

## IN THE SUPREME COURT OF THE STATE OF NEVADA

### INDICATE FULL CAPTION:

ROSIE MARTINEZ AND HENRY OLIVA,  
Appellants,

vs.

IGNACIO AVILA, JR.  
Respondent.

No. 83023

Electronically Filed  
Jul 19 2021 11:59 a.m.

Elizabeth A. Brown  
Clerk of Supreme Court  
**DOCKETING STATEMENT  
CIVIL APPEALS**

### GENERAL INFORMATION

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

### WARNING

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

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

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

1. Judicial District Eighth Department T  
County Clark Judge Hon. Nadin Cutter  
District Ct. Case No. D-15-515892-D

**2. Attorney filing this docketing statement:**

Attorney Fred Page, Esq. Telephone (702) 823-2888

Firm Page Law Firm

Address 6930 South Cimarron Road, Suite 140  
Las Vegas, Nevada 89113

Client(s) Rosie Martinez and Henry Oliva

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

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

Attorney Emily McFarling, Esq. Telephone (702) 766 6671

Firm McFarling Law Group

Address 6230 W Desert Inn Road  
Las Vegas, Nevada 89146

Client(s) Ignacio Avila

Attorney N/A Telephone N/A

Firm N/A

Address N/A

Client(s) N/A

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

The caption was Ignacio Avila, Jr., Appellant v. Rosie Elena Martinez, Respondent. The Supreme Court case number was 77242.

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

None.

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

A post-divorce action was on remand from the Court of Appeals regarding custody and paternity of the minor child at issue, Alan Oliva. A paternity test was taken and as a result of the paternity test it was determined that Ignacio Avila was the natural father, not Henry Oliva, the father on the birth certificate. Senior Judge Hardcastle ruled that because Mr. Oliva had acted as the parent for all of the child ' s life that he was considered as being the father. That Order was appealed. No Answering Brief was ever filed in response to the Opening Brief and the matter was remanded for a trial. At the trial, the Court awarded the genetic father joint physical custody, and refused to consider that Henry had held himself out as the minor child ' s father for the entirety of the child ' s life who is now 10 years of age.

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

The orders being appealed from are the district court's orders that that granted Ignacio joint physical custody with Rosie and stripped Henry of any custodial rights that he had with the minor child at issue for the past ten years.

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

None.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain: Not applicable.

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

Under the rules, the matter should be assigned to the Court of Appeals.

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

Was it a bench or jury trial? Bench trial

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?

None.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** April 29, 2021

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

**17. Date written notice of entry of judgment or order was served** April 29, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b)      Date of filing Not applicable

☐ NRCP 52(b)      Date of filing Not applicable

☐ NRCP 59          Date of filing Not applicable

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

(b) Date of entry of written order resolving tolling motion Not applicable

(c) Date written notice of entry of order resolving tolling motion was served N/A

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** May 28, 2021

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

May 28, 2021 for Rosie Martinez

May 28, 2021 for Henry Oliva

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

NRAP 4(a)(1)

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**SUBSTANTIVE APPEALABILITY**

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

(a)

☒ NRAP 3A(b)(1)

☐ NRS 38.205

☐ NRAP 3A(b)(2)

☐ NRS 233B.150

☐ NRAP 3A(b)(3)

☐ NRS 703.376

☐ Other (specify) \_\_\_\_\_

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(b) Explain how each authority provides a basis for appeal from the judgment or order:

The Findings of Fact, Conclusions of Law, and Order was a final order changing custody from Rosie having primary physical custody of the minor child, to Rosie and Igancio having joint physical custody of the minor child. The Findings of Fact, Conclusions of Law, and Order was also a final order stripping Henry of any custody or visitation rights that he might have with the minor child.



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

(a) Parties:

Rosie Martinez - Appellant

Henry Oliva - Appellant

Ignacio Aliva - Respondent

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

Not applicable.

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

On remand from the Court of Appeals, Respondent sought to establish custody and visitation rights with the minor child. Appellant, Rosie, sought to keep primary custody, and Appellant, Henry sought to keep the visitation that he had with the minor child.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

Not applicable.

(b) Specify the parties remaining below:

Not applicable.

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

☐ Yes

☒ No

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

☐ Yes

☒ No

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

The Findings of Fact, Conclusions of Law, and Order was final order appealable under NRAP 3A(b)(1).

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

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

## VERIFICATION

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

Rosie Martinez and Henry Oliva

---

Name of appellant

Fred Page, Esq.  
Name of counsel of record

7-19-21  
Date

---

Signature of counsel of record

Nevada, Clark County

---

State and county where signed

# CERTIFICATE OF SERVICE

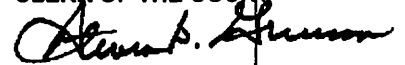
I certify that on the 19th day of July, 2021, I served a copy of this completed docketing statement upon all counsel of record:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Emily McFarling, Esq.  
McFarling Law Group  
6230 W Desert Inn Road  
Las Vegas, Nevada 89146

Dated this 19th day of July, 2021

Signature



1 NEO  
Michael Burton, Esq.  
2 Nevada Bar Number 14351  
Kimber Laux, Esq.  
3 Nevada Bar Number 15263  
**MCFARLING LAW GROUP**  
4 6230 W. Desert Inn Road  
Las Vegas, NV 89146  
5 (702) 565-4335 phone  
(702) 732-9385 fax  
6 eservice@mcfarlinglaw.com  
Attorney for Plaintiff,  
7 Ignacio Avila, Jr.

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **FAMILY DIVISION**

10 **CLARK COUNTY, NEVADA**

11 **IGNACIO AVILA, JR.,**

12 **Plaintiff,**

13 **vs.**

14 **ROSIE MARTINEZ and HENRY OLIVA,**

15 **Defendant.**

Case Number: D-15-515892-C

Department: T

16 **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW AND**  
17 **ORDER**

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

1 PLEASE TAKE NOTICE that on April 29, 2021, a Findings of Fact, Conclusions of Law,  
2 and Order was entered, a copy of which is attached hereto and by reference fully incorporated  
3 herein.

4 DATED this 29<sup>th</sup> day of April, 2021.

5 **McFARLING LAW GROUP**

6 /s/ Kimber Laux

7 Kimber Laux, Esq.  
8 Nevada Bar Number 15263  
9 6230 W. Desert Inn Road  
10 Las Vegas, NV 89146  
11 (702) 565-4335  
12 Attorney for Plaintiff,  
13 Ignacio Avila, Jr.

14 **CERTIFICATE OF SERVICE**

15 The undersigned, an employee of McFarling Law Group, hereby certifies that on the 29<sup>th</sup>  
16 day of April, 2021, she served a true and correct copy of Notice of Entry of Findings of Fact,  
17 Conclusions of Law, and Order:

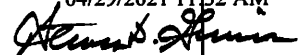
18   X   via mandatory electronic service by using the Eighth Judicial District Court's E-  
19 file and E-service System to the following:

20 Rosie Martinez – *Defendant, in proper person*

21 Jerome Bowen – *Attorney for Defendant*  
22 Raelene Jemison – *Attorney for Defendant*  
23 Theodore Medlyn – *Attorney for Defendant*  
24 *Attorneys for Defendant, Henry Oliva*

/s/Kiya J. Jack

Kiya J. Jack

  
CLERK OF THE COURT

**ORDER**

Michael Burton, Esq.  
Nevada Bar Number 14351  
Kimber Laux, Esq.  
Nevada Bar Number 15263  
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Attorney for Plaintiff,  
Ignacio Avila, Jr.

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

IGNACIO AVILA, JR.,

Plaintiff,

vs.

ROSIE MARTINEZ and HENRY OLIVA,

Defendants.

Case Number: D-15-515892-C  
Department: T

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

THIS MATTER came before the Honorable Nadin Cutter for an Evidentiary Hearing regarding the paternity of Alan Sergio Oliva ("Alan") on April 16, 2021 at 10 a.m. Present at the hearing were Plaintiff, Ignacio Avila, Jr. ("Ignacio"), represented by his attorney of record, Kimber Laux, Esq.; Defendant, Rosie Martinez ("Rosie"), in Proper Person; and Defendant, Henry Oliva ("Henry"), represented by his attorney of record, Theodore M. Medlyn, Esq.

The Court, having reviewed the papers and pleadings on file herein, and having taken evidence and testimony from trial, argument from counsel, and being duly and fully advised in the premises, issues the following findings, conclusions of law, and orders:

1                   **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

2           **THE COURT FINDS** that the Court cannot go outside of the law to make its decision.  
3 The Court must start with the law.

4           **THE COURT FURTHER FINDS** that the parties' situation is incredibly difficult and sad,  
5 but none of the things that have happened are Ignacio's fault. Ignacio is innocent in this case as  
6 much as Alan is innocent in this case.

7           **THE COURT FURTHER FINDS** that pursuant to NRS 126.051(2), a paternity test that  
8 was ordered by the Nevada Supreme Court, taken by Ignacio, and confirmed in this case in 2020  
9 is conclusive. Ignacio Avila Jr. is conclusively the biological father and legal father of Alan.

10          **THE COURT FURTHER FINDS** that Ignacio asked Rosie about Alan's paternity after  
11 the child's birth and even while Rosie was pregnant with Alan and was lied to.

12          **THE COURT FURTHER FINDS** that Ignacio confronted Rosie about Alan's paternity  
13 in 2016 and 2017 and was lied to again.

14          **THE COURT FURTHER FINDS** that at 11:50 a.m. during the parties' evidentiary  
15 hearing, Rosie lied to the Court two times.

16          **THE COURT FURTHER FINDS** that the child's birth certificate needs to be amended  
17 to reflect the name of Alan's father as Ignacio Avila Jr.

18          **THE COURT FURTHER FINDS** that the Court does not have enough evidence to find  
19 that Henry's paternity test was fraudulent. The Court does not care to go down that path.

20          **THE COURT CONCLUDES** that, with respect to Henry's Voluntary Acknowledgment  
21 of Paternity ("VAP") of Alan, NRS 126.053 governs voluntary acknowledgements of paternity or  
22 parentage. Under NRS 126.053(3), after the expiration of the period during which an  
23 acknowledgement may be rescinded, a VAP "may not be challenged except upon the grounds of  
24 fraud, duress or material mistake of fact." The burden of proof is on the person challenging the

1 Acknowledgment to establish that the Acknowledgement was signed because of fraud, duress, or  
2 material mistake of fact.

3 **THE COURT FURTHER FINDS** that, here, there was either a material mistake of fact  
4 or fraud when Henry signed the VAP of Alan.

5 **THE COURT FURTHER CONCLUDES** that the conclusive presumption set forth in  
6 NRS 126.051(2) overcomes any VAP signed by any person that was not the child's biological  
7 father.

8 **THE COURT FURTHER FINDS** that when this matter was pending in 2018, before the  
9 matter was appealed, Henry and Rosie intentionally deprived Ignacio of time with Alan. That  
10 withholding was affirmed in testimony by all three parties – Henry, Rosie, and Ignacio. Ignacio  
11 had overnights with Alan and those overnights were suddenly taken away from him three (3) years  
12 ago.

13 **THE COURT FURTHER FINDS** that not only has Ignacio missed Alan's infancy,  
14 toddlerhood, and young childhood, but after there was a decision in 2018, Ignacio's visitation was  
15 further restricted. The best interest factor under NRS 125C.0035 which considers "which parent is  
16 more likely to allow the child to have frequent associations and a continuing relationship with the  
17 noncustodial parent" incredibly favors Ignacio.

18 **THE COURT FURTHER FINDS** that Ignacio was denied the opportunity to settle this  
19 matter until Alan was 6.5 years old.

20 **THE COURT FURTHER FINDS** that there is no finding of contempt against Ignacio for  
21 failure to retain a guardian ad litem because no Order to Show Cause is pending and there is no  
22 contempt proceeding before the Court.

23 **THE COURT FURTHER CONCLUDES** that under NRS 126.081(1), paternity actions  
24 such as this are not time-barred until the minor child turns 21 years old.



**THE COURT FURTHER FINDS** that there is a conclusive presumption under NRS 126.051(2) that Ignacio is Alan's father.

## ORDERS

**IT IS HEREBY ORDERED** that Ignacio is confirmed as Alan's father.

**IT IS FURTHER ORDERED** that Alan's name shall be changed and his birth certificate shall be amended to reflect Ignacio's last name. The child's name shall be changed to: Alan Sergio Avila. Ignacio shall bear the cost of amending Alan's birth certificate and, after the birth certificate is amended, he shall provide Rosie with an original birth certificate of her own, at his expense. The parties shall confer regarding changing Alan's middle name.

**IT IS FURTHER ORDERED** that Ignacio and Rosie shall have joint physical custody of Alan, with Ignacio's timeshare to begin immediately. Specifically, Ignacio shall have custody of Alan beginning Thursday at 2 p.m. and ending Sunday at 8 p.m. each week, such that Ignacio will have three overnights with Alan. Ignacio shall pick Alan up from Henry's home after the parties' evidentiary hearing ends. Ignacio and Rosie shall communicate as to any backpacks or other items that need to be exchanged between them.

**IT IS FURTHER ORDERED** that Ignacio is encouraged to seriously consider asking Henry to watch Alan on Fridays when Ignacio works such that Alan, Henry, and Henry Jr. can spend time together when Alan is at work.

**IT IS FURTHER ORDERED** that, temporarily, Ignacio and Rosie shall follow the Department T default holiday and visitation schedule. Ignacio and Rosie shall attend FMC to establish a permanent holiday and vacation timeshare.

**IT IS FURTHER ORDERED** that a Return Hearing from FMC Mediation and a Status Check regarding the minor child's middle name is set for May 26, 2021 at 10 a.m.

///

**IT IS FURTHER ORDERED** that, with respect to Alan, Henry is now considered a third party in this matter. If he would like to request third-party visitation, the Court may entertain the same. However, the visits, if any, will not be the same as the visitation Henry previously exercised with Alan. The visits, if any, will be akin to grandparent visitation.

## NOTICES

The parties are subject to the provisions of NRS 31A.025 through 31A.240 which deal with the recovery of payments for the support of minor children by the welfare division of the Department of Human Resources or the District Attorney; and, that his/her employer can be ordered to withhold his/her wages or commissions for delinquent payments of child support.

If you want to adjust the amount of child support established in this order, you **MUST** file a motion to modify the order or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation not submitted, the child support obligation established in this order will continue until such time as all children who are subject of this order reach 18 years of age or, if the youngest child who is subject to this order is still in high school when he or she reaches 18 years of age, when the child graduates from high school or reaches 19 years of age, whichever comes first. Unless the parties agree otherwise in a stipulation, any modification made pursuant to a motion to modify the order will be effective as of the date the motion was filed.

The parties shall submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form to the Court and the Welfare Division of the Department of Human Resources within ten (10) days from the date the Decree in this matter is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten (10) days should any of that information become inaccurate.

1 The following statutory notices regarding custody of a minor children apply to the parties:

2 A. Pursuant to NRS 125C.006, the parties are hereby placed on notice of the following:

3 1. If primary physical custody has been established pursuant to an order, judgment  
4 or decree of a court and the custodial parent intends to relocate his or her residence  
5 to a place outside of this State or to a place within this State that is at such a distance  
6 that would substantially impair the ability of the other parent to maintain a  
7 meaningful relationship with the child, and the custodial parent desires to take the  
8 child with him or her, the custodial parent shall, before relocating:

9 (a) Attempt to obtain the written consent of the noncustodial parent to  
10 relocate with the child; and

11 (b) If the noncustodial parent refuses to give that consent, petition the court  
12 for permission to relocate with the child.

13 2. The court may award reasonable attorney's fees and costs to the custodial parent  
14 if the court finds that the noncustodial parent refused to consent to the custodial  
15 parent's relocation with the child:

16 (a) Without having reasonable grounds for such refusal; or (b) For  
17 the purpose of harassing the custodial parent.

18 3. A parent who relocates with a child pursuant to this section without the written  
19 consent of the noncustodial parent or the permission of the court is subject to the  
20 provisions of NRS 200.359.

21 B. Per NRS 125C.0065, the parties are hereby placed on notice of the following:

22 1. If joint physical custody has been established pursuant to an order, judgment or  
23 decree of a court and one parent intends to relocate his or her residence to a place  
24 outside of this State or to a place within this State that is at such a distance that  
would substantially impair the ability of the other parent to maintain a meaningful  
relationship with the child, and the relocating parent desires to take the child with  
him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to  
relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the  
court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent  
if the court finds that the non-relocating parent refused to consent to the relocating  
parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. A parent who relocates with a child pursuant to this section before the court  
enters an order granting the parent primary physical custody of the child and  
permission to relocate with the child is subject to the provisions of NRS 200.359.

C. Per NRS 125C.0045 (6), the parties are hereby placed on notice of the following:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR  
DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY

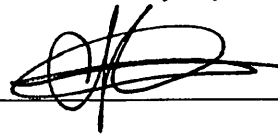
1 D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person  
2 having a limited right of custody to a child or any parent having no right of custody  
3 to the child who willfully detains, conceals or removes the child from a parent,  
4 guardian or other person having lawful custody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

9 D. Per NRS 125C.0045 (7), the parties are hereby placed on notice of the following:

10 The parties, and each of them, are hereby placed on notice that the terms of the  
11 Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague  
12 Conference on Private International Law, apply if a parent abducts or wrongfully  
13 retains a child in a foreign country. Upon the agreement of the parties, Nevada is  
14 hereby declared the state, and the United States of America is hereby declared the  
15 country of habitual residence of the child for the purposes of applying the aforesaid  
16 terms of the Hague Convention.

17 IT IS SO ORDERED.

18 Dated this 29th day of April, 2021

19 

20 9FA DFA 73B4 7D76

21 Nadin Cutter

22 Approved and content:

23 BOWEN LAW OFFICES

24 Submitted by:

MCFARLING LAW GROUP

/s/ Kimber Laux

Michael Burton, Esq.  
Nevada Bar Number 14351  
Kimber Laux, Esq.  
Nevada Bar Number 15263  
6230 W. Desert Inn Road  
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(702) 565-4335  
Attorney for Plaintiff,  
Ignacio Avila, Jr.

/s/ Theodore Medlyn

Theodore M. Medlyn, Esq.  
Nevada Bar Number 15284  
9960 W. Cheyenne Ave., Ste. 250  
Las Vegas, NV 89129  
(702) 240-5191  
Attorney for Defendant,  
Henry Oliva

**From:** [Theodore Medlyn](#)  
**To:** [Kiya Jack](#)  
**Subject:** Re: Avila v. Martinez and Oliva - FCCL and Order  
**Date:** Thursday, April 29, 2021 8:54:05 AM

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You may affix my e-signature.

Sent from my Sprint Samsung Galaxy S20+ 5G.  
Get [Outlook for Android](#)

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**From:** Kiya Jack <Kiyaj@mcfarlinglaw.com>  
**Sent:** Thursday, April 29, 2021 8:52:15 AM  
**To:** Theodore Medlyn <tmedlyn@lvlawfirm.com>  
**Cc:** Raelene Jemison <RJemison@lvlawfirm.com>; Tricia Wilcox <TWilcox@lvlawfirm.com>; Kimber Laux <Kimberl@mcfarlinglaw.com>; MLG Client File Copy <clientcc@mcfarlinglaw.com>  
**Subject:** Avila v. Martinez and Oliva - FCCL and Order

Good Morning,

Please find attached the revised FCCL and Order. Let us know if you approve. Thanks!

Sincerely,

Kiya Jack | Legal Assistant | Paralegal



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1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 Ignacio Avila, Jr., Plaintiff.

CASE NO: D-15-515892-C

7 vs.

DEPT. NO. Department T

8 Rosie Martinez, 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: 4/29/2021

15 Gayle Nathan .

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