

IN THE SUPREME COURT OF THE STATE OF NEVADA

* * * * *

ERICH M. MARTIN,

Appellant,

vs.

RAINA L. MARTIN,

Respondent.

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SC NO: Jul 16 2021 04:16 p.m.
DC NO: Elizabeth A. Brown
Clerk of Supreme Court

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Attorneys for Appellant:

Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
cclement@maclaw.com
kwilde@maclaw.com

Attorneys for Respondent:

Marshal S. Willick, Esq.
Nevada Bar No. 2515
Richard L. Crane, Esq.
Nevada Bar No. 9536
3591 E. Bonanza Road, Suite 200
Las Vegas, Nevada 89110
Telephone: (702) 438-4100
Facsimile: (702) 438-5311
Email@willicklawgroup.com

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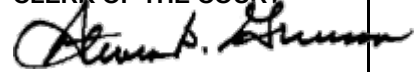
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RPLY
WILLICK LAW GROUP
MARSHAL S. WILLICK, ESQ.
Nevada Bar No. 2515
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110-2101
Phone (702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Defendant

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

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

**REPLY TO
“PLAINTIFF’S OPPOSITION TO DEFENDANT’S
MOTION FOR ATTORNEY’S FEES AND COSTS *PENDENTE LITE*
AND RELATED RELIEF”**

I. INTRODUCTION

The *Opposition* begins by mischaracterizing the facts of this case. It has not been Raina that has tried to drain Erich of his wealth, it has been Erich using his excessive wealth to force Raina to bow to his will.

This Court is well aware that there are no attorney’s fees and costs granted in the appellate process. In fact, undersigned counsel asked Supreme Court Justice Pickering at last year’s Advance Family Law Conference, how an innocent party only

1 trying to protect the judgment that they received in the lower court, was to receive her
2 fees. Justice Pickering stated that the request for *Pendente Lite* fees was the only
3 method.

4 The claim that the issues going before the Supreme Court are novel has been
5 dealt with in detail in our *Opposition* to the stay requested by Erich. We ask the
6 Court to review that argument to disprove their claims. As far as them being
7 meritorious, that has been disproved in this Court. Raina prevailed in her argument
8 and this Court's recitation of why in the *Decision* was so compelling, that other
9 jurisdictions are using it as the argument in similar cases where the former military
10 member is attempting to steal the benefits rightfully "earned" by the former spouse.

11 Lastly, our fees requested for an appeal are far from speculative, in fact, they
12 are a low ball of the cost for an appeal. We have done many appeals and \$20,000 is
13 on the low end of the costs. We are so confident that the fees will meet or exceed this
14 number that we will guarantee to return any amount that is unused at the end of this
15 action. Of course, we would not get the same guarantee from Erich to pay the
16 difference if the fees are over this amount.

17 18 **II. FACTS**

19 Erich's rendition of the facts are not facts at all, but argument. This Court is
20 well aware of the true facts of this case and the only important fact here is that Erich
21 lost his non-meritorious action in this Court and is forcing Raina to protect her
22 interest on appeal.

23 We ask the Court to use the record and our rendition of the facts as those state
24 the true facts of this case.

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1 **III. REPLY**

2 **A. *Pendente Lite* Fees Are Not Spousal Support**

3 In more than one place in the *Opposition*, Erich argues that Raina is not entitled
4 to spousal support. This Court did not grant spousal support and we have not
5 requested it here.

6 The seminal case on *Pendente Lite* fees is *Griffith v. Gonzales-Alpizar*.¹ In that
7 case, the Supreme Court found:

8 See *Miller v. Wilfong*, 121 Nev. 619, 622, 119 P.3d 727, 729 (2005) (stating
9 “an award of attorney fees in divorce proceedings will not be overturned on
10 appeal unless there is an abuse of discretion by the district court”). Although
11 a party need not show “necessitous circumstances” in order to receive an
12 award of attorney fees under NRS 125.040, *Sargeant*, 88 Nev. at 227, 495 P.2d
13 at 621, *Gonzales-Alpizar* presented evidence that she earns \$200 per month.
14 And despite the fact that the financial statement contained in the record is
15 several years old, the district court concluded that “Mr. Griffith’s financial
16 records and previous testimony in this matter reveal assets and/or earnings
17 sufficient to warrant pendent[e] lite fees.

18 Based on this case, the relative incomes of the parties is only a small
19 consideration of the Court. And here, it is clear that Erich is still trying to
20 misrepresent the case facts. He includes multiple exhibits in his *Opposition* – we will
21 deal with that separately – showing Raina’s claimed income. She was forthcoming
22 with her income and did not include her domestic partner’s income as that is not in
23 question here.

24 Erich’s income is understated in that he makes \$138,049.60 per year taxable
25 income compared to Raina’s \$78,344.00 per year. Erich also has, and claims it on his
26 FDF, \$61,956 in tax free income. That equates to \$77,445 in taxable income if Erich
27 was in the 20% tax bracket. That brings his income to \$215,494.60.

28

 ¹ *Griffith v. Gonzales-Alpizar*, 132 Nev. ___, 373 P. 3d 86 (Adv. Opn. No. 38, May 26,
2016).

1 This is all that is relevant to the Court as the significant others in their
2 relationships have no financial obligation to pay for litigation between these parties.²
3 Though *Hicks* was dealing with a child support case, it is analogous in the
4 determination of an award of fees.

5 Since Erich's income is nearly three times that of Raina's, he is in a far better
6 financial condition to fund her litigation in this matter. Her expenses, the
7 contributions of her significant other and any other arguments made by Erich are
8 nothing but red herrings submitted to distract the Court. Under the analysis of the
9 *Griffith* case, this Court's decision to award Raina \$20,000 in fees would not be an
10 abuse of discretion.

11 12 **B. Meritorious and Important Claims**

13 Unsurprisingly, Raina can make the same claims as Erich in this regard. For
14 the past 40 years, former spouse's of military members have been protected by the
15 Courts through the USFSPA.³ However, the narrowly tailored decision in *Howell*
16 upended the law.⁴

17 Now, former spouses who dedicated their lives to supporting a military member
18 and who counted on the military pension as their retirement, are being left destitute
19 by the unilateral actions of the military member. There is nothing just or fair in this
20 result.

21 In fact, there is a considerable equal protection problem here. If Raina had
22 earned a PERS pension for instance, Nevada law would require that she pay half of
23

24 ² Lewis v. Hicks, 108 Nev. 1107, 843 P.2d 828 (1992), "A trial judge might properly consider
25 spousal contributions where they have a significant impact on recognized statutory factors, such as
26 the parents' standards of living or their relative financial means. However, *Nevada law does not*
authorize using spousal income directly." [Emphasis added]

27 ³ See 10 U.S.C. § 1408.

28 ⁴ *Howell v. Howell*, No. 15-1031, U.S. Supreme Court May 15, 2017.

1 the marital share to Erich while he gets to divest her of the entirety of her share of his
2 pension.

3 Additionally, the holding in *Howell* requires that the Court, attorneys, and
4 litigants fashion a remedy based on the possibility of the member doing exactly what
5 Erich did here. Raina did this in the settlement conference and Erich agreed.

6 It is actually more important that the Supreme Court hear and affirm this case
7 then to find in Erich's favor. The important issues here are all on Raina's side of the
8 ledger and she needs the financial aid allowed by the *pendente lite* fees to defend
9 against Erich's misrepresentation of the holding in *Howell*.

10 We do not believe that Erich's position has any merit and thus this case will be
11 affirmed on appeal.

12
13 **C. The Request for \$20,000 is not Speculative**

14 Our firm has handled hundreds of appellate briefs. We know what the average
15 cost of an appeal is and can produce those records if necessary. Additionally,
16 undersigned counsel and his firm would never "recycle" any brief that is or was used
17 in this Court for an appeal.

18 We are required to look at the arguments presented by the Appellant and then
19 do as much research as they claim needs to be done to offer a meritorious defense to
20 the claims made therein. Additionally, in 2016, the *Griffith* court awarded \$15,000
21 to the Respondent in *pendente lite* fees. We have no idea if that covered the actual
22 costs of the appeal, but that certainly set a standard on which this court can rely.
23 Since that case was nearly 5 years ago, a request for fees in an amount of \$20,000
24 today is far from speculative.

25 The result of the appeal has nothing to do with the request of *pendente lite* fees.
26 We agree that we can't predict what the Court will do in this case. However, the
27 protection of Raina's rights and the rights of all of the former spouses that follow is
28

1 the most important issue before the Court. She must defend this Court's judgment for
2 herself and all of the others that follow. Fees should be granted as requested.

3
4 **D. Violation of Court Rules**

5 Undersigned Counsel admit that under EDCR 5.502(e), this *Reply* is being filed
6 three days late. However, we ask the Court to grant leave for such a filing to ensure
7 the merits of the case are fully briefed.

8 A review of the calendar will indicate that our *Opposition* to their *Motion for*
9 *Stay*, this *Reply*, and the Confidential Settlement Statement for the NRAP 16
10 settlement conference were all due at the same time. In fact, the settlement
11 conference is currently set immediately following this Court hearing the *Motion to*
12 *Stay*.

13 That being said, Erich's *Opposition* violates EDCR 5.205, in that they are
14 previously filed documents, should have been filed as a separate document, and do
15 not have Bates Stamp numbers affixed.

16 Rather than ask the Court to strike their exhibits, we ask the Court to likewise
17 overlook their failure to follow the rules.

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1 **IV. CONCLUSION**

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

- 4 1. Dismiss Erich's argument as non-meritorious.
5 2. Awarding Raina the *pendente lite* fees she has requested.
6 3. Any other relief the Court deems is just and proper under the
7 circumstances.

8 **DATED** this 22nd day of October, 2020

9
10 WILICK LAW GROUP

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

12 MARSHAL S. WILICK, ESQ.
13 Nevada Bar No. 2515
14 RICHARD L. CRANE, ESQ.
15 Nevada Bar No. 9536
16 3591 E. Bonanza Road, Suite 200
17 Las Vegas, Nevada 89110-2101
18 (702) 438-4100
19 Attorneys for Defendant
20
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2. I have read the preceding *Reply*, and I have personal knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

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

EXECUTED this 22nd day of October, 2020.

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

RICHARD L. CRANE, ESQ.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the WILICK LAW GROUP and that on this 22nd day of October, 2020, I caused the 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) and attorney(s) listed below at the address, email address, and/or facsimile number indicated:

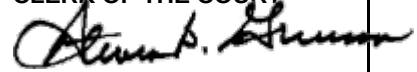
Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

/s/ Justin K. Johnson

Employee of the WILICK LAW GROUP

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OPPC
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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 Defendant

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

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

**OPPOSITION TO
“MOTION FOR STAY PURSUANT TO NRCP 62(d)”
AND
COUNTERMOTION FOR ATTORNEY’S FEES AND COSTS**

I. INTRODUCTION

The request for stay is inappropriate as Erich contracted for the payment of Raina’s share of the military retirement. As the Court pointed out, Erich’s income is more than sufficient to cover these payments over and above what he gets paid in disability funds.

The *Motion* mischaracterizes the facts of this case and is indicative of how Erich still attempts to “steal” money from Raina.

1 **II. FACTS**

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

5 Erich's *Motion* fails to mention that the parties reached a stipulated agreement
6 at mediation which included the terms that were incorporated in the *Decree*.
7 Specifically, the mediated agreement stated:

8 Should Dad elect to accept military disability payments, Dad shall reimburse
9 Mom for any amount her amount of his pension is reduced due to the disability
 status from what it otherwise would be.

10 Both the settlement agreement and the *Decree* included these terms and Erich
11 signed them both.¹

12 The OID – which is not a QDRO – was ordered to be signed by Erich as it
13 reflected the agreements that he had entered into with Raina. His arguments for
14 refusal to sign an order that reflected the terms he had agreed to were rejected by this
15 Court.

16 DFAS did pay Raina two payments toward her share of the military retirement
17 before they stopped payments based upon Erich's unilateral decision to apply for
18 CRSC. As such, the status quo for this case, must be taken back to when DFAS was
19 making the payments.

20 Erich – again unilaterally – decided that he did not need to make payments to
21 Raina due to the *Howell* case.² He did this without seeking permission from the Court
22 and without notice to Raina.

23 Erich misrepresents what the Court *Ordered* for him to pay. First, his rendition
24 does not include the requirement to add any cost of living increases to the amount he
25 is to pay each month.

26
27 ¹ Since the *Decree* was based upon a stipulated agreement, the terms of the *Decree* were thus
 stipulated.

28 ² *Howell v. Howell*, No. 15-1031, U.S. Supreme Court May 15, 2017.

1 Second, Erich claims that this Court did not enter judgment on the arrears or
2 the monthly payments. This is completely untrue as the *Order* specifically says:

3 IT IS FURTHER ORDERED that the sum of \$5,918.01 representing \$845.43
4 x seven months for the period from February through August 2020 shall be
5 reduced to judgment in favor of Raina against Erich to be satisfied by any and
6 all legal means. Erich shall commence timely direct payments to Raina in the
7 amount of \$845.43 commencing September 1, 2020 to include any cost of
8 living adjustments.

9 His payments were not made out of respect for this Court, but under the threat
10 of contempt if he did not make the payments.

11 Erich filed his Motion for Stay Pursuant to NRCP 62(d) on October 8, 2020.
12 This *Opposition* follows.

13 **III. OPPOSITION**

14 **A. A Stay Violates the Status Quo**

15 We agree that the status quo should be preserved. The status quo in this case
16 is that Erich should be paying Raina her share of the benefits as that is what he
17 contracted for and she was receiving those benefits from DFAS.

18 If Erich wanted to terminate his requirement to pay the benefits to Raina, he
19 should have filed a *Motion* to terminate the requirement. He did not do this. He
20 unilaterally stopped paying what was owed thus changing the status quo.

21 The status quo is him making the payments as required by the *Decree of*
22 *Divorce* and the *Order* of this Court.

23 Erich then argues that it is appropriate due to the complex nature of disability
24 benefits and preemption. There is nothing complex about this. We are not dividing
25 the disability benefits and the Court did not so order the same. As such pre-emption
26 is not implicated.

27 He also argues that there is some question as to whether a *Decree of Divorce*
28 and a corresponding order incident to divorce can – or should – function the same as
a freely negotiated and executed contract.

1 Again, there is no unique issue here. The Nevada Supreme Court has found
2 that parties are free to contract.³ Since there was nothing illegal or unconscionable
3 about the contract to which these parties entered, a *Decree* or any other order that
4 confirms the contract is perfectly acceptable. In other words, they are trying to make
5 this case more complicated than it is.

6 Erich then attempts to further cloud the issue by claiming that this Court is
7 considering disability pay as community property. That never happened. Erich has
8 agreed to pay a sum certain to Raina; where he gets the money is of no consequence
9 to the Court. The Court was only enforcing the terms of the contract. There is no
10 circumvention of pre-emption.

11 Erich implies in his *Motion* that it would be easier for Raina – who has
12 significantly less resources than does Erich – to collect all of the arrearages from him
13 then it is for him to collect any over payment from Raina. This is an excellent
14 argument as to why he should be required to post a full supersedeas bond while this
15 case remains on appeal.

16 NRCP 62(d)(1) says nothing about a limited bond or no bond when there is this
17 much money involved. Most appeals can last over six months and with the arrearages
18 that Erich already owes, the debt to Raina will exceed \$11,000 without accounting
19 for the interest on the money. Raina should not be required to chase him for this
20 money when this Court's decision is affirmed.

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25 ³ Parties are free to contract, and the courts will enforce their contracts if they are not
26 unconscionable, illegal, or in violation of public policy. See *D.R. Horton, Inc. v. Green*, 120 Nev.
27 549, 558, 96 P.3d 1159, 1165 (2004) (citing unconscionability as a limitation 227*227 on
28 enforceability of a contract); *NAD, Inc. v. Dist. Ct.*, 115 Nev. 71, 77, 976 P.2d 994, 997 (1999)
(stating “parties are free to contract in any lawful matte”); *Miller v. A & R Joint Venture*, 97 Nev.
580, 582, 636 P.2d 277, 278 (1981) (discussing public policy as a limitation on enforceability of a
contract).

1 **B. NRAP 8(C) Factors Weigh in Favor of Raina**

2 **1. The Object of Erich’s Appeal Will *NOT* be Defeated if the**
3 **Requested Stay is Denied**

4 The Court should note that Erich misrepresents the requirements under this
5 factor. He claims that his position will be undermined. This is not the factor. For
6 him to make a claim under this factor, his position would have to be defeated if the
7 stay is not put in place.

8 A collection action by Erich against Raina is possible if he should prevail on
9 appeal. Additionally, if he were to take out the supersedeas bond, he would also be
10 protected. His position would not be defeated and thus this factor weighs heavily
11 toward denying the stay.

12
13 **2. Raina Will Suffer Serious or Irreparable Injury if a Stay is**
14 **Granted**

15 It is easy for a person with an income of over \$100,000 per year – with a large
16 chunk of that being tax free – to claim that he won’t suffer irreparable harm if the stay
17 is granted. That isn’t true for Raina. This is her money on which she planned on
18 receiving for the majority of her life. It was specifically contracted for when the
19 parties signed the mediated agreement and the *Decree of Divorce*.

20 Forcing her to continue to live without the benefit of money she earned and
21 expected to receive for a period that could extend for the better part of a year will
22 adversely affect her lifestyle. Erich making the payments will have little to no effect
23 on his lifestyle.

24 This factor also weighs heavily toward denial of the stay.

25 *****

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1 **3. Erich is *NOT* likely to Prevail on the Merits of his Appeal**

2 Erich's argument here is the same as that heard by this Court. He argues
3 nothing new and hangs his entire appeal on the *Howell* decision.⁴ However, they
4 misread *Howell* and especially miss how narrowly tailored the decision is.

5 *Howell* stands for the proposition that a state court can't order the division of
6 disability pay in a divorce action. We do not dispute this. However, the case at bar
7 does not implicate this prohibition. Erich contracted to make these payments and this
8 Court is only enforcing the contract. There was no order to divide the disability
9 payments.

10 If Erich had contracted to make payments to buy a car, a civil action to relieve
11 him of that obligation would result in exactly the same judgment we received in this
12 case. Any other finding would mean that a veteran receiving disability money could
13 not contract for anything.

14 No credit card company would ever allow the veteran to have credit, no
15 mortgage, and no payments on time. That is not the intent of the *Howell* decision.

16 Erich has not presented a case that is likely to be accepted by the Supreme
17 Court.

18 Erich's argument has not changed. We believe that the Supreme Court will
19 differentiate the facts of this case from the cases cited by Erich which all deal with
20 the Court ordering the division of the benefits. Erich is also reminded that he can't
21 argue issues before the Supreme Court that were not first argued before this Court.
22 He has waived those arguments.⁵

23 He even claims that the *Decree of Divorce* – which included the exact terms
24 that were in the mediated agreement – was not obtained by mutual assent. This is
25 ludicrous.

26
27

⁴ *Id.*

28 ⁵ *Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981).

1 Erich was at all times represented by Counsel and he signed the settlement
2 agreement. His lawyers actually drafted the *Decree of Divorce*. He can't now argue
3 that he did not assent to the terms.

4 None of his arguments are meritorious. We believe that this factor also weighs
5 in favor of a denial of the stay.

6
7 **C. Supersedeas Bond**

8 It is our position that Erich should continue making payments to Raina in the
9 amounts ordered by this Court throughout the pendency of this appeal. A contract
10 requiring husband to make payments to wife "during the pendency of this action"
11 extended until completion of the appeal, because "an action is pending from the time
12 of filing the complaint until its final determination on appeal."⁶ This Court should
13 not make it Raina's problem to collect the arrearages that will be owed after its
14 decision is affirmed on appeal.

15 If the Court is inclined to consider a stay, then a supersedeas bond in the full
16 amount that Erich owes plus what he will owe over the next year is appropriate.

17 Erich argues that the collection process will be simple for Raina if she prevails
18 on the appeal. This is patently false. First, no collection action is easy. Second,
19 Erich has commingled his tax free disability with his regular income making it
20 difficult to garnish bank accounts. Additionally, any garnishment of wages is only
21 valid for 120 days per execution. This stacks additional costs on Raina that could be
22 avoided up front.

23 We ask the Court to deny the stay in its entirety, but if a stay is to be granted,
24 that Raina be protected from having to chase Erich by entering a supersedeas bond
25 in the amount of at least \$20,000.

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⁶ *Braddock v. Braddock*, 91 Nev. 735, 542 P.2d 1060 (1975).

IV. COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS

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

It has been Erich's *modus operandi* to not pay Raina and then increase costs to financially injure her. By making him pay for the litigation that he causes, it may deter him from doing the same in the future.

With specific reference to Family Law matters, the Supreme Court has re-adopted "well-known basic elements," which in addition to hourly time schedules kept by the attorney, are to be considered in determining the reasonable value of an attorney's services qualities, commonly referred to as the *Brunzell* factors:⁷

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

Each of these factors should be given consideration, and no one element should predominate or be given undue weight.⁸ Additional guidance is provided by reviewing the "attorney's fees" cases most often cited in Family Law.⁹

⁷ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

⁸ *Miller v. Wilfong*, 121 Nev. 119, P.3d 727 (2005).

⁹ Discretionary Awards: Awards of fees are neither automatic nor compulsory, but within the sound discretion of the Court, and evidence must support the request. *Fletcher v. Fletcher*, 89 Nev. 540, 516 P.2d 103 (1973), *Levy v. Levy*, 96 Nev. 902, 620 P.2d 860 (1980), *Hybarger v. Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

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

4 First, respectfully, we suggest that the supervising counsel is A/V rated, a peer-
5 reviewed and certified (and re-certified) Fellow of the American Academy of
6 Matrimonial Lawyers, and a Certified Specialist in Family Law.¹⁰ Richard L. Crane,
7 Esq., the attorney primarily responsible for drafting this *Motion*, is an associate
8 attorney for the WILICK LAW GROUP and has practiced exclusively in the field of
9 Family Law for over nine years under the direct tutelage of supervising counsel.

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

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

21 As to the “character and quality of the work performed,” we believe this filing
22 is adequate, both factually and legally; we have diligently reviewed the applicable
23

24
25 ¹⁰ Per direct enactment of the Board of Governors of the Nevada State Bar, and independently
26 by the National Board of Trial Advocacy. Mr. Willick was privileged (and tasked) by the Bar to
27 write the examination that other would-be Nevada Family Law Specialists must pass to attain that
status.

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

1 law, explored the relevant facts, and believe that we have properly applied one to the
2 other.

3
4 **V. CONCLUSION**

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

- 7 1. Denying Erich's *Motion* in full.
8 2. Requiring Erich to continue to pay Raina her benefits as
9 previously required by this Court.
10 3. In the alternative, requiring Erich to post a supersedeas bond in
11 an amount of not less than \$20,000.
12 4. Award Raina the entirety of her attorney's fees for having to
13 oppose this *Motion*.
14 5. Any other relief the Court deems is just and proper under the
15 circumstances.

16 **DATED** this 22nd day of October, 2020

17
18 WILICK LAW GROUP

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

20 MARSHAL S. WILICK, ESQ.
21 Nevada Bar No. 2515
22 RICHARD L. CRANE, ESQ.
23 Nevada Bar No. 9536
24 3591 E. Bonanza Road, Suite 200
25 Las Vegas, Nevada 89110-2101
26 (702) 438-4100
27 Attorneys for Defendant
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2. I have read the preceding *Motion*, and I have personal knowledge of the facts contained therein, unless stated otherwise. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

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

EXECUTED this 22nd day of October, 2020.

RAINA MARTIN

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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 22nd day of October, 2020, I caused the foregoing document to be served as follows:

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

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

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s//Justin K. Johnson

Employee of the WILICK LAW GROUP

P:\wp19\MARTIN,R\DRAFTS\00462748.WPD\jj

1 MOFI

2 DISTRICT COURT
3 FAMILY DIVISION
CLARK COUNTY, NEVADA

4 ERICH MARTIN,
Plaintiff/Petitioner

5 -V.-

6 RAINA MARTIN,
7 Defendant/
8

Case No. D-15-509045-D

Department C

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

9
10 **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
11 of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject
12 to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

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

14 ☒ **\$25** The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.

15 -Or-

- 16 ☐ **\$0** The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
17 ☐ The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
18 ☐ The Motion/Opposition is being filed solely to adjust the amount of child support established in a final
19 order.
20 ☐ The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after
21 a final judgment or decree was entered. The final order was entered on _____.
22 ☐ Other Excluded Motion (must specify) _____.

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

24 ☒ **\$0** The Motion/Opposition being filed with this form is **not** subject to the \$129 or the \$57 fee because:

25 ☒ The Motion/Opposition is being filed in a case that was not initiated by joint petition.

26 ☐ The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.

27 -Or-

28 ☐ **\$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:

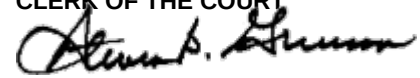
☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willick Law Group Date: 10/22/2020

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

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DISTRICT COURT
CLARK COUNTY, NEVADA

Erich M Martin, Plaintiff

D-15-509045-D

VS.

Department C

Raina L Martin, Defendant.

NOTICE OF AUDIO/VISUAL APPEARANCE

Please be advised that the **Motion** to be heard by the Honorable Rebecca L. Burton at the Family Courts and Services Center, 601 N. Pecos Rd., Las Vegas, Nevada, on the **3rd day of November, 2020** at the hour of **9:00 AM** in **Department C, Courtroom 08** will be conducted **by audio/visual appearance**. YOUR PRESENCE IS NECESSARY. Please note that some cases may take longer than others and there is a possibility that the website may drop your video/telephonic appearance before your case is called. In the event that this occurs, please be patient and log back in to Bluejeans and re-enter your meeting ID number. The Court will call your case when it is ready to go on the record.

Go to: <https://www.bluejeans.com> Meeting No. 279 110 922

DISTRICT JUDGE REBECCA L. BURTON

By: /s/ Lourdes Child

Lourdes Child

Judicial Executive Assistant

Department C

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CERTIFICATE OF SERVICE

☒ I provided the foregoing NOTICE OF AUDIO/VISUAL APPEARANCE to:

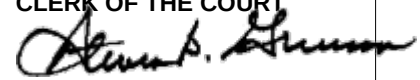
Kathleen A. Wilde, Esq.
kwilde@maclaw.com

Marshal Shawn Willick, Esq.
email@willicklawgroup.com

/s/ Lourdes Child
Lourdes Child
Judicial Executive Assistant
Department C

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Marquis Aurbach Coffing
 Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Telephone: (702) 382-0711
 Facsimile: (702) 382-5816
 kwilde@maclaw.com
Attorneys for Erich M. Martin

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

Erich M. Martin,

Plaintiff,

vs.

Raina L. Martin,

Defendant.

Case No.: D-15-509045-D
 Dept. No.: C

Hearing Date: November 3, 2020
 Hearing Time: 9:00 a.m.

REPLY IN SUPPORT OF MOTION TO STAY PURSUANT TO NRCP 62(d) and
OPPOSITION TO COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS

Plaintiff Erich M. Martin ("Plaintiff"), by and through his attorneys of record, Chad F. Clement, Esq. and Kathleen A. Wilde, Esq., of the law firm Marquis Aurbach Coffing, hereby files his Reply in support of Motion to Stay Pursuant to NRCP 62(d) ("Reply") and Opposition to Defendant Raina L. Martin's Countermotion for Attorney's Fees and Costs. This Reply is made and based upon the pleadings and papers on file herein, the following points and authorities, and any argument allowed by the Court at the time of hearing.

Dated this 27th day of October, 2020.

MARQUIS AURBACH COFFING

By /s/ Kathleen Wilde

Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

The matter before the Court should be simple. NRCP 62 provides for stays during the pendency of an appeal “as a matter of right.” The question thus is not whether a stay should be granted, but rather, what bond or security, if any, is appropriate under the specific facts of a case. So, for the reasons detailed below, this Court should grant Erich’s motion to stay any and all judgments relating to the Order Regarding Enforcement of Military Retirement Benefits.

By Rule, this Court is the appropriate forum for Erich’s motion to stay. *See* NRAP 8(a). But, with the explicit goal of “making [Erich] pay,” Raina argues that she is entitled to the fees incurred in preparing an opposition to Erich’s motion. Because Raina’s counter-motion does not – and cannot – demonstrate that a routine motion to stay pending appeal is frivolous, vexatious, harassing or otherwise improper, Erich respectfully submits that the counter-motion should be denied in its entirety.

II. CLARIFICATION OF “FACTS.”

Erich agrees that the facts and procedural history have been discussed at some length. Having presided over this case for years, the Court presumably knows the objective facts and history. But, since Raina’s Opposition to Erich’s Motion for Stay Pursuant to NRCP 62(d) (the “Opposition”) manipulated the “facts” to meet her narrative, a few points should be clarified.

First, Raina is not hurting financially. Although Raina attempts to portray herself as a destitute woman struggling to get by, her domestic partner – the legal equivalent of a spouse – earns a significant salary of nearly \$150,000. Yet, even without others’ financial support, Raina’s annual income in non-Covid years hovers around \$100,000.

Second, Erich’s monthly expenses are more than double the expenses that Raina claimed. So, while the gross monthly income for Erich’s household is greater than the individual income that Raina lists on her financial disclosure forms, the parties are in relatively similar financial shape. It is thus disingenuous for Raina to imply that Erich is living a life of luxury when, in reality, Erich works hard to provide for his family and their future.

1 Third, Raina's opposition admits that she plans to live off of Erich's money for the rest of
2 her life. See page 5. In arguing that the monthly payments are necessary to "her lifestyle,"
3 Raina effective admits that the payments are not necessary to cover essentials like shelter, food,
4 and utilities. Instead, Raina uses the money from Erich to fund frivolous, unnecessary
5 expenditures.

6 Fourth, while Raina may "expect" to live off of Erich's income for all time, she certainly
7 did not "earn" any portion of Erich's military benefits. During the parties' marriage, Raina used
8 the benefits of being a military wife without any of the loyalty, support, and fidelity that is
9 essential to marriage. More importantly, Combat Related Special Compensation and VA
10 Disability are personal benefits that veterans earn through their service and sacrifice. *McCarty v.*
11 *McCarty*, 453 U.S. 210, 228, 101 S. Ct. 2728, 2739, 69 L. Ed. 2d 589 (1981) (noting that
12 Congress intended for disability payments to "actually reach the beneficiary).

13 Fifth, the Court's Order Regarding Enforcement of Military Retirement Benefits is an
14 order incident to Decree that centers on Erich's disability benefits. At first glance, this statement
15 is obvious. But, given Raina's argument that the order has nothing to do with division of
16 property, is it useful to note the title and contents of the Court's order. To the extent that Raina
17 alternatively attempts to treat indemnification as "permanent alimony,"¹ it is also important to
18 remember that the Court *denied* her request for alimony

19 On a final and related note, no judgment has been entered pursuant to the Order
20 Regarding Enforcement of Military Retirement Benefits. In the order, the Court specified that its
21 decision "shall be reduced to judgment."² But, because Raina did not actually reduce the
22 decision to a judgment,³ there is an enforceability problem.

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24 ¹ See Motion to Enforce dated May 1, 2020, at page 14; see also Opposition at page 7 (citing *Braddock v.*
25 *Braddock*, 91 Nev. 735, 743, 542 P.2d 1060, 1064 (1975) for the proposition that support continues
during the "pendency of an action."

26 ² See page 23, line 17.

27 ³ Similar to Raina's failure to complete a notice of entry for the November 2016 Order Incident to Decree,
28 it appears that Raina (or her counsel) struggle with instructions given in this Court's decisions.

III. LEGAL ARGUMENT

In Nevada, like most jurisdictions, stays pending appeal are uncontroversial. In this case, a stay of all judgments relating to the Order Regarding Enforcement of Military Retirement Benefits is appropriate under NRCP 62 and NRAP 8(c). The Court should also exercise its authority to grant a stay with a minimal supersedeas bond or alternate security.

As for Raina's counter-motion, an award of attorney's fees should not issue "just because." Indeed, while family courts have significant discretion when it comes to fees, Erich should not be punished for seeking the Court's ruling on a routine matter.

A. A STAY IS APPROPRIATE UNDER NRCP 62.

"[N]o collection action is easy."⁴ The purpose of a stay is thus to preserve the status quo. *See Nelson v. Heer*, 121 Nev. 832, 835, 122 P.3d 1252, 1254 (2005); *see also United States v. State of Mich.*, 505 F. Supp. 467, 471 (W.D. Mich. 1980) (stating that the purpose of a stay is to preserve, not change, the status quo).

Although Raina contends that the "status quo" is continuous monthly payment as part of a lifetime of indemnification, "status quo" in the context of a stay pending appeal means that neither party pays the other pursuant to the challenged decision. *See, e.g., Nken v. Holder*, 556 U.S. 418, 428–29, 129 S. Ct. 1749, 1758 (2009) ("A stay . . . can have the practical effect of preventing some action before the legality of that action has been conclusively determined. But a stay achieves this result by temporarily suspending the source of authority to act—the order or judgment in question—"). Indeed, the very reason for a bond or security is to simplify enforcement of the judgment "if it is affirmed." *Nelson*, 121 Nev. at 835, 122 P.3d at 1254 (emphasis added); *see also Bemo USA Corp. v. Jake's Crane, Rigging & Transp. Int'l Inc.*, No. 2:08-CV-745 JCM PAL, 2010 WL 4604496, at *1 (D. Nev. Nov. 5, 2010) (discussing the purpose of bond and security requirements and situations where a bond may be waived).

⁴ Opposition at page 7, line 18.

1 So, despite Raina's arguments to the contrary, a stay of all judgments relating to the
2 Order Regarding Enforcement of Military Retirement Benefits is appropriate under NRCP 62
3 because a stay will preserve the status quo.

4 **B. THE NRAP 8(c) FACTORS ALSO WEIGH IN FAVOR OF A STAY.**

5 The Court's analysis can start and end with NRCP 62(d). Nevertheless, because stays
6 implicate fact-intensive issues, the Court may also address the NRAP 8(c) factors⁵ or other
7 relevant facts, if so inclined.

8 Here, Raina seeks to penalize Erich for exercising his appellate rights. In addition to
9 opposing his routine motion for a stay pursuant to NRCP 62(d) and seeking attorney's fees for
10 said opposition, Raina also moved the Court for \$20,000 in attorneys' fees and costs pendente
11 light. In doing so, Raina has made the appellate process more difficult and expensive than it
12 needs to be. If the Court denies the requested stay, the object of Erich's appeal will be further
13 defeated because Erich will be out months' or years' worth of payments that he believes were
14 improperly ordered. In turn, even if Erich prevails on appeal, the benefit of doing so will be
15 tarnished by the expense and hassle of attempting to recover the money paid to Raina. So, while
16 a bond or alternative security protects Raina's interests if a stay is granted, there is no
17 comparable protection for Erich is the stay is denied.

18 Again, it is important to reiterate that Raina will not suffer serious harm without monthly
19 indemnification payments. As Raina admits, the payments are used to support her "lifestyle."
20 This concession makes sense because Raina did fine without monthly payments between
21 February 2016 (the end of spousal support) and November 2019 (the beginning of DFAS
22 payments). Given Raina's stable, well-paying job and the support she presumptively receives
23 from her registered domestic partner, Raina also cannot colorably or honestly claim that she will

24
25 ⁵ To recap, the factors include: (1) Whether the object of the appeal will be defeated if the stay or
26 injunction is denied; (2) Whether appellant will suffer irreparable or serious injury if the stay or injunction
27 is denied; (3) Whether the respondent/real party in interest will suffer irreparable or serious injury if the
28 stay or injunction is granted; and (4) Whether appellant/petitioner is likely to prevail on the merits of the
appeal. See, e.g., *Hansen v. Dist. Ct.*, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000); see also *Clark Cty.*
Office of Coroner/Med. Exam'r v. Las Vegas Review-Journal, 134 Nev. Adv. Op. 24, 415 P.3d 16, 19
(2018)

1 be destitute during the pendency of the appeal. Relatedly, because Raina's potential damages are
2 purely monetary, there is no reason to believe that Raina could not be made whole if she
3 ultimately prevails. See, e.g., *Waddell v. L.V.R.V., Inc.*, 122 Nev. 15, 26, 125 P.3d 1160, 1167
4 (2006); *Gladstone v. Gregory*, 95 Nev. 474, 480, 596 P.2d 491, 495 (1979); *Sampson v. Murray*,
5 415 U.S. 61, 90, 94 S. Ct. 937, 952-53 (1974) ("[I]t seems clear that the temporary loss of
6 income, ultimately to be recovered, does not usually constitute irreparable injury").

7 Finally, a stay is warranted because the appeal is a "substantial case" that involves
8 "serious legal questions." *Hansen*, 116 Nev. at 659, 6 P.3d at 987. Per Raina (or her counsel)
9 the Order Regarding Enforcement of Military Retirement Benefits is so impressively constructed
10 and reasoned that the order will be used as part of CLE instruction.⁶ If the Order is good enough
11 for use in training lawyers, it follows that the legal issues addressed in the Order are substantial
12 and important. The parties' arguments regarding the order also confirm that the appeal will
13 likely address the following significant issues:

- 14 a. Whether the Order Regarding Enforcement of Military Retirement Benefits involves
15 a division of marital / community property.
- 16 b. Whether federal law, including the Uniformed Services Former Spouse Protection
17 Act (USFSPA), 10 U.S.C. 1408 and *Howell v. Howell*, 581 U.S. ___, 137 S. Ct.
18 1400 (2017), pre-empts state courts from ordering indemnification that is effectively
19 a division of a veteran's disability benefits?
- 20 c. Whether former spouses may contract around federal pre-emption and public policy
21 that seeks to protect disabled veterans?
- 22 d. Whether it is illegal or unconscionable to enter into a contract with the intent of
23 circumventing federal law.
- 24 e. Whether the Decree of Divorce and related documents in this case were voluntary
25 contractual agreements.
- 26 f. Whether Raina is entitled to a lifetime of monthly payments where Raina is in a
27 registered domestic partnership and does not need spousal support?

28 So, while the parties unsurprisingly disagree as to who will eventually prevail on appeal if the
case does not settle in the NRAP 16 program, there should be little question that the issues on
appeal are significant and meritorious.

⁶ See Motion for Attorney's Fees and Costs Pendente Lite and Related Relief at page 3, note 2.

1 Thus, the Court should grant Erich's motion for stay because the applicable NRAP 8(c)
2 factors and the equities weigh in his favor.

3 **C. THE COURT HAS AUTHORITY TO GRANT A STAY WITH A**
4 **MINIMAL SUPERSEDEAS BOND OR ALTERNATIVE SECURITY.**

5 "The purpose of a supersedeas bond is to protect the prevailing party from loss resulting
6 from a stay of execution of the judgment." *McCulloch v. Jeakins*, 99 Nev. 122, 123, 659 P.2d
7 302, 303 (1983). Here, Raina does not deny that courts have significant discretion in setting a
8 bond, excusing the bond requirement, or permitting alternative forms of security that serve this
9 purpose. *Id.*; see also *Nelson*, 121 Nev. at 834, 122 P.3d at 1253 ("[C]ourts retain the inherent
10 power to grant a stay in the absence of a full bond.") (citations omitted). But, without
11 meaningfully addressing the *Dillon* factors,⁷ Raina argues that the bond should be the full
12 amount that Erich owes plus what he will owe over the next year, specifically \$11,000 or
13 \$20,000.⁸ In so arguing, Raina cites to the *Braddock* case where the Supreme Court of Nevada
14 *overturned* an antenuptial agreement that contained an Ohio choice-of-law provision. See 91
15 Nev. 735, 542 P.2d 1060. There, the Court also noted in passing that the trial court did not err by
16 enforcing a stipulation for pendente lite payments. *Id.* at 743, 542 P.2d at 1064. The Supreme
17 Court of Nevada did not, however, suggest that "contract-based" payments must generally
18 continue during the pendency of an action.

19 In reality, supersedeas bonds or alternative security are not amenable to sweeping one-
20 size-fits-all rules. Instead, in considering the appropriate security for a stay, courts should be
21 mindful that "a supersedeas bond should not be the judgment debtor's sole remedy, particularly
22 where other appropriate, reliable alternatives exist." *Nelson*, 121 Nev. at 835, 122 P.3d at 1254.
23 Further, in addressing whether a supersedeas bond may be waived or substituted courts should
24 consider factors relating to the judgment enforcement process.

25
26 ⁷ See 866 F.2d 902, 904-05 (7th Cir. 1988) (cited with approval in *Nelson*, 121 Nev. at 835-36, 122 P.3d
27 at 1254).

28 ⁸ See Opposition at pages 4 and 7.

1 In this case, Erich's motion to stay explained why a sizeable supersedeas bond is not
2 necessary to protect Raina from losing her ability to collect on a judgment (assuming one is
3 eventually entered) in the event Erich's appeal is unsuccessful. The Court should thus allow a
4 stay with a minimal supersedeas bond, or, in the alternative, a stay secured by deposit of funds
5 into an attorney trust account.

6 **D. RAINA'S COUNTERMOTION FOR ATTORNEYS FEES AND COSTS IS**
7 **AN IMPROPER ATTEMPT TO PUNISH ERICH FOR ROUTINE**
8 **MOTION PRACTICE.**

9 Barring unusual circumstances, an appellant who seeks a stay during the pendency of an
10 appeal must first move the District Court for relief. See NRAP 8(a); *Hansen*, 116 Nev. at 657, 6
11 P.3d at 986. Although NRCP 62(d) generally provides that a stay may be obtained by
12 supersedeas bond or alternative security, District Courts are afforded discretion in addressing
13 whether a stay is appropriate and the amount of the bond or alternative security that must be
14 paid. See *Aspen Fin. Servs., Inc. v. Eighth Judicial Dist. Court*, 128 Nev., Adv. Op. 57, 289 P.3d
15 201, 205-06 (2012). So, unless the parties enter into a stipulation regarding a stay pending
16 appeal, motion practice is necessary.

17 Here, Raina's counter-motion argues that Raina is entitled to attorney's fees simply
18 because her counsel responded to Erich's motion and because Raina wants to "make [Erich]
19 pay."⁹ Raina does not – and cannot – demonstrate that Erich's motion was frivolous, vexatious,
20 harassing, or otherwise improper. Instead, Raina cites to the Court's general discretion to award
21 attorney's fees under NRS 125.150 with the implication being that the Court should grant
22 attorney's fees because it can.

23 Although the Court's discretion is not in dispute, there is a big difference between "can"
24 and "should." So, in the same way that "[a] woman is not entitled to alimony just because she
25 has been [a man's] wife," *Fausone v. Fausone*, 75 Nev. 222, 224, 338 P.2d 68, 69 (1959), a party
26 to a divorce case is not entitled to fees just because he or she incurred some litigation expense.

27 _____
28 ⁹ Opposition at page 8.

1 Indeed, while Raina seems to believe that any litigation is grounds for fees under NRS
2 18.010(2), “[w]hat matters is whether the proceedings were initiated or defended ‘with improper
3 motives or without reasonable grounds.’” *In re 12067 Oakland Hills, Las Vegas, Nevada 89141*,
4 134 Nev. 799, 804, 435 P.3d 672, 677 (Nev. Ct. App. 2018) (quoting *Bobby Berosini, Ltd. v.*
5 *People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998)).
6 Even an unsuccessful motion or case is not enough. So, Raina’s annoyance with litigation,
7 without regard for the sound reasons Erich sought a stay certainly is not enough to demonstrate
8 that the motion in question was groundless, frivolous, vexatious, or brought with the intent to
9 harass. *See Bower v. Harrah’s Laughlin, Inc.*, 125 Nev. 470, 493, 215 P.3d 709, 726 (2009).

10 Finally, while making another party pay is an apparent misuse of motion practice, the
11 counter-motion also fails for basic procedural reasons because Raina failed to support the fee
12 request “with affidavits or other evidence that meets the factors in *Brunzell and Wright*.” *Miller*
13 *v. Wilfong*, 121 Nev. 619, 623-24, 119 P.3d 727, 730 (2005).

14 Thus, the Court should deny Raina’s counter-motion as improper and lacking merit.

15 **IV. CONCLUSION**

16 For the foregoing reasons and the reasons stated in his Motion to Stay Pursuant to NRC
17 62(d), Erich respectfully submits that this Court should grant a stay of execution of any and all
18 judgments relating to the August 11, 2020, Order Regarding Enforcement of Military Retirement
19 Benefits that is currently on appeal. Further, because Erich’s motion was brought in good faith
20 to address an issue of importance, the Court should deny the counter-motion in which Raina
21 seeks to punish Erich for his legitimate use of the Court system.

22 Dated this 27th day of October, 2020.

23 MARQUIS AURBACH COFFING

24
25
26 By: /s/ Kathleen Wilde
Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive

MARQUIS AURBACH COFFING

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

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Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REPLY IN SUPPORT OF MOTION TO STAY
AND OPPOSITION TO COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS**
was submitted electronically for filing and/or service with the Eighth Judicial District Court on
the 27th day of October, 2020. Electronic service of the foregoing document shall be made in
accordance with the E-Service List as follows:¹⁰

Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq."	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy
thereof, postage prepaid, addressed to:

N/A

/s/ Kathleen Wilde
An employee of Marquis Aurbach Coffing

¹⁰ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System
consents to electronic service in accordance with NRCP 5(b)(2)(D).

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Divorce - Complaint

COURT MINUTES

November 03, 2020

D-15-509045-D Erich M Martin, Plaintiff
vs.
Raina L Martin, Defendant.

November 03, 2020 09:00 AM All Pending Motions

HEARD BY: Burton, Rebecca L. COURTROOM: Courtroom 08

COURT CLERK: Ford, Diane

PARTIES PRESENT:

Erich M Martin, Counter Defendant, Plaintiff, Not Present Chad F Clement, Attorney, Not Present

Raina L Martin, Counter Claimant, Defendant, Not Present Marshal Shawn Willick, Attorney, Not Present

Nathan L Martin, Subject Minor, Not Present

JOURNAL ENTRIES

PLAINTIFF'S MOTION TO STAY PURSUANT TO NRCP 62(D)...DEFENDANT'S OPPOSITION TO "MOTION FOR STAY PURSUANT TO NRCP 62(D)" AND COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS...PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO STAY PURSUANT TO NRCP 62(D) AND OPPOSITION TO COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS...DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS PENDENTE LITE AND RELATED RELIEF...PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS PENDENTE LITE AND RELATED RELIEF...DEFENDANT'S RELY TO PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR ATTORNEY'S FEES AND COSTS PENDENTE LITE AND RELATED RELIEF

Judge Rebecca Burton appeared via video conference.

Attorney Kathleen Wilde, Bar No. 12522, appeared via video conference for Plaintiff.

Attorney Richard Crane, Bar No. 9536, appeared via video conference for Defendant.

Parties appeared via video conference.

Court noted the current pleadings on file.

COURT FINDS that it has subject matter jurisdiction over this case, personal jurisdiction over the parties, and child custody subject matter jurisdiction over the minor child(ren).

Argument by Counsel regarding granting the stay.

Discussion regarding arrears already being reduced to judgment and how the Plaintiff can pay this judgment.

Argument by Counsel regarding legal fees.

COURT ORDERED the following:

1. Plaintiff's Motion for a Stay is GRANTED. Plaintiff shall continue to pay the monthly payment into

Attorney Clement's Trust Account and Attorney Clement shall provide monthly statements of this account to Attorney Crane.

2. Plaintiff shall pay the prior Judgment into Attorney Clement's Trust Account also. Counsel shall talk about how this Judgment can be paid within one year.

3. Plaintiff shall pay \$5,000.00 to Defendant towards her attorney's fees by December 3, 2020.

4. The Order and any disputes shall be processed pursuant to EDCR 5.521. Attorney Wilde shall have until November 17, 2020 to submit the proposed Order, including the Court's Findings, to Attorney Crane who shall have until December 1, 2020 to sign off. On or after December 2, 2020, the Court will issue an Order to Show Cause to the parties for the proposed Order.

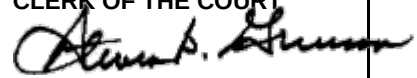
INTERIM CONDITIONS:

FUTURE HEARINGS:

Jan 11, 2021 10:00AM Motion
Courtroom 08 Burton, Rebecca L.

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MOT
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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 Defendant

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

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

ORAL ARGUMENT

Yes x No

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

**MOTION TO MODIFY CHILD SUPPORT AND TO REPRIMAND
ERICH FOR HIS FAILURE TO FOLLOW CUSTODY PROVISIONS**

I. INTRODUCTION

In accordance with EDCR 5.501, Raina did not attempt resolution of all of the issues stated herein as Erich has demonstrated that he is not willing to discuss any issues concerning the minor child or his support. It would be futile to attempt to resolve any issue without the aid of the Court.

1 It has been over three years since the Court reviewed the ordered child support
2 in this case. Based on the most recent financial disclosures filed by the parties,
3 Erich's child support should be increased.

4 We have completed the calculation using the new child support regulations and
5 have factored in the amounts that Erich should be paying to Raina to come up with
6 a new child support amount to be paid on a monthly basis.¹ It is clear that Erich is now
7 using the minor child to punish Raina for her prevailing on the issues previously
8 before this Court.

9 Additionally, Erich is attempting to punish Raina by failing to follow the
10 parenting plan by keeping Raina apprised of the minor child's address and phone
11 number when visiting Erich. He also has put the child in jeopardy by refusing to use
12 Raina's actual legal name on documents including checks he sends and on the
13 Unaccompanied Minor Pass when returning the child.

14 Erich's immature behavior must stop and we ask the Court to reprimand and
15 admonish him to follow the custody orders to avoid a future *Motion* to limit his
16 custody to protect the child.

17 POINTS AND AUTHORITIES

18 II. FACTS

19 As the Court is aware, Erich has filed an appeal as to the issue of his
20 contractual obligation to pay Raina an amount equal to her property share of his
21 military pension.
22

23 Erich filed an FDF on June 9, 2020, where he indicated his gross monthly
24 income was \$16,667.13.

25 Raina has primary physical custody of the parties' minor child, Nathan.

26
27 ¹ Erich is supposed to be paying this money into his attorney's trust account. We have not
28 yet seen proof of these payments but expect that opposing counsel will produce the proof not later
than December 1, 2020.

1 On October 19, we received a check sent by Erich and dated October 1. The
2 check was drawn on his wife's account and was made out to Raina Bricker. It also
3 included the comment in the Memo line "Erich's October 2020 Disability."² Raina had
4 requested that all money paid be done via electronic transfer to her bank account. She
5 had previously provided the required information to Erich so he could make the
6 electronic transfer.

7 On October 26, undersigned Counsel sent an email to Ms. Wilde asking that
8 any future monies be sent electronically and pointed out that Erich knew that Raina
9 had retained the name Martin.³ There was no response to the email.

10 Nathan was scheduled to visit Erich in Colorado starting on November 11 and
11 returning on November 15. Knowing that Erich had recently purchased a new home,
12 Raina asked what the new address was so she would know where her son was during
13 the visit. This information is required under the terms of the *Decree of Divorce*.
14 Erich refused to provide the new address.

15 On November 1, Raina sent an email via OFW asking again what the correct
16 address was for the new residence.⁴ Erich told her to use the old address as that is
17 what is on his license. When Raina stated that she would not send Nathan without
18 an updated address, Erich stated that they would be staying in a hotel and he would
19 let her know the address once he has booked the room.

20 On November 4, Raina sent another note via OFW to Erich asking if he
21 actually told the minor child they were staying in a hotel because he was protecting
22 his new wife's life and so that Nathan would not make up any more lies.⁵
23

24 ² See Exhibit A, copy of the check sent to our office.

25 ³ See Exhibit B, email from Richard Crane to Ms. Wilde.

26 ⁴ See Exhibit C, email string between Raina and Erich.

27 ⁵ See *Id.* The Court is reminded that CPS has substantiated abuse against Nathan by the new
28 wife.

1 On November 5, Erich responded where he did not deny telling the ten year old
2 boy these hurtful things.⁶

3 On November 9, Erich sent Raina an email indicating that because of COVID
4 he thought a postponement of the visit was being considered.⁷

5 On November 10, Raina responded to Erich asking what had changed since the
6 Summer visitation? She also asked again what the correct address for his residence.
7 Erich responded within minutes saying just send him, I'll see him tomorrow.⁸

8 Raina sent another email indicating that she would not send Nathan if she did
9 not know where he was going to be. Erich responded by claiming that this was just
10 Raina trying to control him.⁹

11 This same day, undersigned Counsel called Ms. Wilde and asked if she was
12 going to update Erich's address with the Court and disclose the same to Raina. She
13 informed us that he was not going to disclose the address of the new home as the
14 child created bogus claims against the step-mom and they wanted to avoid any
15 harassment by Raina.¹⁰

16 Undersigned Counsel asked for the legal basis for not disclosing the address
17 and Ms. Wilde did not provide one. She also stated that the child would be staying
18 in a hotel for his visit, so we did not need to know the new residential address.

19 We gave her until Friday, November 13, to disclose the address or we would
20 be forced to file a motion asking the aid of the Court.

23 ⁶ *Id.*

24 ⁷ *Id.*

25 ⁸ *Id.*

26 ⁹ *Id.*

27 ¹⁰ There is no substantiated harassment by Raina against Erich or any member of his
28 household.

1 Erich finally sent Raina the address of the Fairfield Inn and Suites as to where
2 the child would be while visiting Colorado. The address was given as 1680 S.
3 Colorado Blvd., Denver Colorado.¹¹

4 On November 12, having had no contact with her minor child since putting him
5 on the plane to Denver, Raina contacted the Fairfield Inn. They had never heard of
6 Erich. Raina continued to try to contact both Erich and Nathan with no luck.¹²

7 On November 13, Raina reported to undersigned Counsel of her attempts to
8 contact the child.¹³

9 Ms. Wilde sent a letter to us on this date. She disclosed the new address to
10 avoid unnecessary litigation.¹⁴

11 On November 14, Nathan finally contacted Raina. Raina still did not know
12 where the child was residing as Erich had not ever disclosed the location of the child.

13 On November 15, Nathan returned home. Erich had provided an
14 Unaccompanied Minor Pass for Raina to pick up Nathan, however, he again used the
15 name Raina Bricker instead of her legal name, Raina Martin.¹⁵ This created a
16 problem in releasing the minor child into Raina's care at the gate. Fortunately, a
17 supervisor understood that the father was being immature and allowed Raina to pass
18 and pick up Nathan.

19 This *Motion* follows.
20
21

22
23 ¹¹ See Exhibit D, text message string between Erich and Raina.

24 ¹² The minor child has his own cell phone, but Erich takes it away from him so Raina can't
25 contact the child while he is visiting with Erich.

26 ¹³ See Exhibit E, text message to Erich.

27 ¹⁴ See Exhibit F, letter from Ms. Wilde. It should be noted that as of this writing, Ms. Wilde
28 has not updated the Court file with the correct address.

¹⁵ See Exhibit G, picture of Unaccompanied Minor Pass with Raina's last name as Bricker.

1 **III. ARGUMENT**

2 **A. Child Support Should Be Modified**

3 NRS 125B.145 states, in pertinent part:

4 An order for the support of a child must, upon the filing of a request for review
5 by:

6 (b) A parent or legal guardian of the child,
 be reviewed by the court at least every 3 years pursuant to this section to
 determine whether the order should be modified or adjusted.

7 Here, the *Order* setting child support was entered over 3 years ago. Raina
8 requests that this Court review the Financial Disclosure Forms for both parties and
9 re-calculate child support based on the parties' gross monthly income.

10 NAC 425.025, states:

11 "Gross income" includes, without limitation:

12 (a) Salary and wages, including, without limitation, money earned from
 overtime pay if such overtime pay is substantial, consistent and can be
 accurately determined.

13 (b) Interest and investment income, not including the principal.

14 (c) Social security disability benefits and old-age insurance benefits under
 federal law.

15 (d) Any periodic payment from a pension, retirement plan or annuity which is
 considered remuneration for employment.

16 (e) Net proceeds resulting from workers' compensation or other personal
 injury awards intended to replace income.

17 (f) Unemployment insurance.

18 (g) Income continuation benefits.

19 (h) Voluntary contributions to a deferred compensation plan, employee
 contributions to an employee benefit or profit-sharing plan, and voluntary
 employee contributions to any pension or retirement account, regardless of
 whether the account provides for tax deferral or avoidance.

20 (i) Military allowances and veterans' benefits.

21 (j) Compensation for lost wages.

22 (k) Undistributed income of a business entity in which a party has an
 ownership interest sufficient to individually exercise control over or access the
 earnings of a business, unless the income is included as an asset for the
 purposes of imputing income pursuant to NAC 425.125. As used in this
 paragraph:

23 (1) "Reasonable allowance for economic depreciation" means the amount of
 depreciation on assets computed using the straight-line method and useful lives
 as determined under federal income tax laws and regulations.

24 (2) "Undistributed income" means federal taxable income of a business entity
 plus depreciation claimed on the federal income tax return of the business less
 a reasonable allowance for economic depreciation.

25 (l) Child care subsidy payments if a party is a child care provider.

26 (m) Alimony.

27 (n) Except as otherwise provided in subsection 2, all other income of a party,
28 regardless of whether such income is taxable.

1 Further, the District Court has the authority to modify a child support order
2 upon finding that there has been a change in circumstances since entry of the last
3 order, and that the modification is in the best interest of the minor child.¹⁶ NAC
4 425.170 also states:

5 Modification or adjustment of child support obligation must be based on
6 change in circumstances. (NRS 425.620)

7 1. Except as otherwise authorized by law or this chapter, after a court has
8 established a child support obligation, any subsequent modification or
9 adjustment of the child support obligation must be based upon a change in
10 circumstances.

11 2. The receipt of public assistance by a child or an obligee constitutes a
12 change in circumstances that will allow the review and, if appropriate,
13 modification of the child support obligation in accordance with the child
14 support guidelines in effect at the time of the review.

15 3. The adoption of or any revision to this chapter must not, in and of itself, be
16 considered a change in circumstances sufficient to justify the modification of
17 any existing order or money judgment.

18 Erich's income has gone up exponentially since the entry of the original child
19 support *Order* was entered. As such, Raina is entitled to a review and an upward
20 modification is warranted for both the length of time since the last review and that
21 there has been a significant change in circumstances since the original *Order*.

22 Here, Erich's monthly income from his regular employment is listed on his
23 FDF as \$11,504.13 per month. He also lists disability income of \$5,163 per month
24 for a total monthly income of \$16,667.13. However, he has contractually agreed to
25 pay Raina \$845.43 per month which reduces his monthly income to \$15,821.70.

26 Putting this information into the child support calculator results in a child
27 support owed from Erich to Raina in the amount of \$1,512.88 per month.¹⁷ Raina
28 asks the Court to enter an order that Erich begin paying – starting in the month of
November – \$1,512.88 per month in child support until the emancipation of the child
or until further order of the Court.

¹⁶ See *Rivero v. Rivero*, 125 Nev. 410, 216 P.3d 213 (2009).

¹⁷ See Exhibit H, MLAW Child Support Calculation.

1 **B. Erich Should Be Reprimanded and Admonished Due to his**
2 **Behavior**

3 Preliminarily, Erich must stop using the name Bricker when dealing with
4 Raina. Until she decides – if ever – to change it, her name is Raina Martin. Erich is
5 acting immature by not referring to Raina by her true and correct name. This childish
6 behavior must stop and we ask the Court to admonish Erich for his continued use of
7 this name.

8 Secondly, Erich has been publically blaming the minor child for his current
9 wife's substantiated abuse. This violates EDCR 5.301 which states:

10 All lawyers and litigants possessing knowledge of matters being heard by the
11 family division are prohibited from:

12 (a) Discussing issues, proceedings, pleadings, or papers on file with the court
13 with any minor child;

14 (b) Allowing any minor child to review any such proceedings, pleadings, or
15 papers or the record of the proceedings before the court, whether in the form
16 of transcripts, audio or video recordings, or otherwise;

17 (c) Leaving such materials in a place where it is likely or foreseeable that any
18 minor child will access those materials; or

19 (d) Knowingly permitting any other person to do any of the things enumerated
20 in this rule, without the written consent of the parties or the permission of the
21 court.

22 Here, Erich is involving the minor child in issues that are before this Court and
23 other divisions of the District Court. He has told the child that he had to stay in a
24 hotel to avoid the child being able to make up more lies about his step-mom.

25 The abuse by Erich's wife is substantiated. She is already not allowed to have
26 unsupervised contact with Nathan to protect him, not the other way around.

27 The way Erich and his new wife treat Nathan rises to the level of abuse.
28 Nathan cried leaving and coming home. Erich's new wife alienates him and makes
comments about him being a "monster" and "ruining her life." She makes hand
gestures of breaking a stick and saying "our relationship" in reference to the CPS
report.

 The child reported – without being asked – that they made him write "I will not
lie" 700 times in reference to the CPS finding of substantiated abuse by Erich's wife.

1 Erich told him “show my family love and I’ll show you love.” Erich even made him
2 run six miles when he arrived for the visitation.¹⁸

3 Erich and his wife called him a “punk” for wearing a necklace (made by
4 Raina’s sister) and bracelets (purchased by Wyatt for his birthday). Erich said that
5 if he wore them there again, they’d throw them away.¹⁹

6 They told Nathan not to bring anything with him next time or they would
7 “trash” it because they hate the smell of his things.

8 In another display of immaturity, Erich changes Tony’s name in Nathan’s
9 phone from “Daddy Tone” to Tony or Anthony against Nathan’s request.²⁰ All of this
10 happened in the span of 4 days.

11 Again, to continue this abuse is the reason we asked that Erich’s new wife not
12 have contact with Nathan. A child should not have to be treated like this by adults.
13 Erich is as guilty as his wife for allowing it to happen. A child interview on these
14 matters should be allowed to ensure that Nathan is safe when visiting Erich.

15 Erich must be admonished to not involve the minor child in any further legal
16 proceedings under pain of contempt and should be admonished to stop the emotional
17 abuse.

18 Lastly, Erich refuses to follow the *Orders* of this Court concerning disclosure
19 of where the child is and fails to allow the child to contact his mother as required by
20 the *Decree of Divorce* and the parenting plan. He lied to Raina about where the child
21 was going to be during the most recent visit. Giving a bogus address to Raina. Erich
22 then confiscated the child’s cell phone to keep him from being able to speak to Raina.
23 Lastly, he did not respond to either OFW messages or to text messages from Raina.

24
25
26 ¹⁸ The Court is reminded that Nathan is 10 years old and that this was not done as exercise,
but as punishment for his reporting the abuse by Erich’s wife.

27 ¹⁹ Per the decree, Nathan is allowed to take his items freely from one home to the other.

28 ²⁰ This is done while Erich has the phone after he confiscates it.

1 This behavior is dangerous to the child and to the relationship the child has
2 with his father. The Court should admonish Erich to mend his ways or possibly lose
3 visitation with the child.

4 5 **C. Attorney Fees**

6 Attorney's fee awards can be granted in post-divorce actions under NRS 125,
7 NRS 18.010, and EDCR 7.60. We are forced into Court due to Erich's behavior
8 which under EDCR 7.60 has increased litigation frivolously. Raina should prevail
9 on this *Motion* and thus is entitled to fees under NRS 18.010.

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

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

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

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

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

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

24
25 ²¹ *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969).

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

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

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

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

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

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

21 As to the “character and quality of the work performed,” we believe this filing
22 is adequate, both factually and legally; we have diligently reviewed the applicable

23 _____
24 *Hybarger*, 103 Nev. 255, 737 P.2d 889 (1987).

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

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

1 law, explored the relevant facts, and believe that we have properly applied one to the
2 other.

3 The work actually performed will be provided to the Court by way of a
4 *Memorandum of Fees and Costs* upon request (redacted as to confidential
5 information), consistent with the requirements under *Love*.²⁶
6

7 **IV. CONCLUSION**

8 Based on the above, Raina respectfully requests the Court issue the following
9 orders:

- 10 1. An increase in child support as required by NAC 425.170 to
11 \$1,512.88 per month.
- 12 2. To admonish Erich to use Raina's legal name.
- 13 3. To admonish Erich not to involve the minor child in any
14 information relating to issues pending before this or any other
15 Court.
- 16 4. To admonish Erich as to the treatment of the minor child during
17 visits.
- 18 5. To allow the minor child to have all of his belongings during
19 visits without harassment or comment.
- 20 6. To admonish Erich to disclose the whereabouts of the minor child
21 and to not interfere in the child's contact with Raina.
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²⁶ *Love v. Love*, 114 Nev. 572, 959 P.2d 523 (1998).

- 1 7. For an award of actual attorney's fees and costs. And,
2 8. For such other and further relief as the Court deems just and
3 proper.

4 DATED this 18th day of November, 2020.

5 Respectfully Submitted By:
6 WILLICK LAW GROUP

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

8 _____
9 MARSHAL S. WILLICK, ESQ.
10 Nevada Bar No. 2515
11 RICHARD L. CRANE, ESQ.
12 Nevada Bar No. 9536
13 3591 E. Bonanza Road, Suite 200
14 Las Vegas, Nevada 89110-2101
15 (702) 438-4100; Fax (702) 438-5311
16 Attorneys for Defendant

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

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 // Raina Martin

RAINA MARTIN

P:\wp19\MARTIN,R\DRAFTS\00466246.WPD\jj

Justin Johnson

From: Raina Martin <rainardh7@gmail.com>
Sent: Wednesday, November 18, 2020 8:42 AM
To: Justin Johnson
Subject: File Motion

Justin ,

I give you permission to sign the declaration and file the Motion on my behalf.

Thank you,
Raina

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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 18th day of November, 2020, I caused the 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) and attorney(s) listed below at the address, email address, and/or facsimile number indicated:

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s//Justin K. Johnson

Employee of the WILICK LAW GROUP

P:\wp19\MARTIN,R\DRAFTS\00466246.WPD\jj

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

ERICH MARTIN,
Plaintiff/Petitioner

-v.-

RAINA MARTIN,
Defendant/

Case No. D-15-509045-D

Department C

**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:

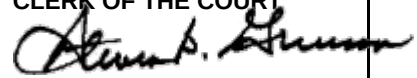
☐ **\$0** ☒ **\$25** ☐ **\$57** ☐ **\$82** ☐ **\$129** ☐ **\$154**

Party filing Motion/Opposition: Willick Law Group Date: 11/18/2020

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

187

187



EXHS
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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 Defendant

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

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

**EXHIBITS TO
MOTION TO MODIFY CHILD SUPPORT AND TO REPRIMAND
ERICH FOR HIS FAILURE TO FOLLOW CUSTODY PROVISIONS**

Exhibit A. Copy of the Check Sent to Our Office.

Bastes Stamps No. (000034RM)

Exhibit B. Email from Richard Crane to Ms. Wilde.

Bastes Stamps No. (000035RM)

Exhibit C. Email String Between Raina and Erich.

Bastes Stamps No. (000036RM - 000041RM)

Exhibit D. Text Message String Between Erich and Raina.

Bastes Stamps No. (000042RM - 000043RM)

1 **Exhibit E.** Text Message to Erich.

2 **Bastes Stamps No. (000044RM)**

3 **Exhibit F.** Letter from Ms. Wilde. It Should Be Noted That as of this Writing, Ms.
4 Wilde Has Not Updated the Court File with the Correct Address.

5 **Bastes Stamps No. (000045RM)**

6 **Exhibit G.** Picture of Unaccompanied Minor Pass with Raina's Last Name as
7 Bricker.

8 **Bastes Stamps No. (000046RM)**

9 **Exhibit H.** MLAW Child Support Calculation.

10 **Bastes Stamps No. (000047RM - 000049RM)**

11 DATED this 18th day of November, 2020.

12 Respectfully Submitted By:
13 WILICK LAW GROUP

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

15 MARSHAL S. WILICK, ESQ.
16 Nevada Bar No. 2515
17 RICHARD L. CRANE, ESQ.
18 Nevada Bar No. 9536
19 3591 E. Bonanza Road, Suite 200
20 Las Vegas, Nevada 89110-2101
21 (702) 438-4100; Fax (702) 438-5311
22 Attorneys for Defendant
23
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25
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27
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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 18th day of November, 2020, I caused the 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) and attorney(s) listed below at the address, email address, and/or facsimile number indicated:

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

//s//Justin K. Johnson

Employee of the WILICK LAW GROUP

P:\wp19\MARTIN,R\DRAFTS\00468365.WPD\jj

EXHIBIT “A”

EXHIBIT “A”

EXHIBIT “A”

JULIE CHAMBERS 09-14
PH. 801-372-5683
3815 LITTLE DIPPER DR.
FORT COLLINS, CO 80528

31-7955/3240

185

DATE 10 OCT 20

PAY TO
THE ORDER OF

Raina Bricker

\$ 845.43

THE ORDER OF

Eight hundred forty five

⁴³
00 DOLLARS

 Security Features
Included.
Details on Back.

MOUNTAIN AMERICA
CREDIT UNION

MEMO

Erick's October 2020 Disability

[Signature]

MP

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SPECIALTY MINT

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EXHIBIT “B”

EXHIBIT “B”

EXHIBIT “B”

Justin Johnson

From: Richard Crane
Sent: Monday, October 26, 2020 10:19 AM
To: Kathleen A. Wilde
Cc: Justin Johnson
Subject: FW: Martin v. Martin - NRAP 16 conference [IWOV-iManage.FID1122036]

Ms. Wilde,

Until and unless your client obtains a stay, please have him follow the directions we have given for direct deposit of the funds into Ms. Martin's account. Additionally, he has purposefully put the wrong name on the check. Raina's name – as he well knows – is Raina Martin.

Lastly, he is only stoking the fires of discontent by adding a note that says this is part of his disability pay. This is incorrect for two reasons, first, it is money coming out of his wife's account. That immediately indicates that it can't be disability money. Second, since he makes over \$130,000 a year of which a majority is not disability money, and since money is fungible, the money that he is paying is not from his disability funds.

This behavior only emphasizes that he is not coming to the mediation table in good faith. We will point this out to Mr. Shrinian at the settlement conference.

BR



Rick Crane, Esq.
Willick Law Group
A Domestic Relations & Family Law Firm
3591 East Bonanza Road, Suite 200
Las Vegas, Nevada 89110-2101
Phone: (702) 438-4100, ext. 115
Fax: (702) 438-5311
Web: www.willicklawgroup.com
[View Our Newsletters](#)



EXHIBIT “C”

EXHIBIT “C”

EXHIBIT “C”

Message Report

The OurFamilyWizard® website
230 13th Ave NE
Minneapolis, MN 55413
<https://www.OurFamilyWizard.com>
Info@OurFamilyWizard.com



Raina Martin generated this report on 11/10/20 at 05:28 PM. All times are listed in America/Los_Angeles timezone.

Message: 1 of 1
Date: 11/10/2020 9:24 AM
From: Erich Martin
To: Raina Martin (First View: 11/10/2020 9:29 AM)
Subject: Re: Veterans Day Visitation

Raina,

To be clear, your threats along with all of your hateful discussions about me mean nothing. Get over yourself, move on with your life and quit worrying about me or trying to demonize me. If you choose not to send him that is on you and only continues to show how much you crave control of me. He will be safe here in Denver, CO with me and I will give you the address once I know for sure he's coming here.

Erich

On Tue, 11/10/20 at 9:04 AM, Raina Martin wrote:

To: Erich Martin
Subject: Veterans Day Visitation
Erich,

To be clear- I will not send him unless I know where he will be. Please just provide the information.

Raina

0A0B6RM

Message Report

The OurFamilyWizard® website
230 13th Ave NE
Minneapolis, MN 55413
<https://www.OurFamilyWizard.com>
Info@OurFamilyWizard.com



Raina Martin generated this report on 11/10/20 at 05:29 PM. All times are listed in America/Los_Angeles timezone.

Message: 1 of 1

Date: 11/10/2020 8:57 AM

From: Erich Martin

To: Raina Martin (First View: 11/10/2020 8:58 AM)

Subject: Re: COVID + Visitation

Just send him, I'll see him tomorrow.

Erich

On Tue, 11/10/20 at 8:55 AM, Raina Martin wrote:

To: Erich Martin

Subject: Re: COVID + Visitation

Erich,

Nathan flew there and back in the summer, per your request, in the midst of COVID- why the concern now? We are completely fine with Nathan staying here but we are not willing to carry the time into next year- if he doesn't go, you forfeit the time. If he goes, and there is a lockdown, we will figure it out since his schooling is online- we could drive and meet you half-way. I will also need the hotel information and you will have to update your permanent address with the court.

Raina

On Mon, 11/09/20 at 12:03 PM, Erich Martin wrote:

To: Raina Martin

Subject: COVID + Visitation

Raina,

I am looking at some of the restrictions being placed on Denver regarding COVID and the possible effect it may have on Nate's visit. What are your thoughts on possibly postponing this visit to a later time in 2021? I don't want to have Nate be in a bad position for getting back to LV because there are various rumors about lockdowns being thrown around. I also don't want to put him at risk as well. Let me know if you would be willing to cancel this flight and save his visit for a later date.

Thanks,

Erich

On Sun, 11/01/20 at 8:14 PM, Raina Martin wrote:

To: Erich Martin

Subject: Veteran's Day Trip 2020

Erich,

Here is Nathan's flight info for Veteran's Day.

Wednesday November 11, 2020 @ 3:00pm and arriving in Denver @ 5:50pm.

You have stated that you are prepared for him to do online schooling while there- just confirming you have everything you need for him to be online from 7:50am until 2:00 pm?

Please provide his return flight.

Raina

000088M

Message Report

The OurFamilyWizard® website

230 13th Ave NE

Minneapolis, MN 55413

<https://www.OurFamilyWizard.com>

Info@OurFamilyWizard.com



Raina Martin generated this report on 11/10/20 at 05:30 PM. All times are listed in America/Los_Angeles timezone.

Message: 1 of 1

Date: 11/05/2020 6:32 AM

From: Erich Martin

To: Raina Martin (First View: 11/05/2020 6:58 AM)

Subject: Re: Veteran's Day Visit

Raina,

You coached Nathan to make up a lie that has drastically hurt our family (that includes Nathan). Your plan this summer was to take him away from me, Nathan even stated that was the last thing you two discussed when I picked him up in May 2020. So don't harass me based on the evil consequences you created. As a mom, you should know better than to have ever made a lie and encourage Nathan to do so as well because Julie nor me or anyone else of our side of Nate's family has ever hurt or done inappropriate things with him. Please, leave me alone.

Erich

On Wed, 11/04/20 at 10:01 PM, Raina Martin wrote:

To: Erich Martin

Subject: Veteran's Day Visit

Erich,

Did you really tell our son that you're making him stay in a hotel because you're protecting yours and your wife's life? So that Nathan "can't make up any more lies"?

Why are you staying in a hotel now yet he stayed with you AND Julie all summer in Julie's old home with no issues?

Raina

Message Report

The OurFamilyWizard® website
230 13th Ave NE
Minneapolis, MN 55413
<https://www.OurFamilyWizard.com>
Info@OurFamilyWizard.com



Raina Martin generated this report on 11/10/20 at 05:31 PM. All times are listed in America/Los_Angeles timezone.

Message: 1 of 1
Date: 11/01/2020 8:41 PM
From: Erich Martin
To: Raina Martin (First View: 11/01/2020 8:41 PM)
Subject: Re: Address

Raina,

We will be staying at a hotel and I will let you know the address once I have booked it. You can use the Little Dipper address in the meantime.

Erich

On Sun, 11/01/20 at 8:35 PM, Raina Martin wrote:

To: Erich Martin
Subject: Re: Address

Erich,

I'm not sending him until you update your address with me- not what's on you license- where I am sending our child and where he will be staying.

Raina

On Sun, 11/01/20 at 8:28 PM, Erich Martin wrote:

To: Raina Martin
Subject: Rc: Address

Raina,

Just use the old address as that is what is on my license.

Erich

On Sun, 11/01/20 at 8:15 PM, Raina Martin wrote:

To: Erich Martin
Subject: Address

Erich,

Please provide the address of your new home so we have it on file.

Raina

000000RM

Message Report

The OurFamilyWizard® website
230 13th Ave NE
Minneapolis, MN 55413
<https://www.OurFamilyWizard.com>
Info@OurFamilyWizard.com



Raina Martin generated this report on 11/10/20 at 05:37 PM. All times are listed in America/Los_Angeles timezone.

Message: 1 of 1

Date: 11/01/2020 8:37 PM

From: Raina Martin

To: Erich Martin (First View: 11/01/2020 8:37 PM)

Subject: Re: Veteran's Day Trip 2020

Erich,

Do you want him to come or not?

Raina

On Sun, 11/01/20 at 8:36 PM, Erich Martin wrote:

To: Raina Martin

Subject: Re: Veteran's Day Trip 2020

Raina,

Show me where you replied to me that he was coming here.

Erich

On Sun, 11/01/20 at 8:34 PM, Raina Martin wrote:

To: Erich Martin

Subject: Re: Veteran's Day Trip 2020

Erich,

No he doesn't. We have a desktop he uses.

I told you he was coming and so has Nathan.

Raina

On Sun, 11/01/20 at 8:18 PM, Erich Martin wrote:

To: Raina Martin

Subject: Re: Veteran's Day Trip 2020

Raina,

Doesn't he have a tablet or laptop from school? He needs to bring his stuff with him. This is the first you've even let me know you were going to send him.

Erich

00001RM

EXHIBIT “D”

EXHIBIT “D”

EXHIBIT “D”



View Message

From: Raina Martin

To: Erich Martin

[Details](#)

Re: Address

Today at 07:43 PM

Erich,

You'll be staying at the Fairfield in for 4 nights, correct?

Thanks,
Raina

From: Erich Martin

11/10/2020 at 07:36 PM

To: Raina Martin

Subject: Re: Address

Raina,

1680 S Colorado Blvd, Denver, CO. As per the Decree, please send him.

Erich



From: **Erich Martin**

11/10/2020 at 07:36 PM

To: Raina Martin

Subject: Re: Address

Raina,

1680 S Colorado Blvd, Denver, CO. As per the Decree, please send him.

Erich

From: **Raina Martin**

11/10/2020 at 06:56 PM

To: Erich Martin

Subject: Address

Erich,

I am asking again for you to provide the address of where our son will be staying for the next 5 days- either at a home or hotel...per our decree, please.

000001RM

EXHIBIT “E”

EXHIBIT “E”

EXHIBIT “E”

Subject: Duo 11/13/20

Erich,

We have ZERO communication with Nathan and have tried every means to get ahold of him for the past 2 days. Please have him call us back as we don't even know where he is.

Raina



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EXHIBIT “F”

EXHIBIT “F”

EXHIBIT “F”



MARQUIS AURBACH COFFING

DIRECT LINE: (702) 207-6065
DIRECT FAX: (702) 382-5816
EMAIL: KWILDE@MACLAW.COM

ALBERT G. MARQUIS
PHILLIP S. AURBACH
AVECE M. HIGBEE
TERRY A. COFFING
SCOTT A. MARQUIS
JACK CHEN MIN JUAN
CRAIG R. ANDERSON
TERRY A. MOORE
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CODY S. MOUNTIER
CHAD F. CLEMENT
CHRISTIAN T. BALDUCCI

JARED M. MOSER
MICHAEL D. MAUPIN
KATHLEEN A. WILDE
JACKIE V. NICHOLS
RACHEL S. TYGRET
JORDAN B. PEEL
JAMES A. BECKSTROM
COLLIN M. JAYNE
ALEXANDER K. CALAWAY
SCOTT W. CARDENAS
SUSAN E. GILLESPIE

JOHN M. SACCO [RET.]
LANCE C. EARL
WILLIAM P. WRIGHT
BRIAN R. HARDY
JENNIFER L. MICHELI
OF COUNSEL

November 13, 2020

Willick Law Group
Marshal S. Willick, Esq.
Richard L. Crane, Esq.
3591 E. Bonanza Road, Suite 200
Las Vegas, NV 89110

Re: Martin v. Martin
Case No. D-15-509045-D
Our File No. 16211-1

Dear Mr. Willick and Mr. Crane:

Please be advised that Erich Martin's updated home address is:

19325 W. 94th Avenue
Arvada, CO 80007

Mr. Martin is making this disclosure in the interest of avoiding needless motion practice before the Court. We expect that Mr. Martin's personal information will not be used for harassment, annoyance, or any other improper use. Should you have any further questions, please do not hesitate to contact the undersigned.

Sincerely,

MARQUIS AURBACH COFFING

/s/ Kathleen Wilde, Esq.

KAW: jab
Cc: Erich Martin

MAC:16211-001 4204482_1 11/13/2020 2:55 PM

EXHIBIT “G”

EXHIBIT “G”

EXHIBIT “G”

Unaccompanied Minor

MARTIN/NATHAN

Flight 167

Parent/Guardian at Origin

Name MARTIN/ERICH

Relationship DAD

3072756343

Address 19325 W 94TH AVE

City ARVADA

State Zip 80007

Origin DEN

Destination LAS

Age: 10

Date: 20201115

Gender: M

Parent/Guardian at Destination

Name BRICKER/RAINA

Relationship MOM

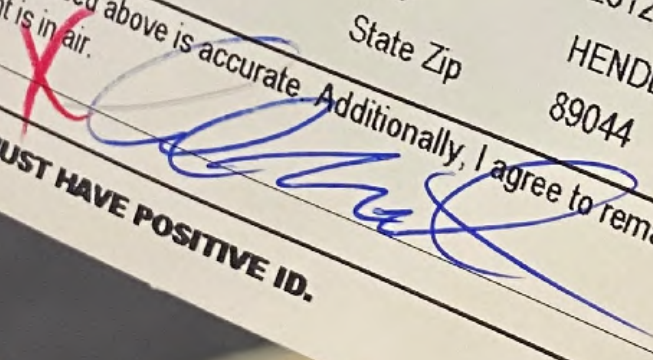
7192091800

Address 2812 JOSEPHINE DR

City HENDERSON

State Zip 89044

I certify that the information provided above is accurate. Additionally, I agree to remain at the departure gate until the flight is in air.

Parent/Guardian Signature 

ARRIVING PARTY MUST HAVE POSITIVE ID.

Accepting

CONF NO

Alternate Co

Name BRIC

Relationship

7023514123

Operations Agent - Destination



000006RM

EXHIBIT “H”

EXHIBIT “H”

EXHIBIT “H”

MLAW Child Support Calculator

Parent Info

This is the number of children that are still subject to child support who are at issue in this relationship.

Concerned Children

Self-explanatory.

Parent A Name

Parent B Name

This is the number of children at issue in this relationship in the primary care of each parent. If each parent has no primary custody of any of the children OR the parents have joint custody of all children of this relationship, enter 0.

PC Children, A

PC Children, B

This is the monthly gross income of each parent without deduction.

Income, Parent A

Income, Parent B

This is the monthly premium cost paid by each parent for health insurance for the children. If none, enter 0.

This is the monthly amount this parent pays for daycare for the children. If none, enter 0.

CALCULATE RESULT

v1.2.8

MLAW Child Support Calculator

Calculation Results:

Raina Martin

Monthly Support Owed: \$0.00

Adj Support: \$0.00

Calc Support: \$0.00

Rate Brackets:

Obligees: 0

Offsets:

\$0.00 Primary Custodian

Erich Martin

Monthly Support Owed: \$1,512.00

Adj Support: \$1,512.88

Calc Support: \$1,512.88

Rate Brackets:

0.16 at 6000 = 960

0.08 at 4000 = 320

0.04 of 5822 = 232.88

Obligees: 1

[← Return to Parent Info](#)[Disclaimer](#)

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v1.2.8

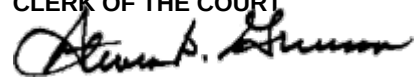
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GFDF

WILICK LAW GROUP
Marshal S. Willick, Esq.
Nevada Bar No. 2515
3591 E. Bonanza Rd., Ste. 200
Las Vegas, Nevada 89110
(702) 438-4100; Fax (702) 438-5311
email@willicklawgroup.com
Attorney for Defendant

Electronically Filed
11/18/2020 2:18 PM
Steven D. Grierson
CLERK OF THE COURT



District Court, Family Division
Clark County, Nevada

ERICH M. MARTIN Plaintiff, vs. RAINA L. MARTIN Defendant.	Case No.: <u>D-15-509045-D</u> Dept. No.: <u>C</u>
--	---

GENERAL FINANCIAL DISCLOSURE FORM**A. Personal Information:**

1. What is your full name? (*first, middle, last*) Raina Lynn Martin
2. How old are you? 39 3. What is your date of birth? 3/25/1981
4. What is your highest level of education? BS (Dental Hygienist)

B. Employment Information:

1. Are you currently employed/self-employed? (☒ mark one)

☐ No
☐ Yes

If yes, complete the table below. Attach an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)
7/2017	Welch Dentistry	Dental Hygienist	Thurs/Fri/Sat	7:30 - 7, 7:30 - 3, 6:30 - 3:00

2. Are you disabled? (☒ mark one)

☒ No
☐ Yes

If yes, what is the level of your 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 two years, completed 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 11/13/2020 my gross year to date pay is 62,803.30

B. Determine your Gross Monthly Income.

Hourly Wage

\$49.00	X	28	=	\$1,372.00	X	52 weeks	=	\$71,344.00	÷	12 Months	=	\$5,945.33
Hourly wage		Number of hours worked per week		Weekly Income				Annual Income				Gross Monthly Income

Annual Salary

\$0.00	÷	12 Months	=	\$0.00
Annual Income				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 Pay:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support:			
Child Support:	Monthly	\$806.00	\$806.00
Workman's Compensation:			
Other:		\$0.00	\$0.00
Total Average Other Income Received			\$806.00

Total Average Gross Monthly Income (add totals from B and C above)	\$6,751.33
---	-------------------

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:	\$580.00
4.	Health Insurance Amount for you: \$ _____ For Opposing Party: _____ For your Child(ren): _____	
5.	Life, Disability, or Other Insurance Premiums:	\$1,000.00
6.	Medicare:	\$40.00
7.	Retirement, Pension, IRA, or 401(k):	
8.	Savings:	
9.	Social Security:	\$170.00
10.	Union Dues:	
11.	Other (Type of Deduction): Dental Hygiene Insurance	\$100.00
Total Monthly Deductions:		\$1,890.00

Business/Self-Employment Income and 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/Political Contributions			
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			
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	\$100.00	X		
Car Loan/Lease Payment	\$650.00	X		
Cell Phone	\$150.00	X		
Child Support (if not deducted from pay)				
Clothing, Shoes, Etc. . .	\$75.00	X		
Credit Card Payments (minimum due)	\$200.00	X		
Dry Cleaning	\$45.00	X		
Electric	\$75.00	X		
Food (groceries & restaurants)	\$800.00	X		
Fuel	\$400.00	X		
Gas (for home)	\$50.00	X		
Health Insurance (if not deducted from pay)	\$50.00	X		
HOA	\$100.00	X		
Home Insurance (if not included in mortgage)				
Home Phone				
Internet/Cable & Phone	\$30.00	X		
Lawn Care				
Membership Fees				
Mortgage/Rent/Lease	\$1,250.00	X		
Pest Control				
Pets	\$50.00	X		
Pool Service				
Property Taxes (if not included in mortgage)				
Security				
Sewer	\$10.00	X		
Student Loans	\$150.00	X		
Unreimbursed Medical Expenses	\$75.00	X		
Water	\$20.00	X		
Other:				
Total Monthly Expenses	\$4,280.00			

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. Attach a separate sheet if needed.

	Child's Name	Child's DOB	With whom is the child living?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1.	Dylan Bricker	1/20/01	us	No	No
2.	Wyatt Bricker	8/13/05	us	No	No
3.	Nathan Martin	8/24/10	us	Yes	No
4.					

- 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			\$50.00	
Child Care				
Clothing			\$75.00	
Education			\$75.00	
Entertainment			\$100.00	
Extracurricular & Sports			\$100.00	
Health Insurance (if not deducted from pay)			\$20.00	
Summer Camp/Programs			\$100.00	
Transportation Cost			\$100.00	
Unreimbursed Medical Expenses			\$50.00	
Vehicle				
Other:				
Total Monthly Expenses	\$0.00	\$0.00	\$670.00	\$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 18. If more than four adult household members, attach a separate sheet.

Name	Age	Person's Relationship to You (i.e., sister, friend, cousin, etc.)	Monthly Contribution
Anthony Bricker	46	Domestic Partner	\$0.00

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.

No.	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		\$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 five unsecured debts, attach a separate sheet.

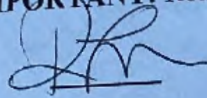
No.	Description of Credit Card or Other Unsecured Debt	Total Amount Owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Chase Credit Card	\$6,500.00	Self
2.	Student Loan	\$15,000.00	Self
3.	Capital One Credit Card	\$3,300.00	Self
4.			
5.			
6.			
TOTAL UNSECURED DEBT		\$24,800.00	

CERTIFICATION

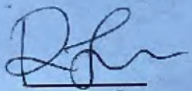
Attorney Information: Complete the following sentences:

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

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.



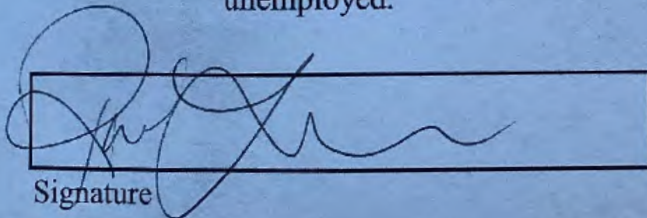
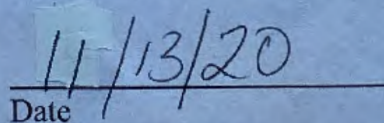
I have attached a copy of my three most recent pay stubs to this form.



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.


Signature
Date 11/13/20

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Willick Law Group and that on this

18th day of November, 2020, 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:

Erich M. Martin
3815 Little Dipper Dr
Fort Collins CO 80528
Plaintiff in Proper Person

Kathleen A. Wilde, Esq.
Chad F. Clement, Esq.
10001 Park Run Drive
Las Vegas, NV 89145
Appellate Attorneys for Plaintiff

//s//Justin K. Johnson

An Employee of the WILICK LAW GROUP

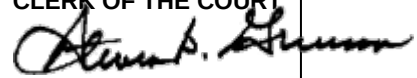
P:\wp19\MARTIN,R\DRAFTS\00467936.WPD\jj

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

Electronically Filed
11/23/2020 4:04 PM
Steven D. Grierson
CLERK OF THE COURT



Erich M Martin, Plaintiff
vs.
Raina L Martin, Defendant.

Case No.: D-15-509045-D
Department C

NOTICE OF HEARING

Please be advised that the Defendant's Motion to Modify Child Support and to Reprimand Erich for His Failure to Follow Provisions in the above-entitled matter is set for hearing as follows:

Date: January 11, 2021
Time: 10:00 AM
Location: Courtroom 08
Family Courts and Services Center
601 N. Pecos Road
Las Vegas, NV 89101

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

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Juanito Nasarro
Deputy Clerk of the Court

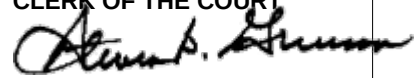
CERTIFICATE OF SERVICE

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/ Juanito Nasarro
Deputy Clerk of the Court

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Marquis Aurbach Coffing
 Chad F. Clement, Esq.
 Nevada Bar No. 12192
 Kathleen A. Wilde, Esq.
 Nevada Bar No. 12522
 10001 Park Run Drive
 Las Vegas, Nevada 89145
 Telephone: (702) 382-0711
 Facsimile: (702) 382-5816
 cclement@maclaw.com
 kwilde@maclaw.com
Attorneys for Plaintiff

DISTRICT COURT**CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

vs.

Raina L. Martin,

Defendant.

Case No.: D-15-509045-D
 Dept. No.: C

REQUEST FOR TRANSCRIPTS OF PROCEEDINGS

TO: Transcript Video Services
 Eighth Judicial District Court, Dept. - Family Division
 601 North Pecos Rd.
 Las Vegas, Nevada 89101
 Fax: 702-455-2352
 Email: VideoRequests@ClarkCountyCourts.US

Plaintiff Erich Martin, by and through his attorneys of record, Marquis Aurbach Coffing,
 hereby requests preparation of the transcripts of the proceedings before the District Court, as
 follows:

Judge or officer hearing the proceedings: Honorable Rebecca L. Burton

Date(s) of the proceedings:

1. 06/02/2015 Return Hearing;
2. 10/28/2015 Motion to Enforce;
3. 09/22/2016 Return Hearing;
4. 01/12/2017 Motion to Terminate Alimony and for Attorney's Fees and Costs;
5. 6/16/2020 Defendant's Motion to Enforce;

6. 6/16/2020 Defendant's Reply to Defendant's Motion to enforce and Defendant's Attorney's Fees and Notice of Motion for an Order to Enforce and/or Order to Show Cause regarding Contempt and Opposition to Countermotion for Contempt; and

7. 6/16/2020 All Pending Motions.

Portions of the transcript requested: Entire Proceeding

Number of copies required:

1 original to be filed with the Eighth Judicial District Court under Case No. D-15-509045-D.

1 certified copy to the following:

Marquis Aurbach Coffing
Kathleen A. Wilde, Esq.
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711
Attorneys for Plaintiff Erich Martin

I HEREBY CERTIFY that on this date I ordered transcripts from the court reporter named above, and paid the required deposit.

Dated this 25th day of November, 2020.

MARQUIS AURBACH COFFING

By /s/ Kathleen Wilde
Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **REQUEST FOR TRANSCRIPTS OF PROCEEDINGS** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 25th day of November, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:¹

Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq."	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@Tklawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

Transcript Video Services
Eighth Judicial District Court, Dept. - Family Division
601 North Pecos Rd.
Las Vegas, Nevada 89101
Fax: 702-455-2352
Email: VideoRequests@ClarkCountyCourts.US

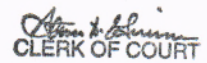
/s/ *Javie-Anne Bauer*
An employee of Marquis Aurbach Coffing

¹ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

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NOV 25 2020


 CLERK OF COURT

EOT

ORIGINAL

EIGHTH JUDICIAL DISTRICT COURT

FAMILY DIVISION

CLARK COUNTY, NEVADA

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

ESTIMATED COST OF TRANSCRIPT(S)

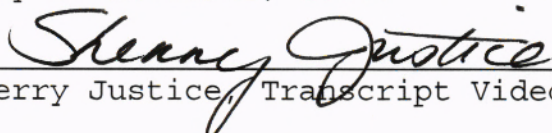
The office of Transcript Video Services received a request for transcript estimate, for purposes of appeal, from Kathleen Wilde, Esq., on November 24, 2020, for the following proceedings in the above-captioned case:

JUNE 02, 2015; OCTOBER 28, 2015; SEPTEMBER 22, 2016;
JANUARY 12, 2017; JUNE 16, 2020

for original transcripts and one copy jof each.

The estimated cost for the transcripts is \$375.00. Payment in the amount of \$375.00 must be paid directly to **VERBATIM REPORTING & TRANSCRIPTION** prior to work commencing on the transcripts. Please call Verbatim Reporting & Transcription to make deposit payment (281) 724-8600 or (520) 303-7356.

DATED this 25th day of November, 2020.


Sherry Justice, 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.

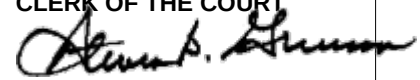
NOTE: STATUTORY FEES ARE SUBJECT TO CHANGE PER LEGISLATIVE SESSION.

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

RA001644

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**Marquis Aurbach Coffing**

Chad F. Clement, Esq.

Nevada Bar No. 12192

Kathleen A. Wilde, Esq.

Nevada Bar No. 12522

Rachel S. Tygret, Esq.

Nevada Bar No. 14120

10001 Park Run Drive

Las Vegas, Nevada 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

cclement@maclaw.com

kwilde@maclaw.com

rtyrgret@maclaw.com

*Attorneys for Erich M. Martin***DISTRICT COURT—FAMILY DIVISION****CLARK COUNTY, NEVADA**

Erich M. Martin,

Plaintiff,

Case No.: D-15-509045-D

Dept. No.: C

vs.

Raina L. Martin,

Defendant.

NOTICE: YOU ARE REQUIRED TO FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE CLERK OF THE COURT AND TO PROVIDE THE UNDERSIGNED WITH A COPY OF YOUR RESPONSE WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF THE COURT WITHIN TEN (10) DAYS OF YOUR RECEIPT OF THIS MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE COURT PRIOR TO THE SCHEDULED HEARING DATE.

**OPPOSITION TO MOTION TO MODIFY CHILD SUPPORT AND TO REPRIMAND
ERICH FOR HIS FAILURE TO FOLLOW CUSTODY PROVISIONS**

**and
COUNTERMOTION FOR MODIFICATION OF ORDERS REGARDING JULIE
MARTIN, ADMONISHMENT AGAINST INCIVILITY, AND FOR ATTORNEYS' FEES**

Plaintiff Erich M. Martin ("Erich"), by and through his attorneys of record, the law firm Marquis Aurbach Coffing, hereby files his Opposition to Defendant Raina L. Martin ("Raina")'s Motion to Modify Child Support and to Reprimand Erich for his Failure to Follow Custody

Provisions.¹ Erich also hereby files his Countermotion for Modification of Orders Regarding Julie Martin, Admonishment Against Incivility, and for Attorneys' Fees.

This Opposition and Countermotion is made and based upon the pleadings and papers on file herein, the following points and authorities, the attached exhibits, and any argument allowed by the Court at the time of hearing.

Dated this 10th day of December, 2020.

MARQUIS AURBACH COFFING

By: /s/ Kathleen Wilde

Chad F. Clement, Esq.
Nevada Bar No. 12192
Kathleen A. Wilde, Esq.
Nevada Bar No. 12522
Rachel S. Tygret, Esq.
Nevada Bar No. 14120
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Erich M. Martin

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

As is too often the case in family law matters, the parties in this matter are on poor terms after many years' of emotionally-charged conflicts. Although it is undeniable that Nathan's best interests are the highest priority, animosity and countless disagreements continue to plague the parties' ability to co-parent their child. In recent months, this tension has seemingly also spilled over to other family members and even legal counsel.

Indeed, while Erich is willing to pay child support in accordance with Nevada law, Raina's counsel did not even *attempt* an EDCR 5.501 discussion regarding the matter. See Raina's Motion at page 1. So, because motion practice is apparently necessary, the instant pleading will set the record straight regarding the unsubstantiated allegations of abuse and other

¹ No disrespect is meant by using the parties' first names. Instead, it has been a common and sensible practice during this case because the parties have the same last names.

1 matters of importance. Although Erich disagrees regarding many of the petty “he-said, she
2 said,” allegations in Raina’s motion, the secondary goal of the instant pleading is to encourage a
3 return to civility or, perhaps, more accurately, a new era of civility between the parties, their
4 families, and legal counsel. Finally, because the issues before the Court could have easily been
5 resolved without formal proceedings, Erich requests an award attorneys’ fees for the time
6 counsel dedicated to the instant pleading as well as attorney time that will be dedicated to the
7 upcoming hearing.

8 **II. RELEVANT FACTS.**

9 On November 5, 2015, the District Court signed a Decree of Divorce (the “Decree”)
10 which granted a divorce on the basis of irreconcilable differences. Since the divorce, Raina has
11 had primary physical custody of the parties’ ten-year-old son, Nathan. As the non-custodial
12 parent, Erich pays monthly child support to Raina.

13 Erich typically sees Nathan every few months. Because of animosity between the parties,
14 scheduling visitation is a difficult matter. For some time, visitation has not been a positive
15 experience for anyone involved. That being said, Nathan has *never* been subjected to abuse,
16 neglect, or other risk of harm while visiting Erich. See **Exhibit 1**, attached hereto.

17 **III. LEGAL ARGUMENT – OPPOSITION**

18 The motion currently before the Court includes a request for increased child support that
19 could have been resolved outside of Court and a requested admonishment that is based upon
20 false allegations and minor issues that do not warrant the Court’s attention. As explained below,
21 (A) Erich does not oppose an increase in child support, though a downward adjustment is
22 warrant. The remainder of Raina’s motion should be denied, however, because: (B) Raina
23 distorts the “facts” in seeking an admonishment and (C) the Court should not reward Raina with
24 attorney’s fees for her frivolous motion.

25 **A. ERICH DOES NOT OPPOSE AN INCREASE IN CHILD SUPPORT, 26 THOUGH A DOWNWARD ADJUSTMENT IS WARRANTED.**

27 In addressing child support, “‘what really matters’ under the formula and guideline
28 statutes ‘is whether the children are being taken care of as well as possible under the financial

1 circumstances in which the two parents find themselves.” *Fernandez v. Fernandez*, 126 Nev. 28,
2 37, 222P.3d 1031, 1037 (2010) (quoting *Barbagallo v. Barbagallo*, 105 Nev. 546, 551, 779 P.2d
3 532, 536 (1989)). In this case, Nathan is fortunate enough to have two parents who both earn
4 comfortable livings and who are able to provide for all of Nathan’s needs. Child support should
5 thus follow the standard formula in NAC 425.140 with modest adjustments in accordance with
6 NAC 425.150.

7 Under NAC 425.140, child support is calculated on the basis of the non-custodial
8 parent’s gross income. Gross income is defined broadly in NAC 425.025 to include wages as
9 well as disability benefits and veterans. In this case, Erich’s gross monthly income is
10 **\$12,983.96**.² In arguing that Erich’s gross monthly income is \$16,667.13, it appears that Raina
11 mistakenly included the income that Erich’s wife, Julie, contributes the community. This
12 approach is incorrect under Nevada case law. See *Rodgers v. Rodgers*, 110 Nev. 1370, 1373-76,
13 887 P.2d 269, 271-73 (1994) (explaining that gross monthly income, for purposes of child
14 support, does not include a remarried parent’s community property interest in the new spouse’s
15 income); see also *Martin v. Div. of Welfare & Supportive Servs.*, No. 77795-COA, 2020 WL
16 108383, at *2 (Nev. App. Jan. 8, 2020) (citing *Rodgers* and noting that the District Court erred
17 by incorrectly including a new spouse’s income as part of the non-custodial parent’s gross
18 monthly income).

19 Based on Erich’s gross monthly income, his baseline support obligation is as follows:

- 20 • 16% of the first \$6,000 = \$960
- 21 • 8% of the next \$4,000 = \$320
- 22 • 4% of the last \$2,938.96 = \$119.36

23 For a total of **\$1,399.36**. See NAC 425.140(1).

24 In turn, Erich also requests an adjustment based on the parties’ specific circumstances. In
25 Nevada, it is well-established that courts have discretion to adjust child support based on factors
26 listed in NAC 425.150 and other fact-specific considerations. See, e.g., *Wright v. Osburn*, 114

27 _____
28 ² See December 2020 Financial Disclosure Form, on file herein.

1 Nev. 1367, 1369, 970 P.2d 1071, 1072 (1998) (“Of course, the district court also has the option
2 to adjust the amount of the award where special circumstances exist.”). Here, there are three
3 reasons to reduce Erich’s child support obligations.

4 First, as Raina seemingly acknowledges, Erich must pay \$845.43 per month as
5 indemnification until such time as the Appellate Court rules otherwise. If Erich’s gross income
6 is reduced by this obligation, as Raina recognized should be the case, *see* Motion at page 7, lines
7 18-19, the portion of his income subject to the 4% support bracket is reduced to \$2,093.53.
8 $\$2,093.53 \times 4\% = \83.74 . So, compared to the original number of \$119.36, a slight deviation of
9 \$35.62 is warranted.

10 Second, Erich has provided a valuable service to Nathan (and Raina) by paying for
11 Nathan’s health insurance. As stated in his Financial Disclosure Form, Erich currently pays
12 \$220 for dependent coverage. Assuming insurance costs should be divided evenly between the
13 parties, monthly child support should be reduced by an additional \$110.

14 Third, Erich provides significant financial support for the three minor children who live
15 in his family home. Because Raina consistently receives – or takes – credit for the money she
16 contributes to her step-children’s expenses, Erich maintains that it is only fair that he receive
17 some credit for his comparable contribution as a step-parent. He thus proposes a modest
18 downward adjustment of \$50 per step-child for a total of \$150.

19 So, to summarize, Erich’s updated monthly child support obligation should be **\$1,103.74**.

20 **B. RAINA DISTORTS THE “FACTS” IN HER REQUEST FOR AN**
21 **ADMONISHMENT.**

22 Much of Raina’s motion consists of he-said-she-said allegations that boil down to the
23 competing declarations of parties’ who are hostile toward one another. While Erich
24 acknowledges that everyone – himself included – could likely do a better job to get along, the
25 majority of Raina’s allegations are not worth hashing out in a Court of law. Erich does wish to
26 address, however, a few important points.

27 First and foremost, the Department of Family Services recently completed its
28 investigation and concluded on November 10, 2020, that the allegations of abuse / neglect

1 against Julie Martin were without merit. See **Exhibit 2**, attached hereto. The investigation thus
2 confirmed what Erich has said all along – Julie is not a threat to Nathan.

3 Second, Nathan’s behavior has been a source of significant concern. In addition to
4 habitual dishonesty, Nathan pushes boundaries and refuses to follow family rules. Although
5 Erich did instruct Nathan to write sentences to the effect of, “I will not lie,” Nathan was not
6 forced to run any distance, let alone six miles. In fact, such a run would have been impossible
7 given Erich’s many physical disabilities.

8 Third, Nathan lost his phone privileges during his November 2020 visit as a consequent
9 for viewing inappropriate materials on the internet. Erich also tries to limit screen time for all
10 members of the family so everyone can focus on quality conversations and activities. Although
11 loss of a cell phone may be “harsh” in modern times, quality family time is far from child abuse.

12 Fourth, the alleged issues with Nathan’s unaccompanied minor pass were either
13 fabricated or grossly exaggerated. Both Southwest and airport security have protocols that apply
14 when a minor is unable to be picked up by a designated parent or guardian. In particular, the
15 parent from the original destination is promptly informed of the issue. In this case, no one
16 informed Erich that there was any issue when Nathan arrived back in Las Vegas. Based on a
17 recent conversation with Southwest, it also appears that the airline has no issues with Raina’s
18 name or the release of Nathan to Raina at the airport.

19 Thus, while visitation has been a challenge for everyone involved, Nathan is safe during
20 his visits with Erich. To the extent Raina alleges otherwise, her contentions are simply another
21 attempt to create baseless drama.

22 **C. THIS COURT SHOULD NOT GRANT RAINA FEES FOR HER**
23 **FRIVOLOUS MOTION.**

24 Once again, Raina seems to believe that any litigation is grounds for attorney’s fees
25 pursuant to NRS 18.010(2), EDCR 7.60, and/or NRS 125.040. As nearly every one of Raina’s
26 filings includes the same motion, Erich assumes that the Court is familiar with the relevant facts
27 and legal standards.
28

1 While Erich agrees that the instant motion practice is frivolous, Raina has only herself to
2 blame for failing to even attempt a private resolution of what is largely an uncontroversial
3 matter. Indeed, while a modification of child support is reasonable, neither Erich nor his
4 counsel are so unreasonable that the matter needed to be brought before this Court. Moreover,
5 because the requested admonishment is, at best, an exercise in he-said-she-said tattling, Raina
6 cannot colorably argue that she is a victim in need of the Court's assistance. Accordingly, there
7 is nothing in the instant controversy that supports an award of fees as a sanction for misconduct.

8 Moreover, NRS 125.040 does not support a discretionary award of fees. Raina is not
9 hurting financially. Although Raina attempts to portray herself as a destitute woman struggling
10 to get by, her domestic partner – the legal equivalent of a spouse – earns a significant salary of
11 nearly \$150,000. Yet, even without others' financial support, Raina's annual income in non-
12 Covid years hovers around \$100,000. Moreover, if the Court compares the parties' respective
13 financial positions, Erich is markedly worse off because his expenses include all of the ordinary
14 costs that come with providing for a family of five as well as the medical expenses that come
15 with multiple permanent injuries, child support, monthly indemnification to Raina, fees *pendente*
16 *lite* to Raina, and his own litigation expenses.

17 Accordingly, no fees should be awarded to Raina.

18 **IV. LEGAL ARGUMENT – COUNTERMOTION**

19 With the assistance of legal counsel, Erich and Raina should be able to resolve most
20 matters without the intervention of this Court. But, since Raina initiated another round of motion
21 practice, it makes sense to address three related matters: (1) modification of orders relating to
22 Julie Martin; (2) a renewed dedication to civility; and (3) compensation for the attorneys' fees
23 that will be needlessly incurred as a result of Raina's Motion to Modify Child Support and to
24 Reprimand Erich for his Failure to Follow Custody Provisions.

25 **A. THE COURT SHOULD MODIFY ORDERS REGARDING JULIE**
26 **MARTIN.**

27 After Erich expressed concern that Tony, an adult man, should not be showering with
28 Nathan, a ten-year-old boy, Raina and Tony retaliated with child abuse / neglect allegations

1 against Erich's wife, Julie. While the matter was being investigated, this Court sensibly erred on
2 the side caution and ordered that Nathan must not be left unsupervised with Julie. The Court
3 also ruled that Julie could resume unsupervised contact if she completed an age-appropriate
4 parenting class.

5 As noted above, the Department of Family Services has since concluded its investigation
6 and determined that the allegations of abuse and/or neglect were unsubstantiated. In light of the
7 Department's decision, there is no reason that Julie should not be allowed to interact with Nathan
8 within the parameters of a normal step-parent / step-child relationship. In particular, Erich
9 submits that the Court's orders should be modified to confirm that Nathan may stay in Erich's
10 family home during visitation. Further, Julie should not be required to complete a parenting
11 class. And, going forward, neither Raina nor her counsel should cite to the CPS matter as
12 evidence that Julie a threat to Nathan.

13 **B. THE PARTIES AND THEIR COUNSEL SHOULD STRIVE FOR**
14 **CIVILITY AND PROFESSIONALISM.**

15 Divorce and shared custody of a beloved child is difficult. The matter becomes even
16 more challenging when previously-married parties attempt to co-parent while navigating new
17 seasons of life with new relationships and challenges.

18 In this case, both parties can point to evidence in the record which shows their respective
19 "opponents" behaving in an unbecoming manner. Although the true facts regarding some of the
20 incidents are subject to serious questions, the drama and petty disputes needlessly take away
21 from what should be the parties' shared goals: (1) parenting Nathan in a loving, safe environment
22 and (2) moving on from the divorce that was finalized more than five years ago. So, rather than
23 revisiting old wounds or tattling to the Court regarding the newest drama, Erich submits that the
24 parties and their counsel should simply endeavor to be civil when interacting with one another.

25 Although contact between Erich and Raina should be limited as much as possible, Erich
26 specifically requests an admonishment or reminder that includes the following:

- 27 (1) Neither the parties nor their significant others will insult or belittle one another
28 to or in front of Nathan;

(2) Neither the parties nor their significant others will undermine the other parent's efforts to uphold and enforce reasonable household rules;

(3) Neither the parties nor their significant others will attempt to alienate other family members;

(4) No one will make false claims or otherwise attempt to weapon Child Protective Services and/or law enforcement.

(5) Legal counsel will treat each other with the respect and professionalism that is rightly expected of legal professionals.

C. THIS COURT SHOULD AWARD REASONABLE ATTORNEYS' FEES TO COMPENSATE ERICH FOR NEEDLESS LITIGATION.

It is well-established that Family Courts in the Eighth Judicial District Court have discretion to award attorney's fees pursuant to NRS 125.040, NRS 18.010, and EDCR 7.60. Under NRS 125.040(c), the Court has significant discretion to "require either party to pay moneys necessary to assist the other party in "carry[ing] on or defend[ing] such suit." NRS 125.040 is generally a need based, discretionary standard that centers on the parties' respective circumstances. By contrast, NRS 18.010(2) and EDCR 7.60 sanction groundless, frivolous, or vexatious litigation that needlessly wastes the Court's limited resources. *See Bower v. Harrah's Laughlin, Inc.*, 125 Nev. 470, 493, 215 P.3d 709, 726 (2009); *see also In re 12067 Oakland Hills, Las Vegas, Nevada 89141*, 134 Nev. 799, 804, 435 P.3d 672, 677 (Nev. Ct. App. 2018); *Bobby Berosini, Ltd. v. People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1354, 971 P.2d 383, 387 (1998)).

Here, an award of attorneys' fees is warranted under both standards. With respect to NRS 125.040, the exponential increase in litigation coupled with monies due to Raina have become increasingly unmanageable. While Erich acknowledges that he earns a more comfortable living than most, his expenses are also significant. In addition to a mortgage, utilities, medical expenses, and cost of living expenses for his family of five, Erich is currently responsible for the following:

- Child support - \$808 a month, with a likely increase to \$1,100+ a month;
- Fees pendente lite to Raina - \$5,000;

- Six months' arrears to be fully deposited by November 2021 - \$5,918.01;
- Monthly indemnification to Raina - \$845.43 every month with a 1.3% cost of living increase effective January 2021;
- Attorneys' fees for Marquis Aurbach Coffing - \$12,274.50.

As the Court is aware, many of the large sums in question became due within a very short period of time. Payment of Court-ordered sums is certainly not discretionary, even though Erich is struggling to pay what is due. As should be evident from the large bill, Erich has already held off on paying his attorneys' fees.³

Erich's inability to pay his counsel seriously undermines his ability to meaningfully address the matters before the Court. Proceeding without counsel also would compound Erich's financial issues, especially since Raina's Motion to Modify Child Support and to Reprimand Erich for his Failure to Follow Custody Provisions sought an inaccurate amount of child support and more attorney's fees for Raina. So, in the same way that the Court determined that fees pendente lite were necessary for Raina to participate in the upcoming appeal, the Court should allow a modest award of fees to cover the expenses relating to the instant pleading. *See* NRS 125.040 (allowing support that enables participation in litigation); *see also Sargeant v. Sargeant*, 88 Nev. 223, 227, 495 P.2d 618, 621 (1972) (stating that parties in a divorce action should "be afforded [their] day in court without destroying [their] financial position" and that they "should be able to meet [their] adversary in the courtroom on an equal basis").

Alternatively, an award of attorneys' fees is appropriate under NRS 18.010(2) and/or EDCR 7.60(b) because Raina's Motion to Modify Child Support and to Reprimand was both unnecessary and unwarranted. As noted above, Erich does not disagree that an increase in child support is appropriate in light of the relevant administrative code. Since child support is mathematical, counsel certainly could have worked together if Raina's counsel attempted an EDCR 5.501 discussion. Indeed, even if one assumes that the parties are hostile toward one

³ Attorneys' fees multiplied quickly because of the number of proceedings in this Court and in the appeal. Although Erich initially retained an appellate specialist, the resurrection of child support and custody issues in this Court necessitated input from a family law specialist. In an attempt to buy peace for everyone involved, Erich and his counsel have also made repeated efforts to achieve a global settlement.

1 another – a fair assessment – there is no reason that legal counsel could not address the matter as
2 professionals. Relatedly, while this Court’s guidance and admonitions are helpful and
3 meaningful, nothing in Raina’s motion necessitated the Court’s involvement. Instead, the petty,
4 he-said-she-said allegations and need for civility are matters that counsel could have addressed
5 and, if necessary, submitted to the Court in the form of a stipulation and proposed order. So,
6 because Erich should not foot the bill for an proceedings that could have been avoided, an award
7 of reasonable fees is justified.

8 In Nevada, courts evaluate the *Brunzell* factors when assessing the reasonableness of
9 requested attorneys’ fees. See, e.g., *Miller v. Wilfong*, 121 Nev. 619, 623, 119 P.3d 727, 730
10 (2005). The *Brunzell* factors include:

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

18 *Brunzell v. Golden Gate Nat’l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Although the
19 *Brunzell* factors do not fit neatly in the context of an ongoing controversy, the Court should
20 consider the following, as well as a supplemental fee invoice that may be submitted upon
21 completion of the relevant proceedings.

22 **1. The Professional Quality of Legal Counsel.**

23 The first *Brunzell* factor requires this Court to consider the “training, education,
24 experience, professional standing, and skill” of the attorneys involved. See 85 Nev. at 349, 455
25 P.2d at 33. The quality of MAC as an advocate is well known within Las Vegas legal
26 community and certainly was known to the Court at the time of MAC’s appointment. The firm
27 is AV rated by Martindale Hubbell, and is listed in Martindale-Hubbell’s registry of Preeminent
28 Lawyers.

Associate Kathleen Wilde is the primary attorney working on behalf of Erich Martin.
After graduating *summa cum laude* from the William S. Boyd School of Law, Ms. Wilde served

1 as a judicial law clerk to the Honorable Justice Kristina Pickering and the Honorable Judge Jay
2 S. Bybee. Ms. Wilde is the most senior female associate at MAC and the only attorney
3 recognized as a “Rising Star” and “Best Lawyer” in the field of appellate law.

4 Associate Rachel Tygret provided input and assistance regarding issues specific to family
5 law. Since joining MAC, Ms. Tygret has been recognized on multiple occasions as a “Rising
6 Star” and “Legal Elite” in family law. Amongst Ms. Tygret’s other accomplishments, the Legal
7 Aid Center of Southern Nevada has recognized her dedication to pro bono service.

8 So, to summarize, the attorneys who represent Mr. Martin are leaders in their respective
9 fields and some of the best talent MAC has to offer. Considering the skill that MAC attorneys
10 have to offer, counsel’s rates are also reasonable. Indeed, at \$275 and \$250 per hour, Ms. Wilde
11 and Ms. Tygret charge *half* as much as Raina’s counsel. Counsels’ hourly rates are also well-
12 within the range that courts in Nevada routinely approve. *See, e.g., Scott v. Smith's Food &*
13 *Drug Centers, Inc.*, No. 218CV303JCMVCF, 2020 WL 343642, at *2 (D. Nev. Jan. 21, 2020)
14 (“For the Las Vegas market, this court has regularly awarded fees where the hourly rates at issue
15 were between \$250 and \$400.”); *Home Gambling Network, Inc. v. Piche*, No. 2:05-CV-610-
16 DAE, 2015 WL 1734928, at *11 (D. Nev. Apr. 16, 2015).

17 **2. The Character and Breadth of the Work.**

18 The second *Brunzell* factor requires this Court to consider the difficulty, intricacy, and
19 importance of the work done, as well as the time and skill required. *Id.* at 349, 455 P.2d at 33.

20 The issues in this case are fact-intensive. Although the law relevant to the instant
21 pleading is fairly straight-forward, the character of the work requires a balance between legal
22 analysis and practical considerations. Indeed, in their role as counsel for Mr. Martin, Ms. Wilde
23 and Ms. Tygret have engaged in fact-finding, counseling, and comprehensive legal advocacy.
24 Thus, given the multi-faceted nature of the work performed in this case, the second *Brunzell*
25 factor should not be in dispute.

26 **3. The Work Actually Performed by the Lawyer.**

27 The third *Brunzell* factor asks this court to look to the work actually done, including “the
28 skill, time and attention given to the work.” *Id.* Here, the work actually performed is an

1 evolving matter since the parties have not completed briefing and the Court has yet to hold a
2 hearing. That being said, the work actually performed so far has been completed with careful
3 thought, attention to detail, and quality written advocacy. So, while a comprehensive attorney
4 invoice is not yet available, an estimated 15 hours of attorney time will likely be performed by
5 the time the current controversy is resolved.

6 **4. The Result.**

7 The final *Brunzell* factor centers on “whether the attorney was successful and what
8 benefits were derived.” 85 Nev. at 349, 455 P.2d at 33. As the Court is aware, “success” in the
9 context of family law is tricky because the issues involve relationships, emotions, and law.

10 Here, neither Erich nor his counsel are so audacious as to assume that the Court will
11 wholly rule against Raina. Instead, Erich suspects that the result will include child support in
12 accordance with the Nevada Administrative Code and a general admonishment that everyone
13 should behave like reasonable adults.

14 That being said, even if the Court rules that Erich must pay \$1,399.36 for child support,
15 such a result is markedly better than the \$1,512.88 that Raina requested in her motion.⁴
16 Moreover, the instant filing is highly beneficial in that it will help the Court understand the truth
17 regarding the unsubstantiated allegations of abuse that were wrongly made against Erich’s wife.
18 So, with the concerns of child abuse put to rest, the result should include increased stability for
19 both of the parties and their respective families.

20 Thus, to summarize, the Court has discretion to award fees in accordance with NRS
21 125.040, NRS 18.010, and EDCR 7.60. An award of fees is also warranted in light of Erich’s
22 increasingly perilous financial situation and the *Brunzell* factors.

23 **V. CONCLUSION**

24 For the foregoing reasons, Erich respectfully submits that this Court should order child
25 support in accordance with Nevada law, including a downward deviation for applicable
26 expenses. In all other respects, Raina’s motion should be denied. In addition, this Court should

27 ⁴ Over eight years, the difference of \$113.52 per month amounts to over \$10,000.
28

1 grant Erich's counter-motion, including his request for a modification of orders regarding Julie
2 Martin, an admonishment / reminder regarding civility, and an award of attorney's fees
3 associated with opposing Raina's needless motion.

4 Dated this 10th day of December, 2020.

5
6 MARQUIS AURBACH COFFING

7
8 By /s/ Kathleen Wilde

9 Chad F. Clement, Esq.
10 Nevada Bar No. 12192
11 Kathleen A. Wilde, Esq.
12 Nevada Bar No. 12522
13 Rachel S. Tygret, Esq.
14 Nevada Bar No. 14120
15 10001 Park Run Drive
16 Las Vegas, Nevada 89145
17 Attorneys for Erich M. Martin
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **OPPOSITION TO MOTION TO MODIFY CHILD SUPPORT AND TO REPRIMAND ERICH FOR HIS FAILURE TO FOLLOW CUSTODY PROVISIONS and COUNTERMOTION FOR MODIFICATION OF ORDERS REGARDING JULIE MARTIN, ADMONISHMENT AGAINST INCIVILITY, AND FOR ATTORNEYS' FEES** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of December, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:⁵

Richard L Crane	richard@willicklawgroup.com
Matthew H. Friedman, Esq.	mfriedman@fordfriedmanlaw.com
Justin Johnson	Justin@willicklawgroup.com
Tracy McAuliff	tracy@fordfriedmanlaw.com
Christopher B. Phillips, Esq.	cphillips@fordfriedmanlaw.com
Reception Reception	email@willicklawgroup.com
Gary Segal, Esq.	gsegal@fordfriedmanlaw.com
"Samira C. Knight, Esq. " .	Samira@tklawgroupnv.com
Samira Knight	Samira@TKLawgroupnv.com
Tarkanian Knight	Info@TKlawgroupnv.com

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A

/s/ Kathleen Wilde
An employee of Marquis Aurbach Coffing

⁵ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

Exhibit 1

DECLARATION OF ERICH M. MARTIN

ERICH M. MARTIN, declares as follows:

1. I am the Plaintiff in *Martin v. Martin*, Eighth Judicial District Court case number D-15-509045-D.

2. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

3. I make this Declaration in support of my Opposition to Raina L. Martin's Motion to Modify Child Support and to Reprimand Erich for his Failure to Follow Custody Provisions and my Countermotion for Modification of Orders Regarding Julie Martin, Admonishment Against Incivility, and for Attorney's Fees.

4. I am not opposed to paying child support in accordance with Nevada law.

5. If Raina or her counsel had attempted to address child support privately in accordance with EDCR 5.501, the issue likely could have been resolved without motion practice.

6. While I agree that all parties and their counsel should be civil, I oppose Raina's request for an admonishment because it is based on untrue allegations.

7. My wife, Julie Martin, has never struck or otherwise abused Nathan.

8. On information and belief, Raina and/or her domestic partner initiated a Child Protective Services ("CPS") investigation after I voiced concerned that Tony's practice of showering with Nathan is inappropriate.

9. On November 10, 2020, CPS overturned its previous finding of neglect and removed Julie's name from the central registry.

10. Nathan came to Colorado for visitation between November 11 and 15th.

11. In light of the letter from CPS, Nathan stayed in my home.

12. I did not allow any unsupervised contact between Julie and Nathan.

13. Nathan's visit was not a good experience for anyone involved.

14. Nathan continues to lie with astonishing frequency.

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15. Nathan also will not follow family rules regarding screen time.

16. In an effort to correct Nathan's behavior and maintain consistent enforcement of family rules, I took away cell phone and had him write sentences.

17. I did not restrict Nathan's ability to talk to Raina.

18. I never made Nathan run any distance.

19. Given my many disabilities, including torn labrums and permanent impairment of my back, legs, ankles, and feet, running is not an option in my life.

20. Based on information I received from Southwest and the policies that pertain to unaccompanied minors, there were no issues when Nathan returned to Raina in Las Vegas.

21. I believe that Nathan's poor behavior is the product of coaching coupled with years of familial instability.

22. My primary goal is to reduce contact with Raina – in Court and out of Court – to reduce the drama that is inherent to this case.

23. I am requesting attorney's fees, in part, because litigation-related expenses have become unmanageable since I filed a notice of appeal relating to the August 11, 2020, Order Regarding Enforcement of Military Retirement Benefits.

Pursuant to NRS § 53.045, I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 10th day of December, 2020.

/s/ Erich M. Martin

ERICH M. MARTIN

Kathleen A. Wilde

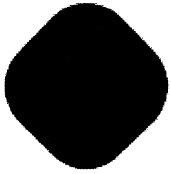
From: Erich Martin <emartin2617@gmail.com>
Sent: Thursday, December 10, 2020 4:13 PM
To: Kathleen A. Wilde
Cc: Rachel S. Tygret
Subject: Re: [External] Declaration of Erich M. Martin.DOCX [IWOV-iManage.FID1122036]
Attachments: image001.jpg

Please sign the declaration on behalf of me. I approve of this opposition to be filed for my case.

Respectfully,

Erich

Exhibit 2



Department of Family Services

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

Timothy Burch, Administrator

Jill Marano, Assistant Director
Judy Tudor, Assistant Director
Margaret LeBlanc, Assistant Director
Abi Frierson, Assistant Director
Debbie Croshaw, Assistant Director

November 10, 2020

Jeffrey S. Posin, Esq.
2520 St. Rose Parkway, Suite 301
Henderson, NV 89074

Case #: 1437183

Report #: 1876806 Report Date: March 09, 2020

Re: Client—Julie Martin

Dear Jeffrey S. Posin, Esq.:

The DFS Internal Agency Appeals Committee has examined the case file, information provided by you and other pertinent documents related to the above report received on March 09, 2020, regarding Julie Martin and minor, Nathan Martin.

The Panel has **OVERTURNED** the child neglect finding and your client's name will either be removed or not entered into the Central Registry. Please contact the Appeals Unit at 702-455-8160 or at DFSAppeals@ClarkCountyNV.gov if you have any questions.

It should be noted that Foster Care licenses are granted at the discretion of the licensing agency. Thus, should DFS determine that there are other reasons that granting a license and/or placing of a child or children in the licensee home is not in the best interest of the child(ren), DFS may deny, suspend or revoke the license.

Sincerely,


Department of Family Services
Legal Unit

Hay servicios gratis de ayuda con otros idiomas. Para pedir un intérprete, llame por favor al Coordinador de Servicios de Intérpretes al (702) 671-4578.

Free language assistance services are available. To request an interpreter, please call the Language Assistance Coordinator at (702) 671-4578.

BOARD OF COUNTY COMMISSIONERS
MARILYN KIRKPATRICK, Chairman, LAWRENCE WEEKLY Vice Chair
MICHAEL NAFT ♦ LARRY BROWN ♦ TICK SEGERBLOM ♦ JUSTIN JONES ♦ JIM GIBSON
YOLANDA KING, County Manager

RA001665

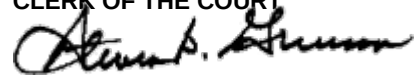
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FDF

Name: Kathleen A. Wilde, Esq.
Address: 10001 Park Run Drive
Las Vegas, NV 89145
Phone: 702-382-0711
Email: kwilde@maclaw.com
Attorney for Erich Martin
Nevada State Bar No. 12522

Electronically Filed
12/11/2020 2:36 PM
Steven D. Grierson
CLERK OF THE COURT



Eighth Judicial District Court
Clark County, Nevada

<u>Erich M. Martin</u> Plaintiff, vs. <u>Raina L. Martin</u> Defendant.	Case No. <u>D-15-509045-D</u> Dept. <u>C</u>
--	---

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (*first, middle, last*) Erich Matthew Martin
2. How old are you? 39
3. What is your date of birth? 12/30/1980
4. What is your highest level of education? Bachelor of Science

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)
03/2020	Civil Defense Contractor	Manager	M-F	8am - 4pm

2. Are you disabled? (☒ check one)
☐ No
☒ Yes If yes, what is your level of disability? 100%
What agency certified you disabled? US Army
What is the nature of your disability? Combat Related 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: US Army Date of Hire: 07/13/1999 Date of Termination: 07/31/2019
Reason for Leaving: Retired from 20 years of active duty service

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending 12/04/2020 my gross year to date pay is 90,270.

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

\$127,440.00	÷	12	=	\$10,620.00
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: <u>CRSC Pay</u>	Monthly	\$2,363.96	\$2,363.96
Total Average Other Income Received			\$2,363.96

Total Average Gross Monthly Income (add totals from B and C above)	\$12,983.96
---	--------------------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	970.59
2.	Federal Health Savings Plan	
3.	Federal Income Tax	557.22
4.	Health Insurance Amount for you: \$814.20 For Opposing Party: _____ For your Child(ren): _____	814.20
5.	Life, Disability, or Other Insurance Premiums	3.78
6.	Medicare	153.66
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	657.08
10.	Union Dues	
11.	Other: (Type of Deduction) _____	
Total Monthly Deductions (Lines 1-11)		3,156.53

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	845.43			
Auto Insurance	500.00			
Car Loan/Lease Payment	700.00			
Cell Phone	400.00			
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...	1,000.00			
Credit Card Payments (minimum due)	3,000.00			
Dry Cleaning	75.00			
Electric	110.00			
Food (groceries & restaurants)	2,000.00			
Fuel	500.00			
Gas (for home)	120.00			
Health Insurance (not deducted from pay)				
HOA	75.00			
Home Insurance (if not included in mortgage)	200.00			
Home Phone				
Internet/Cable	290.00			
Lawn Care				
Membership Fees	35.00			
Mortgage/Rent/Lease	4,203.45			
Pest Control				
Pets	50.00			
Pool Service				
Property Taxes (if not included in mortgage)	383.00			
Security	100.00			
Sewer	50.00			
Student Loans				
Unreimbursed Medical Expense	300.00			
Water	200.00			
Other: _____				
Total Monthly Expenses	15,136.88			

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	Nathan Martin	08/24/10	Mother	Yes	No
2 nd	Kaylie Chambers	04/07/04	Me	No	No
3 rd	Makahl Chambers	07/13/05	Me	No	No
4 th	Dylan Chambers	09/08/08	Me	No	No

- 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		60.00	60.00	
Child Care				
Clothing	100.00	250.00	250.00	250.00
Education	75.00	125.00	125.00	125.00
Entertainment	150.00	150.00	150.00	150.00
Extracurricular & Sports	50.00	835.00	210.00	85.00
Health Insurance (if not deducted from pay)				
Summer Camp/Programs	100.00			
Transportation Costs for Visitation	200.00	100.00	100.00	100.00
Unreimbursed Medical Expenses		80.00		
Vehicle		135.00		
Other: _____				
Total Monthly Expenses	675.00	1,735.00	895.00	710.00

- 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
Julie Martin	46	Wife	

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.	Attorney's Fees	\$ 70,000.00	Erich Martin
2.	Loan	\$ 19,000.00	Erich Martin
3.	Credit Card	\$ 10,135.00	Erich Martin
4.	Car Loans	\$ 27,931.01	Erich Martin
5.	CPS Attorney's Fees	\$ 5,000.00	Erich Martin
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 132,066.01	

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 \$ 5000 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 \$ 12,804.11.
5. I owe my prior attorney a total of \$ 75,000.00.

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

EMM 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.

EMM 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.

/s/ Erich Matthew Martin
Signature

12/10/2020
Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on (date) 12/11/2020, service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

☐ Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

☒ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

Richard Crane, Esq._____

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file

herein to: _____

Executed on the 11th day of December, 2020.

/s/ Cally Hatfield

Signature

Rachel S. Tygret

From: Erich Martin <emartin2617@gmail.com>
Sent: Friday, December 11, 2020 2:16 PM
To: Rachel S. Tygret
Cc: Kathleen A. Wilde
Subject: Re: [External] Declaration of Erich M. Martin.DOCX [IWOV-iManage.FID1122036]
Attachments: image001.jpg

This is ready for submission. Please sign for me.

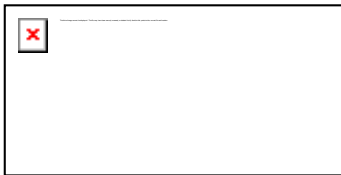
Thanks,

Erich

On Fri, Dec 11, 2020, 2:25 PM Rachel S. Tygret <rtygret@maclaw.com> wrote:

Hi Erich,

Please see the FDF attached.



Rachel S. Tygret, Esq.

10001 Park Run Drive

Las Vegas, NV 89145

T: 702.207.6090

F: 702.382.5816

rtygret@maclaw.com

maclaw.com



Please consider the environment before printing this e-mail!

CO EMPLOYEE ID 000000-000000
PUSHGR 1608331
Cost Center: 16206200

Earnings Statement

Advice Date: 11/06/2020
Advice Number: 0044287596
Batch Number: 000000005826

ERICH MARTIN

Earnings	Units	Amount
Regular Wages	80.00	5,310.00
Tax Deductions: Federal		
Withholding Tax		278.61-
EE Social Security Tax		328.54-
EE Medicare Tax		76.83-
Tax Deductions: Colorado		
Withholding Tax		219.00-
Additional Deductions		
Spouse Life Insurance		1.89-
*Medical EE pre-tax		265.50-
*Vision EE pre-tax		141.60-

Total Net Pay	3,998.03
----------------------	----------

Payment Method	Amount
Direct Deposit	3,998.03
Your federal taxable wages	4,902.90
*Excluded from Federal Taxable Wages	

Total Net Pay \$X,xxx.xx

XX,XXX.XX

Total Work Hours for Pay Period

80.00

RA001675

CO EMPLOYEE ID 000000-000000
PUSHGR 1608331
Cost Center: 16206200

Earnings Statement

Advice Date: 11/20/2020
Advice Number: 0045188713
Batch Number: 000000005871

ERICH MARTIN

Earnings	Units	Amount
Regular Wages	80.00	5,310.00
Tax Deductions: Federal		
Withholding Tax		278.61-
EE Social Security Tax		328.54-
EE Medicare Tax		76.83-
Tax Deductions: Colorado		
Withholding Tax		219.00-
Additional Deductions		
Spouse Life Insurance		1.89-
*Medical EE pre-tax		265.50-
*Vision EE pre-tax		141.60-
Total Net Pay		3,998.03

Payment Method	Amount
Direct Deposit	3,998.03
Your federal taxable wages	4,902.90
*Excluded from Federal Taxable Wages	

Total Net Pay \$X,xxx.xx

XX,XXX.XX

Total Work Hours for Pay Period

80.00

RA001676

CO EMPLOYEE ID 000000-000000
PUSHGR 1608331
Cost Center: 16206200

Earnings Statement

Advice Date: 12/04/2020
Advice Number: 0046589005
Batch Number: 000000005911

ERICH MARTIN

Earnings	Units	Amount
Regular Wages	80.00	5,310.00
Tax Deductions: Federal		
Withholding Tax		278.61-
EE Social Security Tax		328.54-
EE Medicare Tax		76.83-
Tax Deductions: Colorado		
Withholding Tax		219.00-
Additional Deductions		
Spouse Life Insurance		1.89-
*Medical EE pre-tax		265.50-
*Vision EE pre-tax		141.60-
Total Net Pay		3,998.03

Payment Method	Amount
Direct Deposit	3,998.03
Your federal taxable wages	4,902.90
*Excluded from Federal Taxable Wages	

Total Net Pay \$X,xxx.xx

XX,XXX.XX

Total Work Hours for Pay Period

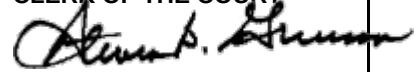
80.00

RA001677

CRSC PAY STATEMENT			
STATEMENT EFFECTIVE DATE Nov 19, 2020		PAYMENT DATE DEC 01, 2020	
		SSN ***-**-3860	
RETIREE'S NAME AND ADDRESS		HOW TO CONTACT US	
PLEASE REMEMBER TO NOTIFY DFAS IF YOUR ADDRESS CHANGES ERICH M MARTIN PAYMENT ADDRESS DIRECT DEPOSIT		Defense Finance and Accounting Service US Military Retirement Pay 8899 E 56th Street Indianapolis, IN 46249-1200 COMMERCIAL (216) 522-5955 TOLL FREE 1-800-321-1080 TOLL FREE FAX 1-800-469-6559 myPay https://myPay.dfas.mil	
PAYMENT INFORMATION		ENTITLEMENT INFORMATION	
CRSC Amount	2,363.96	CRSC Debt Balance	0.00
CRSC Debt Deduction	0.00	Branch of Military Service	ARMY
CRSC Garnishment Deduction	970.59	Garnishment Being Withheld	YES
CRSC Net Pay	1,393.37		
THE DVA OR YOUR BRANCH OF SERVICE PROVIDED THE FOLLOWING			
CRSC Special Monthly Compensation Code	00		
Unemployable	NO		
Combat Related Disability %	90		
Purple Heart %			
CRSC Start Date	SEP 01, 2019		
Special Monthly Compensation Start Date			
REMARKS			

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RPLY
WILLICK LAW GROUP
MARSHAL S. WILLICK, 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 Defendant

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

ERICH MARTIN,
Plaintiff,

vs.

RAINA MARTIN,
Defendant.

CASE NO: D-15-509045-D
DEPT. NO: C

DATE OF HEARING:
TIME OF HEARING:

**REPLY TO
“OPPOSITION TO MOTION TO MODIFY CHILD SUPPORT AND
TO REPRIMAND ERICH FOR HIS FAILURE TO FOLLOW CHILD
CUSTODY PROVISIONS”
AND
OPPOSITION TO “COUNTERMOTION FOR MODIFICATION OF
ORDERS REGARDING JULIE MARTIN, ADMONISHMENT
AGAINST INCIVILITY, AND FOR ATTORNEY’S FEES”**

I. INTRODUCTION

Erich’s *Opposition* belies the claim that anything could be worked out between counsel or the parties.

1 Even though we – as a courtesy – extended the time for the filing of an
2 *Opposition* based on opposing counsel’s indication that Mr. Martin desired to settle
3 this matter, the offers were without substance and did not merit the time that was
4 wasted discussing the matter.

5 Counsel confuses incivility with the frustration of dealing with a party that
6 claims to want to settle a case, and then offers nothing. This has happened multiple
7 times since the recent litigation began. Our refusal to go down that path yet again is
8 thought to be lacking civility.

9 As will be explained below, Erich claims to want to pay child support in
10 accordance with Nevada law, but he hides the truth of his income – badly – and asks
11 this Court to reduce what is paid for reasons that are neither contemplated under the
12 statutes or are based on actual fact.

13 14 **II. FACTS**

15 Raina and Erich have been in litigation over the current matters since early
16 2019.

17 Erich has fought over every single issue, even those contemplated by the
18 parties in the *Decree*. He has fought getting the minor child into counseling, refused
19 to pay unreimbursed medical expenses, and refused to pay Raina her contractually
20 agreed upon retirement benefits.

21 This Court issued an *Order Regarding Enforcement of Military Retirement*
22 *Benefits* on August 11, 2020.

23 Erich appealed that decision by filing a *Notice of Appeal* on September 9, 2020.

24 A *Motion for Attorney’s Fees and Costs Pendente Lite and Related Relief*, was
25 filed by Raina on September 30, 2020.

26 Erich filed a *Motion for Stay Pursuant to NRCP 62(d)* on October 8, 2020.

27 The Court held a Hearing on both *Motions* on November 3, 2020. At that
28 hearing the Court awarded Raina \$5,000 in *pendente lite* fees to be used for the

1 appeal, and granted the stay of enforcement as long as Erich paid the funds due to
2 Raina into his attorney's trust account. Ms. Wilde was ordered to provide a monthly
3 accounting of those funds. Competing orders for this hearing were submitted to the
4 Court, but as of this writing, neither had been entered.

5 On November 18, 2020, Raina filed the instant *Motion* due to the continued
6 abuse reported by her son at the hands of Erich and his wife Julie. She included a
7 review of child support in accordance with NRS 125B.145(1)(b) which states:

8 A parent or legal guardian of the child,
9 be reviewed by the court at least every 3 years pursuant to this section to
10 determine whether the order should be modified or adjusted. Each review
11 conducted pursuant to this section must be in response to a separate request.

12 On approximately November 24, undersigned Counsel was contacted by Ms.
13 Tygret indicating that Mr. Martin was inclined to agree to a modification of child
14 support but that his recently filed FDF was not correct and a new one would be filed.
15 She also indicated that since he was agreeing to the modification, she saw no need to
16 file an *Opposition*. In anticipation of some settlement, we agreed to an indefinite
17 extension of time to file the *Opposition*.

18 On December 2, Ms. Tygret tendered an offer to settle the issue of the *Motion*
19 via email.

20 On December 3, we responded with a counter-offer for global settlement of all
21 issues.

22 On December 7, Ms. Tygret responded to our letter rejecting the offer. She
23 indicated in this letter that she was in the process of obtaining the three most recent
24 pay stubs from Mr. Martin.

25 On December 8, we responded to the rejection of our counter-offer with a letter
26 setting the deadline for the filing of the *Opposition* and *FDF* as being due by
27 December 10. Additionally, we pointed out that Mr. Martin was late in delivering the
28 *pendente lite* fees.

1 The *Opposition* was filed on December 10 and the FDF was filed on December
2 11.

3 4 **III. REPLY TO OPPOSITION**

5 **A. EDCR 5.501**

6 The issues before the Court are still the same as it applies to the minor child.
7 Julie Martin and Erich continue to abuse and harass the minor child when he is in
8 their custody. Additionally, on report from the minor child, Julie provided
9 unsupervised custody of Nathan while he was in Colorado.

10 Based on this being a continuation of the same behavior that was previously
11 litigated, there was no need for any communication to try to resolve this matter before
12 filing the instant *Motion*.¹

13 EDCR 5.501 was established to attempt to resolve issues without the need for
14 litigation. This Court is well aware that the animosity between the parties of this case
15 would make it futile to even make such an attempt.

16 Counsel must admit that we did grant them an extension of time to file their
17 *Opposition* and attempted to resolve this case. Unfortunately, Mr. Martin did not
18 have a sincere desire to resolve the case without taking advantage of Raina and the
19 minor child.

20 Counsel claims that they were willing to resolve the issue of child support and
21 that no litigation was necessary. However, as will be explained below, they did not
22 produce a new FDF to support their calculation of child support until December 11.
23 It was impossible to evaluate their position without the FDF. And, once it was
24 produced, it was so flawed that it was clear they were either aiding Mr. Martin in an
25 attempt to deceive this Court as to his actual income or were not reviewing what was
26 being filed from their office.

27
28 ¹ To be fair, neither Ms. Tygret nor Ms. Wilde were attorneys of record during the majority
of this litigation, so they may have been unaware that Erich and his new wife were abusing the child.

1 The need for any formal compliance with EDCR 5.501 would have been
2 fruitless with Mr. Martin. This has been the case from the beginning.

3
4 **B. Erich's Financial Disclosure Form**

5 This Court relied on an FDF filed by Erich on June 9, 2020, in making
6 numerous *Orders* and decisions. The Court recited the fact that Erich claimed to have
7 an income of \$16,667.13 per month. This included his monthly salary of \$11,504.13
8 and his disability income – which is tax free – of \$5,163 per month.

9 At the *Motion for pendente lite* fees, Ms. Wilde claimed that we were somehow
10 including Erich's wife's income in this number. She repeats this claim in the
11 *Opposition*. However, this Court is aware that we never made any such error. We
12 relied on Erich's FDF even though he did not attach any paystubs to the June filing.

13 Now Erich provides a new FDF that reduces his claimed income by \$3,683.17
14 per month or \$12,983.96. His expenses including deductions from his pay are listed
15 as \$22,308.41.² This would mean that Erich and Julie are running a deficit each
16 month – taking into account Julie's contribution to the community – of \$6,524.45.
17 This is not only unsustainable, it is a lie.

18 First, we look to the paystubs attached to the FDF. He grosses \$5,310 per pay
19 period which is 80 units long. By looking at each paystub, you can determine that
20 Erich gets paid every two weeks and that the units are hours. If you multiply the
21 \$5,310 by 26 pay periods you end up with an annual income from his current job of
22 \$138,060. His FDF on page two claims his salary at \$127,440.

23 It is important to note that on his June FDF, he claimed an annual income of
24 \$138,049.56. It is clear that Erich is attempting to mislead this Court as to his income
25 because child support is at issue. This simple math was not done by his counsel or
26 I would hope they would have corrected the error.

27
28 ² It should be noted that Erich does not indicate what Julie provides to the community
income. However, on the June filing, he indicated that her monthly contribution was \$2,800.

1 This is not the only misrepresentation by Erich. Looking back at his June FDF,
2 we find that he claims that his disability income is \$5,163 a month. In the most recent
3 FDF, he specifies that his CRSC income is \$2,363.96 per month. What happened to
4 the rest of his tax free disability money? We can tell you that he is not including any
5 of the Veterans Disability in this number. Again, he is attempting to hide money from
6 the Court because he knows that it will be used in the calculation of support.

7 Not that it matters in determining child support, but the Court should review
8 his claimed expenses as they further indicate a desire to deceive the Court. In the
9 June FDF, his expenses listed on page 4 were \$10,828 a month. On his new FDF, the
10 expenses rise by nearly 50% to \$15,136.88 per month. What has happened to
11 increase his expenses by this much? The quick answer is, ***nothing!*** These are made
12 up numbers in an attempt to influence the Court.³

13 Though we could spend pages on just how much Erich has lied on this FDF,
14 we will address only one further issue, the amount of money he claims to spend on
15 his only child, Nathan.

16 First, since Mr. Martin is retired from the military, he has Tricare for health
17 insurance. It appears that he has taken Tricare standard which has no cost and covers
18 Nathan for healthcare except for vision and dental.

19 On page 5 of his FDF, he claims to spend \$100 per month on Nathan's clothes.
20 Neither Nathan nor his Mom has ever seen any of these clothes. He then claims to
21 spend \$75 on Nathan's education. Again, we have never seen any such funds being
22 expended for the child.

23 With the exception of transportation costs – which we think are inflated as
24 Erich consistently waives visitation – none of these expenses are real.⁴ As to the
25

26
27 ³ We will refrain from analyzing each claimed expense. The Court can review and see how
28 absurd these expenses are.

⁴ Erich just waived his Christmas visitation.

1 other children, Erich has no legal responsibility to pay for any of the claimed
2 expenses and these should not be considered when calculating support for Nathan.⁵

3 Based on the clearly erroneous and/or fraudulent FDF filed by Erich and his
4 counsel, the Court should ignore any of their child support calculations.

5
6 **C. Julie Martin Has Not Completed the Parenting Class and the Abuse**
7 **Continues**

8 Erich paid a high profile lawyer to get the child abuse claim set aside by CPS.
9 It should be noted that CPS did not include Raina or the minor child in any of the
10 litigation that resulted in the set aside of this abuse claim.

11 The abuse did happen and continues to happen any time that Nathan is in Erich
12 and Julie's care.

13 As a side note, the abuse claim originated with a CPS complaint filed by Erich
14 against Raina's current partner. When CPS arrived at the home, they found the minor
15 child with a wound on his head. They questioned the child who – without prompting
16 – reported that Julie had caused the injury.

17 At the last hearing, the Court said that if Julie attended parenting classes, she
18 could supervise Nathan when Erich is not at home. She has not complied with this
19 requirement and yet, on report from the child, she was left alone with Nathan.

20 We know that during the most recent visitation, Nathan had his phone taken
21 away by Erich; that Erich did not disclose the location of the child – in fact he lied
22 about where the child would be; and he kept the child from being able to
23 communicate with Raina. This tends to prove that he is at best not complying with
24 the visitation orders.

25 Counsel argues that there is no way that they made Nathan run six miles when
26 he arrived in Colorado because Erich can't run that far being disabled. That is what

27
28

⁵ On information and belief, Julie Martin receives child support for these three children which
is what should be used for these expenses.

1 makes this so egregious. They made Nathan – a ten-year old boy – run two miles
2 with his step brother, two miles alone, and then Erich forced him to run another two
3 miles with him.

4 If that wasn't enough, they forced him to write "I will not lie.", 700 times in an
5 attempt to intimidate him from reporting their bad conduct. This child fears going to
6 this home and the Court should arrange for a child interview to determine the veracity
7 of these statements.

8 Counsel argues that the issue with the child pass for the airlines was
9 exaggerated or fabricated. However, we produced the exhibit that shows how Erich
10 had the pass issued. This is a common thread for him as he has issued checks to
11 Raina with the same name even though he is aware that her legal name is Raina
12 Martin.

13 The bottom line is that Erich's parenting skills are woefully deficient and that
14 he has abused his only child physically, emotionally, and psychologically. It must
15 stop!

16
17 **D. Erich has not Provided the *Pendente Lite* Fees as Ordered**

18 Though counsel has claimed that there is nothing we can do about it since there
19 is no written order from the last hearing, the Court needs to know that as of this
20 writing, Erich has paid \$250 toward the \$5,000 award of *pendente lite* fees.

21 Once we have the written order, we will begin collection actions as necessary
22 as the \$250 does not pay for even one hour of time in preparation for the appeal. We
23 have already expended multiple hours preparing for and attending an appellate
24 settlement conference where Erich made no meaningful attempt to resolve this case.

25 The Court should admonish him for his failure to comply with the order, and
26 if necessary, once the written order is in place, hold him in contempt for his failure.
27
28

1 **E. Erich's Counsel has not Provided an Accounting**

2 As this Court is aware, a condition of the stay against collections by Raina of
3 the funds she is due under orders of the Court, was that those funds be paid into the
4 trust account maintained by Ms. Wilde. She was to provide a monthly accounting to
5 show that Erich was actually paying these funds into that account. As of this writing,
6 no accounting has been provided to show that Erich is in compliance.⁶

7 No doubt, we will get the same excuse from Erich's counsel that they made
8 concerning the *pendente lite* fees; since there is no written order, there is nothing we
9 can do. However, as officers of the Court and having actually attended the hearing
10 where that order was made, they have an obligation to obey it.

11 Since they are not producing the required proof, we ask the Court to modify the
12 order so that the funds are paid into our trust account. That way, we can report to the
13 Court if Erich refuses to pay the sums owed. Additionally, with the permission of the
14 Court, we could begin garnishment actions to get the money that is owed.

15
16 **IV. OPPOSITION TO COUNTERMOTION**

17 **A. The Court Should Not Modify Orders Regarding Julie Martin**

18 As argued above, there is nothing that indicates that Julie Martin did not abuse
19 the minor child. The decision by CPS was made in a vacuum without any input by
20 Raina and no interview was conducted of the minor child.

21 We contend that the abuse continues and that Julie violated this Courts orders
22 by being with the minor child unsupervised. The abuse continues and Julie has not
23 attended the required parenting classes. As such, we oppose any change to the *Order*
24 that Julie attend parenting classes and provide proof of the same before she can be
25 around Nathan unsupervised.

26
27
28 ⁶ The Court will note that he lists this expense on his FDF, but we have no way of knowing
if he has actually paid the sums over to his attorney.

1 **B. Parties and Counsel Should Strive for Civility and Professionalism**

2 We could not agree more. However, counsel should not be offended by us
3 pointing out the failings of their client. Taking on their client's problems as their own
4 only results in poor advocacy.

5 Nothing in any correspondence or telephonic communications from our office
6 is unprofessional or not civil. We always retain the right to tell opposing counsel
7 what our view of the case is and how their client has misbehaved. Thin skin has no
8 business in family law.

9
10 **C. This Court Should Not Award any Attorney's Fees to Erich**

11 First and foremost, before a party is entitled to attorney's fees, they must file
12 a valid FDF. We have pointed out that Erich's FDF is fraudulent as to income and
13 in many other ways.

14 Second, this litigation is not unnecessary as it is clear that Erich was attempting
15 to understate his income to avoid the child support that should be paid.

16 Counsel claims that Raina has inflated the claims of abuse, but it is Erich that
17 has refused a child interview by a trained and licensed therapist. The only reason we
18 can surmise for this position is that he is afraid of what the results will be.

19 Under no statute or rule is Erich entitled to fees. In fact, he should be
20 sanctioned for filing a fraudulent FDF and his counsel should be reprimanded for
21 allowing him to do so.

22
23 **V. CONCLUSION**

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

- 26 1. Granting Raina's *Motion* in its entirety to include;
- 27 2. Modifying the child support as indicated in our *Motion* without
28 deviation as none is warranted,

- 1 3. Admonish Erich concerning his treatment of his only natural son,
2 4. Awarding Raina her actual attorney's fees for being forced to
3 bring this to the Court's attention, and,
4 5. Any other relief the Court deems is just and proper under the
5 circumstances.

6 **DATED** this 16th day of December, 2020

7
8 WILICK LAW GROUP

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

10 MARSHAL S. WILICK, ESQ.
11 Nevada Bar No. 2515
12 RICHARD L. CRANE, ESQ.
13 Nevada Bar No. 9536
14 3591 E. Bonanza Road, Suite 200
15 Las Vegas, Nevada 89110-2101
16 (702) 438-4100
17 Attorneys for Defendant

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2. I have read the preceding *Reply*, and I have personal knowledge of the facts contained therein or were relayed directly by Raina Martin. Further, the factual averments contained therein are true and correct to the best of my knowledge, except those matters based on information and belief, and as to those matters, I believe them to be true.

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

EXECUTED this 16th day of December, 2020.

RICHARD L. CRANE, ESQ.

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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 December, 2020, I caused the foregoing document to be served as follows:

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

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

Chad F. Clement, Esq.
Kathleen A. Wilde, Esq.
MARQUIS AURBACH COFFING
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Plaintiff

/s/ Justin K. Johnson

Employee of the WILICK LAW GROUP

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1 **TRANS**

2 **ORIGINAL**

FILED

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Ann D. Johnson
CLERK OF COURT

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

9 ERICH M. MARTIN,)
10 Plaintiff,) CASE NO. D-15-509045-D
11 vs.) DEPT. C
12 RAINA L. MARTIN,) APPEAL NO. 81810
13 Defendant.) **(SEALED)**
14

15 BEFORE THE HONORABLE REBECCA L. BURTON
DISTRICT COURT JUDGE

16 TRANSCRIPT RE: ALL PENDING MOTIONS

17 THURSDAY, JANUARY 12, 2017

18 **APPEARANCES:**

19 THE PLAINTIFF: ERICH M. MARTIN
(Telephonically)
20 FOR THE PLAINTIFF: RANDY RICHARDS, ESQ.
40 S. Stephanie St., #201
Las Vegas, Nevada 89012
21 (702) 384-7494
22 THE DEFENDANT: RAINA L. MARTIN
23 FOR THE DEFENDANT: SAMIRA C. KNIGHT, ESQ.
3215 Costa Smeralda Cir.
Las Vegas, Nevada 89117
24 (702) 810-7070

1 LAS VEGAS, NEVADA

THURSDAY, JANUARY 12, 2017

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 8:56:50 A.M.)

4
5 THE CLERK: Can you hear me, Mr. Martin?

6 THE PLAINTIFF: Yes, I can.

7 THE COURT: Erich Martin, can you hear us?

8 THE PLAINTIFF: I can hear you, Your Honor.

9 THE COURT: All right.

10 THE CLERK: We're on.

11 THE COURT: This is case D-15-509045-D, Erich Martin
12 versus Raina Martin. Counsel, please state your appearances.

13 MR. RICHARDS: Good morning, Your Honor. Randy
14 Richards, bar number 6794, of Kelleher & Kelleher for the
15 Plaintiff.

16 THE COURT: Thank you.

17 MS. KNIGHT: Samira Knight, bar number 13167, on
18 behalf of the Defendant Raina Martin who is present.

19 THE COURT: Okay. Thank you. Go ahead. Have a
20 chair. We are here on Erich Martin's motion to terminate
21 alimony and for attorney fees and costs and on Raina's
22 opposition and countermotion for attorney's fees and costs. I
23 have reviewed the motion that's been filed in this case
24 together with the opposition, the countermotion, the reply.

1 MS. KNIGHT: Your Honor, may I -- I bring up -- I --
2 I was never served with the reply. I didn't really know it
3 was there until yesterday. I checked with the -- the e-file
4 system, and they said that we never got -- that it never went
5 through. And the only reason why we noticed is they did a --
6 they did a supplement to their oppos --

7 THE COURT: They --

8 MS. KNIGHT: They did a supplement to the reply.
9 That was e-served to us. So then once I saw that, I went and
10 I looked it up. And it was filed, but we just were never
11 served it. I did read it over, but I haven't been able to --
12 but I'm just letting -- I was never served and --

13 THE COURT: Okay.

14 MS. KNIGHT: -- and --

15 THE COURT: Are you asking for any relief with
16 regard to that? Do you need more time? Is that --

17 MS. KNIGHT: I don't --

18 THE COURT: -- what you're --

19 MS. KNIGHT: -- believe so.

20 THE COURT: -- asking for?

21 MS. KNIGHT: I think from -- based off of what I
22 read, it's pretty much the same argument as the motion.

23 THE COURT: They just rebutted the things that --

24 MS. KNIGHT: I do --

1 THE COURT: -- you had said --
2 MS. KNIGHT: Yes.
3 THE COURT: -- in your opposition --
4 MS. KNIGHT: So I --
5 THE COURT: -- and countermotion --
6 MS. KNIGHT: -- I think it should be --
7 THE COURT: -- so.
8 MS. KNIGHT: -- okay. I -- I just -- I didn't --
9 didn't really have the time to rep -- it wasn't served to me.
10 THE COURT: Okay.
11 MS. KNIGHT: But I --
12 THE COURT: Well --
13 MS. KNIGHT: -- I did it review it. And I think
14 it's the same -- pretty much the same argument.
15 THE COURT: Are you ready to go forward?
16 MS. KNIGHT: Yeah.
17 THE COURT: Okay. All right. All right. This is
18 the way that I see this. The Court has subject matter
19 jurisdiction over this -- over the case, personal jurisdiction
20 over the parties, and child custody subject matter
21 jurisdiction over the child. I reviewed all the documents. I
22 don't think that there's a reason to argue because I don't
23 think there's anything else that you're going to tell me that
24 I haven't read in the paperwork.

1 It's pretty straightforward. But the Court agrees
2 with Erich that domestic partnerships are equivalent to a
3 marriage. Domestic partners are treated as spouses undeniably
4 with regard at least to spousal support. That's really clear
5 when you're looking at the domestic partnership law.

6 Domestic partnership was a means of getting around
7 the constitutional prohibition against same-sex marriage. And
8 although the Court recognizes that NRS 122A.510 states
9 domestic partnership is not a marriage, for the purposes of
10 Section 21 of Article I of the Nevada Constitution which
11 limits marriage to a union between a male and a female. As
12 you go through the actual domestic partnership statutes,
13 though, with regard to spousal support, it is identical.

14 NRS 125A.200, rights and duties of domestic
15 partners, subsection A, except as otherwise provided in
16 NRS 122A.210, and that has to do with whether employers were
17 -- are required or prohibited from providing health insurance.
18 And in fact in this case, Raina's actually health insurance
19 through her domestic partner.

20 Under subsection A, domestic partners have the same
21 rights, protections, and benefits and are subject to the same
22 responsibilities, obligations, and duties under the law.
23 Whether derived from statute, administrative regulations,
24 court rules, government policies, common law, or any other

1 provisions or sources of law as are granted to and imposed
2 upon spouses.

3 Subsection A says -- or J, I'm sorry. Subsection J
4 says for the purposes of the statutes, administrative
5 regulations, court rules, government policies, common law, and
6 any other provision or source of law governing the rights,
7 protections, and benefits and the responsibilities,
8 obligations, and duties of domestic partners in the state as
9 effectuated by the provision of this chapter with respect to
10 subsection 3 expressly states the right in particular
11 circumstances of either partner to seek financial support from
12 the other following the dissolution of the partnership.

13 The case that was cited by Mom, Sevcik versus
14 Sandoval, the federal case, was reversed by Latta versus
15 Otter. Under NRS 122A.300, when you terminate a domestic
16 partnership, it -- it reads -- actually, the simplified
17 termination of a domestic partnership reads almost exactly
18 like a summary divorce.

19 Including notably subsection 1, except as otherwise
20 provided in subsection 2, domestic partners who wish to
21 terminate a domestic partnership registered pursuant to
22 NRS 122A.100 must follow the procedures set forth in Chapter
23 125 of NRS. And that's our -- our dissolution of marriage
24 section.

1 Subsection 3 says for a domestic partnership to
2 qualify for the simplified termination proceedings set forth
3 in subsection 2, all of the following conditions must exist at
4 the time of the filing pursuant to the -- that subsection.
5 And it states subsection D, the parties waive any rights to
6 support or the parties have executed an agreement setting
7 forth the amount and manner of support.

8 So because a domestic partnership clearly has the
9 ability to obtain a domestic partner, clearly has the ability
10 to obtain spousal support, it would indeed be double-dipping,
11 if one had the -- to be able to claim spousal support from
12 both -- both a former marriage as well as a domestic
13 partnership.

14 And so when I actually -- that kind of was my
15 thought. When I first heard the argument and when I actually
16 got to review the statutes again and look carefully at them, I
17 do find that the domestic partnership with regard to spousal
18 support is the same. And it would be double-dipping.

19 So that was one of the arguments that Mom had. The
20 other one was whether or not alimony was modifiable in this
21 particular case. And the plain language of the decree of
22 divorce provides that alimony is modifiable in this case.

23 There's no separate marital settlement agreement,
24 property settlement agreement. There's no other contract that

1 independently survives the decree. The only document is the
2 decree of divorce. And the decree of divorce is an order that
3 may be modified pursuant to NRS 125.150(8).

4 The cases of Ball and Rush and Renshaw are all
5 consistent with this interpretation as well. Those cases were
6 situations where a separate agreement was not merged. There
7 was a separate agreement, and it wasn't merged into the decree
8 of divorce. So that agreement could not be modified.

9 So these cases -- they can be equally interpreted to
10 support the flipside, you know, where there is an agreement
11 that's not merged, we can't modify. Where there's no
12 agreement, it can also stand for the position that we can
13 modify. We don't have a separate agreement.

14 In there, the Court's not convinced that there was
15 language that constituted an expressed lump sum provision. It
16 said -- it's further ordered adjudged and decreed that Erich
17 shall pay Raina the amount of \$1,000 per month for 24 months
18 beginning June 2015. Alimony payments shall be due on the
19 last day of every month. It doesn't say lump sum in there
20 anywhere. It say -- it talks about 24 months, but that's very
21 typical of a spousal support that's not going to be lifetime.

22 And so Erich's request for alimony to end effective
23 the end of February of 2016 is granted. Erich's request for a
24 \$6,000 reimbursement of alimony that was paid is granted. It

1 -- I would suggest that the parties reach a -- I mean, the
2 Court will reduce that amount to judgment, but I -- I want to
3 stay it pending a -- an agreed upon payment for that.

4 If you don't reach an agreement as to the payment,
5 then it's enforceable by any and all legal means. And Erich's
6 request for attorney fees is granted. Attorney Richards is to
7 prepare the order from these proceedings no later than 10 days
8 after notice of entry of order. Mr. Richards is to provide a
9 memorandum of fees and costs with the Brunzell affidavit
10 together with the billing statements. And Raina shall have 10
11 days thereafter to file a response. So is there any kind of
12 an amount that you were -- do you want to think about it for
13 --

14 MS. KNIGHT: Well --

15 THE COURT: -- a --

16 MS. KNIGHT: -- I wanted --

17 THE COURT: -- payment?

18 MS. KNIGHT: -- to see if there's additional things
19 that I can kind of bring up that I think that were not
20 addressed. The fact is that you -- they called her
21 arrangement like marriage, which it's not. Everything is
22 separate, completely separate --

23 THE COURT: It --

24 MS. KNIGHT: -- except --

1 THE COURT: It doesn't matter. Even in a marriage
2 if --

3 MS. KNIGHT: But --

4 THE COURT: -- you kept --

5 MS. KNIGHT: -- any intent -- they were married for
6 13 years and --

7 THE COURT: Well, hold on.

8 MS. KNIGHT: -- she had no income.

9 THE COURT: Even if -- I know. But even in a
10 marriage, in a marriage, if you had -- if you kept your things
11 financially separate, it wouldn't matter when you marry.

12 MS. KNIGHT: But the intent behind the actual
13 writing, the cases talk about being nonmodifiable. The
14 purpose of it -- the cases have been -- and -- and get
15 attached from Jason Naimi's decrees. Every single one of them
16 citing those three cases, it's not my client's fault that the
17 attorneys mis -- miswrote everything. It says nonmodifiable
18 with the intent that she gets paid for 24 months, and it was
19 for the purposes of her education and nothing else. And she
20 -- that was her request to pay for her education.

21 THE COURT: I -- I know. I read it in your -- I
22 read it in your opposition and counter-motion. It -- what was
23 I going to say. It -- I need to go on the four corners of the
24 decree, and that's what the four corners of the decree --

1 MS. KNIGHT: But the four --
2 THE COURT: The -- the --
3 MS. KNIGHT: The -- it --
4 THE COURT: -- four corners of the decree doesn't
5 say anything about education. It calls it -- clearly uses the
6 word modifiable. It also clearly just -- it clearly states
7 alimony. It -- it's not hooked to an education. It's not --
8 it doesn't say anything like that. It doesn't -- it doesn't
9 for -- it could have been phrased a different way. It wasn't
10 phrased that way. It was phra -- phrased as alimony for 24 --
11 for a period --
12 MS. KNIGHT: Then we --
13 THE COURT: -- of 24 months.
14 MS. KNIGHT: Then we should be able to come back and
15 modify the decree as it's supposed to be written instead of
16 she -- her having an issue due to the problem that two
17 attorneys didn't do what they were supposed to do. That's not
18 -- she's taking the -- she's taking a hit for the attorneys
19 not performing and no one properly identifying what happened.
20 And that's kind of not fair to the system. And if we do go
21 forward with that, everything being granted to them, I do
22 request that you provide me with written opinion so that I
23 could take this up on appeal.
24 THE COURT: The -- well, I've already provided --

1 I've already stated what my ruling is and the findings that
2 I've made. I've already stated it to -- it's -- you can do
3 the written -- the written order from these proceedings and
4 put all those findings in there.

5 MS. KNIGHT: Okay.

6 THE COURT: Okay? All right.

7 MR. RICHARDS: So just for the record then, is she
8 preparing the order, or am I going to prepare the order, or?

9 THE COURT: I don't know. Which one do you -- do
10 you want to prepare the order?

11 MS. KNIGHT: I thought you guys --

12 MR. RICHARDS: I'll -- I'll prepare it --

13 MS. KNIGHT: I mean --

14 MR. RICHARDS: -- and then if she can -- if she's
15 got things she wants to have in there, we can work that out,
16 so.

17 MS. KNIGHT: There was --

18 THE COURT: All right. So put the findings in
19 there.

20 MR. RICHARDS: Okay.

21 THE COURT: Okay.

22 MR. RICHARDS: Thank you, Your Honor.

23 MS. KNIGHT: Okay.

24 THE COURT: And with regard to the \$6,000 that's

1 due, do you want to make an offer for a reasonable payment
2 back, or do you want to work that out and put it in the order?

3 MS. KNIGHT: I would prefer just to work it out with
4 him and see what we can do instead --

5 THE COURT: All right.

6 MS. KNIGHT: -- of doing it on --

7 THE COURT: So it's a --

8 MS. KNIGHT: -- the spot.

9 THE COURT: -- it's a -- I would prefer that you
10 would stay the judgment with a reasonable payment. If you
11 can't reach an agreement, then it's just simply enforceable by
12 any and all legal means.

13 MR. RICHARDS: And --

14 THE COURT: Okay?

15 MR. RICHARDS: And I'm -- and we're fine trying to
16 work something out. Maybe if we -- if we could have a time
17 limit on that, that might be helpful because you -- I know you
18 did sta -- state that, you know, if something weren't going to
19 get worked out, then it would just get reduced to --

20 THE COURT: Well, we're going to --

21 MR. RICHARDS: -- judgment.

22 THE COURT: -- start chasing you for the order if we
23 don't get it within --

24 MR. RICHARDS: Understood. So --

1 THE COURT: Yeah.

2 MR. RICHARDS: -- you know.

3 THE COURT: Usually about 30 days out, we -- the JEA

4 will send a reminder letter and probably another 30 days after

5 that we put it on for an order to show cause, so.

6 MR. RICHARDS: Very good.

7 THE COURT: All right?

8 MR. RICHARDS: All right. Thank you, Your Honor.

9 MS. KNIGHT: Thank you, Your Honor.

10 THE COURT: Why don't both Counsel sign off on the

11 order?

12 MR. RICHARDS: Yes.

13 THE COURT: I want both --

14 MR. RICHARDS: Absolutely.

15 THE COURT: -- Counsel to sign off.

16 MS. KNIGHT: Yes --

17 MR. RICHARDS: Yeah.

18 MS. KNIGHT: -- please.

19 THE COURT: Okay? Thank you.

20 THE CLERK: Okay, Mr. Martin, I'm going to hang up

21 the phone now.

22 THE PLAINTIFF: All right.

23 THE CLERK: Thank you.

24 THE PLAINTIFF: Thank you.

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(PROCEEDINGS CONCLUDED AT 9:09:52 A.M.)

* * * * *

ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the above-
entitled case to the best of my ability.

Adrian Medrano

Adrian N. Medrano

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1 **TRANS**

FILED

DEC 24 2020

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3 **ORIGINAL**

Ann D. Schuman
CLERK OF COURT

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5 **EIGHTH JUDICIAL DISTRICT COURT**

6 **FAMILY DIVISION**

7 **CLARK COUNTY, NEVADA**

8
9 ERICH M. MARTIN,)
10 Plaintiff,)
11 vs.)
12 RAINA L. MARTIN,)
13 Defendant.)

CASE NO. D-15-509045-D

DEPT. C

APPEAL NO. 81810

(SEALED)

14
15 BEFORE THE HONORABLE REBECCA L. BURTON
16 DISTRICT COURT JUDGE

17 TRANSCRIPT RE: ALL PENDING MOTIONS

18 TUESDAY, JUNE 2, 2015

19 **APPEARANCES:**

20 THE PLAINTIFF: NOT PRESENT
21 FOR THE PLAINTIFF: FRANCESCA M. RESCH, ESQ.
22 10000 W. Charleston Blvd., #110
23 Las Vegas, Nevada 89135
24 (702) 901-4800

THE DEFENDANT: NOT PRESENT
FOR THE DEFENDANT: NOT PRESENT

1 LAS VEGAS, NEVADA

TUESDAY, JUNE 2, 2015

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 9:53:20 A.M.)

4

5 THE COURT: Oh, just --

6 MS. RESCH: I'm on the right side --

7 THE COURT: -- just you --

8 MS. RESCH: -- aren't I?

9 THE COURT: -- are showing up?

10 MS. RESCH: I'm on the wrong side. Yes, it'll just
11 be me.

12 THE COURT: Okay. This is case number
13 D-15-509045-D, Erich Martin versus Raina Martin. Counsel,
14 please state your appearance.

15 MS. RESCH: Francesca Resch, bar number 13011,
16 appearing for Mr. Naimi on behalf of our client Mr. Martin who
17 is not present. And the other side will not be present as
18 well because we did reach a settlement yesterday.

19 THE COURT: Yay.

20 MS. RESCH: Yes. So we are preparing the decree. I
21 have our marital settlement agreement that we created if you
22 wanted to review it and confirm that we did come to an
23 agreement, but.

24 THE COURT: I will take your word for it.

1 MS. RESCH: I don't know if you want to set a return
2 hearing just to ensure that -- or a status check regarding the
3 decree.

4 THE COURT: Where -- where are you in the process?

5 MS. RESCH: We just settled yesterday evening.

6 THE COURT: Okay.

7 MS. RESCH: So we haven't started the decree yet,
8 but.

9 THE COURT: You know what? My JEA is really good at
10 following up.

11 MS. RESCH: Okay.

12 THE COURT: So --

13 MS. RESCH: Perfect.

14 THE COURT: -- we -- we will just -- yeah, if she
15 doesn't get that decree probably within the next couple of
16 weeks, you'll probably be hearing from her or certainly --

17 MS. RESCH: Perfect.

18 THE COURT: -- within 30 days because we get reports
19 that come out that say orders are outstanding. So you'll hear
20 from us.

21 MS. RESCH: All right.

22 THE COURT: So I don't think we need to clog the
23 calendar with a status check.

24 MS. RESCH: Right.

1 THE COURT: If for some reason it falls apart, which
2 I hope it doesn't, then you can simply renotice it for a case
3 management conference. Okay?

4 MS. RESCH: Perfect.

5 THE COURT: Otherwise, we'll be looking for the
6 decree.

7 MS. RESCH: All --

8 THE COURT: Thanks.

9 MS. RESCH: -- right. I will have it to you
10 shortly.

11 (PROCEEDINGS CONCLUDED AT 9:54:50 A.M.)

12 * * * * *

13 ATTEST: I do hereby certify that I have truly and
14 correctly transcribed the digital proceedings in the
15 above-entitled case to the best of my ability.

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19 _____
Adrian N. Medrano

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1 TRANS

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CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

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

BEFORE THE HONORABLE REBECCA L. BURTON
DISTRICT COURT JUDGE

TRANSCRIPT RE: RETURN HEARING

THURSDAY, SEPTEMBER 22, 2016

APPEARANCES:

THE PLAINTIFF: ERICH M. MARTIN
(Telephonically)
FOR THE PLAINTIFF: JOHN T. KELLEHER, ESQ.
40 S. Stephanie St., #201
Las Vegas, Nevada 89012
(702) 384-7494

THE DEFENDANT: RAINA L. MARTIN
FOR THE DEFENDANT: MICHELE L. ROBERTS, ESQ.
1810 E. Sahara Ave., #126
Las Vegas, Nevada 89104
(702) 358-0620

1 LAS VEGAS, NEVADA

THURSDAY, SEPTEMBER 22, 2016

2 P R O C E E D I N G S

3 (THE PROCEEDINGS BEGAN AT 11:24:55 A.M.)

4

5 THE COURT: Good morning. This is case
6 D-15-509045-D, Erich Martin versus Raina Martin. Counsel,
7 please state your appearances.

8 MR. KELLEHER: Good morning, Your Honor. John --
9 John Kelleher, bar number 6012, on behalf of Mr. Martin, Your
10 Honor, who is present by phone or will be.

11 THE COURT: And we're getting him on the record --

12 MR. KELLEHER: Right.

13 THE COURT: -- on the phone.

14 MR. KELLEHER: He's in the military, and you said he
15 could attend by phone.

16 THE COURT: I remember.

17 MS. ROBERTS: Good morning, Your Honor. Michele
18 Roberts, bar number 9168, on behalf of the Defendant Raina
19 Martin who is also present.

20 THE COURT: Okay. Thank you. Everyone can sit
21 down till we get him on the line.

22 THE PLAINTIFF: Hello?

23 THE CLERK: Hi, Mr. Martin?

24 THE PLAINTIFF: Yes.

1 THE CLERK: You're on the record in open court
2 appearing before the Honorable Judge Burton. Your attorney
3 Mr. Kelleher is here, and Defendant and her Counsel Ms.
4 Robertson (sic) is here as well.

5 THE PLAINTIFF: Okay.

6 THE CLERK: Thank you.

7 THE COURT: All right. Mr. Martin --

8 THE PLAINTIFF: Thank you.

9 THE COURT: -- can you -- Mr. Martin, can you hear
10 me?

11 THE PLAINTIFF: I can.

12 THE COURT: All right. This is Judge Rebecca Burton
13 in Las Vegas, Nevada, and we are here in open court. We are
14 here for the return from mediation. And while the parties did
15 participate in mediation, I have a letter from mediation that
16 says that the parties were unable to reach an agreement. So
17 where are we? Have -- have Counsel been able to work anything
18 out?

19 MR. KELLEHER: No, Your Honor. And this is -- may I
20 just go through with the -- the issues as they -- as we see
21 them, and then you'll have to -- to decide? First of all,
22 Your Honor, you had already ordered that she wrongfully
23 withheld the child and gave him 13 days of makeup time. And
24 you sent them to mediation specifically to work out when those

1 13 days would be. We can't reach any agreement on those 13
2 days.

3 So we're asking that some of those days, Your Honor,
4 be here in Las Vegas. Erich's going to be in town for three
5 or four days in October. There's a break because the child
6 goes to school year round. So we would like to make those
7 days up in October.

8 THE COURT: So at least three or four of those days
9 --

10 MR. KELLEHER: Well, I'm just --

11 THE COURT: -- in October?

12 MR. KELLEHER: -- saying he's already here three or
13 four of those days. So he can come into town and have him on
14 those days, and then the rest of the time will be in Colorado.

15 THE COURT: Oh, I see.

16 MR. KELLEHER: Right. The next thing that we're
17 asking for, Your Honor, I just want to -- I'll -- I'll just go
18 down what we're -- what the other issue that is at the -- at
19 the loggerheads of this dispute is the decree says
20 specifically that my client would pay for unaccompanied -- I'm
21 sorry, would pay for accompanied minor until such time as
22 Erich could -- I'm sorry, as the child could travel
23 unaccompanied.

24 It's right in the decree. He can travel

1 unaccompanied on Spirit and Southwest Airlines. So he's old
2 enough to fly unaccompanied. We're asking the Court to
3 therefore enforce the decree which says that that requirement
4 only existed as long as he -- it was required that he be
5 accompanied as a minor.

6 The other issues that we have, Your Honor, which is
7 -- and -- and are housekeeping. We are -- are very clear
8 about them. First of all, as to the QDRO, my client's paid --
9 he -- he has paid QDRO masters for his half of that. I don't
10 know where the order is, but we're happy to -- you know, we'll
11 sign off. We'll review it and then obviously sign off on it.

12 But he's paid. That's done. That was one of the
13 issues as to why she had previously said she wasn't going to
14 send the child and he couldn't get the visitation and all the
15 rest. But you had already addressed it. Wants to make sure
16 that's done.

17 What we're asking the Court to do, Your Honor, I'll
18 be very, very brief about it. Ultimately, you're going to
19 have to make a decision. What we're asking for is she's
20 enrolled the child in a year-round school. Therefore, the --
21 the kind of the standard plan which basically says that the
22 child is with Dad whenever school is not in session as an out
23 of state non-custodial parent, that we're just asking that the
24 Court say okay, whenever the breaks are, at Christmas this

1 year for instance, it ends December 19th -- I'm sorry, it
2 begins December 19th and ends on January 2nd.

3 And we're asking, Your Honor, that, you know, that
4 be the Court's order. That -- that's the Christmas break.
5 And on even years, Erich would like to have Nathan the first
6 half of Christmas break, which would be December 19th at
7 8:00 p.m. to December 26th at 8:00 p.m., and that she have him
8 December 26th at 8:00 p.m. until January 2nd at 8:00 p.m. And
9 then in odd years, we would swap. That's what we're asking
10 for.

11 The next thing that we're asking for is -- and
12 Thanksgiving, that it be -- it be defined because of the way
13 that they do this with the year-round school that it would be
14 defined as the Friday before the Sunday. So Erich would have
15 Nathan on all the odd years beginning 2017 on the Friday
16 before spring break -- I'm sorry, I apologize. I skipped
17 over.

18 What we're asking for on Thanksgiving is that it be
19 defined as the Friday before 8:00 p.m. and continue until
20 8:00 p.m. on the Sunday following the holiday, that -- that
21 Raina would have Nathan on even years beginning on 2016 and
22 Erich would have Nathan on odd years.

23 THE COURT: So Thanksgiving is -- it's a week then.

24 MR. KELLEHER: That's correct, Your Honor.

1 THE COURT: Okay. All right. And I'm sorry, tell
2 me Christmas again.

3 MR. KELLEHER: I -- I apologize. This is -- because
4 it's a year-round school, Christmas, Your Honor, is December
5 19th until January 2nd. That's the Christmas break that he
6 has. So what we're asking for is that the first division
7 start December 19th at 7:00 p.m. -- well, let me back up --
8 that it be defined as 7:00 p.m. on -- on December 19th and
9 7:00 p.m. on January 2nd, right, for the purposes of doing
10 this order. Because -- and I -- and I really appreciate, Your
11 Honor, that you were probably the most detailed of anyone on
12 these holidays, that unfortunately if there's one -- one
13 second or one thing that is in any way can be interpreted as
14 to not give them the visitation or him not to get the time,
15 then that will be the way it's interpreted.

16 So what we're saying is that it would be
17 7:00 o'clock p.m. on those days. We're asking that Nathan
18 (sic) have the first half of Christmas on even numbered years,
19 which would be this year, which would run from December 9 --
20 19th at 8:00 o'clock p.m. to December 26th at 8:00 o'clock
21 p.m.

22 THE COURT: And what happens next year when these
23 dates are different?

24 MR. KELLEHER: Well, it would be the same thing,

1 Your Honor. We would just take the midpoint, but what --
2 well, let me back up. We can't take the midpoint because
3 December 26th was the only day we can have the child fly. So
4 it's going to be one of those situations where I -- I think
5 someone's -- you know, we're -- we're hoping --
6 THE COURT: More or less --
7 MR. KELLEHER: -- everyone acts in good faith.
8 THE COURT: -- it works out in a wash.
9 MR. KELLEHER: More -- right.
10 THE COURT: You're going to -- sometimes you lose or
11 pick up a few days depending on where the --
12 MR. KELLEHER: Right.
13 THE COURT: -- Christmas actually falls. But so --
14 MR. KELLEHER: Right.
15 THE COURT: -- so your concept is -- so December
16 19th is actually the first day of the break?
17 MR. KELLEHER: That's the day that -- that school
18 gets out.
19 THE COURT: Is that the -- oh, that's the day school
20 gets out.
21 MR. KELLEHER: Correct.
22 THE COURT: Okay. And January 2nd is the day before
23 school begins?
24 MR. KELLEHER: Yes, Your Honor.

1 THE COURT: Okay.

2 MR. KELLEHER: At this year-round school.

3 THE COURT: And then obviously, the 28th is --

4 MR. KELLEHER: Right.

5 THE COURT: -- or the 26th is -- the 26th --

6 MR. KELLEHER: Right. And then what we're saying
7 for Thanksgiving is that's from the day that school gets out
8 because it's a break that he's off for this week.

9 THE COURT: Right.

10 MR. KELLEHER: So and we're just asking that it be
11 alternated, right, so that, you know, he'd odd years. So
12 obviously, he has the first half of Christmas Break. We've
13 explained it to our client, that look, if you have the first
14 half of Christmas break, because it has Christmas Eve and
15 Christmas Day, then Mom gets, you know, Thanksgiving. That's
16 the normal. That's all we're asking for. Spring break, we're
17 just asking that he have Nathan on all odd years beginning in
18 2017 and then again it be defined as Friday before to the
19 Sunday after.

20 Then on -- on the -- July 4th, Your Honor, we're
21 just asking that they'd alternate the July 4th weekend,
22 although here's the issue with that, Your Honor. We're asking
23 -- and this is the -- the problem that we have. We're asking
24 that the July 4th weekend be alternated, and Dad would have

1 every odd year. However, if the child goes back to -- to
2 regular nine-month school or depending on the break, if
3 that --

4 THE COURT: Hold on. Just a second. Our light went
5 out.

6 THE CLERK: I know. I just noticed it. It just
7 went out. Hold on one second. It's -- it --

8 THE COURT: We still have a record?

9 THE CLERK: Let me just see -- yeah, we just
10 (indiscernible) --

11 THE COURT: We may still have a record.

12 MR. KELLEHER: Okay.

13 THE COURT: So nobody say anything untoward.

14 MR. KELLEHER: Okay. Right. I was just about to
15 get to the end towards the --

16 THE COURT: It's -- so we don't know? Yeah. Do you
17 think we still have a record?

18 THE CLERK: (Indiscernible).

19 THE COURT: Okay. Hang on.

20 (Pause)

21 THE CLERK: One moment, please, Mr. Martin.

22 THE PLAINTIFF: No problem, Your Honor. I
23 understand.

24 (Pause)

1 THE CLERK: We still have a record, Judge, so
2 (indiscernible).

3 THE COURT: Okay. It just came back up. All right.
4 Go ahead. I'm sorry. You were talking about --

5 MR. KELLEHER: So --

6 THE COURT: -- 4th of July.

7 MR. KELLEHER: Yes, Your Honor. So -- so just --
8 I'm just going to be -- continue to try and be succinct,
9 although I may have -- not be. So what we're saying, Your
10 Honor, is that if it obviously goes to a nine-month school,
11 then we'd have to probably relook at July 4th, whether that
12 makes sense to carve it out. But since he's in a year-round
13 school, that's what we're asking for as of right now.

14 In the summer, Your Honor, what we're asking is that
15 Dad get every bit of time in the summer except for two weeks.
16 And I know this Court sometimes will put a two weeks at the
17 end rather than the week before on either end. I have
18 explained that to my client, and we're fine either way which,
19 whatever the Court decides. But that -- what we're asking
20 for, the whole summer break minus two weeks, whatever track
21 he's on at the -- at the summer school.

22 In addition to that, Your Honor, I would just --
23 I'll finish up with this, is that Father's Day and Mother's
24 Day, obviously our position would be that he would have

1 Father's Day and she would have Mother's Day. And that'd just
2 be defined as the entire weekend from Friday until Sunday
3 before school begins.

4 And then what -- what we leave with you, Your Honor,
5 is simply this is that if the Court decides that if Mom has a
6 -- this position that the child needs to be accompanied, that
7 there's no way that this child's going to get on a flight even
8 though all the other kids do it, then what we're asking, Your
9 Honor, is simply this, is that -- is that we -- we just
10 learned just recently, and I confirmed it this morning, that
11 the Defendant has -- is in a registered domestic partnership
12 and has been for almost seven months under NRS 122A.200.

13 And my client, Your Honor, has been paying alimony
14 because she didn't tell him that until we found out. He's --
15 he's overpaid his alimony by six months. It should be
16 completely eliminated. And I'll point it out very clearly
17 that the statute says right in the first paragraph that you
18 have all the same rights and responsibilities as a married
19 couple.

20 Everyone understands what the purpose of the
21 domestic partnership statute was. And then it even goes down
22 under subsection 4 and says that for all purposes, if you're
23 treated as a community property, all your debts and assets are
24 -- are considered community property.

1 There's no question she's in a domestic partnership,
2 so we're saying two things. One is he shouldn't have to pay
3 anymore alimony whatsoever, and he really should be reimbursed
4 from the date of that for -- you know, backwards. If the
5 Court decides that she -- that the -- the child travels
6 accompanied, then she should pay for it, and she can do the
7 accompanying if that's how she feels about it.

8 But very respectfully, Your Honor, there's one last
9 housekeeping. My client had a DUI. He's a member of the
10 military. He was -- he has -- you know, he has an interlock
11 on this -- on the car, which the Court already pointed out.
12 But in addition to that, you had ordered him to take -- and I
13 -- I'm -- I'm not real familiar with the --

14 THE COURT: The Smart Start?

15 MR. KELLEHER: The Smart Start. And he has done
16 that, but I don't have the results. And my understanding is
17 that those results just went straight to the Court. So I --

18 THE COURT: We don't usually get results unless
19 there's a --

20 MR. KELLEHER: Okay. I don't --

21 THE COURT: -- positive.

22 MR. KELLEHER: I -- I -- what I'm saying is we've
23 heard nothing negative, and my client's done it. And we've
24 provided proof that he's done it. And all I'm saying is that

1 I haven't received any report. And my understanding, not
2 knowing the program, is that the results would have come here.
3 But if there's no report, then --

4 THE COURT: We'll --

5 MR. KELLEHER: -- there's no report.

6 THE COURT: -- check that.

7 MR. KELLEHER: But yeah. So unless the Court has
8 any questions, Your Honor, that's all I have.

9 THE COURT: Well, the parties went to mediation for
10 travel. So you've indicated that -- that the travel issue
11 with -- with regard -- your -- your resolution is that, look,
12 the child's old enough to fly unaccompanied. And if Mom wants
13 the child to continue to be accompanied, then she needs to
14 make that happen.

15 MR. KELLEHER: And she can pay for it, Your Honor,
16 so long as -- you know, my understanding is that they also
17 went to mediation over the 13 days on -- over the visitation
18 itself.

19 THE COURT: Well, and also --

20 MR. KELLEHER: But that's why you sent them --

21 THE COURT: -- over school and activities --

22 MR. KELLEHER: Right, everything.

23 THE COURT: -- and --

24 MR. KELLEHER: All of it. Right. And we understand

1 that obviously the child is here primarily, so we understand
2 that there -- there'd be some flexibility in terms of the
3 activities so long as it doesn't -- it doesn't conflict with
4 the visitation that Dad's entitled to.

5 THE COURT: And I've --

6 MR. KELLEHER: And --

7 THE COURT: -- already made that order.

8 MR. KELLEHER: Well, right. Exactly. So it's --
9 that's it. So other --

10 THE COURT: The school --

11 MR. KELLEHER: -- than that --

12 THE COURT: -- the child's already enrolled in --

13 MR. KELLEHER: She's already --

14 THE COURT: -- the school --

15 MR. KELLEHER: -- enrolled the child --

16 THE COURT: -- and is --

17 MR. KELLEHER: -- in school.

18 THE COURT: -- he's o -- he's good with that?

19 MR. KELLEHER: My client's fine with it, Your Honor.

20 We have accepted it. We just want his out of state schedule
21 to be consistent then with the -- with the --

22 THE COURT: And then --

23 MR. KELLEHER: -- year-round school and --

24 THE COURT: Well --

1 MR. KELLEHER: -- that's what --

2 THE COURT: -- and the Court's general ruling is
3 that there's no taking the child out of this school without --
4 the parties have joint legal custody, so no changing of school
5 without, you know, discussing it between the parties and
6 reaching an agreement.

7 If you can't reach an agreement, then it's an issue
8 with the school because -- or it's an issue -- it's a motion
9 to file because generally speaking the Court's going to leave
10 the child in the school that they're already in while -- while
11 we work it out. And usually unless for some reason that can't
12 happen because somebody moved or whatever out of the
13 jurisdiction. So all right. Counsel?

14 MS. ROBERTS: Okay. First -- first of all, we -- we
15 had this conversation at the last hearing when -- when
16 Mr. Richards was here. The school that my client is zoned for
17 is a year round school, so it wasn't like she just decided to
18 pick a year round school. And I wanted to clarify that just
19 in Mr. Kelleher didn't know that.

20 As far as regarding the 13 days make up visitation,
21 the parties didn't even get a chance to even address that
22 issue at mediation. So -- but it's my understanding that the
23 parties have agreed that there would be make-up visitation
24 come October.

1 THE COURT: Okay. Well, then let's get that
2 clarified, then.

3 MS. ROBERTS: Is --

4 THE COURT: So --

5 MS. ROBERTS: -- that correct?

6 THE COURT: -- when -- Mr. Martin, when will you be
7 coming into town? Are you already here? No, he's not --

8 THE PLAINTIFF: Could you say that again, Your
9 Honor?

10 MR. KELLEHER: He's not here. He's in Colorado.

11 THE COURT: Oh, that's right. That's right. It's
12 in October. We're not in October yet. So when -- do you know
13 when you're coming in?

14 THE PLAINTIFF: I think it's like around 1:00
15 o'clock in the afternoon on the 27th of October, Your Honor.

16 THE COURT: On October 27th?

17 THE PLAINTIFF: Correct, Your Honor.

18 THE COURT: Okay. So what's your proposal with
19 regard to the 13 days? I mean, when -- when specifically are
20 you proposing to -- what day and time are you proposing the
21 exchange to take place and then the return to take place?

22 THE PLAINTIFF: As far as like doing the make-up,
23 Your Honor?

24 THE COURT: Yes.

1 THE PLAINTIFF: I'm not exactly sure because I
2 wasn't sure like how the ruling was going to be as far as like
3 Nathan's break. But, I mean, honestly it can probably start
4 in November because I think he has a pretty hefty break
5 between the November and December time frame. I do realize
6 that Raina has him for Thanksgiving this year, which is fine.
7 I understand that. But if I can get some of those days during
8 that point in time, that would be great.

9 THE COURT: Okay. So not October? You're talking
10 about November?

11 THE PLAINTIFF: Correct, Your Honor, because I mean,
12 I figure October that day -- like, that day is his last day of
13 school. So he's technically on a break because the 28th,
14 29th, and the 30th is that weekend, and it's -- it's like a
15 three day weekend. So I would've normally had that option, I
16 believe, based on what the decree states. But since I'm going
17 to be down there, I figured I would just take my time with him
18 there. So that way, he doesn't have to fly particularly on
19 that weekend.

20 THE COURT: Okay. So you're saying that's already
21 your regular weekend. Is that what you're --

22 THE PLAINTIFF: Say it again, Your Honor? I'm
23 sorry.

24 THE COURT: Are you saying that's already your

1 regular weekend, that late weekend in October? So you don't
2 want to use that as make-up because it's already your assigned
3 time?

4 THE PLAINTIFF: Correct, Your Honor. Because like I
5 said, that -- like the 28th, he's already off for like
6 whatever school break thing that they're doing. So it's
7 technically considered like a three-day weekend --

8 THE COURT: Well --

9 THE PLAINTIFF: -- which is a -- as defined by like
10 the decree was like a three-day -- three-day break or more is
11 considered a, quote-unquote, school break.

12 MR. KELLEHER: Well, then, Your Honor, respectfully,
13 can we just do this, then? For the two weeks then, it -- with
14 the exception of this 2017, he'd get the whole summer, and she
15 wouldn't get the two weeks. And that would make up the -- the
16 two-week time break. There -- there's really no other way to
17 do it because unfortunately, right, there's only so many
18 breaks during the year.

19 And he's already -- he's getting half of them, and
20 she's not going to want to give him Christmas, right, the
21 whole Christmas one year. So there's really no other time to
22 do it except I guess possibly Spring break, but that would
23 drag him out years in advan -- you know --

24 THE COURT: Are they alternating spring break? I

1 didn't catch --

2 MR. KELLEHER: Well, in --

3 THE COURT: -- spring break.

4 MR. KELLEHER: -- terms of spring break --

5 THE COURT: I don't think you --

6 MR. KELLEHER: -- yeah, it was going to be
7 alternating spring break.

8 THE COURT: Okay.

9 MR. KELLEHER: So and he was going to have it -- he
10 was going to have it in 2017. So it would -- he's not even
11 making the two weeks up -- he wouldn't make up a week until
12 2018. So --

13 THE COURT: And that would only make up part of it.

14 MR. KELLEHER: That would only make up part of it.
15 Right, so.

16 THE COURT: Okay. So let's hear from Counsel as to
17 what your proposal is.

18 MS. ROBERTS: The parties had a -- the mediator sent
19 a partial parenting plan regarding the vacations to the
20 parties. That's what my client had agreed with. I don't --
21 and I don't know if that's what Mr. Kelleher was reading off
22 of. But there was a partial parenting plan sent to them with
23 regard to vacations and holiday schedules. That is what my
24 client agreed to, but her one request was that -- that the

1 parties alternate spring break.

2 And then there's also an issue -- the way
3 Mr. Kelleher stated it was regarding July 4th having that time
4 for Dad for odd years. The problem is is that if the school
5 is in session, July 4th falls on -- in the middle of the week,
6 he only -- Nathan only has one day off. So I'm not sure how
7 you're going to fly a child out for one day. There's a couple
8 of other matters that --

9 THE COURT: Yeah, but even in -- he's in Clark
10 County School District, right?

11 MS. ROBERTS: Yes.

12 THE COURT: Okay. My daughter was in the year-round
13 program for awhile because they did that for awhile.

14 MR. KELLEHER: Right.

15 THE COURT: And -- and then apparently have now come
16 back to it. But I know that despite wherever the track breaks
17 are, they separately itemize whether it was inside or outside,
18 you know, the track breaks. They say what the -- you know,
19 the winter break is and it's still the same winter break as
20 everybody else has.

21 MS. ROBERTS: Right.

22 MR. KELLEHER: Right.

23 MS. ROBERTS: I wasn't talking about -- I was
24 talking about July 4th.

1 THE COURT: Oh, I'm sorry. I'm sorry. I -- I don't
2 know why --
3 MS. ROBERTS: Because if it falls under the --
4 THE COURT: -- I was thinking January 4th. I
5 thought you said January.
6 MS. ROBERTS: July 4th. If it -- if it falls --
7 THE COURT: Okay.
8 MS. ROBERTS: -- in the middle of the week, it's --
9 Nathan only gets one day off.
10 MR. KELLEHER: Well, there's always the July 4th
11 weekend.
12 MS. ROBERTS: Well, I -- I don't --
13 MR. KELLEHER: That's what we're talking about.
14 MS. ROBERTS: -- know if there is with -- with the
15 year-round. I mean, there is the weekend, but not like, you
16 know, whether it's a three or four-day weekend. There is no
17 guarantee on that because of what day the 4th falls in. So
18 you know, so if we're looking at it, it would have to be, you
19 know, Friday to Sunday.
20 THE COURT: The 4th of July is on Wednesday, for
21 example. There won't be a weekend.
22 MR. KELLEHER: Right.
23 THE COURT: That would --
24 MS. ROBERTS: So --

1 THE COURT: -- be rare.

2 MS. ROBERTS: So those were some of the issues, but
3 to --

4 THE COURT: But what -- but what's her proposal to
5 resolve them?

6 MS. ROBERTS: My client's proposal was to agree upon
7 what the mediator had sent them as part of the vacation
8 holiday schedule. She was -- she was a -- she was agreeable
9 to that, with the exception that she was asking that they
10 alternate spring break.

11 THE COURT: He just mentioned alternating spring
12 break.

13 THE DEFENDANT: Yeah.

14 MS. ROBERTS: Yeah. So but what I'm saying, though,
15 is what Mr. Kelleher read off, I don't know if that is what
16 the proposed vacation --

17 THE COURT: Do you have --

18 MS. ROBERTS: -- holidays are.

19 THE COURT: -- the proposal?

20 MS. ROBERTS: Not -- not in front of me at this
21 time, no. So did -- the mediator didn't send you a copy yet?

22 MR. KELLEHER: Well, Your Honor, they didn't reach
23 -- I couldn't be more clear. I'm not reading off of something
24 that came from FMC. They reached no agreement from FMC, and

1 it was -- and it was closed.

2 THE COURT: Right.

3 MR. KELLEHER: And -- and obviously they couldn't
4 have reached an agreement on the holidays because the only
5 thing they were talking about were the holidays and the 13
6 days of make-up. Like, custody wasn't at issue. We weren't
7 trying to change a weekly schedule.

8 It was a complete breakdown from what I understand
9 there. And I -- I really hate trying to go behind mediation.
10 I -- I wasn't there. I just know that it broke down. And
11 there was never anything that was ever forwarded to me from
12 FMC or anything else. But obviously, they were at
13 loggerheads.

14 I think one of the main issues, my understanding was
15 and -- and I haven't heard anything different, is this idea of
16 accompanied versus unaccompanied. Because frankly, right -- I
17 mean, here's the bottom -- I mean, frankly, there's like a
18 kind of a standard out of state holiday plan. Like, either
19 you go down and agree to it, or it's -- you know, or you get
20 it ultimately from the Department.

21 This one has to be tweaked a little just because
22 it's a year-round school, but it's the same exact concepts.
23 And that's really what we're asking for. I just outlined to
24 you, but no accompanied minor unless the Court says she can do

1 it. But it's solely at her cost, and it can't -- she can't --
2 I guess what I'm saying is this.

3 She would have to pay for it and she can't use that
4 to say, well, I can't -- I'm not going to -- I can't do the
5 visitation because I -- I can't get off of work and I can't
6 get out there or blah, blah, blah. You know, if she decides
7 she wants --

8 MS. ROBERTS: Okay.

9 MR. KELLEHER: -- to do it, then she would have to
10 meet whatever the Court's orders are and pay for it. That's
11 our position.

12 MS. ROBERTS: Your Honor, I'd like to complete my
13 entire side of what I have to say without Mr. Kelleher keeping
14 --

15 THE COURT: Okay.

16 MS. ROBERTS: -- interrupting if that's --

17 THE COURT: Go ahead.

18 MS. ROBERTS: -- okay. I gave him that opportunity
19 and respect. So basically, there's a couple of issues that
20 have come up since the last hearing. Just -- and most
21 recently, it was just -- it was over this past weekend.
22 Mr. Martin has remarried, and his wedding was this past
23 weekend. My client brought Nathan up to Colorado for the
24 wedding and she had a return flight for Nathan for Sunday. So

1 I --

2 THE DEFENDANT: No, I -- I didn't have it -- he have
3 -- he had returned. He did the return flight. And I do -- I
4 take him there.

5 MS. ROBERTS: Okay. But you requested that he be
6 returned on Sunday.

7 THE DEFENDANT: Uh-huh (affirmative).

8 MS. ROBERTS: Yeah. He -- she requested that he be
9 returned on Sunday so that he could go to -- Nathan could
10 return to school on Monday. He was her -- he basically -- he
11 already -- he was missing Thursday and Friday. Mr. Martin got
12 married on Saturday. So instead of agreeing to return Nathan
13 to Mom on Sunday, Dad kept him until Monday and didn't return
14 him, where he arrived in Las Vegas at 9:00 p.m. at night and
15 thereby having to go to school the next day or early next day.
16 He missed three days of school. And also I believe these days
17 that --

18 THE COURT: Okay. This isn't really a housekeeping
19 issue. This sounds like you have a whole new --

20 MS. ROBERTS: Well, I'm just -- the -- the problem
21 that --

22 THE COURT: I'm trying not to make this hearing --

23 MS. ROBERTS: The -- the problem --

24 THE COURT: -- go really long.

1 MS. ROBERTS: -- that we're having, though --

2 THE COURT: I know Mr. Kelleher had a long time, and
3 I will give you, you know, a like time to respond. But the --
4 we're going to be here a very long time if you bring up issues
5 that aren't --

6 MS. ROBERTS: The problem is --

7 THE COURT: -- before the Court.

8 MS. ROBERTS: -- is we're having an issue here with
9 co-parenting with Dad trying to return the child late at
10 night. So we -- we do have issues with the times of the
11 returns on the vacation schedule, holiday schedule. The other
12 thing, though, is that there is an issue of Nathan's conduct.
13 Because the following day when he went to school, something
14 he's never done before, Nathan hit a child.

15 There -- and then there was also allegations, which
16 my client did try to address with Erich through
17 OurFamilyWizard stating, hey, Nathan said that stepmom hit --
18 hit him. We need to talk about this. And Mr. Martin's reply
19 was that Nathan was a liar. That was it -- or pretty much it.

20 So the -- the -- we -- we have these issues that
21 need to be addressed. We have these issues with regard to
22 co-parenting where, you know, Dad is, you know, picking and
23 choosing when he decides to return the child. One of the
24 issues that we were supposed to talk about at mediation was

1 the accompaniment. You suggested that because of the incident
2 that happened last time the first couple of flights that he is
3 accompanied by a parent so that he -- so that we can get him
4 back into the routine. Now obviously, he's come back from
5 Colorado. We still have more issues with --

6 THE COURT: Is he --

7 MS. ROBERTS: -- Nathan's --

8 THE COURT: -- accompanied?

9 MS. ROBERTS: -- be -- he was accompanied there. He
10 was not accompanied back. So the -- there are a lot of
11 concerns here with respect to what is going on when Nathan
12 goes to --

13 THE COURT: Well, we're going to have -- we're going
14 to have a hard time enforcing orders if we don't have orders.
15 So what's your proposal with regard to orders?

16 MS. ROBERTS: With re --

17 THE COURT: Like the holidays and things?

18 MS. ROBERTS: Well, my client is suggesting that the
19 return time -- I -- I know at least the return time be, what,
20 5:00 or 6:00 o'clock?

21 THE DEFENDANT: I said I'm fine with 7:00. 7:00 --

22 MS. ROBERTS: 7:00?

23 THE DEFENDANT: No later than 7:00. I can at least
24 get him home and in bed before 9:00.

1 MS. ROBERTS: So that -- that's one of the -- one of
2 the things. And then what's the other one you want to do?
3 With the winter break, it's -- that's -- you know, depen --
4 and we know that with winter break, they're not always going
5 to be on the same track so the dates are going to be
6 different. And we know that's going to be split half and half
7 --

8 THE COURT: Well, not --

9 MS. ROBERTS: -- and alternating --

10 THE COURT: -- not winter break.

11 MS. ROBERTS: -- that --

12 THE COURT: Actual winter break, the two weeks for
13 the traditional Christmas holiday, is going to be the same, no
14 matter what track you're on, no matter what. It may be within
15 a track break, but the actual -- it's always identified
16 specifically. So that wouldn't change.

17 THE DEFENDANT: So yeah, I -- yeah, I -- I spent
18 like two hours in mediation with Gil (ph) trying to go over
19 it. So everything's in there.

20 MS. ROBERTS: Okay.

21 THE DEFENDANT: I would have a full calendar --

22 MS. ROBERTS: This has -- okay. This has Martin
23 Luther King's birthday beginning the Friday or Saturday
24 morning before Martin Luther King's birthday to be determined

1 by flight and/or travel arrangements at a time designated by
2 travel arrangements and concluding Martin Luther King's
3 birthday before 6:00 p.m. Martin Luther King's Jr.'s birthday
4 remain -- shall remain the same on a yearly basis with the
5 child residing with the father for Martin Luther King Jr.'s
6 birthday.

7 THE DEFENDANT: I tried --

8 THE COURT: What -- what are you reading from?

9 THE DEFENDANT: Oh, the --

10 MS. ROBERTS: The -- the proposed FMC draft for
11 visitation.

12 THE COURT: Okay. So did -- did you -- I mean,
13 Mom --

14 MS. ROBERTS: There's pro --

15 THE COURT: -- did you listen to what Mr. Kelleher
16 was saying? Did you agree with any --

17 THE DEFENDANT: No, I just --

18 THE COURT: -- of those things --

19 THE DEFENDANT: I couldn't --

20 THE COURT: -- or not?

21 THE DEFENDANT: I couldn't see like on a calendar
22 like how many -- where that's at, what -- what day does that
23 fall on, what -- where is that really in the break, what times
24 are -- what day is he getting home. So it's -- and if he

1 would have given me a copy earlier, I could have kind of gone
2 over it because I don't -- I don't -- I want it -- I want this
3 fixed just as much as everybody else does. But it's hard to
4 see a year, you know, especially when you have a child, what
5 day that falls, where it's at, what -- how -- how is that
6 going to be planned. So when I was at mediation, I was able
7 to --

8 THE COURT: It doesn't -- I mean, these are -- what
9 day it is specifically doesn't mean anything because they're
10 always going to be different days of the week.

11 THE DEFENDANT: Oh.

12 THE PLAINTIFF: Pardon my interruption, Your Honor.
13 Can I ask what's --

14 THE COURT: No.

15 THE PLAINTIFF: -- being --

16 THE COURT: No. No. No.

17 THE PLAINTIFF: -- discussed? Because I can't quite
18 hear --

19 THE COURT: Hang --

20 THE PLAINTIFF: -- anything at all.

21 THE COURT: Oh, okay. We need to speak up. He
22 can't hear.

23 THE DEFENDANT: Well, I just -- I just want to see
24 when and where that is, how many weeks that comes out to, how

1 -- how that -- how that does. I want to spend time with my
2 child, too, as a -- as a parent that gets to do things with
3 them, not just do your homework, tie your shoes, read a book,
4 clean the house. I still want to be able to do activities
5 with my child as well. So I'm trying to figure out how many
6 weeks that comes down to, where that's it in the -- the year.

7 So the -- when we did the family mediation, I spent
8 a lot of time like looking over it and, you know, took a lot
9 of information from the mediator, giving him extra days during
10 the -- the year on -- on the three-day weekends, things that
11 could be useful for Nathan and him to spend time -- quality
12 time together that kind of flow into the week to where it's
13 not going to disrupt, you know, school time or returning time,
14 that kind of stuff.

15 THE COURT: Okay. It -- I think what I'm going to
16 end up having to do here because this is going to turn into a
17 three-hour hearing here is that -- well, we have a decree of
18 divorce, and the school has been changed since then, right?
19 It's now a decree -- it's now a year-round school. So we're
20 -- we're dealing with a different schedule. Why doesn't each
21 party propo -- it's either that, or I have to have an
22 evidentiary hearing.

23 THE DEFENDANT: Okay.

24 MS. ROBERTS: Okay.

1 THE COURT: So either we have an evidentiary
2 hearing, or what we do is each -- each side just simply
3 provide a proposal --

4 MS. ROBERTS: Okay.

5 THE COURT: -- to the --

6 THE DEFENDANT: That's fine.

7 THE COURT: -- Court, and I'll take it under
8 submission.

9 MS. ROBERTS: And we'll provide this.

10 THE DEFENDANT: That's fine.

11 MS. ROBERTS: Okay.

12 THE DEFENDANT: Okay.

13 MS. ROBERTS: And then I just -- I'd like to finish
14 up with responding to some other statements that Mr. Kelleher
15 said. With regard to the decree of divorce, the two years'
16 alimony was for the --

17 THE PLAINTIFF: May I ask what the issue and
18 question is? Because I -- I still couldn't understand
19 anything at all. I apologize.

20 MR. KELLEHER: You know, I'll tell you -- I'll get
21 you the tape later. Don't worry about it, Your Honor.

22 THE COURT: Okay. Your attorney said he'll get you
23 the tape, the video, a copy. Okay. Go ahead.

24 MS. ROBERTS: The purpose of the --

1 THE PLAINTIFF: Okay. Thank you.

2 MS. ROBERTS: The purpose of the alimony was for her
3 to complete school. That's why they had agreed to two years.
4 It was not -- I -- I did -- do not believe it was based on
5 anything about it being -- being cohabitation. Apparently,
6 obviously, we --

7 THE COURT: It's not cohabitation. We have --

8 MR. KELLEHER: Right.

9 THE COURT: -- somebody who's actually entered into
10 a domestic partnership; is that true? Is that true, ma'am?

11 MS. ROBERTS: From my understanding, it was a
12 domestic partnership for health --

13 THE DEFENDANT: Kids.

14 MS. ROBERTS: -- insurance purposes.

15 THE DEFENDANT: Kids.

16 THE COURT: It's a domestic partner -- are you in a
17 domestic --

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: -- partnership?

20 THE DEFENDANT: I am.

21 THE COURT: Yes?

22 THE DEFENDANT: For the kids. It -- and Erich is
23 not here, and Nathan only has TRICARE insurance. And the only
24 other person that can get him to his medical appointments is

1 Erich because it's on the military base. So in order to be
2 able to help take care of --
3 THE COURT: Well, this is -- this is a new one, and
4 this wasn't properly --
5 MS. ROBERTS: This was in --
6 THE DEFENDANT: And --
7 THE COURT: -- before --
8 MS. ROBERTS: -- a motion.
9 THE COURT: -- the Court, but we do need to -- I
10 mean, it's an issue. I haven't --
11 THE DEFENDANT: Yeah.
12 THE COURT: -- had it yet. I haven't done any
13 research on it yet. My guess is a domestic partnership is
14 like a marriage, and it would end spousal support.
15 MR. KELLEHER: And respectfully, Your Honor --
16 THE COURT: So --
17 MR. KELLEHER: -- and the -- the alimony provision
18 that's written says right in it that it's modifiable. It
19 actually says and it cites cases and everything else. The
20 statute's really clear, 122A.200. So but if you want, Your
21 Honor, when -- when we're preparing this other information,
22 our proposal, can we just give you the six or seven lines?
23 Can she just give us the date that she actually had, the --
24 the domestic partnership entered into? I don't have the exact

1 date as to when she did that.

2 THE COURT: I mean, because if -- if you choose to
3 do so, you can each brief that issue. Do you choose to do
4 that?

5 MR. KELLEHER: I'm fine to brief it, Your Honor,
6 very briefly. But what I would say is simply this, is that he
7 should -- he shouldn't have to pay alimony based on that until
8 the Court makes a decision --

9 THE COURT: I know.

10 MR. KELLEHER: -- one way or the other.

11 THE COURT: But it's not properly before the Court
12 by a motion. So I'm kind of caught off guard here. I have
13 no --

14 MS. ROBERTS: We -- Your Honor, we're all --

15 THE COURT: -- frame of reference here.

16 MS. ROBERTS: We're all caught off guard on this.
17 This was just -- he --

18 THE COURT: But --

19 MS. ROBERTS: -- just approached with --

20 THE COURT: But nevertheless, if it's only, what is
21 it, two years?

22 THE DEFENDANT: Uh-huh (affirmative).

23 THE COURT: Spousal support --

24 THE DEFENDANT: Yes.

1 THE COURT: -- is only two years --
2 MR. KELLEHER: Right.
3 THE DEFENDANT: Just to --
4 THE COURT: And it isn't --
5 THE DEFENDANT: -- get me through school.
6 THE COURT: -- fair for her to keep collecting it if
7 she's married --
8 MR. KELLEHER: Right.
9 THE COURT: -- for all intents and purposes married
10 to somebody else, so --
11 MR. KELLEHER: It has been for I think --
12 THE COURT: -- but I don't know whether that --
13 MS. ROBERTS: But --
14 THE COURT: -- qualifies. I know that when you
15 dissolve a domestic partnership, you refer directly to
16 NRS 125.
17 MR. KELLEHER: Well, it actually says that right in
18 the statute. Even if -- but even when it's not, it says right
19 in on -- on the statute -- and I have the statute in front of
20 me if you need it, Your Honor. It says that for all purposes,
21 you're treated as community property. Everything's treated
22 the exact same as though you were married. It says it right
23 there. So I -- I -- and I think it'll weigh into your
24 decision perhaps as to what you're going to do with this

1 accompanied minor and who's going to pay for it and all the
2 rest. It would -- it -- it is very relevant.

3 MS. ROBERTS: Well, I think this would have to be
4 brought up on a motion so that I can appropriately respond to
5 that issue. Because throwing this out there at -- right
6 before, you know, our hearing today or at the time of the
7 hearing --

8 MR. KELLEHER: You know what, Your Honor, I'm fine
9 to do that. I'm fine -- rather than do it as a brief, I'm
10 fine to file a new motion. But here's the thing. Then we're
11 -- but then given the Court's position already and -- and what
12 the statute says, we want every penny of our attorney's fees,
13 then, which I -- you know, I can go and try and collect.

14 Because it's going to be much more expensive for me
15 to file a new motion, put it all in there, rather than just
16 put in the cites as this other part of the -- of the case. So
17 I'm fine to do that, but I just want to make it clear that --
18 that you would really consider the prevailing party on that
19 getting all their attorney's fees and costs because it's very
20 clear. It's just like a marriage. I mean, that's how it was
21 advertised --

22 THE COURT: The --

23 MR. KELLEHER: -- in the --

24 THE COURT: The Court would, but let Counsel please

1 finish --

2 MR. KELLEHER: Sure.

3 THE COURT: -- her presentation. Okay.

4 MS. ROBERTS: And then -- and then Mr. Kelleher
5 again brought up the unaccompanied minor. And again, this was
6 not something that was been -- has been able to be resolved at
7 FMC. The -- this is something that my client did want to
8 address as to whether or not the parties met when Nathan
9 turned five or when Nathan turned 12, as far as what the
10 unaccompanied minor provision meant.

11 But we still -- based upon the Judge's statements at
12 the last hearing, it was like, hey, at least until, you know,
13 at least the next couple of trips have -- you know, work on
14 having -- having Nathan accompanied by a parent because of how
15 -- because of what happened with the last incident.

16 The thing is, though, it -- it -- again, be -- you
17 know, he was sent to Colorado over the weekend. Things
18 happened there with regard to allegations made by Nathan that
19 stepmom hit him. And then his behavior when he came back late
20 Monday night with hitting another child in school so --
21 Tuesday morning.

22 And my client did what -- she received an email from
23 the teacher Wednesday afternoon. And when she got home from
24 work, she sent an email through OurFamilyWizard to Erich

1 explaining what was going on. Unfortunately, it's my
2 understanding that Erich's response to that was not something
3 that would be considered of a co-parenting nature.

4 So we -- the -- these are issues that have to be
5 addressed somehow. We've got Mr. Kelleher stating that my
6 client is trying to dictate, you know, the convenience of when
7 Nath -- Nathan goes up to Colorado with -- with, you know,
8 scheduling it around her work schedule or this and that. She
9 does have to work. And she does her best to try to
10 accommodate what Erich is requesting. We're not getting that
11 from him.

12 THE COURT: I'd -- I'd like to make orders, but I
13 need some specifics here and not just argument. I need to
14 know when the 13 days make-up can take place because we would
15 like Mom to participate in that.

16 MS. ROBERTS: Well, this past weekend he used up,
17 what, three --

18 THE DEFENDANT: Three.

19 MS. ROBERTS: -- of them?

20 THE DEFENDANT: Three of them.

21 MS. ROBERTS: Three -- three of them. So there's --

22 THE DEFENDANT: There's 10.

23 MS. ROBERTS: -- ten days left.

24 THE COURT: What's Mom's proposal?

1 MS. ROBERTS: What's your proposal on that?

2 THE DEFENDANT: I can add them into -- I'm sorry.
3 I'm sorry, Your Honor. I can add them into the proposal when
4 we add the -- the rest of the year for the -- the co -- the
5 co-parenting, the sharing time. And I can add that in. I --
6 I have no problem -- I already told him even in mediation
7 before we were even talking that I'd be more than happy to get
8 that to him when we can fit it in, absolutely.

9 THE COURT: Okay. What the parties were supposed to
10 do in mediation was to come up with, you know, resolve the
11 travel issues. The school issue now has been resolved. But
12 except for the holidays now has become an issue because of the
13 school change, the format of the school, and then activities.
14 But the Court's already made rulings with regard to
15 activities, so that's not going to have to be discussed. What
16 the Court's going to need is the school schedule. I need
17 whatever the school schedule is --

18 THE DEFENDANT: Okay.

19 THE COURT: -- so I can see it. And I need each
20 parties' proposal with regard to holidays. And if there's any
21 -- if they have some short description about why they want to
22 have the holidays the way that they're saying it --

23 THE DEFENDANT: Okay.

24 THE COURT: I need to know what each party's

1 proposal specifically is, if you want an order that actually
2 has teeth in it. Their specific order with regard to makeup
3 and what each party's proposal is with regard to whether this
4 child should be accompanied or not and why.

5 I think anything else is not properly before the
6 Court by -- by a motion, but I -- the Court does award fees to
7 the prevailing party. So -- so far, my reading, I could be
8 wrong, but my reading is that the spousal support's over
9 according to my reading.

10 So be aware. That might be something you want to
11 tackle right away and discuss with -- with opposing Counsel
12 prior to him having to file a motion. Because if you're
13 wrong, then he really -- he would be awarded his attorney
14 fees. And I award attorney's fees. So it's something you
15 need to think about.

16 Is there anything else? I mean, I -- you have all
17 these other issues about behavior issues --

18 MS. ROBERTS: Oh, yes.

19 THE COURT: -- and things like --

20 MS. ROBERTS: The --

21 THE COURT: -- that, but they're all just kind of --
22 they're not properly before the Court, either.

23 MS. ROBERTS: Yeah, the --

24 THE COURT: So --

1 MS. ROBERTS: -- QDRO, we're still waiting for
2 Mr. Martin --
3 THE DEFENDANT: He hasn't --
4 MS. ROBERTS: -- to return it.
5 THE DEFENDANT: He -- he refused to send it. I
6 don't know why.
7 MR. KELLEHER: Well, he doesn't have it. We -- it
8 was done at QDRO masters.
9 THE DEFENDANT: No, sir.
10 MR. KELLEHER: He paid --
11 THE DEFENDANT: No, sir.
12 MR. KELLEHER: -- his half.
13 THE DEFENDANT: Oh.
14 MS. ROBERTS: Don't -- don't --
15 THE DEFENDANT: I'm sorry.
16 MR. KELLEHER: Go ahead --
17 THE DEFENDANT: I'm sorry.
18 MR. KELLEHER: -- and call QDRO masters and get it.
19 I mean, I'm just saying, like he paid his half of it.
20 MS. ROBERTS: Was it sent to him?
21 THE DEFENDANT: Yeah, I certified sent it to him.
22 He even -- he has an email saying that he signed it, but he
23 wanted to talk about it in mediation.
24 THE COURT: Mr. Martin? Mr. Martin?

1 THE PLAINTIFF: Yes? Yes, Your Honor?
2 THE COURT: Did you sign the order incident to
3 decree?
4 THE PLAINTIFF: For the QDRO?
5 THE COURT: Yes. Well, it's not a QDRO, but --
6 because it's military, but --
7 MR. KELLEHER: Military QDRO.
8 THE COURT: Yeah.
9 THE PLAINTIFF: I --
10 THE COURT: Isn't it an order --
11 THE PLAINTIFF: I signed the de --
12 THE COURT: -- incident to decree? Yeah. Pardon
13 me?
14 THE PLAINTIFF: Are -- are you saying like did I
15 sign the decree, like the divorce decree?
16 THE COURT: No. Did you sign the QDRO?
17 THE PLAINTIFF: Oh, I haven't signed off yet, Your
18 Honor, because I wanting to discuss with Raina during the --
19 the mediation proceedings in regards to the fact that she has
20 been living with Tony (ph) for like years prior to us actually
21 even being divorced. And based on the fact that she was in a
22 domestic partnership and has kind have been, you know, drawing
23 from both pots, both mine and her boyfriend, Anthony Rickards
24 (ph), along with the fact that I've provided like a hundred

1 thousand dollars' worth of like money towards her college, and
2 I have paid like about \$3500 a month for almost three years --

3 THE COURT: Okay. Those are all --

4 THE PLAINTIFF: -- that she should be willing to --

5 THE COURT: Those are --

6 THE PLAINTIFF: -- back down --

7 THE COURT: Hold on. Those are all issues that are
8 -- you had a decree. This is a piece of the decree, the
9 divorce decree. It needs to be completed. I want it
10 postmarked in the mail no later than 5:00 p.m. Friday signed.
11 We need to get that QDRO executed, okay?

12 THE PLAINTIFF: Understood, Your Honor.

13 THE COURT: And processed. All right. So that
14 should take care of the QDRO issue.

15 MS. ROBERTS: And as Mr. Martin stated, he knew that
16 my client was with her significant other even during the --

17 THE COURT: Okay.

18 MS. ROBERTS: -- time --

19 THE COURT: We don't --

20 MS. ROBERTS: -- of the divorce.

21 THE COURT: We're done --

22 MS. ROBERTS: Okay.

23 THE COURT: -- on that issue, so.

24 MR. KELLEHER: Okay. How soon do you need to have

1 this brief in and then how soon --

2 THE COURT: Well, it's either that --

3 MR. KELLEHER: -- would you expect it back?

4 THE COURT: -- or we do it by trial. So do you
5 prefer trial?

6 MR. KELLEHER: I don't prefer trial. It's just that
7 we have Thanksgiving and Christmas coming up, right, so I'm
8 just wondering how soon -- right.

9 THE COURT: You are right about that.

10 MR. KELLEHER: Right. So it's -- do you want to
11 give us some deadlines?

12 THE COURT: Let me see. Today is the 22nd. Can you
13 both get your documents in by November -- or I'm sorry,
14 September 30th?

15 MR. KELLEHER: Yes, Your Honor.

16 THE DEFENDANT: Yes, ma'am.

17 MS. ROBERTS: You're talking about with the school
18 -- with the holiday?

19 THE COURT: Uh-huh.

20 MS. ROBERTS: Okay. You're not --

21 THE COURT: Your proposal.

22 MS. ROBERTS: You're not talking about a brief or
23 anything like that regarding --

24 THE COURT: No, we're talking about I need the

1 school schedule.

2 MS. ROBERTS: Okay. That --

3 THE COURT: I need --

4 MS. ROBERTS: -- yes.

5 THE COURT: -- each parties' proposal with regard to

6 the holidays that they want and how -- you know, the

7 specifics, when do they start, when do they end, what's the --

8 MS. ROBERTS: And --

9 THE COURT: -- exchange time.

10 MS. ROBERTS: And specifics with the make-up time?

11 THE COURT: Specifics with the make-up time and the

12 specifics with regard to the make -- what -- I'm sorry,

13 make-up -- transportation, whether or not there's

14 unaccompanied minor.

15 MS. ROBERTS: Okay.

16 THE COURT: Okay?

17 MR. KELLEHER: All right. Thank you, Your Honor.

18 THE COURT: And you should be able to do it by then,

19 and the Court will make -- I am -- I know that these -- that

20 Thanksgiving is coming up right quick, so.

21 MR. KELLEHER: Okay. Thank you, Your Honor.

22 MS. ROBERTS: Okay. And then is there -- with

23 regard to what Mr. Kelleher was saying about the brief

24 regarding the issue with the alimony and the domestic

1 partnership --

2 THE COURT: Well, no. You said you wanted a motion,
3 so.

4 MS. ROBERTS: Oh, okay. I thought he was saying
5 that he --

6 MR. KELLEHER: Yeah. I mean, I'm -- I'll say it
7 right now. I'll give them a reasonable time to talk to her
8 client, and I'll talk to my client. But the plan is if she
9 won't agree, then I'm going to file a motion. And we're going
10 to ask for the date that, you know, backwards in terms of the
11 ter -- alimony terminating because the statute's really,
12 really clear. So I -- I -- you know, and I've actually dealt
13 with this before. So I think I even have the brief, but I'll
14 have to see. So all right. Thank you, Your Honor.

15 THE COURT: All right.

16 THE CLERK: For the record, Judge, who's going to
17 prepare?

18 MR. KELLEHER: Well, we don't --

19 THE COURT: No --

20 MR. KELLEHER: -- really need one.

21 THE COURT: No -- no one is going --

22 THE CLERK: Oh, because --

23 THE COURT: -- to because --

24 THE CLERK: -- they're just submitting their --

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THE COURT: Yeah.

THE CLERK: -- proposals to get --

(PROCEEDINGS CONCLUDED AT 12:08:13 P.M.)

* * * * *

ATTEST: I do hereby certify that I have truly and
correctly transcribed the digital proceedings in the
above-entitled case to the best of my ability.



Adrian N. Medrano