committee in Saudi Ministry of Social Affairs is competent on the issues of domestic violence and abuse and police stations provide support it in these matters, **whereas the Law has defined harm as follows:** all forms of abuse or physical, psychological, or sexual mistreatment or threatening therewith, committed by a person towards another and thereby crossing the borders of his guardianship, power , responsibility, or because of family relation, support, foster, guardianship, or subsistence relation. Saudi Ministry of Social Affairs provides family and social guidance and counselling for the case parties carried out by competent committees, in addition to calling relatives and family to reconcile points of views and settle disagreements, in order to end up with providing the sufficient protection necessary to whoever was exposed to abuse and if it turned out that person who was exposed to abuse is at risk, then the Ministry informs the Administrative Courts and concerned authorities to ensure the safety of the person who was exposed to abuse, including transferring the person who was a subject of abuse to a proper residence until the danger passes. The law of protection from harm has decreed an imprisonment



penalty for a period not less than a month and not exceeding a year and with a fine not less than 5000 thousand and not exceeding 50000 thousand or either of these penalties against the person who commits an action that constitutes an abuse crime, while taking into account more severe penalties decreed by other laws.

The Kingdom of Saudi Arabia has also governed the cases of domestic violence and abuse in accordance with what is decreed by laws and regulation of Human Rights Organization, the Kingdom has also issued Saudi Child Protection Law.

Therefore, the applicable laws and regulations in the Kingdom of Saudi Arabia have preserved, paid the attention necessary, and regulated the interest of spouses individually in regard of divorce and abdicative issues. It also has regulated the custody, child protection, alimony, and visitation issues in a fair and legislated manner to ensure that family and child rights are preserved, without and race or gender discrimination between spouses.

Prepared by / Lawyer

Hany Youssef Abdul-Ati Al Saadawy

Ministry of Justice License No. 38719

Issued on date of: 22/07/2020.



إجراءات الطلاق والخلع والحضانة والزيارة حسب القوانين والأنظمة المعتمدة والمتبعة بالمملكة العربية السعودية

أولاً: موضوع الطلاق والخلع:

- بناءً على المادة (240) من نظام المرافعات وإنطلاقاً على ما أكدته المادة (10) من النظام الأساسي للحكم من عناية الدولة بتوثيق أواصر الأسرة باعتبارها نواة المجتمع ، وتأكيداً على ما نصت عليه المادة (15) من نظام حماية الطفل الصادر عام 1436هـ والتي أوضحت على مسؤولية الوالدين تجاه أطفالهم ، وباعتبار أن الأنظمة والقوانين كفلت للطفل تمتعه بحقوقه ، وأوجبت حمايتها والتي من أهمها: حق الطفل في العيش في كنف أسرة متماسكة ، وحقه في الحياة الكريمة ، وحصوله على التعليم ، وحقه في الرعاية الصحية الخ.
- ولأهمية العمل على تنظيم الإجراءات التي تكفل الحفاظ على الأسرة وتوثيق أواصرها ورغبة في تنظيم إجراءات معالجة حالات الخصام بين الزوجين ، بما يسهم في إبقاء العلاقة الزوجية أو إعادتها بحسب الأحوال ، وينظم حال الأسرة عند وقوع الفرقة بين الزوجين ، بألا تؤثر فرقة الزوجين على الأولاد وحقوقهم والتزامات الوالدين تجاههم ، وأن تكون هذه الإجراءات داعمة ومحقة لمصالح الأولاد ، دون اعتبارهم طرفاً في أي خلاف ينشأ بين الزوجين ، فقد جاءت المادة (16/33) من اللوائح التنفيذية لنظام المرافعات متممة للإجراءات المتخذة بشأن المصالحة بتاريخ: 1440/11/29هـ ، وقد هدفت المادة (16/33) من اللوائح التنفيذية لنظام المرافعات لوضع إجراءات محددة لطلبات دعاوى الفرقة بين الزوجين بجميع أحوالها سواء بالطلاق أو الخلع ، أو من خلال فسخ النكاح ، وسواء كان المتقدم بالطلب الزوج أو الزوجة (لم تميز بين الزوجين) ، بما يحقق السعي إلى استمرار العلاقة الزوجية ، وفي حال تعذر ذلك ، فتكفل هذه الإجراءات تنظيم حال الأسرة بعد الفرقة إن كان بين الزوجين أطفال ، فقد أوجبت على الزوجين إحانتهم للجنة المصالحة (الخبرة) بشكل مباشر أو عبر الوسائل الإلكترونية للسعي من خلاله للوصول للصلح أولاً ولحفظ أو إعادة الرابطة الزوجية بينهما ومعالجة أسباب الخلاف إن أمكن وعليه فقد نصت تفاصيل المادة (16/33) المحددة أعلاه على ما يلي: إذا تقدم أي من الزوجين بطلب الطلاق أو الخلع ، أو دعوى فسخ النكاح (العلاقة الزوجية بينهم) وكان بينهما ولد ، فتتخذ المحكمة الإجراءات التالية:

 1. إحالة الطلب أو الدعوى بحسب الأحوال لمركز المصالحة (الخبرة) ، ويعرض الصلح بحضور الزوجين في مدة لا تزيد عن 20 يوم من تاريخ التقديم ، وفي حال اصطلاح الزوجان فيثبت الصلح بحضور ، ويعد سنداً تنفيذياً.
 2. إذا تعذر الصلح باستمرار الزوجية ، فيعرض الصلح عليهما في قضايا الحضانة والزيارة والنفقة ، فإن اصطلاحاً ، يثبت ذلك بحضور اتفاقية مصالحة (الخبرة) ، وتعد سنداً تنفيذياً ، ويحال طلب إثبات الطلاق أو الخلع إلى الدائرة المعنية بالمحكمة لإثباته.
 3. تحال القضايا التي لم يصطلح الزوجان عليها إلى الدائرة المعنية بالمحكمة لنظرها.
 4. تفصل الدائرة المختصة بمحكمة الأحوال الشخصية في جميع الأحوال في دعاوى النفقة والحضانة والزيارة في مدة لا تتجاوز 30 يوم من تاريخ الجلسة الأولى.

ثانياً: الحضانة: ترتيب أحقية الحضانة بالنسبة للأسرة في الأطفال حسب الأنظمة والقوانين بالمملكة العربية السعودية:

1. تكون الحضانة للأب والأم طالما كانا مرتبطين (متزوجين).
2. الأم بحال الفراق (الطلاق).
3. أم الأم (الجددة).
4. الأب.



تنظر المحاكم المختصة في موضوع حضانة الأطفال بحسب الأصلح للمحضون دون أي تمييز بين الزوجين , فمضى كانت الأم أصلح للمحضون من الأب كانت الحضانة لها , وأن المدة اللازمة لحضانة الأطفال حتى بلوغ سن التمييز , وتختص محاكم الأحوال الشخصية بتنظيم وترتيب إجراءات الحضانة بين الزوجين بما يضمن مصلحة الطفل أولاً , وتعمل محاكم التنفيذ على تنفيذ القرارات والأحكام بعد صدورهما بشكل فوري ومباشر , وتستلزم القوانين والأنظمة تمتع من له حق الحضانة بالسلوك الحسن والأخلاق الطيبة والعدالة , وقد أنصفت القوانين والأنظمة بالمملكة العربية السعودية الأم في موضوع حضانة الطفل بحال تمتعها بالشروط المطلوبة للحضانة وذلك بوضها بصدارة الترتيب في الحضانة وبسرعة إنهاء إجراءات الدعاوى الخاصة بالحضانة.

ثالثاً: العنف والاستغلال الأسري:

نظمت المملكة العربية السعودية الأمور المتعلقة بالعنف والايذاء الأسري من خلال نظام الحماية من الإيذاء الصادر عام 1434هـ , وتختص لجنة المجتمع بوزارة الشؤون الاجتماعية بأمور التعنيف الأسري والايذاء وتقوم مراكز الشرطة بمساعدتها , وقد عرف النظام الإيذاء بما يلي: أنه كل شكل من أشكال الاستغلال , أو إساءة المعاملة الجسدية أو النفسية أو الجنسية أو التهديد به , يرتكبه شخص تجاه شخص آخر , متجاوزاً بذلك حدود ماله من من ولاية عليه أو سلطة أو مسؤولية أو بسبب ما يربطهما من علاقة أسرية أو علاقة إعالة أو كفالة أو وصاية أو معيشية , وتوفر وزارة الشؤون الاجتماعية التوجيه والإرشاد الأسري والاجتماعي لأطراف الحالة عن طريق لجان مختصة , واستدعاء الأقارب والأهل لتقريب وجهات النظر وحل الخلافات , وصولاً لتوفير الحماية اللازمة والكافية لمن تعرض للإيذاء , وإذا تبين وجود خطورة على من تعرض للإيذاء تقوم الوزارة بإبلاغ المحاكم الإداري والجهات الأمنية المعنية لضمان سلامة من تعرض للإيذاء بما في ذلك نقل من تعرض للإيذاء إلى مكان الإيواء المناسب حتى يزول الخطر , وقد قرر نظام الحماية من الإيذاء بعقوبة السجن لمدة لا تقل عن شهر ولا تزيد عن سنة وبغرامة لا تقل عن 5000 آلاف ولا تزيد عن 50000 ألف أو بأحد هاتين العقوبتين كل من ارتكب فعلاً شكل جريمة من أفعال الإيذاء , مع مراعاة العقوبات الأشد المقررة بالقوانين الأخرى.

كما نظمت المملكة العربية السعودية حالات العنف والايذاء الأسري وفق ما تقتضي به أنظمة وقوانين منظمة حقوق الإنسان , كما أصدرت المملكة العربية السعودية نظام حماية الطفل السعودي.

وعليه فإن القوانين والأنظمة المتبعة بالمملكة العربية السعودية , قد حفظت وراعت ونظمت مصلحة الزوجين كلاً على حدا , بأمور الطلاق والخلع وكذلك نظمت أمور الحضانة وحماية الطفل والنفقة والزيارة , بشكل عادل ومقتن , بما يحفظ حقوق الأسرة والطفل دون أي تمييز عنصري أو جنسي بين الزوجين.

إعداد/ المحامي

هاني يوسف عبدالعاطي السعداوي

ترخيص وزارة العدل رقم: 38719

حرر بتاريخ: 2020/07/22م.



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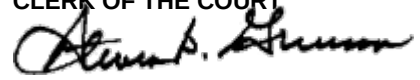


EXHIBIT 2
OPPOSITION TO COUNTERMOTION
(Translated)

EXHIBIT 2
OPPOSITION TO COUNTERMOTION
(Translated)

United Language Services

6320 Canoga Ave., Suite 1522
Woodland Hills, CA 91367

**CERTIFIED TRANSLATION****Translation & Interpretation**

www.ulsweb.com
Tel: +1(818) 441-1885
Fax: +1(215) 941-5622

Translated from Arabic

In the Name of GOD the Merciful, the Compassionate

Kingdom of Saudi Arabia [logo of the Ministry of Justice]
Ministry of Justice

Request number: **(4151987550)**
Date of request: (14/11/1441 Hijri) **07/05/2020**

Attachments (Exhibits):....

Lawsuit Docket

----- Plaintiff's data -----

Personal Data:

Name / Mohamad Abulhakim Alhulaibi Alhulaibi Gender / Male Nationality / Syrian
Is he a prisoner / NO Proof Type / Legal Residency Proof*2 No. / 2162179390
Profession / ----

Employment:

Employment type:/ Does not work Employer's Name / ---

Residency Address:

State / Saudi Arabia
Neighborhood / Street / Al-Imam Albukhari House Number / --- Unit Number / ---
Description / ---

National Address:

Building Number / 89 Street / Al-Imam Albukhari Neighborhood / ---
Unit Number / 10 Zip Code / --- Additional Number / ---

Electronic Mail:

M.hul@outlook.com

Phones: Number / 0599544638

----- Plaintiff's data -----

Personal Data:

Name / Abdulhakim Younes Alhulaibi Alhulaibi Gender / Male Nationality / Syrian
Is he a prisoner / NO Proof Type / Legal Residency Proof*2 No. / 2094759244
Profession / ----

Employment:

Employment type:/ Does not work Employer's Name / ---

Residency Address:

State / Saudi Arabia
Neighborhood / Street / Al-Imam Albukhari House Number / --- Unit Number / ---
Description / ---

National Address:

Building Number / 89 Street / Al-Imam Albukhari Neighborhood / ---
Unit Number / 10 Zip Code / --- Additional Number / ---

Electronic Mail:

M.RW@hotmail.com

Phones:

Number / 0555530132



United Language Services

6320 Canoga Ave., Suite 1522
Woodland Hills, CA 91367

**Translation & Interpretation**

www.ulsweb.com
Tel: +1(818) 441-1885
Fax: +1(215) 941-5622

CERTIFIED TRANSLATION

----- Defendant's data -----

Personal Data:

Name / Ahd Senjab Senjab Gender / Male*¹ Nationality / Syrian
Is he a prisoner / NO Proof Type / Legal Residency Proof*² No. / 2128825813
Profession / ----

Employment:

Employment type: / Does not work Employer's Name / ---

Residency Address:

State / ---
Neighborhood / --- Street / --- House Number / --- Unit Number / ---
Description / ---

National Address:

Building Number / 89 Street / Al-Imam Albukhari Neighborhood / ---
Unit Number / 10 Zip Code / --- Additional Number / ---

Electronic Mail:

Ahdsinjab@gmail.com

Phones:

Number / 0530152357

----- Lawsuit Information -----

Case Category: Child Custody Lawsuit

Subject:

In reference to the defendant's request from the plaintiff / Mohamad Abulhakim Alhulaibi to be divorced from him as a wife, and whereas the plaintiff and the defendant have together a child who did not exceed two years of age whose raising and upbringing require top care, attention and keen, and these things are not available in the defendant, and whereas the reason for the divorce is upon her request, and since the plaintiff has the necessary capacity, qualifications and ability to care for and raise the child, in addition to having a suitable environment to do so through the child's grandparents' home, thus, we ask your honor to look into the plaintiffs' request and to judge in their favor to take custody of the child for the above mentioned reasons knowing that they are ready to provide all the requirements and commitments for the benefit of the child.

Court: Court of Personal Status, Mecca

Plaintiff's requests: To obligate the defendant to deliver the child to the plaintiff / his father. Issue the verdict in favor of the plaintiff (the child's father) to have full custody of the child since he has the qualifications and the abilities.

Case evidence: photocopies of the marriage contract – photocopies of the defendant's divorce lawsuit – photocopies of the parties' proof of residency.

Requestor or his representative: Mohamad Abulhakim Alhulaibi

Signature: -----

*¹ Typo, should be Female. - *² Proof of residency

End of Document

بسم الله الرحمن الرحيم

رقم الطلب: (4151987550)

تاريخ الطلب: (1441 / 11 / 14)

المرفقات:



المملكة العربية السعودية
وزارة العدل

صحيفة الدعوى

----- (بيانات المدعي) -----

البيانات الشخصية:

الاسم / محمد عبد الحكيم الخليبي الخليبي الجنس / ذكر الجنسية / سوري هل هو سجين / لا
نوع الإثبات / إقامة نظامية رقم الإثبات / 2162179390 المهنة /

جهة العمل:

نوع جهة العمل: / لا يعمل اسم جهة العمل /

عنوان الإقامة:

الدولة / السعودية الحي /
الوصف /
الشارع / الإمام البخاري رقم العقار / رقم الوحدة /

العنوان الوطني:

رقم المبنى / 89 الحي /
رقم الوحدة / 10 الرمز البريدي /
الرقم الإضافي /

البريد الإلكتروني:

M.hul@outlook.com

الهاتف:

الرقم / 0599544638

----- (بيانات المدعي) -----

البيانات الشخصية:

الاسم / عبد الحكيم يونس الخليبي الخليبي الجنس / ذكر الجنسية / سوري هل هو سجين / لا
نوع الإثبات / إقامة نظامية رقم الإثبات / 2094759244 المهنة /

جهة العمل:

نوع جهة العمل: / لا يعمل اسم جهة العمل /

عنوان الإقامة:

الدولة / السعودية الحي /
الوصف /
الشارع / الإمام البخاري رقم العقار / رقم الوحدة /

العنوان الوطني:

رقم المبنى / 89 الحي /
رقم الوحدة / 10 الرمز البريدي /
الرقم الإضافي /

البريد الإلكتروني:

CERTIFIED TRANSLATION

M. RW@hotmail.com

الهاتف :

الرقم / 0555530132

----- (بيانات المدعى عليه) -----

البيانات الشخصية :

الاسم / عهد - سنجاب سنجاب الجنس / ذكر الجنسية / سوري هل هو سجين / لا
نوع الإثبات / إقامة نظامية رقم الإثبات / 2128825813 المهنة /

جهة العمل :

نوع جهة العمل : / لا يعمل اسم جهة العمل /

عنوان الإقامة :

الدولة /

الحي /

الوصف /

العنوان الوطني :

رقم المبنى / 89

رقم الوحدة / 10

البريد الإلكتروني :

Ahdsinjab@gmail.com

الهاتف :

الرقم / 0530152357

----- (بيانات الدعوى) -----

تصنيف
دعوى حضارة
الدعوى

إشارة إلى طب المدعى عليها من المدعى/ محمد عبد الحكيم الحليبي الطلاق منه كزوجة . وحيث أنه يوجد بين المدعى والمدعى عليها طفل لا يتجاوز السنتين من العمر ، وتتطلب تربيته ورعايته عناية فائقة واهتمام وحرص وهذه الأمور تتوافر بالمدعى عليها ، حيث أن سبب الطلاق راجع إلى طلبها ونظراً لأن المدعى يتمتع بالأهلية اللازمة والمؤهلات والاحتياجات لرعاية الطفل وتربيته بالإضافة لوجود بيئة مناسبة لذلك من خلال منزل الجد والجدة للطفل ، لذا نطلب من فضيلتكم النظر بطلب المدعين والحكم لهم بحضانة الطفل للأسباب المذكورة مع استعدادهم لتلبية جميع المتطلبات والتعهدات التي تكون بمصلحة الطفل.

محكمة الأحوال الشخصية بمكة المكرمة

طلبات
إلزام المدعى عليها بتسليم الطفل لوالده المدعى. الحكم لصالح المدعى (والد الطفل) بحضانة الولد نظراً لما يتمتع به من أهلية وإمكانات.

أسانيد
صور عن صل الزواج _ صور عن دعوى المدعى عليها لطلب الطلاق _ صور عن إثباتات الأطراف.

مقدم الطلب أو ممثله : محمد عبد الحكيم الحليبي

التوقيع :

طباعة

United Language Services

6320 Canoga Ave., Suite 1522
Woodland Hills, CA 91367

**Translation & Interpretation**

www.ulsweb.com
Tel: +1(818) 441-1885
Fax: +1(215) 941-5622

CERTIFIED TRANSLATION**CERTIFICATION OF TRANSLATION**

We, United Language Services, hereby certify that the above document(s) have been translated by qualified professional translators and that, in our best judgment, the translated text accurately and truly reflects the content, meaning and style of the original text and constitutes in every respect a correct and true translation of the original document(s).

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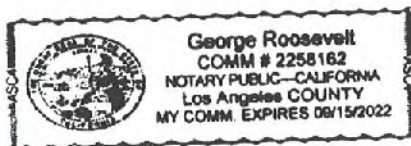
Jacob Baboun

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State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 22nd day of July, 2020, by **Jacob Baboun**, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

(seal)



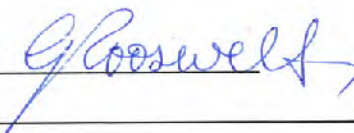
Signature 



EXHIBIT 1
MOTION TO DISSOLVE PROTECTION
ORDER
(Translated)

EXHIBIT 1
MOTION TO DISSOLVE PROTECTION
ORDER
(Translated)

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Translated from slang Syrian Arabic

<Aahdi

[video call voice call]

Tue, Feb 4

Caller

Contact (receiver)

12:58 PM - How are you sweetheart?

12:58 PM - You woke up?

12:59 PM - Thank God, we're good babe

12:59 PM - How about you

1:00 PM - Yes, we woke up, but Ryan went back to sleep

1:06 PM - I miss you sweetheart

1:07 PM - We miss you too babe

1:08 PM - [red rose sticker]

[GIF]



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<Aahdi

[video call voice call]

Tue, Feb 4

Caller

Contact (receiver)

1:53 PM - Did we receive the stroller?

1:56 PM - No

2:14 PM - I'm in the elevator

6:16 PM - Babe, the stroller has arrived

6:17 PM - Thank God

6:17 PM - Thank God

6:17 PM - Did you assemble it?

6:17 PM - No, I haven't opened the box yet



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<Aahdi

[video call voice call]

Tue, Feb 4

Caller

Contact (receiver)

6:17 PM – Thank God

6:17 PM – No, I haven't opened the box yet

[GIF]

6:17 PM – Open it and try to assemble it
so once I finish here I can take you out

6:17 PM – [smiling cat emoji]

6:17 PM – We'll go and have a juice

6:17 PM – OK babe, I'll try



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<Aahdi

[video call voice call]

Tue, Feb 4

Caller

Contact (receiver)

6:19 PM – OK babe

7:56 PM – It seems like we can't go out tonight

7:56 PM – How is Ryan doing?

7:56 PM – What are you doing?

7:57 PM – Looks like you'll be late, right darling?

7:57 PM – He's good

7:57 PM – I have assembled the stroller and was about to get Ryan dressed

7:57 PM – I haven't finished yet

7:57 PM – Prepare him, we'll go out even for just a ride

7:58 PM – Or we'll go buy a blanket and two pillows

7:58 PM – God bless you



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[video call voice call]

Tue, Feb 4

Caller

Contact (receiver)

7:58 PM – God bless you

7:58 PM – Still 15 minutes to go, they check the second

7:58 PM – OK darling

7:58 PM – Maybe 8:30-8:45 I'll be home

7:58 PM – I'll call you before I get home, so you come down

7:58 PM – With God's will darling

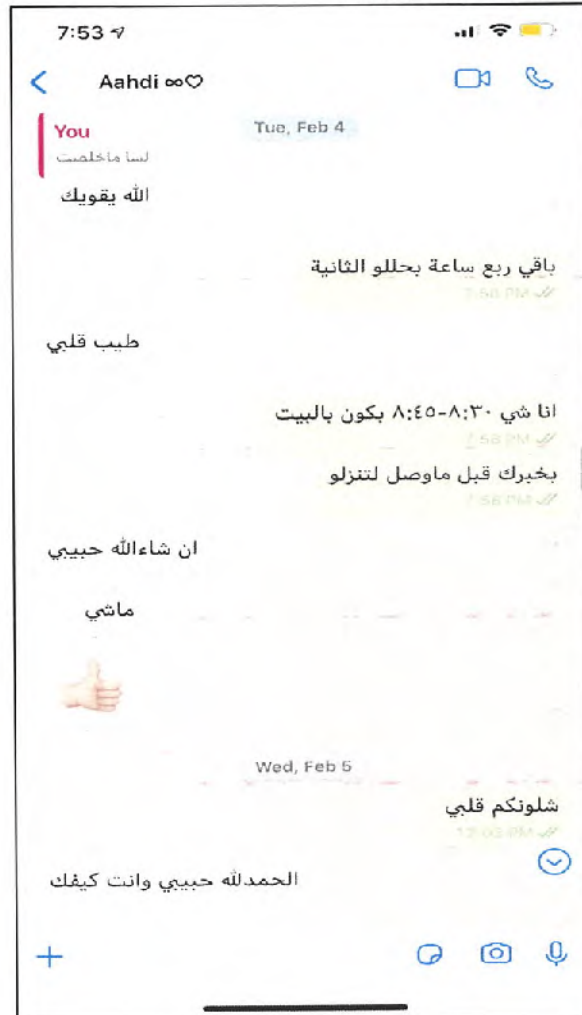
7:58 PM – OK

7:58 PM – [thumbs up emoji]

Wed, Feb 5

12:03 PM – How are you sweetheart?

12:04 PM – Good my love, how are you?



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<Aahdi

[video call voice call]

Wed, Feb 5

Caller**Contact (receiver)**

12:03 PM – How are you sweetheart?

12:04 PM – Good my love, how are you?

12:30 PM – Thank God, I'm good sweetheart

2:11 PM – What do you like me to cook darling?

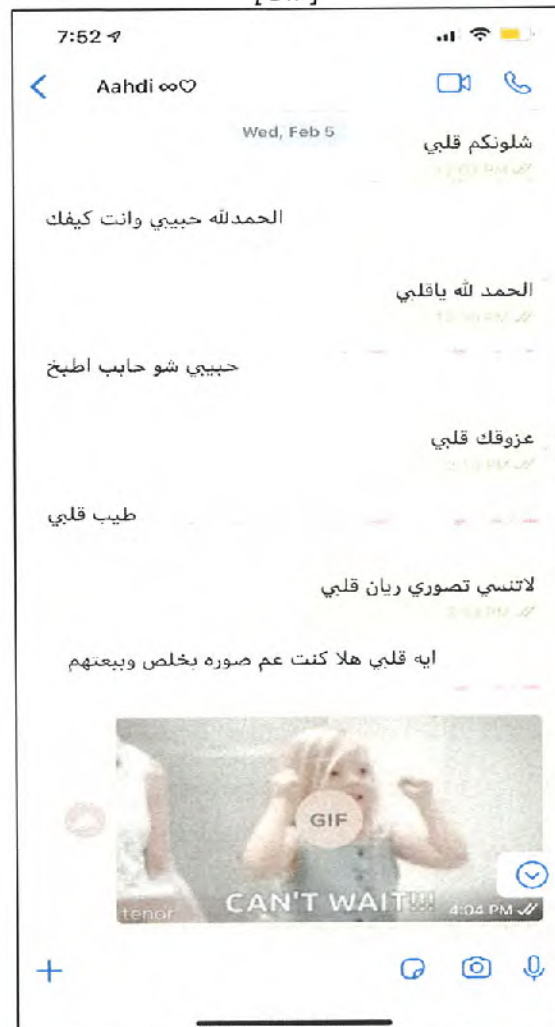
2:15 PM – As you like sweetheart

2:27 PM – OK darling

3:54 PM – Don't forget to take photos for Ryan sweetheart

3:57 PM – Yes darling, I was just taking photos for him, I'll finish and send them.

[GIF]



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<Aahdi

[video call voice call]

Wed, Feb 5

Caller**Contact (receiver)**

5:27 PM – What are you doing?

4:34 PM – [hearts emoji]

5:30 PM – Ryan just slept, and I'm going to take a shower

5:30 PM – When are you coming home babe?

5:30 PM – God bless you, try to finish until I come back

5:30 PM – I need about 15 minutes .

5:30 PM – Be safe

5:31 PM [red rose sticker]



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[video call voice call]

Thu, Feb 6

Caller

Contact (receiver)

12:44 PM – Call you when I get home to come down?

12:45 PM – Is my Saudi SIM card still with you?

12:45 PM – OK baby, how long do you need? Ryan is ready and I'm getting dressed

12:46 PM – I don't have your SIM card

12:46 PM – I need about 20 minutes

12:46 PM – Didn't you take it (the SIM) at the airport

12:46 PM – One minute

12:47 PM – Yes darling, I have it





CERTIFIED TRANSLATION

<Aahdi

[video call voice call]

Fri, Feb 7

Caller

Contact (receiver)

12:32 PM – How are you sweetheart?

12:32 PM – How are you and how's Ryan?

12:44 PM – When is his vaccine due exactly?

12:44 PM – and what's its name?

12:45 PM – Check its name in English

12:46 PM – the 16th or 17th maybe hard to do it

12:32 PM – Thank God, good and you?

12:43 PM – Ryan is not feeling well, looks like he's
Hurting from teething

12:44 PM – He's sleeping now

12:45 PM – On the 16th, I'll check its name and
send it to you when I'm done

12:46 PM – No problem, we can do it few days
later, by the weekend



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<Aahdi

Caller

[video call voice call]
Contact (receiver)

3:48 PM – And I found another two schools, maybe we can
Go and check them next week, most probably I'll
register him in one of them when we come back

3:49 PM – from the best schools here

3:49 PM – and they'll be close to my work from the factory

3:51 PM – OK darling, we'll talk when you come back

9:13 PM – How are you?

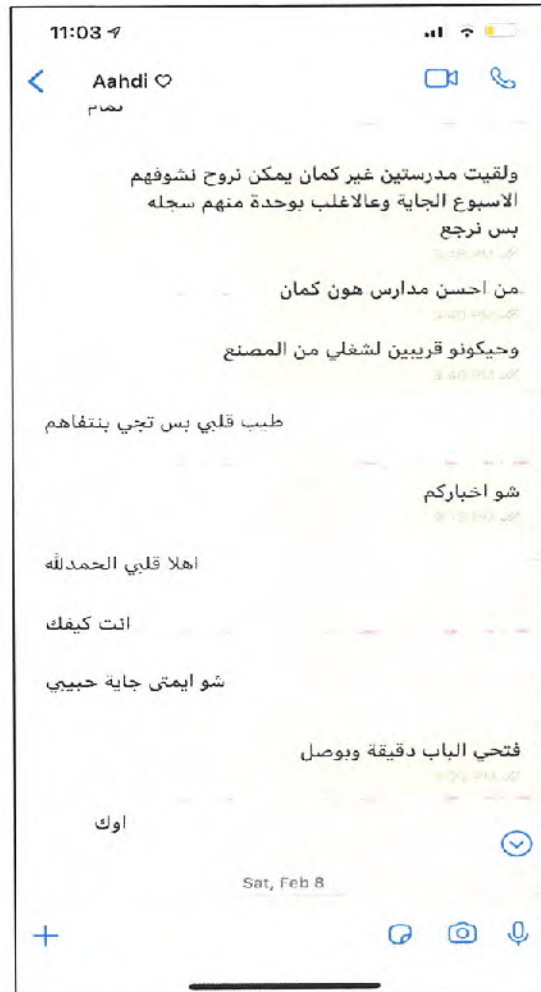
9:19 PM – Thank God, we're good darling

9:19 PM – How are you?

9:22 PM – At what time are you coming darling

9:22 PM – Open the door, one minute and I'll be home

9:22 PM – OK



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A handwritten signature in blue ink, appearing to read "Jacob Baboun", is written over a horizontal line.

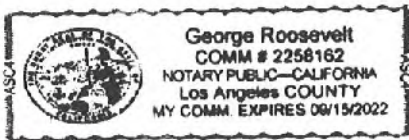
Jacob Baboun

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State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 22nd day of July, 2020, by Jacob Baboun, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

(seal)



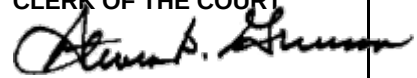
Signature

A handwritten signature in blue ink, appearing to read "G. Roosevelt", is written over a horizontal line.



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NOTC
WILICK LAW GROUP
MARSHAL S. WILICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorneys for Plaintiff

**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

AHED SAID SENJAB,
Plaintff,

vs.

MOHAMED ALHULAIBI,
Defendant.

CASE NO: D-20-606093-D
DEPT. NO: H

DATE OF HEARING: 8/4/2020
TIME OF HEARING: 11:00 am

**NOTICE OF INTENT TO APPEAR BY TELEPHONIC
COMMUNICATIONS EQUIPMENT**

In accordance with the *Order* adopting Part IX of the Supreme Court Rules effective March 1, 2009, The WILICK LAW GROUP hereby provides notice that they intend to appear at the above captioned hearing via telephone. Due to the CDC's recommendations on social distancing, appearance by Audio Transmission Equipment will still allow the Willick Law Group to participate in at this hearing.

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Willick Law Group's contact phone number for this hearing will be (702) 438-4100

DATED this 4th day of August, 2020.

Respectfully submitted,
WILLICK LAW GROUP

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

MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
RICHARD L. CRANE, ESQ.
Nevada Bar No. 9536
3591 E. Bonanza Rd., Suite 200
Las Vegas, Nevada 89101
(702) 438-4100
Attorneys for *Plaintiff*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 4th day of August, 2020, I caused the above and foregoing document to be served as follows:

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

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

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

[] by hand delivery with signed Receipt of Copy.

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

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

David Markman, Esq.
Markman Law
4484 S. Pecos Rd. Ste 130
Las Vegas, Nevada 89121
Attorney for Defendant

/s/Justin K. Johnson

An Employee of the WILICK LAW GROUP

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