

**836211300A****DAFS Specialized Enforcement**

To Casey Waterman
Dec 14, 2020 at 09:01

Electronically Filed
Jul 08 2021 12:29 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Good morning,

Unfortunately, I only handle the assets and bank seizure matters. I have forwarded your request to the case manager, Ms. Gonzalez. I have also attached to this email the payment history for this case. It appears that we receive wage withholding biweekly. I will ask Ms. Gonzalez to verify, but as of November 30, 2020 the approximate arrears balance is \$10,609.38. The bank seizure payment of \$806.86 was applied to the balance in September 2020. Also, the arrears are all owed to Sarah Maurice and there is no debt owed to Nevada. Sarah Maurice is able to waive any or all arrears, or agree to a lump sum offer from Mr. Maurice.

I hope this helps some. Ms. Gonzalez will have to get back to you for confirmation.

Thank you,

K Fields



Delete



Archive



Move

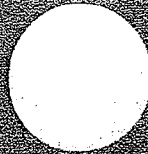


Reply



More

EXHIBIT "B"



Sarah Sarabia >

Today 10:46 PM

[Redacted text]

Anything I can help with?

She did her work I'm uploading stuff now I wanted to go over it like I always do. Thanks for checking though.

[Redacted text]

The time reflects when I upload the assignment Justin not when Emma does it. You do realize she does her assignments on paper right? And then I have to



iMessage





Sarah Sarabia >

[Redacted]

The time reflects when I upload the assignment Justin not when Emma does it. You do realize she does her assignments on paper right? And then I have to upload them to the system.

[Redacted]

It doesn't matter when I upload it as long as it's in before midnight Friday. Emma's been fast asleep I assure you.

[Redacted]

I'm not doing this with you Justin. I know what you are trying to do here.



iMessage





Sarah Sarabia >

[Redacted]

I'm not doing this with you
Justin. I know what you are
trying to do here.

Trust me the assignments are
done just not uploaded yet.

I check her work at night when
they have gone to bed so I can
devote that time to review it.

Appreciate the concern.

[Redacted]

She is Justin. I assure you she's
not up doing schoolwork. SMH

[Redacted]



iMessage





Sarah Sarabia >

Appreciate the concern.

2:40 PM Sarah? Why??
nope - she's not

She is Justin. I assure you she's
not up doing schoolwork. SMH

Why? Justin? Sarah? Why??
and she's not doing schoolwork
each day with her file

...

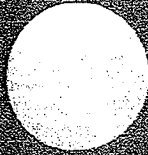
...

How can I check the work??
Pretty simple you look at the
page and see if it's correct and
see if there are mistakes so I



iMessage





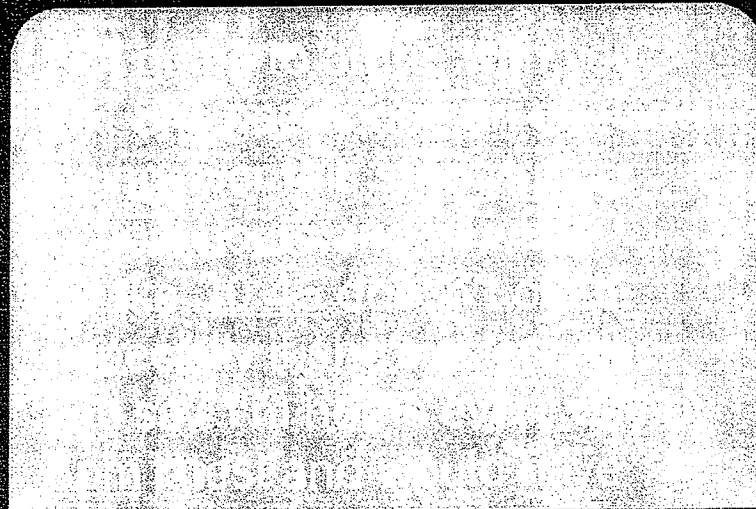
Sarah Sarabia >

Zephoria 10:35 PM

How can I check the work??
Pretty simple you look at the
page and see if it's correct and
see if there are mistakes so I
know how to work with her
better.

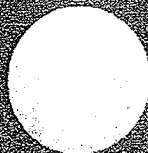
She's not up with me

I can check her work any time I
want Justin her work isnt and
never has been late



iMessage





Sarah Sarabia >

Justin
I know you're
not a morning person
and you're not
awake at 6:15 in the morning
Especially if it's a weekend
you say, I'm home every day by
6:30 latest and would have
school work done by bedtime

And a lot of the time I do check
it earlier and it's correct I just
don't get around to uploading
right away. It's still not late

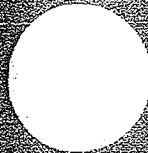
Her schoolwork is done before
I'm even home Justin

Like I said it's just a reflection of
when the assignment is
uploaded



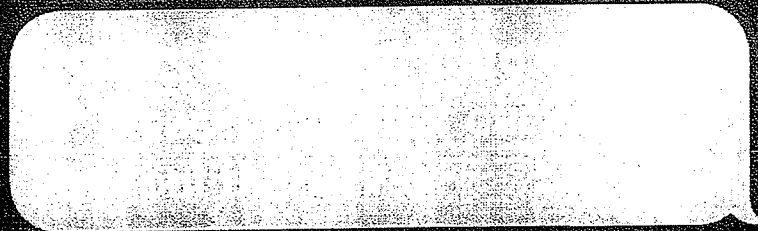
iMessage





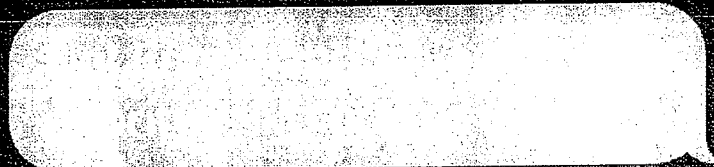
Sarah Sarabia >

uploaded

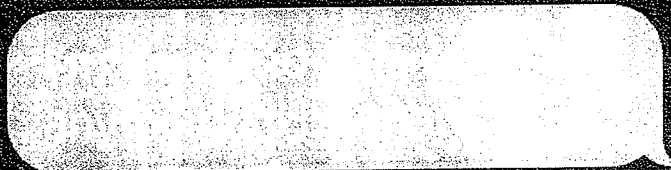


Again I know you are just trying to get some more "evidence" to use Justin you are grasping at straws here.

Always have always will put them first. Have a good night



Yes for me they are :) Nite



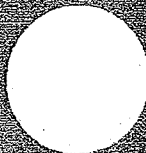
Delivered

Thanks



iMessage





Sarah Sarabia >

[Redacted]

Again I know you are just trying to get some more "evidence" to use Justin you are grasping at straws here.

Always have always will put them first. Have a good night

[Redacted]

Yes for me they are :) Nite

[Redacted]

Delivered

Thanks



iMessage



EXHIBIT "C"




My Children

GRADE

You have made 1 attempt and reached the maximum allowed

PREVIOUS ATTEMPTS

ATTEMPT	1
STATUS	 Submitted
TIME SPENT	4 minutes
LAST MODIFIED	Dec 10, 2020 9:04 pm
ACTION	View






My Children

GRADE

You have made 1 attempt and reached the maximum allowed

PREVIOUS ATTEMPTS

ATTEMPT	1
STATUS	 Submitted
TIME SPENT	25 minutes
LAST MODIFIED	Dec 10, 2020 8:40 pm
ACTION	View



My Children

02 Highlight
Image

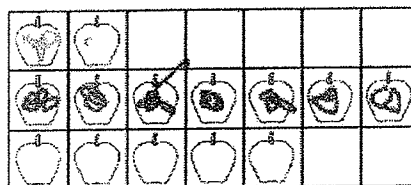
- /



0:01 / 0:21

▶ Replay

2. How many apples
are in each row?
Use a red crayon
to color the apples
in the row with the
most.

$$\begin{array}{r} 2 \\ 7 \\ 5 \end{array}$$


Use a green crayon to color the apples in the row with the
fewest.

03 Highlight
Image

- /






My Children

GRADE

You have made 1 attempt and reached the maximum allowed

PREVIOUS ATTEMPTS

ATTEMPT	1
STATUS	 Submitted
TIME SPENT	19 minutes
LAST MODIFIED	Dec 1, 2020 10:14 pm
ACTION	View

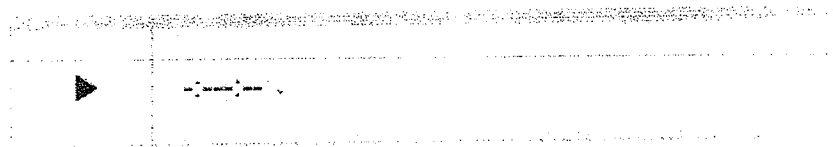




Saxon 1 Written Assessment 5

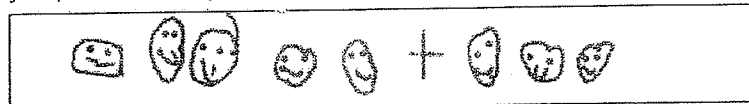
01 Highlight Image

— /



► Replay

1. Five children were playing in the pool. Three more children jumped in to play. Draw a picture to show what happened.



How many children are playing in the pool now?

8 children

02 Fill in the Blank Drag and Drop

— /






My Children

GRADE

You have made 1 attempt and reached the maximum allowed

PREVIOUS ATTEMPTS

ATTEMPT	1
STATUS	 Submitted
TIME SPENT	16 minutes
LAST MODIFIED	Dec 3, 2020 9:53 pm
ACTION	View





My Children



Emma Maurice submitted an item to **Friday Standards Work** Dec 4 at 8:05 pm



Emma Maurice submitted an item to **Q2 Week 7 | Weekly Phonogram Review** Dec 4 at 7:55 pm



Emma Maurice submitted an item to **Identify the Force and Energy** Dec 3 at 10:44 pm



Emma Maurice submitted an item to **Monday Standards Work** Dec 3 at 10:33 pm



Emma Maurice submitted an item to **Weather | Reading Social Studies | Classify and Categorize** Dec 3 at 10:22 pm



Emma Maurice submitted an item to **Unit 3 Lesson 13: Standard-Based Weekly Test** Dec 3 at 10:13 pm



Emma Maurice submitted an item to **Unit 3 Lesson 13 | Vocabulary Assessment** Dec 3 at 9:53 pm



Emma Maurice submitted an item to **Saxon 1 Written Assessment 5** Dec 1 at 10:14 pm





My Children



Emma Maurice submitted an item to **Unit 3**

Lesson 12 | Vocabulary Assessment Dec 10

at 9:04 pm



Emma Maurice submitted an item to **Unit 3**

Lesson 12 | Comprehension Assessment

Dec 10 at 9:00 pm



Emma Maurice submitted an item to **Saxon**

1 Written Assessment 6 Dec 10 at 8:40 pm



Emma Maurice submitted an item to

Weather | Vocabulary | Matching Dec 8 at

8:42 pm



Emma Maurice submitted an item to **Q2**

Week 7 | Spelling Activity Dec 4 at 9:09 pm



Emma Maurice submitted an item to

Assessment Dec 4 at 9:00 pm



Emma Maurice submitted an item to **Unit 3**

Lesson 13 | Comprehension Assessment

Dec 4 at 8:48 pm



Emma Maurice submitted an item to **Q2**

Week 7 | Identifying Sounds Dec 4 at 8:22

pm



Emma Maurice submitted an item to **Friday**

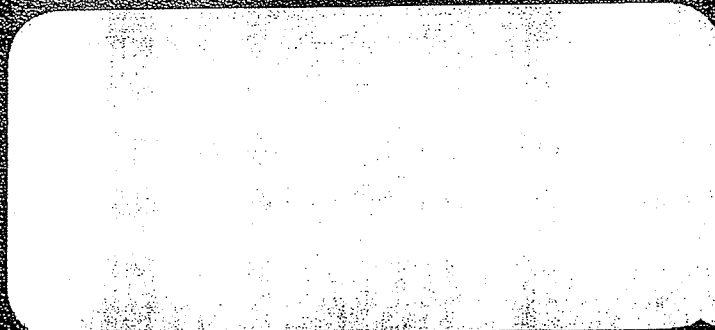


EXHIBIT "D"

Sarah Sarabia >

4:11 PM

Nov 29, 2018, 5:19 PM



We would need to go through court



Cuz Unless your schedule has somehow miraculously changed I don't need your girlfriend raising our kids

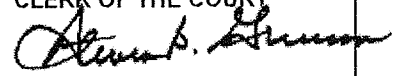


It's true



iMessage





MEMC

RACHEL M. JACOBSON, LTD.
Nevada Bar No. 007827
JACOBSON LAW OFFICE, LTD.
64 North Pecos Road, Suite 200
Henderson, Nevada 89074
Phone (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

***EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA***

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

**MEMORANDUM OF ATTORNEY'S
FEES AND COSTS**

COMES NOW Plaintiff, SARAH MAURICE ("Sarah"), by and through her attorney, RACHEL M. JACOBSON, ESQ., of the law firm of JACOBSON LAW OFFICE, LTD., and, pursuant to the Court's Order at the time of the January 13, 2021 hearing in this matter, presents to the Court her Memorandum of Attorney's Fees and Costs.

**I
INTRODUCTION**

This matter came before this Court on Defendant's Motion for Reconsideration of Order Denying to Modify the Current Custodial Arrangement; Modify Child Support;

1 Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related
2 Relief filed December 7, 2020. Plaintiff filed her Opposition and Countermotion to
3 Defendant's Motion and related Exhibits. Plaintiff also appeared with counsel for hearing
4 of same on January 13, 2021. This Memorandum of Fees and Costs in the above
5 referenced case is provided to the Court indicating fees and costs incurred by Plaintiff
6 from December 7, 2020 through March 26, 2021.
7
8

9 I. FEES INCURRED

10 A. Plaintiff's billing records in this case from December 7, 2020 through March 26,
11 2021 reflect the following time entries for Jacobson Law Office, Ltd. A detailed
12 summary is attached hereto as **Exhibit A**:
13

<i>Assistant time:</i>	5.8 hours	@ \$ 95.00/hour	\$ 551.00
<i>Attorney time:</i>	7.2 hours	@ \$350.00/hour	\$ 2,520.00
Fees and Costs Total:			\$ 3,071.00

17 II. LEGAL ARGUMENT

18
19 Attorney's fees may be awarded in a pre or post-divorce motion under NRS
20 18.010(2) and NRS 22.100. NRS 18.010(2) provides that fees may be awarded:
21

22 (a) When the prevailing party has not recovered more than
23 \$20,000; or

24 (b) Without regard to the recovery sought, when the court
25 finds that the claim, counterclaim, cross-claim or third-party
26 complaint or defense of the opposing party was brought or
27 maintained without reasonable ground or to harass the prevailing
28 party. The court shall liberally construe the provisions of this
paragraph in favor of awarding attorney's fees in all appropriate
situations. It is the intent of the Legislature that the court award

1 attorney's fees pursuant to this paragraph and impose sanctions
2 pursuant to Rule 11 of the Nevada Rules of Civil Procedure in
3 all appropriate situations to punish for and deter frivolous or
4 vexatious claims and defenses because such claims and defenses
5 overburden limited judicial resources, hinder the timely
6 resolution of meritorious claims and increase the costs of
engaging in business and providing professional services to the
public.

7 3. In awarding attorney's fees, the court may pronounce its
8 decision on the fees at the conclusion of the trial or special
9 proceeding without written motion and with or without
10 presentation of additional evidence.

11 4. Subsections 2 and 3 do not apply to any action arising
12 out of a written instrument or agreement which entitles the
prevailing party to an award of reasonable attorney's fees.

13 Further, EDCR 7.60(b) provides:

14 (b) The court may, after notice and an opportunity to be heard,
15 impose upon an attorney or a party any and all sanctions which
16 may, under the facts of the case, be reasonable, including the
imposition of fines, costs or attorney's fees when an attorney or
a party without just cause:

17 (1) Presents to the court a motion or an opposition to a
18 motion which is obviously frivolous, unnecessary or
unwarranted.

19 (2) Fails to prepare for a presentation.

20 (3) So multiplies the proceedings in a case as to increase
21 costs unreasonably and vexatiously.

22 (4) Fails or refuses to comply with these rules.

23 (5) Fails or refuses to comply with any order of a judge
of the court.

24 As noted above, Plaintiff has incurred fees and costs in the amount of \$3,071.00 in
25 attempting to address Defendant's filing and failure to reasonably address this matter. In
26 weighing the reasonable value of an attorney's services, the Court has adopted basic
27 elements to be considered along with the attorney's hourly schedule. As provided in
28

1 *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969) and
2 *Miller v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005), those factors are:

- 3
4 1) The Qualities of the Advocate: his ability, his training, education,
5 experience, professional standing and skill.
- 6
7 2) The Character of the Work to be Done: its difficulty, its intricacy, its
8 importance, time and skill required, the responsibility imposed and the
9 prominence and character of the parties where they affect the importance
10 of the litigation.
- 11
12 3) The Work Actually Performed by the lawyer: the skill, time and attention
13 given to the work.
- 14
15 4) The result: whether the attorney was successful and what benefits were
16 derived.

17 Regarding the initial factor, we respectfully present that the undersigned counsel
18 has obtained her JD in 2001; she has been licensed in the State of Nevada since October of
19 2001 and has dedicated her practice primarily to the area of family law with a focus on
20 mediation of cases to circumvent litigation for families. And the fees charged by counsel
21 and staff are reasonable and compensable. As to the *character of the work*, it is of
22 importance as Defendant misrepresented facts to the Court in his effort to modify primary
23 physical custody forcing Plaintiff to defend herself in her continued efforts to protect the
24 best interest of the parties' minor children and maintain their stability. As to *work*
25 *actually performed*, the undersigned respectfully asks this Court to find that the work
26
27
28

1 presented is adequate and well contemplated. As for *the result obtained*, while each of the
2 foregoing factors is relevant, not one should predominate or be given undue weight. *Miller*
3 *v. Wilfong*, 121 Nev. 619, 119 P.3d 727 (2005).
4

5 **DATED** this 26th day of March 2021.
6

7 *Respectfully Submitted By:*
8 JACOBSON LAW OFFICE, LTD.

9 */s/ Rachel M. Jacobson*

10 _____
11 RACHEL M. JACOBSON, ESQ.
12 Nevada Bar No. 007827
13 64 No. Pecos Road, Suite 200
14 Henderson, Nevada 89074
15 T: 702-601-0770
16 *Attorney for Plaintiff*
17
18
19
20
21
22
23
24
25
26
27
28

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

DECLARATION OF ATTORNEY

1. I, Rachel M. Jacobson, Esq., declare that I am competent to testify to the facts contained in the preceding filing.
2. I am an attorney duly licensed to practice law in the state of Nevada.
3. I am an attorney representing the Plaintiff, Sarah Maurice.
4. I have personal knowledge of the above costs and disbursements expended, and the items contained in the above memorandum are true and correct to the best of my knowledge and belief. In addition, any disbursements have been necessarily incurred and paid in this action.
5. I declare under penalty of perjury, under the laws of the State of Nevada and United States (NRS 53.045 and 28 U.S.C. § 1746) that the foregoing is true and correct.

/s/ Rachel M. Jacobson
RACHEL M. JACOBSON, ESQ.

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

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of JACOBSON LAW OFFICE, LTD., and that on this 26th day of March 2021, I caused the above and foregoing document entitled "MEMORANDUM OF FEES AND COSTS" to be served as follows:

☒ BY ELECTRONIC SERVICE: 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 MAIL: Pursuant to NRCP 5(b), I placed a true copy thereof enclosed in a sealed envelope upon which first class mail postage was prepaid in Henderson, Nevada;

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

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

☐ BY CERTIFIED MAIL: I placed a true copy thereof enclosed in a sealed envelope, return receipt requested.

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

Bradley J. Hofland, Esq.
Email: bradh@hoflandlaw.com
Attorney for Defendant

/s/ Rachel M. Jacobson

An employee of JACOBSON LAW OFFICE, LTD.

A

Sarah Maurice

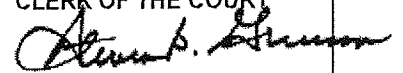
Date Range: 12/07/2020 - 03/26/2021

Billable vs total

\$3,071.00

13 hour(s)

DATE	ACTIVITY	DURATION	DESCRIPTION	RATE	TOTAL	STATUS	USER
Mar 25, 2021	Correspondence	0.2	Prepare response correspondence to OC re: order; request to submit competing order for Court's review given unresolved discrepancies in preparation	\$350.00/hr	\$70.00		Rachel Jacobson
Mar 1, 2021	Receipt and Review	0.2	Receipt and review correspondence from OC requesting revisions to proposed order	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 23, 2021	Receipt and Review	0.2	Receipt and review email communication from OC requesting add'l time to respond to proposed order	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 18, 2021	Preparation	1.8	Continue finalization of proposed order from hearing; review hearing video for same; email OC re: same	\$350.00/hr	\$630.00		Rachel Jacobson
Feb 18, 2021	Correspondence	0.2	Emails to/from client & Hofland. Review of letter from OC	\$350.00/hr	\$70.00		Rachel Jacobson
Feb 11, 2021	Preparation	0.4	Review initial draft of proposed order from hearing	\$350.00/hr	\$140.00		Rachel Jacobson
Jan 20, 2021	Preparation	5.0	Review video transcript of hearing of 1.13.21 and prepare order and memo re fees for review by RJ	\$95.00/hr	\$475.00		Legal Assistant
Jan 19, 2021	Receipt and Review	0.2	Answer and Counter	\$350.00/hr	\$70.00		Rachel Jacobson
Jan 13, 2021	Court Appearance	1.6	Preparation for and court appearance	\$350.00/hr	\$560.00		Rachel Jacobson



HOFLAND & TOMSHECK

Bradley J. Hofland, Esq.

Nevada Bar Number: 6343

bradh@hoflandlaw.com

228 South 4th Street, 1st Floor

Las Vegas, Nevada 89101

Telephones: (702) 895-6760

Facsimile: (702) 731-6910

Attorney for Defendant, Justin Maurice

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

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

) CASE NO.: D-14-506883-D

) DEPT. NO.: Q

) **OBJECTION TO PLAINTIFF'S**

) **MEMORANDUM OF ATTORNEY'S**

) **FEES AND COSTS**

COMES NOW, Defendant Justin Maurice ("Justin") by and through his attorneys, Bradley J. Hofland, Esq. of Hofland & Tomsheck, and hereby submits his Objection to Plaintiff's Memorandum of Attorney's Fees and Costs and respectfully submits that any award of attorney's fees and costs to Plaintiff Sarah Maurice ("Sarah") is not warranted under the facts of this case and applicable authority and to do so would constitute an injustice.

Dated this 2nd day of April, 2021

HOFLAND & TOMSHECK

By: /s/ Bradley J. Hofland

Bradley J. Hofland, Esq.

Nevada Bar No. 6343

228 South 4th Street, 1st Floor

Las Vegas Nevada 89101

Attorneys for Defendant Justin Maurice

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

Introduction

On September 17, 2020 Defendant Justin Maurice (“Justin” or “Defendant”) filed his motion to modify child custody, child support and tax deduction based on a substantial change of circumstances. The hearing on Defendant’s motion was set for October 27, 2020. Prior to the hearing Defendant’s counsel informed the Court of a scheduling conflict due counsel’s appearance at the same time in an unrelated matter. As a result, the Court called the hearing without Defendant’s counsel or Defendant present issued a ruling. The Order after the October 27, 2020 hearing denying Defendant’s motion was entered on November 23, 2020. Thereafter, on December 7 2020, Defendant filed his motion for reconsideration based on new circumstances, no factual finding made by the Court and error of law. Plaintiff filed her opposition to Defendant’s motion 30 days after service on January 6, 2021. The hearing on Defendant’s motion was conducted on January 13, 2021, and the Court denied Defendant’s motion for reconsideration and awarded Plaintiff attorney’s fees.

Legal Analysis

NRS 18.010(2) permits attorney's fees under both subsections, to wit: (a) as a prevailing party, and (b) because Plaintiff's positions were brought and maintained without reasonable ground. Although Defendant's motion for reconsideration was denied the motion was brought and maintained with reasonable ground as result of the underlying motion to modify being heard without a hearing and additional events occurred after court issued its ruling that warranted reconsideration.

Plaintiff's request for \$ 3,071.00 in attorney's fees for opposing

1 Defendant's motion for reconsideration and the amount of work done is
2 unreasonable and unfair. Furthermore, Plaintiff's opposition to Defendant's
3 motion for reconsideration was untimely. Justin filed and served his motion for
4 reconsideration on December 7, 2020. Pursuant to EDCR 5.502, Sarah's
5 opposition was due on December 21, 2020. According to Plaintiff's counsel's
6 billing (Exhibit "A"), counsel's office began preparing the opposition and
7 counter-motion on December 16, 2020. However, Plaintiff's opposition was not
8 filed until January 6, 2021, such that Justin's requested relief should have been
9 granted without a hearing. Nevertheless, a hearing on Defendant's motion was
10 conducted and this Court denied Defendant's motion for reconsideration and
11 awarded Plaintiff attorney's fees and costs and ordered Plaintiff's counsel to
12 prepare the Order and a Brunzell Memorandum of Fees and Costs to determine
13 the attorney's fees.

14 The order after hearing was prepared by Plaintiff's counsel prior to the
15 court minutes being prepared requiring not only Plaintiff's counsel to spend time
16 reviewing the hearing video, but also required Defendant's counsel to review the
17 hearing video ensure the order corresponded with the Court's findings and orders.
18 Additionally, Plaintiff's counsel's legal assistant spent 5 hours of unnecessary
19 time reviewing the video transcript and preparing the order after hearing and
20 Plaintiff's counsel spent an additional 2.2 hours reviewing the order and the
21 hearing video. Additional time requested by Plaintiff's counsel consist of another
22 .8 hours in review of correspondence between counsel regarding the order and
23 revisions. The time spent on reviewing the hearing video and preparation of the
24 order and revisions could have been avoided had Plaintiff's counsel waited until
25 the court minutes were prepared, which were detailed and consistent with the
26 Court's findings and rulings.

27 Additionally, no declaration from Plaintiff's counsel's legal assistant was
28 submitted with the Memorandum of Attorney's Fees and Costs with regards to the

1 legal assistant's qualifications, whether said time was reasonable and permitted by
2 Nevada law. NRS 28.010 does not mention attorney's fees to be awarded for non-
3 attorney's work and time. As such all of the legal assistant's time (5.8 hours of
4 which 5 hours was spent reviewing the hearing video and preparing the order)
5 should be disregarded in the amount of \$551.00.

6 Plaintiff's counsel also included attorney's fees for 3.2 hours for activities
7 performed *subsequent* to the hearing, including review of the hearing video,
8 finalization of the order and correspondence which time and fees are unreasonable
9 and should be disregarded.

10 Nevertheless, as it pertains to Plaintiff's request, an award of fees is not
11 warranted, it would not be fair, and it would not be just. However, should the
12 Court be inclined to award Plaintiff reasonable attorney's fees, Defendant request
13 the amount of attorney's fees be set at a maximum amount of \$1,400.00.

14 Dated this 2nd day of April, 2021

15
16 **HOFLAND & TOMSHECK**

17 By: /s/ Bradley J. Hofland

18 Bradley J. Hofland, Esq.

19 Nevada Bar No. 6343

20 228 South 4th Street, 1st Floor

21 Las Vegas Nevada 89101

22 *Attorneys for Defendant Justin Maurice*
23
24
25
26
27
28

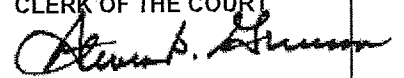
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Hofland & Tomsheck, that Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on the 2nd day of April, 2021, I served the **OBJECTION TO PLAINTIFF'S MEMORANDUM OF ATTORNEY'S FEES AND COSTS** on the following parties by E-Service through Odyssey and/or U.S. mail addressed as follows:

Jacobson Law Office, Ltd.
64 North Pecos Road, Suite 200
Henderson, NV 89074
Attorney for Plaintiff

By: /s/ Nikki Warren
Employee of Hofland & Tomsheck



1 **NEOJ**

2 RACHEL M. JACOBSON, ESQ.
3 Nevada Bar No. 007827
4 JACOBSON LAW OFFICE, LTD.
5 64 North Pecos Road, Suite 200
6 Henderson, Nevada 89074
7 Phone (702) 601-0770
8 *Attorney for Plaintiff,*
9 *Sarah Maurice*

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

10 **SARAH MAURICE,**

11 **Plaintiff,**

12 **vs.**

13 **JUSTIN MAURICE,**

14 **Defendant.**

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

**NOTICE OF ENTRY OF
ORDER**

15
16 **PLEASE TAKE NOTICE** that an ORDER from hearing of January 13,
17 2021, attached hereto, was duly entered in the above-referenced case on the 23rd
18 day of April 2021.

19
20 DATED this 26th day of April 2021.

21
22 *Respectfully Submitted by:*
23 JACOBSON LAW OFFICE, LTD

24 /s/ Rachel M. Jacobson, Esq.
25 RACHEL M. JACOBSON, ESQ.
26 Nevada Bar No. 007827
27 64 North Pecos Road, Suite 200
28 Henderson, Nevada 89074
(702) 601-0770
Attorney for Plaintiff

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

☒ BY ELECTRONIC SERVICE: 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 FACSIMILE:** Pursuant to EDCR 7.26, I transmitted a copy of the foregoing document this date via facsimile;

☐ BY CERTIFIED MAIL: I placed a true copy thereof enclosed in a sealed envelope, return receipt requested.

Bradley J. Hofland, Esq.
Bradh@hoflandlaw.com

-2-

Heather S. Hume
CLERK OF THE COURT

ORDR

RACHEL M. JACOBSON, LTD.
Nevada Bar No. 007827
JACOBSON LAW OFFICE, LTD.
64 North Pecos Road, Suite 200
Henderson, Nevada 89074
Phone (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

SARAH MAURICE,

Plaintiff,

vs.

JUSTIN MAURICE,

Defendant.

Case No. **D-14-506883-D**

Dept. No. **Q**

FAMILY DIVISION

Date of Hearing: 01/13/2021

Time of Hearing: 9:00 AM

ORDER

THIS MATTER having come on for hearing upon Defendant's Motion for Reconsideration of Order Denying to Modify the Current Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and Related Relief, and Plaintiff's Opposition and Countermotion thereto and Defendant's Reply; Plaintiff, SARAH MAURICE ("Plaintiff/Mother"), appearing via *Blue Jeans* and being represented by RACHEL M. JACOBSON, ESQ., of Jacobson Law Office, Ltd., and Defendant, JUSTIN MAURICE ("Defendant/Father"), also appearing via *Blue Jean* and being

1 represented by BRADLEY J. HOFLAND, ESQ.; the Court, having reviewed the
2 pleadings and papers on file herein, and the Court being fully advised in the
3 premises and good cause appearing therefore, makes the following Notations,
4 Findings and Orders:
5

6 THE COURT NOTED that no stipulations between the parties have been
7 reached.
8

9 THE COURT FURTHER NOTED that the Stipulated Decree of Divorce
10 was entered September 30, 2015, and, recognizing that the Decree is five years of
11 age, the Court questioned counsel as to whether there would be any value in having
12 the parties participate in mediation regarding a modification to the schedule. It is
13 clear to the Court that there has been communication and dialog between the
14 parties over the past year with things that have happened and the environment that
15 we live in now. The parties have demonstrated the capacity to communicate with
16 each other. The Court also stated that this is independent of the request to modify
17 custody. (VT 9:13) Counsel's opinions differed as to mediation.
18
19
20
21

22 THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS
23 based upon the arguments of counsel and papers that have been filed with the
24 Court: (VT 9:19:44)
25

26 THE COURT HEREBY FINDS that this matter comes before the Court on
27 Defendant's Motion for Reconsideration of Order Denying to Modify the Current
28

1 Custodial Arrangement; Modify Child Support; Modify Child Tax Deduction; and
2 for an Award of Attorney's Fees and Costs and Related Relief. The standard
3 applied by the Court in evaluating such a motion for reconsideration is the *Ellis v.*
4 *Carucci* standard, recognizing that the controlling order (the Decree of Divorce),
5 provides the parties with Joint Legal Custody and the Plaintiff/Mother with
6 Primary Physical Custody. That order was entered in 2015, subject to the
7 visitation defined therein for Father. Pursuant to the *Ellis v. Carucci* standard, the
8 Court is required to initially make a finding that there has been a substantial
9 change in circumstances affecting the well-being of the child in evaluating whether
10 or not there is a basis to modify custody. After making a finding that there has
11 been a substantial change in circumstances, the Court then considers the best
12 interest factors, which is a focal point in looking at the best interests of the
13 children. (VT 9:21)

14
15 THE COURT FURTHER FINDS AND CONCLUDES that the *Ellis v.*
16 *Carucci* case modified the *Murphy* test that had been in place up until the time of
17 *Ellis v. Carucci*. The standard that is set forth in both cases relies in part upon
18 maintaining some stability in custodial arrangements for the benefit of children.
19 That is the basis for the original *Murphy* test, lessened somewhat in the *Ellis v.*
20 *Carucci* test. The test in *Ellis v. Carucci* is the standard to be applied by the Court.
21 (VT 9:21:43)

1 THE COURT FURTHER FINDS that when the case first came before the
2 Court on the Defendant's motion on October 27, 2020, the Court was asked to
3 make such a determination. Upon review of the original papers filed pursuant to
4 the *Rooney* case, the Court determined that there was not a sufficient showing
5 pursuant to *Rooney* to set further proceedings on the motion. (VT 9:22:12)
6

7
8 THE COURT FURTHER FINDS that the primary focus of the Defendant's
9 Motion relates to his work schedule. Although Defendant raises other issues and
10 arguments, the change in his work schedule is the primary focus of his request.
11 There is reference to an offer of proof that the parties' older child, Savannah (13
12 years of age and soon to be 14), has expressed a preference regarding her custody
13 (which is a "best interest" factor pursuant to NRS 125C.0035). Plaintiff disputes
14 this offer of proof, arguing that the opposite is true. This Court concludes that such
15 an expression of a preference is not determinative of a substantial change in
16 circumstances. Rather, such an offer is part of the best interest analysis. (VT
17 9:23:13)
18
19
20
21

22 THE COURT FURTHER FINDS that, looking at work schedules in general,
23 the Court posed the question: if someone loses his/her job and becomes
24 unemployed (which the Court has seen a fair amount of this past year), does that
25 constitute a substantial change in circumstances to warrant the Court permanently
26 modifying custody (because someone becomes unemployed). (VT 9:15) This
27
28

1 Court's approach is not determined by how other judicial Departments may or may
2 not be approaching this issue. This Court applies the law to the facts. The Court
3 recognizes that we are living in unique times, including a rise in unemployment.
4 The Court, therefore, posed the question regarding unemployment. The Court
5 would not conclude that the loss of employment necessarily triggers an automatic
6 review with evidentiary proceedings for a permanent modification of custody and
7 the Court also views the same a temporary circumstance. Defendant's specific
8 situation is offered something that is more than a temporary circumstance. In this
9 regard, Defendant's work schedule has changed, including the availability of
10 "working" from home. Such a "work" arrangement is something that we are
11 seeing a lot more frequently today under the current circumstances with the
12 Pandemic (and may remain after things get back to "normal"). However, when the
13 Court hears the phrase "working from home," the connotation that that frequently
14 is attaches is that "working" from home does not really mean "working." The
15 suggestion is that someone who is "working" from home is actually not working,
16 but is available to provide daycare for children, available to educate children or
17 involved in some form of distance learning. The good news for the Court is that
18 the parties' children are fortunate enough to be receiving some in-person
19 education, which is a fabulous and a fantastic scenario for them. It is not complete,
20 but they at least get some socialization and some classroom time. Nevertheless,
21
22
23
24
25
26
27
28

1 when the Court hears “working from home,” the Court should necessarily view
2 such a claims as actually *working* from home. It may not mean that every minute
3 of that time is spent actually performing work, but clearly the Court’s expectation
4 would be that the employer expects that one is available and actually working from
5 home. (VT 9:25:27)
6

7
8 THE COURT FURTHER FINDS that, based upon the offers that have been
9 made, there has not been a sufficient basis nor has there been a sufficient showing,
10 pursuant to *Rooney*, that would warrant this Court to reconsider the prior Order
11 (Nov. 21, 2020) and set further proceedings. The Court is not persuaded, based
12 upon those papers, and pursuant to *Rooney*, that there is sufficient cause to set
13 further proceedings. (VT 9:26)
14

15
16 THE COURT FURTHER FINDS that Plaintiff is entitled to an award of
17 attorney’s fees pursuant to EDCR 7.60. This Court has considered the factors set
18 forth in *Brunzell v. Golden Gate National Bank* in evaluating an award of fees.
19 After this Court’s review and consideration of Plaintiff’s Memorandum of
20 Attorney’s Fees and Costs (Mar. 26, 2021) and Defendant’s Objection to Plaintiff’s
21 Memorandum of Attorney’s Fees and Costs (Apr. 2, 2021), this Court finds that an
22 award of \$1,500 is appropriate.
23
24
25

26 THE COURT FURTHER FINDS that it also is important to clarify the
27 record as it relates to what transpired in the prior hearing in light of the assertions
28

1 made in the paperwork filed on behalf of Defendant that misstate how this Court
2 handled the prior proceedings and, as such, the Court finds the clarification as to
3 what exactly transpired is necessary and, in that regard, the COURT FINDS AS
4 FOLLOWS: (VT 9:26:20)
5

6
7 1. Defendant's Motion for Reconsideration of Order Denying to Modify
8 the Current Custodial Arrangement; Modify Child Support; Modify Child Tax
9 Deduction; and for an Award of Attorney's Fees and Costs and Related Relief
10 states in specific footnote 2:
11

12 *At no time*, did the Court's staff inform Mr. Hofland's office that the
13 hearing was starting with or without him. [Emphasis added]

14 The Defendant's Motion continues in footnote 3:
15

16 Clark County while smaller than Los Angeles, San Bernardino,
17 San Francisco, Orange County and San Diego Counties, has generally
18 like other large counties in other states accommodated scheduling
19 conflicts caused by conflicts with other appearances scheduled for the
20 same time and date. Mr. Hofland inadvertently wrongly assumed
21 Department Q granted the same "common" courtesy followed in other
22 divisions of the Eighth Judicial District Court and other Courts where
23 Mr. Hofland has appeared to trail hearings so all parties and counsel
24 would be present at important hearings.

25 Further, on page 3 of Defendant's Reply to Plaintiff's Opposition:
26

27 "Sadly, and unacceptably this Court chose to deprive Defendant of his
28 due process rights to a fair and meaningful hearing (he was not
allowed to appear given the Court's method of disposition), and more
troubling his fundamental rights as a parent were not recognized and
accommodated. Along with that, Defendant's counsel was not
allowed (denied) the opportunity to be heard (unlike Plaintiff's
counsel). Instead, this Court simply focused on one factor, denied

1 argument and an evidentiary hearing, claiming that factor alone was
2 insufficient to modify custody and child support, and promptly ruled
3 the case would be closed as soon as Plaintiff's counsel could get an
4 order to the Court. (VT 9:28)

5 2. (VT 9:28) For the record, this Court's JEA and Law Clerk received an
6 email from Mr. Hofland's office on Monday, October 26, 2020 at 1:25 PM, to
7 notify the Department that "Mr. Hofland will be a few minutes late logging on to
8 Bluejeans in the morning as he also has a telephonic hearing with one of his civil
9 cases at 9:00 AM tomorrow also." Department Q's Law Clerk responded on
10 October 26, 2020 at 3:15 PM and stated: "Thank you for the notice." The
11 Department Q JEA was included in the email.
12
13

14 3. Department Q's JEA followed up with Mr. Hofland's office on
15 Tuesday, October 27, 2020 (the date of the hearing) at 10:02 AM. The hearing
16 was scheduled for 9:00 AM on the Court's calendar. The suggestion that this
17 Court failed to trail the matter is completely inaccurate. The hearing was
18 scheduled at 9:00 AM. As of 10:02 AM, the Court had trailed the matter.
19 Department Q's JEA's email to Mr. Hofland's office stated: "Can you please tell
20 me the status of Mr. Hofland? Unfortunately, Ms. Jacobson was not notified by
21 your office and she has been waiting since 9 AM. Judge Duckworth will be calling
22 the matter..." Thus, notice was *in fact* imparted on Mr. Hofland's office that the
23 matter was going to be called and was called at 10:03 AM.
24
25
26
27
28

1 4. After trailing the matter for more than an hour to accommodate
2 counsel, the hearing proceeded at 10:03 AM. On October 27, 2020 at 10:08 AM,
3 an email was received by Department Q's JEA from Mr. Hofland's office stating
4 "I apologize for the delay. Mr. Hofland is *still waiting* to be called for his civil
5 hearing this morning in Department 25. Mr. Hofland anticipates he will be
6 finished *by 10:30 AM/11:00 AM*. Our Client Justine Maurice is at our office for
7 the Maurice Hearing, and he just stepped out for 15 mins to get a cup of coffee."
8 (Emphasis added). (VT 9:30:30)

12 5. Again, the suggestion that this Court failed to offer any courtesy
13 whatsoever is inaccurate. Moreover, the Court would expect that, as a professional
14 courtesy, if an attorney anticipates being late to a hearing, counsel would
15 communicate the anticipated delay to opposing counsel. The Court did
16 accommodate the delay; the Court waited for more than an hour. This matter was
17 not the only case on the Court's calendar that morning; the Court had other matters
18 scheduled and the Court.

22 6. It is this Court's prerogative to review the papers and make a
23 determination on those papers because the Court views the papers as being the
24 mode by which counsel for both parties, especially capable counsel that both
25 parties have, to communicate all of the relevant information the Court needs to
26 make a decision. It is this Court's prerogative to make decisions based on the
27
28

1 papers that have been filed, again presuming that all of the relevant information the
2 Court needs to make a decision have been accurately stated in those papers. In this
3 particular matter, the hearing was scheduled for 9:00 AM. It started at 10:03 AM
4 and apparently the hearing before this Court was less of a priority than the hearing
5 before another department downtown in a civil matter. This Court waited over an
6 hour. That was an accommodation that was offered notwithstanding the arguments
7 to the contrary.
8

9
10
11 **THEREFORE,**

12 **IT IS HEREBY ORDERED** that Defendant's Motion for Reconsideration
13 of Order Denying to Modify the Current Custodial Arrangement; Modify Child
14 Support; Modify Child Tax Deduction; and for an Award of Attorney's Fees and
15 Costs and Related Relief is DENIED. (VT 9:25:50; 9:32:10)
16

17 **IT IS FURTHER ORDERED** that Ms. Jacobson shall prepare the Order,
18 submit it to Mr. Hofland for review and signature and leave a blank in the Order
19 for the Court to make a determination as it relates to the issue of attorney's fees.
20 The Plaintiff is directed to file a Memorandum of Fees indicating the amount
21 incurred in responding to Defendant's Motion for Reconsideration of Order
22 Denying to Modify the Current Custodial Arrangement; Modify Child Support;
23 Modify Child Tax Deduction; and for an Award of Attorney's Fees and Costs and
24 Related Relief.
25
26
27
28

IT IS FURTHER ORDERED that attorney's fees in the amount of \$1,500 are awarded to Plaintiff, reduced to judgment in Plaintiff's favor and against Defendant.

Dated this 23rd day of April, 2021


DISTRICT COURT JUDGE

D8A 3B8 4A8B 0F11
Bryce C. Duckworth
District Court Judge

Approved as to Form and Content:

Respectfully Submitted:

JACOBSON LAW OFFICE, LTD

/s/ Rachel M. Jacobson

RACHEL M. JACOBSON, ESQ.
Nevada Bar No. 007827
64 N. Peccs Road, Suite 200
Henderson, Nevada 89074
Telephone: (702) 601-0770
Attorney for Plaintiff,
Sarah Maurice

BRADLEY J. HOFLAND, ESQ.
Nevada Bar No. 006343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Telephone: (702) 895-6760
Attorney for Defendant,
Justin Maurice

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
6 Sarah Maurice, Plaintiff

CASE NO: D-14-506883-D

7 vs.

DEPT. NO. Department Q

8 Justin Maurice, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/23/2021

15 "Carol Beitler, Legal Assistant" .

jakobslaw@gmail.com

16 "Rachel Jacobson, Esq." .

reli@jacobsonlawltd.com

17 Bradley Hofland

Bradh@hoflandlaw.com

18 Dina DeSousa Cabral

DinaD@hoflandlaw.com

19 Rachel Jacobson

eservice@jacobsonlawltd.com

20 Nikki Woulfe

clerk@hoflandlaw.com

21 Anna Stein

bhassistant@hoflandlaw.com

22 Rachel Jacobson

Reli@jacobsonlawltd.com
23
24
25
26
27
28