

FILED

2021 JUN 10 PM 12:31

Sperry
JANAE CALKINS
DIS Electronically Filed
Jun 14 2021 03:16 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 CASE NO. CV 0020464

2 DEPT. NO. II

3 **AFFIRMATION Pursuant to NRS 239B.030**

4 The undersigned does hereby affirm that
5 this document does not contain the social
6 security number of any person.

7 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF HUMBOLDT

9
10 WAYLON HUBER,

11 Plaintiff,

12 vs.

13 JANA E CALKINS,

14 Defendant.

NOTICE OF APPEAL

15 Notice is hereby given that JANA E CALKINS, Defendant in the above-captioned
16 case, hereby appeals to the Supreme Court of Nevada the May 10, 2021, Order, entered
17 herein on May 12, 2021, which is attached hereto as Exhibit "1."

18 DATED this 9 day of June 2021.
19 BITTNER LEGAL, LLC

EBittner
20 Elizabeth M. Bittner, Esq.
21 Nevada State Bar #9329
22 1225 Westfield Ave., Suite #7
23 Reno, NV 89509
24 TEL: (775) 357-8733
25 FAX: (775) 357-8926
26 elizabeth@bittnerlegal.com
27 Attorney for JANA E CALKINS
28

BITTNER LEGAL LLC
LAW OFFICE OF ELIZABETH BITTNER



CERTIFICATE OF SERVICE

I certify that I am an employee working for BITTNER LEGAL, LLC, and am a citizen of the United States, over twenty-one years of age, not a party to the within action. My business address is 1225 Westfield Ave., Suite #7, Reno, NV 89509.

On the 10th day of June 2021, I caused to be delivered a true and correct copy of the within document via

 Hand Delivery via Reno-Carson Messenger Service

 Facsimile to the following number

 x U.S. First Class Mail, deposited for mailing with sufficient postage pre-paid addressed as follows:

Waylon Huber
4151 Two Rock Street
Winnemucca, Nevada 89445

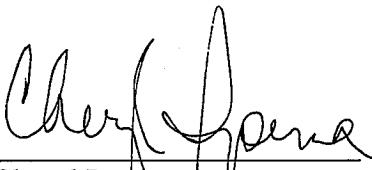

Cheryl Ipema
Paralegal to
ELIZABETH M. BITTNER, ESQ.

EXHIBIT INDEX

EX	DESCRIPTION	PAGES
1	Order Denying Defendant's Motion for Change of Custody and Entering Permanent Custody Order	8

EXHIBIT “1”

EXHIBIT “1”

1 CASE NO. CV 0020464

2 DEPT. NO. II

FILED

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6
7 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF HUMBOLDT

-o0o-

9 WAYLON HUBER,

10 Plaintiff,

11 vs.

12 JANEAL CALKINS,

13 Defendant.

ORDER DENYING
DEFENDANT'S MOTION FOR
CHANGE OF CUSTODY AND
ENTERING PERMANENT
CUSTODY ORDER

14 Before this Court is Defendant, Janeal Calkins ("Mother"), in pro per person, and her
15 *Motion for Change of Custody or Visitation* filed on March 8, 2021. Plaintiff, Waylon Huber
16 ("Father"), by and through his counsel of record, Massey K. Mayo, Esq. and Dolan Law,
17 LLC, filed his *Opposition and Cross Motion for Permanent Custody Order* on May 3, 2021.
18 This matter was submitted to the Court on May 5, 2021 for a decision on the merits.

19 Upon review of the filings, documents, and arguments herein, the Court hereby
20 **DENIES** Mother's motion for a change of custody based on the following:

21 The current Order in this matter, entered on July 24, 2020, granted Father temporary
22 sole physical custody of the minor children: Brynlee and Bryson Huber. Order Modifying
23
24

1 Temporary Custody of Two Minor Children and Other Related Matters at 10, *Huber v.*
2 *Calkins*, Case No. CV0020464 (July 24, 2020). Mother and Father share joint legal custody.
3 *Id.* Mother was granted supervised visitation with the minor children via telephone or
4 audio/visual format at 6:00 p.m. PST each day. *Id.* Any further visitation with Mother must
5 have been recommended by the therapeutic professionals assisting in the minor children's
6 reunification process with Father. *Id.* Father was to employ Dr. Herbert Coard to assist in the
7 reunification process. *Id.* at 10-11.

8 Now, in her instant motion, Mother moves for a modification of the temporary
9 custody order based on Mother's alleged completion of all obligations imposed by the Court,
10 that Father disparages Mother in front of minor children, and that Dr. Coard's failure to
11 respond to Mother's inquiries have delayed Mother's reunification with minor children.
12 Mother's Motion for Change of Custody or Visitation at 4, *Huber v. Calkins*, Case No.
13 CV0020464 (March 8, 2021). Mother therefore asks the Court to award her primary physical
14 custody of the minor children. *Id.*

15 In his Opposition and Cross Motion, Father moves for sole legal and sole physical
16 custody of the minor children. Father's Opposition and Cross Motion for Permanent Custody
17 Order, *Huber v. Calkins*, Case No. CV0020464 (May 3, 2021). Father claims that the minor
18 children's overall mental, physical, emotional, and developmental health has dramatically
19 improved while in his care. *Id.* at 3-5. The minor children have increased their standard
20 scores in school, have acquired accurate medical diagnoses under Dr. Coard, no longer
21 discuss inappropriate sexual activity or undiagnosed illnesses, and participate in healthy
22 activities such as skateboarding, swimming, singing, and dancing. *Id.* The minor children
23
24

1 have also apparently bonded with stepsiblings and friends in the Winnemucca community,
2 and attend the Boys and Girls Club regularly. *Id.*

3 Father further claims that Mother continues to live with her husband, Justin Calkins,
4 who was recently released from prison in August 2020. *Id.* at 6. A no contact order remains
5 in place between the minor children and Mr. Calkins, and Mr. Calkins allegedly shares a
6 home with Mother, yet Mother wishes to move the minor children back to Idaho with her.
7 Order Modifying Temporary Custody, *supra*, at 9.

8 Father therefore moves this Court to grant a permanent custody order in this matter.
9 Father's Opposition and Cross Motion, *supra*, at 9. Considering the minor children's overall
10 improvement in his care, Father argues that the current custody order is in the best interests
11 of the minor children. *Id.*

12 The Nevada Supreme Court has held that primary physical custody may only be
13 modified when "(1) there has been a substantial change in circumstances affecting the
14 welfare of the child, and (2) the modification would serve the child's best interest." *Ellis v.*
15 *Carucci*, 123 Nev. 145, 153, P.3d 239, 244 (2007).

16 First, Mother offers no evidence of a substantial change in circumstances that affects
17 the welfare of the minor children. Mother only alleges that she has completed her obligations
18 imposed by this Court—citing daily phone calls with minor children and communication
19 with Dr. Coard. However, the Court finds no substantial change in circumstances since the
20 July 24, 2020 Order that would warrant a modification of custody.

21 Instead, the Court finds that the most substantial change in circumstances is Mr.
22 Calkins' release from prison and subsequent cohabitation with Mother, which actually works
23

1 in favor of Father retaining sole physical custody given the current no contact order between
2 Mr. Calkins and the minor children. Thus, Mother fails to meet the first prong of *Ellis*.

3 Second, it does not appear to the Court that a modification of physical custody would
4 serve the best interests of the minor children. NRS 125C.0035(4) provides that, in
5 determining the best interest of a child, the Court must consider and set forth specific findings
6 regarding:

- 7 (a) The wishes of the child if the child is of sufficient age and capacity to
8 form an intelligent preference as to his or her physical custody;
- 9 (b) Any nomination of a guardian for the child by a parent;
- 10 (c) Which parent is more likely to allow the child to have frequent
11 associations and a continuing relationship with the noncustodial parent;
- 12 (d) The level of conflict between the parents;
- 13 (e) The ability of the parents to cooperate to meet the needs of the child;
- 14 (f) The mental and physical health of the parents;
- 15 (g) The physical, developmental and emotional needs of the child;
- 16 (h) The nature of the relationship of the child with each parent;
- 17 (i) The ability of the child to maintain a relationship with any sibling;
- 18 (j) Any history of parental abuse or neglect of the child or a sibling of the
19 child;
- 20 (k) Whether either parent or any other person seeking physical custody has
21 engaged in an act of domestic violence against the child, a parent of the
22 child or any other person residing with the child; and
- 23 (l) Whether either parent or any other person seeking physical custody has
24 committed any act of abduction against the child or any other child.

17 Pursuant to NRS 125C.0035(4), the Court makes the following specific findings:

- 18 A. The parties present no evidence of the minor children's wishes or preferences as to their
19 physical custody. The minor children are also not of sufficient age to proffer such a
20 preference, as both Brynlee Huber and Bryson Huber, born May 8, 2012, are age nine
21 (9). This factor is therefore inapplicable.
- 22 B. There is no guardian in this case—this factor is therefore inapplicable.

1 C. Father allows the minor children to have frequent associations and a continuing
2 relationship with Mother pursuant to the existing supervised visitation and
3 telephonic/video schedule. Mother claims Dr. Coard fails to appropriately respond to her
4 communication attempts. However, Father argues that Mother has failed to pay Dr. Coard
5 for her portion of services and has a history of manipulating medical professionals, which
6 may have affected progress. Thus, Dr. Coard's evaluation of the parties and the minor
7 children pursuant to the reunification process remains outstanding, and such lack of
8 progress is given little weight by the Court at this time.

9 D. There does not appear to be any substantial conflict between the parents. However, the
10 Court recognizes that this litigation is quite contentious and has persisted now for almost
11 six (6) years.

12 E. It appears that the parents cooperate effectively to meet the needs of the minor children.
13 Father appropriately allows the minor children to maintain a relationship with Mother
14 and Mother's family via supervised telephonic/video contact, and Father provides a
15 stable, loving home environment for the minor children.

16 F. There is not enough information presented for the Court to make a determination
17 regarding either parent's physical and mental health. Father alleges that Mother has
18 mental health issues and requests an evaluation in that regard. However, seeing that
19 Mother's mental health status has no current impact on the minor children, that Mother's
20 visitation is wholly supervised, and that a determination regarding Mother's mental
21 health status may eventually be made by Dr. Coard, such a request is devoid of merit at
22 this time.

1 G. Father clearly provides for the minor children's physical, developmental, and emotional
2 needs. The minor children are excelling in school and in their personal growth—the
3 minor children no longer discuss inappropriate sexual behavior, no longer self-identify
4 as having ADHD or being autistic, participate in healthy social activities, and engage in
5 personal hobbies. The minor children appear to be happy in Father's care.

6 H. Father appears to have a good relationship with the minor children, which can be inferred
7 by the minor children's considerable growth since the July 24, 2020 Order. Mother
8 appears to have an appropriate relationship with minor children through her supervised
9 visitation time. No evidence was presented otherwise.

10 I. The minor children have been able to cultivate relationships with their stepsiblings while
11 in Father's care. There is no evidence that the minor children's relationship with their
12 younger sibling at Mother's home has deteriorated.

13 J. There is no evidence of parental abuse or neglect of the minor children by either parent
14 at this time.

15 K. There is no evidence of any acts of domestic violence against the minor children, a parent,
16 or anyone living with minor children.

17 L. There is no evidence that either parent has committed an act of abduction against the
18 minor children.

19 Based on the foregoing, the Court finds that Mother provides no evidence that a
20 modification of physical custody is in the best interest of the minor children. Absent a
21 showing of a substantial change in circumstances and that a modification would be in the
22 best interest of the minor children, Mother fails to meet the stringent burden of proof to
23

1 modify the temporary sole physical custody order under *Ellis*. Accordingly, Mother's *Motion*
2 *for Change of Custody or Visitation* is **DENIED**. Father's *Cross Motion for Permanent*
3 *Custody Order* is **GRANTED** in part—the current temporary custody order shall now be
4 entered as a permanent custody order:

- 5 1. Father retains sole physical custody of the minor children;
- 6 2. The parties retain joint legal custody of the minor children; and
- 7 3. Mother retains supervised visitation in accordance with the July 24, 2020 Order.

8 **IT IS SO ORDERED.**

9 DATED this 7th day of May, 2021.



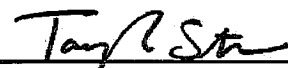
HONORABLE MICHAEL R. MONTERO
DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Honorable Michael R. Montero, District Court Judge, Sixth Judicial District Court and am not a party to, nor interested in, this action; and that on May 7, 2021, I caused to be served a true and correct copy of the enclosed **ORDER** upon the following parties:

Janea Calkins
1465 W. Deer Crest Street H101
Meridian, ID 83646
Via US Mail

Massey Mayo, Esq.
Dolan Law, LLC
545 Hanson Street
Winnemucca, NV 89445
Hand-delivered to Humboldt County Courthouse, DCT Box



TAYLOR M. STOKES
LAW CLERK

FILED

2021 JUN 10 PM 12:31

Spur
CLERK OF DISTRICT COURT

1 CASE NO. CV 0020464

2 DEPT. NO. II

3 **AFFIRMATION Pursuant to NRS 239B.030**

4 The undersigned does hereby affirm that
5 this document does not contain the social
6 security number of any person.

7 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF HUMBOLDT

9
10 WAYLON HUBER,

11 Plaintiff,

12 vs.

13 JANA E CALKINS,

14 Defendant.

CASE APPEAL STATEMENT

15 Defendant, JANA E CALKINS, by and through her attorney of record,
16 ELIZABETH M. BITTNER, hereby submits the following Case Appeal Statement:

- 17 **1. Name of appellant filing this case appeal statement: JANA E CALKINS**
- 18
- 19 **2. Identify the Judge issuing the decision, judgment or order appealed from:**
- 20
- 21 HON. MICHAEL R. MONTERO
- 22 **3. Identify each appellant and the name and address of counsel for each**
- 23 **appellant:**

24 *Appellant:* JANA E CALKINS

25 *Counsel for Appellant:*

26 Elizabeth M. Bittner, Esq. (NSB #9329)
27 1225 Westfield Ave., Suite #7
28 Reno, NV 89509

BITTNER LEGAL LLC
LAW OFFICE OF ELIZABETH BITTNER



1 **4. Identify each respondent and the name and address of appellate counsel, if**
2 **known, for each respondent (if the name of a respondent's appellate counsel is**
3 **unknown, indicate as much and provide the name and address of that respondent's**
4 **trial counsel):**

5 *Respondent:* WAYLON HUBER

6 *Trial Counsel for Respondent:*

7 Massey Mayo, Esq.
8 Dolan Law, LLC
9 545 Hanson Street
10 Winnemucca, NV 89455

11 *Appellate Counsel for Respondent:*

12 Unknown

13 **5. Indicate whether any attorney identified above in response to question 3 or 4 is**
14 **not licensed to practice law in Nevada and, if so, whether the district court granted**
15 **that attorney permission to appear under SCR 42:**

16 All identified counsel are licensed to practice law in Nevada.

17 **6. Indicate whether appellant was represented by appointed or retained counsel**
18 **in the district court:**

19 Appellant was represented herself *in pro per* in the district court.

20 **7. Indicate whether appellant is represented by appointed or retained counsel on**
21 **appeal:**

22 Appellant is represented by retained counsel on appeal.

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

25 Appellant was not granted leave to proceed in forma pauperis by the district
26 court.

27 **9. Indicate the date the proceedings commenced in the district court:**
28

1 The proceeding commenced in the district court on July 31, 2015, upon the filing of
2 a Complaint for Divorce.

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

6 The action before the district court was a custody modification initially filed by
7 Plaintiff/Respondent, WAYLON HUBER, in 2019, a temporary order modifying custody
8 issued by the Court July 24, 2020, a motion to modify those temporary orders filed by
9 Defendant/Appellant, JANEAL CALKINS, on March 8, 2021, and an Order Denying
10 Defendant's Motion to Change Custody and Entering Permanent Custody Order issued
11 May 10, 2021.

12
13 **11. Indicate whether the case has previously been the subject of an appeal to or**
14 **original writ proceeding in the Supreme Court and, if so, the caption and Supreme**
15 **Court docket number of the prior proceeding:**

16 No prior proceedings have been filed with the Supreme Court in this case.

17 **12. Indicate whether this appeal involves child custody or visitation:**

18 This appeal involves child custody and visitation.

19 **13. If this is a civil case, indicate whether this appeal involves the possibility of**
20 **settlement:**

21 That there is the possibility of settlement.

22 DATED this 9 day of June, 2021.
23 BITTNER LEGAL, LLC

24 
25 ELIZABETH M. BITTNER, ESQ.
26 Attorney for JANEAL CALKINS
27
28



CERTIFICATE OF SERVICE

I certify that I am an employee working for BITTNER LEGAL, LLC, and am a citizen of the United States, over twenty-one years of age, not a party to the within action. My business address is 1225 Westfield Ave., Suite #7, Reno, NV 89509.

On the 10th day of June 2021, I caused to be delivered a true and correct copy of the within document via

☐ Hand Delivery via Reno-Carson Messenger Service

☐ Facsimile to the following number

☒ U.S. First Class Mail, deposited for mailing with sufficient postage pre-paid addressed as follows:

Waylon Huber
4151 Two Rock Street
Winnemucca, Nevada 89445

ELIZABETH M. BITTNER, ESQ.

Sixth Judicial District Court - Humboldt County

Run: 06/10/2021
15:38:30

Case Summary

Page 1

Case #: CV0020464

Judge: MONTERO, MICHAEL R.

Date Filed: 07/31/2015 Department:

Case Type: DISSOLUTION

Plaintiff(s)

HUBER, WAYLON JAY

Attorney(s)

DOLAN LAW

Defendant(s)

CALKINS, JANE A M

Attorney(s)

BITTNER, ELIZABETH M ESQ

Fees:

Date Assessed:	Fee	Total	Paid	Waived	Outstanding
07/31/2015	CLERKFE	\$56.00	\$56.00	\$0.00	\$0.00
09/02/2015	AB65	\$99.00	\$99.00	\$0.00	\$0.00

Hearings:

Date	Time	Hearing
02/01/2016	2:00PM	HEARING
05/04/2017	10:00AM	HEARING
06/22/2017	9:00AM	HEARING
01/05/2018	2:30PM	HEARING
03/30/2018	9:00AM	HEARING
10/24/2018	2:30PM	HEARING
11/20/2018	2:30PM	SHOW CAUSE HEARING
02/26/2019	2:30PM	HEARING
03/14/2019	1:30PM	HEARING
11/26/2019	1:30PM	SETTLEMENT CONFERENCE
12/19/2019	11:00AM	SETTLEMENT CONFERENCE
01/09/2020	1:30PM	SETTLEMENT CONFERENCE
02/27/2020	1:30PM	EVIDENTIARY HEARING
07/15/2020	1:30PM	HEARING

Filings:

Date	Filing
07/31/2015	COMPLAINT FOR DIVORCE (WITH CHILDREN)
07/31/2015	SUMMONS ISSUED
08/03/2015	Legacy Images
08/27/2015	ACCEPTANCE OF SERVICE OF SUMMONS AND COMPLAINT
08/28/2015	Legacy Images
09/02/2015	ANSWER AND COUNTERCLAIM
09/03/2015	Legacy Images
09/18/2015	PLAINTIFF'S MOTION TO SET TEMPORARY CUSTODY AND VISITATION
09/21/2015	REPLY TO COUNTERCLAIM
09/21/2015	Legacy Images

Run: 06/10/2021
15:38:33

Case Summary

Page 2

09/22/2015	Legacy Images
09/28/2015	GENERAL FINANCIAL DISCLOSURE FORM
09/28/2015	AFFIDAVIT OF DEFENDANT
09/28/2015	DEF'S OPPOSITION TO PLF'S MOTION TO SET TEMPORARY CUSTODY &
09/28/2015	MOTION TO SPOUSAL SUPPORT, PENDENTE LITE, CHILD CUSTODY & SUPPORT ETC
09/28/2015	Legacy Images
09/28/2015	Legacy Images
09/28/2015	Legacy Images
09/28/2015	Legacy Images
12/03/2015	PLAINTIFF'S EMERGENCY OPP TO DEF MOT FOR TEMP SUP CUST ATTY FEES ETC
12/03/2015	Legacy Images
12/03/2015	Legacy Images
12/07/2015	EX PARTE MOTION FOR TEMPORARY MUTUAL FINANCIAL RESTRAINING
12/07/2015	REQUEST FOR SUBMISSION
12/07/2015	Legacy Images
12/07/2015	Legacy Images
12/10/2015	ORDER GRANTING EX PARTE MOTION FOR TEMPORARY MUTUAL FINANCIAL RESTRAINING ORDER
12/10/2015	Legacy Images
12/11/2015	DEFENDANT'S REPLY TO PLAINTIFF'S OPPOSITION TO MOTION FOR SPOUSAL SUPPORT ETC
12/11/2015	REQUEST FOR SUBMISSION
12/11/2015	AFFIDAVIT OF DEFENDANT
12/14/2015	Legacy Images
12/14/2015	Legacy Images
12/14/2015	Legacy Images
12/17/2015	NOTICE OF ENTRY OF ORDER
12/17/2015	REQUEST FOR SUBMISSION
12/18/2015	Legacy Images
12/18/2015	Legacy Images
02/01/2016	MINUTES - MOTIONS HEARING
02/08/2016	Legacy Images
02/22/2016	ORDER AWARDING TEMPORARY CHILD & SPOUSAL & ADD RELIEF
02/22/2016	ORDER GRANTING TEMPORARY CUSTODY AND VISITATION
02/23/2016	Legacy Images
02/23/2016	Legacy Images
03/21/2016	MARITAL SETTLEMENT AGREEMENT (FILED BY PARTIES)
03/22/2016	Legacy Images
03/29/2016	AFFIDAVIT OF RESIDENT WITNESS
03/29/2016	Legacy Images
04/01/2016	FINDINGS OF FACT, CONCLUSION OF LAW, AND DECREE OF DIVORCE
04/04/2016	Legacy Images
04/11/2016	WITHDRAWAL OF COUNSEL (WHITEHEAD)
04/12/2016	Legacy Images
06/23/2016	WITHDRAWAL OF ATTORNEY (MANSON, GARY)
06/24/2016	Legacy Images
07/19/2016	QUALIFIED DOMESTIC RELATIONS ORDER (UNION PACIFIC)
07/19/2016	REQUEST FOR SUBMISSION
07/19/2016	Legacy Images

Run: 06/10/2021
15:38:33

Case Summary

Page 3

07/20/2016	Legacy Images
04/14/2017	REQUEST FOR SUBMISSION OF EXPARTE MOTION
04/14/2017	EXPORTE EMERGENCY MOTION REGARDING CHILDREN
04/14/2017	ORDER GRANTING IMMEDIATE CUSTODY OF CHILDREN
04/14/2017	PROOF OF SERVICE
04/14/2017	Legacy Images
04/14/2017	Legacy Images
04/14/2017	Legacy Images
04/18/2017	PROOF OF SERVICE
04/18/2017	REQUEST FOR SUBMISSION
04/18/2017	EX PARTE EMERGENCY MOTION REGARDING CHILDREN
04/18/2017	Legacy Images
04/18/2017	Legacy Images
04/24/2017	NOTICE OF APPEARANCE OF COUNSEL
04/25/2017	Legacy Images
04/28/2017	NOTICE OF WITNESSES
04/28/2017	NOTICE OF APPEARANCE
04/28/2017	SUBPOENA (CORY DUNKHORST)
04/28/2017	SUBPOENA DUCES TECUM (DCFS)
05/01/2017	Legacy Images
05/01/2017	Legacy Images
05/01/2017	Legacy Images
05/01/2017	Legacy Images
05/04/2017	SUBPOENA TO APPEAR AND TESTIFY
05/04/2017	MINUTES - HEARING ON EX PARTE EMERGENCY MOTION
05/04/2017	Legacy Images
05/05/2017	SUBPOENA TO APPEAR AND TESTIFY
05/05/2017	Legacy Images
05/08/2017	REQUEST FOR SUBMISSION
05/08/2017	EX PARTE EMERGENCY MOTION FOR TEMP CUSTODY
05/08/2017	REQUEST FOR SUBMISSION
05/08/2017	Legacy Images
05/08/2017	Legacy Images
05/08/2017	Legacy Images
05/09/2017	REQUEST FOR SUBMISSION FOR EX PARTE MOTION TO SHORTEN TIME
05/09/2017	EX PARTE MOTION FOR ORDER SHORTENING TIME
05/09/2017	EMERGENCY NOTICED MOTION TO SUSPEND VISIT AND REQ FOR HEARING
05/09/2017	REQUEST FOR SUBMISSION OF DEF'S EX PARTE MOTION FOR RETURN OF MINOR CHILDREN
05/09/2017	EX PARTE MOTION FOR RETURN OF MINOR CHILDREN OPP TO FATHERS
05/09/2017	Legacy Images
05/09/2017	Legacy Images
05/09/2017	Legacy Images
05/09/2017	Legacy Images
05/09/2017	Legacy Images
05/11/2017	REPLY TO OPPOSITION TO FATHERS MAY 8TH EX PARTE MOTION AND O
05/11/2017	DELIVERY OF AFFIDAVIT
05/11/2017	Legacy Images
05/11/2017	Legacy Images
05/16/2017	MOTION TO STRIKE DEF'S AFFIDAVIT IN SUPPORT OF EMERGENCY MOT
05/17/2017	AFFIDAVIT OF J. HUBER IN SUPPORT OF EMERGENCY MOTION TO SUSP
05/17/2017	Legacy Images
05/18/2017	Legacy Images

Run: 06/10/2021
15:38:33

Case Summary

Page 4

05/23/2017 MEMORANDUM OF COSTS AND FEES (\$1731.00)
05/23/2017 REQUEST FOR SUBMISSION
05/23/2017 MOTION TO STRIKE FATHER'S 5/5/17 REQUEST FOR SUBMISSION
05/23/2017 OPPOSITION TO FATHER'S MOTION TO STRIKE DEF AFFIDAVIT IN SUP
05/23/2017 REQUEST FOR SUBMISSION
05/23/2017 REPLY TO EMERGENCY NOTICED MOTION TO SUSPEND VISITATION & RE
05/24/2017 Legacy Images
05/24/2017 Legacy Images
05/24/2017 Legacy Images
05/24/2017 Legacy Images
05/24/2017 Legacy Images
05/24/2017 Legacy Images
05/25/2017 REPLY TO OPPOSITION TO FATHER'S MOTION TO STRIKE DEF AFFIDAV
05/25/2017 REQUEST FOR SUBMISSION
05/26/2017 Legacy Images
05/26/2017 Legacy Images
06/05/2017 OPPOSITION TO PLAINTIFFS MEMORANDUM OF COST AND FEES
06/09/2017 EXPARTE EMERGENCY MOTION TO SUSPEND VISITATION
06/09/2017 REQUEST FOR SUBMISSION
06/09/2017 ORDER SUSPENDING VISITATION
06/09/2017 Legacy Images
06/12/2017 Legacy Images
06/13/2017 RESPONSE TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MEMORANDUM
06/13/2017 AFFIDAVIT OF JANE HUBER IN SUPPORT OF EX PARTE EMERGENCY MO
06/13/2017 OPPOSITION TO MOTHER'S EX PARTE EMERGENCY MOTION TO SUSPEND
06/13/2017 Legacy Images
06/13/2017 Legacy Images
06/13/2017 Legacy Images
06/13/2017 Legacy Images
06/13/2017 Legacy Images
06/13/2017 Legacy Images
06/15/2017 REQUEST FOR SUBMISSION
06/15/2017 Legacy Images
06/16/2017 NOTICE OF WITNESSES
06/16/2017 NOTICE OF INTENT TO APPEAR BY TELEPHONIC TRANSMISSION EQUIPM
06/16/2017 NOTICE OF EXPERT WITNESS
06/16/2017 ORDER AFTER HEARING MAY 4, 2017 EMERGENCY HEARING
06/16/2017 SUBPOENA ISSUED
06/16/2017 Legacy Images
06/16/2017 Legacy Images
06/16/2017 Legacy Images
06/21/2017 Legacy Images
06/22/2017 COURT MINUTES (EX-PARTE HEARING A PORTION IS SEALED)
06/22/2017 PROOF OF PERSONAL SERVICE
06/22/2017 SUBPOENA TO APPEAR AND TESTIFY
06/22/2017 SUBPOENA TO APPEAR AND TESTIFY
06/26/2017 Legacy Images
06/26/2017 Legacy Images
06/26/2017 Legacy Images
06/30/2017 Legacy Images
07/03/2017 ORDER SUSPENDING VISITATION
07/06/2017 Legacy Images
09/13/2017 MOTION TO WITHDRAW AS COUNSEL (RAC)
09/13/2017 NON-OPPOSITION TO MOTION TO BE RELIEVED AS COUNSEL

Run: 06/10/2021
15:38:33

Case Summary

Page 5

09/13/2017	REQUEST FOR SUBMISSION
09/13/2017	Legacy Images
09/13/2017	Legacy Images
09/13/2017	Legacy Images
09/14/2017	ORDER ALLOWING WITHDRAWAL OF COUNSEL FOR RESPONDENT (CARUCCI
09/15/2017	Legacy Images
10/17/2017	REQUEST FOR HEARING (STATUS)
10/17/2017	Legacy Images
10/24/2017	ORDER DENYING REQUEST FOR HEARING
10/25/2017	Legacy Images
11/09/2017	NOTICE OF FINDINGS OF DIVISION OF CHILD AND FAMILY SERVICES
11/09/2017	REQUEST FOR SUBMISSION
11/09/2017	REQUEST FOR HEARING
11/09/2017	Legacy Images
11/09/2017	Legacy Images
11/09/2017	Legacy Images
12/05/2017	NOTICE OF HEARING
12/06/2017	Legacy Images
12/19/2017	SUPBOENAS (3) ISSUED
12/29/2017	SUBPOENA (DCFS)
01/02/2018	Legacy Images
01/05/2018	MINUTES - REVIEW HEARING
01/08/2018	Legacy Images
01/09/2018	Legacy Images
01/24/2018	SUBPOENA ISSUED
01/26/2018	SUBPOENA (DCFS)
01/29/2018	NOTICE OF APPEARANCE OF COUNSEL (EVENSON)
01/30/2018	Legacy Images
01/31/2018	NOTICE OF HEARING
02/01/2018	DISCHARGE OF ATTORNEY AND SUBSTITUTION IN PRO PER (WNN)
02/01/2018	Legacy Images
02/02/2018	Legacy Images
03/30/2018	COURT MINUTES (EVIDENTIARY HEARING)
04/26/2018	Legacy Images
05/16/2018	REQUEST FOR SUBMISSION OF EX PARTE MOTION
05/16/2018	EX PARTE MOTION TO COMPEL
05/16/2018	PROOF OF SERVICE
05/16/2018	Legacy Images
05/16/2018	Legacy Images
05/16/2018	Legacy Images
06/01/2018	Legacy Images
06/15/2018	REQUEST FOR SUBMISSION
06/15/2018	Legacy Images
10/24/2018	COURT MINUTES - STATUS HEARING
11/02/2018	ORDER TO SHOW CAUSE
11/05/2018	Legacy Images
11/15/2018	Legacy Images

Run: 06/10/2021
15:38:33

Case Summary

Page 6

11/20/2018	COURT MINUTES - SHOW CAUSE HEARING
11/20/2018	Legacy Images
11/21/2018	ORDER
11/21/2018	Legacy Images
11/30/2018	ORDER AFTER HEARING
12/03/2018	Legacy Images
12/31/2018	PROOF OF PAYMENT
01/02/2019	Legacy Images
01/04/2019	REQUEST FOR A HEARING
01/08/2019	Legacy Images
01/23/2019	MOTION TO MODIFY CUSTODY & RELATED RELIEF
01/23/2019	MOTION TO LIFT RESTRICTION OF HUSBAND
01/23/2019	MOTION TO WITHDRAW AS ATTORNEY OF RECORD
01/23/2019	MOTION TO REOPEN DISCOVERY
01/24/2019	ORDER TO SUBMIT EXPARTE MOTION TO MODIFY CUSTODY DUE TO CHAN
01/24/2019	Legacy Images
01/24/2019	Legacy Images
01/24/2019	Legacy Images
01/24/2019	Legacy Images
01/24/2019	Legacy Images
02/01/2019	PROOF OF SERVICE
02/01/2019	REPLY TO MOTION TO MODIFY CUSTODY & RELATED RELIEF
02/01/2019	REPLY TO MOTION TO LIFT RESTRICTIONS ON HUSBAND
02/01/2019	REPLY TO MOTION TO RE-OPEN DISCOVERY
02/04/2019	Legacy Images
02/04/2019	Legacy Images
02/04/2019	Legacy Images
02/04/2019	Legacy Images
02/08/2019	NOTICE OF HEARING
02/08/2019	ORDER (WITHDRAW OF EVENSON)
02/11/2019	Legacy Images
02/11/2019	Legacy Images
02/26/2019	MINUTES - STATUS HEARING
02/27/2019	Legacy Images
03/14/2019	MINUTES - EVIDENTIARY HEARING
03/15/2019	PROOF OF SERVICE
03/15/2019	ORDER
03/15/2019	SUBPOENA DUCES TECUM
03/18/2019	Legacy Images
03/18/2019	Legacy Images
03/18/2019	Legacy Images
03/21/2019	Legacy Images
03/25/2019	EX PARTE MOTION TO MODIFY CUSTODY DUE TO CHANGE IN CIRCUMSTA
03/25/2019	REQUEST FOR SUBMISSION
03/25/2019	MOTION TO MODIFY CUSTODY DUE TO CHANGE IN CIRCUMSTANCE
03/25/2019	PROOF OF SERVICE
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03/25/2019	Legacy Images
03/25/2019	Legacy Images
03/25/2019	Legacy Images
03/26/2019	SUPPLEMENT TO EXPARTE MOTION TO CHANGE CUSTODY DUE TO CHG IN

Run: 06/10/2021
15:38:33

Case Summary

Page 7

03/26/2019 REQUEST FOR SUBMISSION
03/26/2019 Legacy Images
03/26/2019 Legacy Images
03/29/2019 2ND SUPPLEMENT TO EX PARTE MOTION TO CHG CUST DUE TO CIRCUMS
03/29/2019 REQUEST FOR SUBMISSION
03/29/2019 Legacy Images
03/29/2019 Legacy Images
04/23/2019 PROOF OF SERVICE
04/23/2019 ORDER TO SUBMIT MOTION TO CHANGE CUSTODY DUE TO CHANGE IN
04/23/2019 REPLY IN SUPPORT OF MOTION TO MODIFY CUSTODY DUE TO CHANGE I
04/24/2019 Legacy Images
04/24/2019 Legacy Images
04/24/2019 Legacy Images
05/07/2019 PROOF OF SERVICE FOR SUPPLEMENT TO MOTION TO MODIFY CUSTODY
05/07/2019 REQUEST FOR SUBMISSION
05/07/2019 SUPPLEMENT TO MOTION TO MODIFY CUSTODY DUE TO CHG IN CIRCUMS
05/07/2019 Legacy Images
05/07/2019 Legacy Images
05/07/2019 Legacy Images
05/17/2019 REQUEST FOR HEARING
05/17/2019 Legacy Images
05/24/2019 EMERGENCY EX PARTE MOTION TO CHANGE CUSTODY
05/24/2019 ORDER TO SUBMIT EMERGENCY EX PARTE MOTION TO CHG CUSTODY
05/28/2019 LEGACY IMAGES
05/28/2019 Legacy Images
08/15/2019 PROOF OF SERVICE FOR MOTION TO CHANGE LOCATION OF THERAPEUTI
08/15/2019 MOTION TO CHANGE LOCATION OF THERAPEUTIC REUNIFICATION
08/16/2019 PROOF OF SERVICE FOR (MOTION TO ENFORCE DIVORCE DECREE)
08/16/2019 MOTION TO ENFORCE DIVORCE DECREE/MODIFY CUSTODY/CHANGE IN CI
08/20/2019 Legacy Images
08/20/2019 Legacy Images
08/20/2019 Legacy Images
08/20/2019 Legacy Images
09/03/2019 REQUEST FOR SUBMISSION
09/03/2019 PROOF OF SERVICE (UNCONTESTED MOTION TO CHG LOCATION)
09/03/2019 PROOF OF SERVICE (MOTION TO ENFORCE DIVORCE DECREE)
09/03/2019 REQUEST FOR SUBMISSION
10/22/2019 HEARING SET FOR 11/26/2019 AT 1:30 PM IN C1/ , JDG: MONTERO,
MICHAEL R.
10/22/2019 MOTION TO ENFORCE
10/23/2019 NOTICE OF HEARING
11/22/2019 MOTION TO VACATE AND RESCHEDULE HEARING
11/22/2019 SETTLEMENT CONFERENCE SET FOR 11/22/2019 AT 1:30 PM IN C1/ , JDG:
CARR, GABRIELLE
11/22/2019 SETTLEMENT CONFERENCE SET FOR 11/26/2019 AT 1:30 PM IN C2/ , JDG:
CARR, GABRIELLE
11/22/2019 SETTLEMENT CONFERENCE
11/22/2019 SETTLEMENT CONFERENCE/MEDIATION
11/22/2019 ORDER (SETTLEMENT CONFERENCE)
11/26/2019 MINUTES-SETTLEMENT CONFERENCE
12/06/2019 EVIDENTIARY HEARING SET FOR 02/27/2020 AT 1:30 PM IN C1/ , JDG:
MONTERO, MICHAEL R.

Run: 06/10/2021
15:38:33

Case Summary

Page 8

12/06/2019 SETTLEMENT CONFERENCE SET FOR 12/19/2019 AT 11:00 AM IN C2/ ,
JDG: CARR, GABRIELLE
12/06/2019 SETTLEMENT CONFERENCE/MEDIATION
12/06/2019 SETTLEMENT CONFERENCE SET FOR 01/09/2020 AT 1:30 PM IN C2/ , JDG:
CARR, GABRIELLE
12/06/2019 SETTLEMENT CONFERENCE/MEDIATION
12/09/2019 ORDER AFTER MEDIATION
12/09/2019 ORDER SCHEDULING MEDIATION & HEARING DATES
12/23/2019 PROOF OF SERVICE
02/20/2020 PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE HEARSAY EVIDENCE AND
TESTIMONY OF ACCUSATIONS OF SEXUAL AND PHYSICAL ABUSE
02/20/2020 PRE-HEARING STATEMENT
02/20/2020 PROOF OF SERVICE
02/24/2020 SUPPLEMENT TO PRE HEARING STATEMENT
02/24/2020 REQUEST FOR SUBMISSION
02/27/2020 MINUTES-EVIDENTIARY HEARING
03/06/2020 ORDER FILED
05/12/2020 NOTICE OF APPEARANCE (MASSEY MAYO FOR PLAINTIFF)
05/12/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 1 ATTACHMENTS FROM
DOCKETS FREETYPE-5/12/2020
05/12/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 1 ATTACHMENTS FROM
DOCKETS FREETYPE-5/12/2020
05/12/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 1 ATTACHMENTS FROM
DOCKETS FREETYPE-5/12/2020
06/25/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 1 ATTACHMENTS FROM
DOCKETS ORDER-3/6/2020
06/26/2020 EXPARTE MOTION TO PRODUCE MINOR CHILDREN AND GRANT THIRD-PARTY
CUSTODY PENDING REUNIFICATION
06/26/2020 EXPARTE REQUEST FOR SUBMISSION
06/30/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 2 ATTACHMENTS FROM
DOCKETS FREETYPE-6/26/2020
07/01/2020 HEARING SET FOR 07/15/2020 AT 1:30 PM IN C1/ , JDG: MONTERO,
MICHAEL R.
07/01/2020 ORDER TO IMMEDIATELY PRODUCE MINOR CHILDREN TO COURT PER NRS
125C.0055 AND NOTICE OF EXPEDITED HEARING RE: CUSTODY
07/02/2020 NOTICE OF ENTRY OF JULY 1, 2020 ORDER
07/13/2020 MOTION TO CONTINUE HEARING
07/14/2020 OPPOSITION TO MOTION TO CONTINUE HEARING
07/15/2020 MINUTES - HEARING
07/16/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 1 ATTACHMENTS FROM
DOCKETS LEGIM-4/4/2016
07/21/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 0 ATTACHMENTS FROM
DOCKETS

Run: 06/10/2021
15:38:33

Case Summary

Page 9

07/21/2020 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 10 ATTACHMENTS FROM
DOCKETS
FREETYPE-2/22/2016,LEGIM-2/23/2016,LEGIM-4/4/2016,LEGIM-6/21/2017,
LEGIM-7/6/2017,LEGIM-12/3/2018,LEGIM-3/18/2019,FREETYPE-12/9/2019

07/24/2020 ORDER MODIFYING TEMPORARY CUSTODY OF TWO MINOR CHILDREN AND OTHER
RELATED MATTERS

07/24/2020 NOTICE OF ENTRY OF ORDER

07/31/2020 PLAINTIFF'S EXHIBIT "1," J. MORENO'S REPORT

03/08/2021 MOTION FOR CHANGE OF CUSTODY OR VISITATION

03/08/2021 CASE REOPENED FOR OTHER

04/12/2021 MOTION FOR CHANGE OF CUSTODY OR VISITATION

04/12/2021 PROOF OF SERVICE

04/12/2021 REQUEST FOR SUBMISSION

04/22/2021 ORDER REGARDING IMPROPER SERVICE

05/03/2021 OPPOSITION TO MOTHER'S MOTION TO CHANGE CUSTODY AND CROSS MOTION
FOR PERMANENT CUSTODY ORDER

05/05/2021 PROOF OF SERVICE

05/05/2021 REQUEST FOR SUBMISSION

05/10/2021 ORDER DENYING DEFENDANTS MOTION FOR CHANGE OF CUSTODY AND ENTERING
PERMANENT CUSTODY ORDER

05/12/2021 NOTICE OF ENTRY OF ORDER

05/18/2021 EMAIL SENT TO REGARDING SERVICE OF COURT DOCUMENT - CV0020464,
HUBER, WAYLON JAY VS. CALKINS, JANE M WITH 2 ATTACHMENTS FROM
DOCKETS FREETYPE-7/24/2020,LEGIM-4/4/2016

05/25/2021 WITHDRAW OF ATTORNEY (DOLAN LAW FOR PLTF)

05/26/2021 MOTION FOR COURT ORDER TO OBTAIN PASSPORTS FOR MINOR CHILDREN
WITHOUT MOTHER'S CONSENT

05/26/2021 PROOF OF SERVICE

06/09/2021 PROOF OF SERVICE

06/09/2021 REQUEST FOR SUBMISSION

06/10/2021 PAYMENT \$24.00 APPEAL FEE RECEIPT #2325

06/10/2021 PAYMENT \$250.00 SUPREME CT FEE RECEIPT #2326

06/10/2021 PAYMENT \$500.00 APPEAL BOND RECEIPT #2328

06/10/2021 APPEAL BOND ON DEPOSIT IN CLERK'S TRUST ACCOUNT

06/10/2021 NOTICE OF APPEAL

06/10/2021 CASE APPEAL STATEMENT

1 CASE NO. CV 0020464

2 DEPT. NO. II

FILED

2021 MAY 10 PM 2:01
TAMI RAE SPERO
DIST. COURT CLERK

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7 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF HUMBOLDT

-000-

9 WAYLON HUBER,

10 Plaintiff,

11 vs.

12 JANEAL CALKINS,

13 Defendant.

ORDER DENYING
DEFENDANT'S MOTION FOR
CHANGE OF CUSTODY AND
ENTERING PERMANENT
CUSTODY ORDER

14 Before this Court is Defendant, Janeal Calkins ("Mother"), in pro per person, and her
15 *Motion for Change of Custody or Visitation* filed on March 8, 2021. Plaintiff, Waylon Huber
16 ("Father"), by and through his counsel of record, Massey K. Mayo, Esq. and Dolan Law,
17 LLC, filed his *Opposition and Cross Motion for Permanent Custody Order* on May 3, 2021.
18 This matter was submitted to the Court on May 5, 2021 for a decision on the merits.

19 Upon review of the filings, documents, and arguments herein, the Court hereby
20 **DENIES** Mother's motion for a change of custody based on the following:

21 The current Order in this matter, entered on July 24, 2020, granted Father temporary
22 sole physical custody of the minor children: Brynlee and Bryson Huber. Order Modifying

1 Temporary Custody of Two Minor Children and Other Related Matters at 10, *Huber v.*
2 *Calkins*, Case No. CV0020464 (July 24, 2020). Mother and Father share joint legal custody.
3 *Id.* Mother was granted supervised visitation with the minor children via telephone or
4 audio/visual format at 6:00 p.m. PST each day. *Id.* Any further visitation with Mother must
5 have been recommended by the therapeutic professionals assisting in the minor children's
6 reunification process with Father. *Id.* Father was to employ Dr. Herbert Coard to assist in the
7 reunification process. *Id.* at 10-11.

8 Now, in her instant motion, Mother moves for a modification of the temporary
9 custody order based on Mother's alleged completion of all obligations imposed by the Court,
10 that Father disparages Mother in front of minor children, and that Dr. Coard's failure to
11 respond to Mother's inquiries have delayed Mother's reunification with minor children.
12 Mother's Motion for Change of Custody or Visitation at 4, *Huber v. Calkins*, Case No.
13 CV0020464 (March 8, 2021). Mother therefore asks the Court to award her primary physical
14 custody of the minor children. *Id.*

15 In his Opposition and Cross Motion, Father moves for sole legal and sole physical
16 custody of the minor children. Father's Opposition and Cross Motion for Permanent Custody
17 Order, *Huber v. Calkins*, Case No. CV0020464 (May 3, 2021). Father claims that the minor
18 children's overall mental, physical, emotional, and developmental health has dramatically
19 improved while in his care. *Id.* at 3-5. The minor children have increased their standard
20 scores in school, have acquired accurate medical diagnoses under Dr. Coard, no longer
21 discuss inappropriate sexual activity or undiagnosed illnesses, and participate in healthy
22 activities such as skateboarding, swimming, singing, and dancing. *Id.* The minor children

1 have also apparently bonded with stepsiblings and friends in the Winnemucca community,
2 and attend the Boys and Girls Club regularly. *Id.*

3 Father further claims that Mother continues to live with her husband, Justin Calkins,
4 who was recently released from prison in August 2020. *Id.* at 6. A no contact order remains
5 in place between the minor children and Mr. Calkins, and Mr. Calkins allegedly shares a
6 home with Mother, yet Mother wishes to move the minor children back to Idaho with her.
7 Order Modifying Temporary Custody, *supra*, at 9.

8 Father therefore moves this Court to grant a permanent custody order in this matter.
9 Father's Opposition and Cross Motion, *supra*, at 9. Considering the minor children's overall
10 improvement in his care, Father argues that the current custody order is in the best interests
11 of the minor children. *Id.*

12 The Nevada Supreme Court has held that primary physical custody may only be
13 modified when "(1) there has been a substantial change in circumstances affecting the
14 welfare of the child, and (2) the modification would serve the child's best interest." *Ellis v.*
15 *Carucci*, 123 Nev. 145, 153, P.3d 239, 244 (2007).

16 First, Mother offers no evidence of a substantial change in circumstances that affects
17 the welfare of the minor children. Mother only alleges that she has completed her obligations
18 imposed by this Court—citing daily phone calls with minor children and communication
19 with Dr. Coard. However, the Court finds no substantial change in circumstances since the
20 July 24, 2020 Order that would warrant a modification of custody.

21 Instead, the Court finds that the most substantial change in circumstances is Mr.
22 Calkins' release from prison and subsequent cohabitation with Mother, which actually works
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1 in favor of Father retaining sole physical custody given the current no contact order between
2 Mr. Calkins and the minor children. Thus, Mother fails to meet the first prong of *Ellis*.

3 Second, it does not appear to the Court that a modification of physical custody would
4 serve the best interests of the minor children. NRS 125C.0035(4) provides that, in
5 determining the best interest of a child, the Court must consider and set forth specific findings
6 regarding:

- 7 (a) The wishes of the child if the child is of sufficient age and capacity to
8 form an intelligent preference as to his or her physical custody;
- 9 (b) Any nomination of a guardian for the child by a parent;
- 10 (c) Which parent is more likely to allow the child to have frequent
11 associations and a continuing relationship with the noncustodial parent;
- 12 (d) The level of conflict between the parents;
- 13 (e) The ability of the parents to cooperate to meet the needs of the child;
- 14 (f) The mental and physical health of the parents;
- 15 (g) The physical, developmental and emotional needs of the child;
- 16 (h) The nature of the relationship of the child with each parent;
- 17 (i) The ability of the child to maintain a relationship with any sibling;
- 18 (j) Any history of parental abuse or neglect of the child or a sibling of the
19 child;
- 20 (k) Whether either parent or any other person seeking physical custody has
21 engaged in an act of domestic violence against the child, a parent of the
22 child or any other person residing with the child; and
- 23 (l) Whether either parent or any other person seeking physical custody has
24 committed any act of abduction against the child or any other child.

Pursuant to NRS 125C.0035(4), the Court makes the following specific findings:

- 18 A. The parties present no evidence of the minor children's wishes or preferences as to their
19 physical custody. The minor children are also not of sufficient age to proffer such a
20 preference, as both Brynlee Huber and Bryson Huber, born May 8, 2012, are age nine
21 (9). This factor is therefore inapplicable.
- 22 B. There is no guardian in this case—this factor is therefore inapplicable.

1 C. Father allows the minor children to have frequent associations and a continuing
2 relationship with Mother pursuant to the existing supervised visitation and
3 telephonic/video schedule. Mother claims Dr. Coard fails to appropriately respond to her
4 communication attempts. However, Father argues that Mother has failed to pay Dr. Coard
5 for her portion of services and has a history of manipulating medical professionals, which
6 may have affected progress. Thus, Dr. Coard's evaluation of the parties and the minor
7 children pursuant to the reunification process remains outstanding, and such lack of
8 progress is given little weight by the Court at this time.

9 D. There does not appear to be any substantial conflict between the parents. However, the
10 Court recognizes that this litigation is quite contentious and has persisted now for almost
11 six (6) years.

12 E. It appears that the parents cooperate effectively to meet the needs of the minor children.
13 Father appropriately allows the minor children to maintain a relationship with Mother
14 and Mother's family via supervised telephonic/video contact, and Father provides a
15 stable, loving home environment for the minor children.

16 F. There is not enough information presented for the Court to make a determination
17 regarding either parent's physical and mental health. Father alleges that Mother has
18 mental health issues and requests an evaluation in that regard. However, seeing that
19 Mother's mental health status has no current impact on the minor children, that Mother's
20 visitation is wholly supervised, and that a determination regarding Mother's mental
21 health status may eventually be made by Dr. Coard, such a request is devoid of merit at
22 this time.

1 G. Father clearly provides for the minor children's physical, developmental, and emotional
2 needs. The minor children are excelling in school and in their personal growth—the
3 minor children no longer discuss inappropriate sexual behavior, no longer self-identify
4 as having ADHD or being autistic, participate in healthy social activities, and engage in
5 personal hobbies. The minor children appear to be happy in Father's care.

6 H. Father appears to have a good relationship with the minor children, which can be inferred
7 by the minor children's considerable growth since the July 24, 2020 Order. Mother
8 appears to have an appropriate relationship with minor children through her supervised
9 visitation time. No evidence was presented otherwise.

10 I. The minor children have been able to cultivate relationships with their stepsiblings while
11 in Father's care. There is no evidence that the minor children's relationship with their
12 younger sibling at Mother's home has deteriorated.

13 J. There is no evidence of parental abuse or neglect of the minor children by either parent
14 at this time.

15 K. There is no evidence of any acts of domestic violence against the minor children, a parent,
16 or anyone living with minor children.

17 L. There is no evidence that either parent has committed an act of abduction against the
18 minor children.

19 Based on the foregoing, the Court finds that Mother provides no evidence that a
20 modification of physical custody is in the best interest of the minor children. Absent a
21 showing of a substantial change in circumstances and that a modification would be in the
22 best interest of the minor children, Mother fails to meet the stringent burden of proof to
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1 modify the temporary sole physical custody order under *Ellis*. Accordingly, Mother's *Motion*
2 *for Change of Custody or Visitation* is **DENIED**. Father's *Cross Motion for Permanent*
3 *Custody Order* is **GRANTED** in part—the current temporary custody order shall now be
4 entered as a permanent custody order:

- 5 1. Father retains sole physical custody of the minor children;
- 6 2. The parties retain joint legal custody of the minor children; and
- 7 3. Mother retains supervised visitation in accordance with the July 24, 2020 Order.

8 **IT IS SO ORDERED.**

9 DATED this 7th day of May, 2021.


10
11 
12 HONORABLE MICHAEL R. MONTERO
13 DISTRICT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Honorable Michael R. Montero, District Court Judge, Sixth Judicial District Court and am not a party to, nor interested in, this action; and that on May 7, 2021, I caused to be served a true and correct copy of the enclosed **ORDER** upon the following parties:

Janea Calkins
1465 W. Deer Crest Street H101
Meridian, ID 83646
Via US Mail

Massey Mayo, Esq.
Dolan Law, LLC
545 Hanson Street
Winnemucca, NV 89445
Hand-delivered to Humboldt County Courthouse, DCT Box



TAYLOR M. STOKES
LAW CLERK



FILED

2021 MAY 12 PM 2:43

E. Dumond
TAMI RAE SPERO
DIST. COURT CLERK

1 CASE NO. CV0020464

2 DEPT. NO. 2

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

6 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,

7 IN AND FOR THE COUNTY OF HUMBOLDT

8
9 WAYLON HUBER

10 Plaintiff,

11 vs.

NOTICE OF ENTRY OF ORDER


12 JANEAL CALKINS,

13 Defendant.
14

15 TO: ALL INTERESTED PARTIES

16 YOU ARE HEREBY NOTIFIED that an Order Denying Defendant's Motion for Change
17 of Custody and Entering Permanent Custody Order, has been entered in the above-entitled matter
18 on the 7th day of May, 2021, a copy of which is attached hereto.
19

20 Dated this 12th day of May, 2021.

21
22 
23 DOLAN LAW, LLC.
24 By: MASSEY K. MAYO, ESQ.
25 Bar No. 11201
26 545 Hanson Street
27 Winnemucca, Nevada 89445
28 Telephone: 775-625-3200
Fax: 775-625-4286
Attorney for Waylon Huber

1 CASE NO. CV 0020464

2 DEPT. NO. II

FILED

2021 MAY 10 PM 2:01

CLERK OF THE COURT
DISTRICT COURT CLERK

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7 IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF HUMBOLDT

-000-

9 WAYLON HUBER,

10 Plaintiff,

11 vs.

12 JANEAL CALKINS,

13 Defendant.

ORDER DENYING
DEFENDANT'S MOTION FOR
CHANGE OF CUSTODY AND
ENTERING PERMANENT
CUSTODY ORDER

14 Before this Court is Defendant, Janeal Calkins ("Mother"), in pro per person, and her
15 *Motion for Change of Custody or Visitation* filed on March 8, 2021. Plaintiff, Waylon Huber
16 ("Father"), by and through his counsel of record, Massey K. Mayo, Esq. and Dolan Law,
17 LLC, filed his *Opposition and Cross Motion for Permanent Custody Order* on May 3, 2021.
18 This matter was submitted to the Court on May 5, 2021 for a decision on the merits.

19 Upon review of the filings, documents, and arguments herein, the Court hereby
20 **DENIES** Mother's motion for a change of custody based on the following:

21 The current Order in this matter, entered on July 24, 2020, granted Father temporary
22 sole physical custody of the minor children: Brynlee and Bryson Huber. Order Modifying
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1 Temporary Custody of Two Minor Children and Other Related Matters at 10, *Huber v.*
2 *Calkins*, Case No. CV0020464 (July 24, 2020). Mother and Father share joint legal custody.
3 *Id.* Mother was granted supervised visitation with the minor children via telephone or
4 audio/visual format at 6:00 p.m. PST each day. *Id.* Any further visitation with Mother must
5 have been recommended by the therapeutic professionals assisting in the minor children's
6 reunification process with Father. *Id.* Father was to employ Dr. Herbert Coard to assist in the
7 reunification process. *Id.* at 10-11.

8 Now, in her instant motion, Mother moves for a modification of the temporary
9 custody order based on Mother's alleged completion of all obligations imposed by the Court,
10 that Father disparages Mother in front of minor children, and that Dr. Coard's failure to
11 respond to Mother's inquiries have delayed Mother's reunification with minor children.
12 Mother's Motion for Change of Custody or Visitation at 4, *Huber v. Calkins*, Case No.
13 CV0020464 (March 8, 2021). Mother therefore asks the Court to award her primary physical
14 custody of the minor children. *Id.*

15 In his Opposition and Cross Motion, Father moves for sole legal and sole physical
16 custody of the minor children. Father's Opposition and Cross Motion for Permanent Custody
17 Order, *Huber v. Calkins*, Case No. CV0020464 (May 3, 2021). Father claims that the minor
18 children's overall mental, physical, emotional, and developmental health has dramatically
19 improved while in his care. *Id.* at 3-5. The minor children have increased their standard
20 scores in school, have acquired accurate medical diagnoses under Dr. Coard, no longer
21 discuss inappropriate sexual activity or undiagnosed illnesses, and participate in healthy
22 activities such as skateboarding, swimming, singing, and dancing. *Id.* The minor children
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1 have also apparently bonded with stepsiblings and friends in the Winnemucca community,
2 and attend the Boys and Girls Club regularly. *Id.*

3 Father further claims that Mother continues to live with her husband, Justin Calkins,
4 who was recently released from prison in August 2020. *Id.* at 6. A no contact order remains
5 in place between the minor children and Mr. Calkins, and Mr. Calkins allegedly shares a
6 home with Mother, yet Mother wishes to move the minor children back to Idaho with her.
7 Order Modifying Temporary Custody, *supra*, at 9.

8 Father therefore moves this Court to grant a permanent custody order in this matter.
9 Father's Opposition and Cross Motion, *supra*, at 9. Considering the minor children's overall
10 improvement in his care, Father argues that the current custody order is in the best interests
11 of the minor children. *Id.*

12 The Nevada Supreme Court has held that primary physical custody may only be
13 modified when "(1) there has been a substantial change in circumstances affecting the
14 welfare of the child, and (2) the modification would serve the child's best interest." *Ellis v.*
15 *Carucci*, 123 Nev. 145, 153, P.3d 239, 244 (2007).

16 First, Mother offers no evidence of a substantial change in circumstances that affects
17 the welfare of the minor children. Mother only alleges that she has completed her obligations
18 imposed by this Court—citing daily phone calls with minor children and communication
19 with Dr. Coard. However, the Court finds no substantial change in circumstances since the
20 July 24, 2020 Order that would warrant a modification of custody.

21 Instead, the Court finds that the most substantial change in circumstances is Mr.
22 Calkins' release from prison and subsequent cohabitation with Mother, which actually works

1 in favor of Father retaining sole physical custody given the current no contact order between
2 Mr. Calkins and the minor children. Thus, Mother fails to meet the first prong of *Ellis*.

3 Second, it does not appear to the Court that a modification of physical custody would
4 serve the best interests of the minor children. NRS 125C.0035(4) provides that, in
5 determining the best interest of a child, the Court must consider and set forth specific findings
6 regarding:

- 7 (a) The wishes of the child if the child is of sufficient age and capacity to
8 form an intelligent preference as to his or her physical custody;
- 9 (b) Any nomination of a guardian for the child by a parent;
- 10 (c) Which parent is more likely to allow the child to have frequent
11 associations and a continuing relationship with the noncustodial parent;
- 12 (d) The level of conflict between the parents;
- 13 (e) The ability of the parents to cooperate to meet the needs of the child;
- 14 (f) The mental and physical health of the parents;
- 15 (g) The physical, developmental and emotional needs of the child;
- 16 (h) The nature of the relationship of the child with each parent;
- 17 (i) The ability of the child to maintain a relationship with any sibling;
- 18 (j) Any history of parental abuse or neglect of the child or a sibling of the
19 child;
- 20 (k) Whether either parent or any other person seeking physical custody has
21 engaged in an act of domestic violence against the child, a parent of the
22 child or any other person residing with the child; and
- 23 (l) Whether either parent or any other person seeking physical custody has
24 committed any act of abduction against the child or any other child.

17 Pursuant to NRS 125C.0035(4), the Court makes the following specific findings:

- 18 A. The parties present no evidence of the minor children's wishes or preferences as to their
19 physical custody. The minor children are also not of sufficient age to proffer such a
20 preference, as both Brynlee Huber and Bryson Huber, born May 8, 2012, are age nine
21 (9). This factor is therefore inapplicable.
- 22 B. There is no guardian in this case—this factor is therefore inapplicable.

1 C. Father allows the minor children to have frequent associations and a continuing
2 relationship with Mother pursuant to the existing supervised visitation and
3 telephonic/video schedule. Mother claims Dr. Coard fails to appropriately respond to her
4 communication attempts. However, Father argues that Mother has failed to pay Dr. Coard
5 for her portion of services and has a history of manipulating medical professionals, which
6 may have affected progress. Thus, Dr. Coard's evaluation of the parties and the minor
7 children pursuant to the reunification process remains outstanding, and such lack of
8 progress is given little weight by the Court at this time.

9 D. There does not appear to be any substantial conflict between the parents. However, the
10 Court recognizes that this litigation is quite contentious and has persisted now for almost
11 six (6) years.

12 E. It appears that the parents cooperate effectively to meet the needs of the minor children.
13 Father appropriately allows the minor children to maintain a relationship with Mother
14 and Mother's family via supervised telephonic/video contact, and Father provides a
15 stable, loving home environment for the minor children.

16 F. There is not enough information presented for the Court to make a determination
17 regarding either parent's physical and mental health. Father alleges that Mother has
18 mental health issues and requests an evaluation in that regard. However, seeing that
19 Mother's mental health status has no current impact on the minor children, that Mother's
20 visitation is wholly supervised, and that a determination regarding Mother's mental
21 health status may eventually be made by Dr. Coard, such a request is devoid of merit at
22 this time.

1 G. Father clearly provides for the minor children's physical, developmental, and emotional
2 needs. The minor children are excelling in school and in their personal growth—the
3 minor children no longer discuss inappropriate sexual behavior, no longer self-identify
4 as having ADHD or being autistic, participate in healthy social activities, and engage in
5 personal hobbies. The minor children appear to be happy in Father's care.

6 H. Father appears to have a good relationship with the minor children, which can be inferred
7 by the minor children's considerable growth since the July 24, 2020 Order. Mother
8 appears to have an appropriate relationship with minor children through her supervised
9 visitation time. No evidence was presented otherwise.

10 I. The minor children have been able to cultivate relationships with their stepsiblings while
11 in Father's care. There is no evidence that the minor children's relationship with their
12 younger sibling at Mother's home has deteriorated.

13 J. There is no evidence of parental abuse or neglect of the minor children by either parent
14 at this time.

15 K. There is no evidence of any acts of domestic violence against the minor children, a parent,
16 or anyone living with minor children.

17 L. There is no evidence that either parent has committed an act of abduction against the
18 minor children.


19 Based on the foregoing, the Court finds that Mother provides no evidence that a
20 modification of physical custody is in the best interest of the minor children. Absent a
21 showing of a substantial change in circumstances and that a modification would be in the
22 best interest of the minor children, Mother fails to meet the stringent burden of proof to
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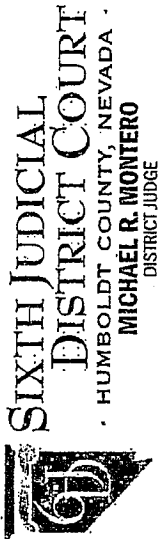
1 modify the temporary sole physical custody order under *Ellis*. Accordingly, Mother's *Motion*
2 *for Change of Custody or Visitation* is **DENIED**. Father's *Cross Motion for Permanent*
3 *Custody Order* is **GRANTED** in part—the current temporary custody order shall now be
4 entered as a permanent custody order:

- 5 1. Father retains sole physical custody of the minor children;
- 6 2. The parties retain joint legal custody of the minor children; and
- 7 3. Mother retains supervised visitation in accordance with the July 24, 2020 Order.

8 **IT IS SO ORDERED.**

9 DATED this 17th day of May, 2021.

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12 HONORABLE MICHAEL R. MONTERO
13 DISTRICT JUDGE
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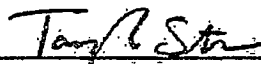


CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Honorable Michael R. Montero, District Court Judge, Sixth Judicial District Court and am not a party to, nor interested in, this action; and that on May 7, 2021, I caused to be served a true and correct copy of the enclosed **ORDER** upon the following parties:

Janea Calkins
1465 W. Deer Crest Street H101
Meridian, ID 83646
Via US Mail

Massey Mayo, Esq.
Dolan Law, LLC
545 Hanson Street
Winnemucca, NV 89445
Hand-delivered to Humboldt County Courthouse, DCT Box



TAYLOR M. STOKES
LAW CLERK

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2021, I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the NOTICE OF ENTRY OF ORDER, addressed to the following:

Janae Calkins
1465 W. Deer Crest Street H 101
Meridian, ID 83646

☒ First Class U.S. Mail
☐ Via Fax Transmission
☐ Box in District Court Clerk Office
☐ Box in Justice Court Clerk Office
☐ Hand Delivered

Makayla Ourada
MAKAYLA OURADA

CV 20,464

Waylon Jay Huber, Plaintiff vs. Janea Marie Huber, Defendant.

Judge: Michael R. Montero

Clerk: Jody Clark

Bailiff: Ron Moser

FEBRUARY 1, 2016

16.2 CASE MANAGEMENT CONFERENCE/MOTIONS HEARING

PRESENT: Plaintiff, Waylon Jay Huber, present with counsel, Jonathan J. Whitehead. Defendant, Janea Marie Huber, present with counsel, Gary L. Manson.

The Court stated that he has reviewed the motions filed. The Court further stated what has been filed thus far in the matter. The Court stated that the motions have been fully briefed.

The Court suggested some negotiations may help to resolve the matter. The Court is not sure where the matter is at this day. The Court further stated that there has not been a 16.2 Case Conference held in this matter.

The court would like an update as to where this matter is at in the process. The Court does not want full closing arguments just a snap shot of where things are to this point and what the parties are hoping to accomplish.

Whitehead informed the Court of where his client is at in the matter. Whitehead further asked the Court for help as the Plaintiff has not paid any child support and the Defendant has been a stay at home mother and would be asking for spousal support.

The Court asked whitehead if he sees this matter needing a trial.

Whitehead informed the Court that this matter would be going to trial. The parties are not able to come to any resolutions.

Manson informed the Court as to where his client is at in the matter. Manson further informed the Court he would like to see a settlement in this matter regarding appropriate support etc.

The Court addressed the parties regarding the motions that have been filed. They could try and resolve the issue on their own or the Court will rule on the motions.

Manson stated that his client would like to have visitation with the children. He has not seen them since November.

The Court does not want to hear much more regarding money in this matter. The Plaintiff shall pay the statutory amount for child support to the Defendant.

A discussion ensued regarding alimony and attorney fees.

The Court stated that the issue of attorney fees may not be settled today. The Court will wait until the end of this case to determine attorney fees.

The Court wants to know if counsel would like sometime to discuss what has occurred this far in the matter and perhaps try and come to a resolution.

Counsel and their respective clients concurred.

The Court want the parties to understand how he sees the issues. The Court will allow time for the parties to speak to their counsel and then will meet with counsel in chambers.

After a recess, the Court stated the Defendant made an offer to the Plaintiff, the Plaintiff considered the offer and rejected it.

The Court will move forward with the ruling on the motions. The Court encouraged the parties to try and settle the entire matter. The Court further offered to assist in helping. The Court is willing to set a settlement conference on his calendar. Should the parties decide to engage in a settlement conference, counsel is to send a letter to the Court and a copy to the other side. The Court will then have his staff set the matter on his calendar.

The Court set this matter for a Divorce Trial on Thursday, May 19, 2016, at 9:00 a.m. for one day. The Court further set a telephonic Pre-Trial Conference on Monday, May 16, 2016, at 2:00 p.m.

The Court asked to talk about the motions.

Whitehead motioned the Court to set a temporary custody and visitation schedule.

The Court addressed the parties regarding the Plaintiff's fitness to have the minor children.

The Court finds that the Defendant has previously allowed the Plaintiff to have visitation with the minor children. The Court does recognize potential issues exist that have prevented visitation between the Defendant and his children. Custody issues have yet to be determined.

The Court ordered that the parties shall have joint legal custody of the minor children. Regarding physical custody or visitation the parties shall share joint physical custody with the following conditions; Plaintiff shall have visitation with the minor children from Thursday at 6:00 p.m. to Sunday at 6:00 p.m. three (3) weekends per month, commencing on Thursday, February 4, 2016. The Parties shall exchange the children in the parking lot of the Humboldt County Juvenile Detention Center. The cost of transporting the minor children to the Plaintiff shall be the Defendant's as she is currently residing in Boise, Idaho without a motion to relocate having been filed. That each Wednesday, prior to the Plaintiff's visitation with the minor children, he shall be tested for drugs and alcohol at the Sonoma Health and Safety Facility. The test results shall be provided to the Court and counsel for the parties. Should the Plaintiff test positive for any illegal drugs he will lose his visitation rights until further notice of the Court. Should the Plaintiff test positive for alcohol, the matter will be further addressed by the Court. Neither party shall consume any alcohol while they have visitation with the minor children. The Plaintiff shall also be subject to random testing while the minor children are in his custody.

The Court further granted the Defendant's motion for child support pendent lite. The Plaintiff shall pay the Defendant 25% of his income and shall be paid the first and fifteenth of each month and apply the cap if applicable. The Plaintiff shall pay child support arrears in the amount of \$100.00 per month from July 1, 2015 to present. Any disputes over the amounts can be dealt with through a conference call.

The Court is aware that there is still the matter of distribution of the community assets since separation but he will deal with this matter at a later date.

The Court will not order past spousal support pend lite, moving forward from this day, the Plaintiff shall pay the Defendant \$500.00 a month in spousal support.

The Court stated that there has been no motion for relocation filed by the Defendant. The Court has not authorized the relocation. The Court ordered that counsel submit briefs on the issue of relocation.

The Court further ordered consistent with the Plaintiff's motion for custody and visitation, that visitation will be split equally between the parties.

The Court will not rule on the relocation matter at this time as it is not before the Court.

The Court further explained that joint legal custody means as least 40% of the time the children need to be with a parent. The Court will leave with the parents to work out.

Manson addressed the Court regarding tax returns for 2015.

The Court asked if any efforts have been made in filing of the 2015 tax return.

Plaintiff stated he is still getting documents together.

The Court ordered that the parties shall file their 2015 tax return together and that they are to fully cooperate with each other.

Manson to prepare the order on his motion for spousal and child support.

Whitehead is to prepare the order on custody and visitation.

Counsel is to exchange the orders simultaneously prior to submitting to the Court.

CV 20464

Waylon Jay Huber, Plaintiff vs. Janea Marie Huber, Defendant.

Judge: Montero

Clerk: Jody Clark

MAY 4, 2017

HEARING ON EX PARTE EMERGENCY MOTION

PRESENT: Plaintiff, Waylon Jay Huber, present with counsel, Wendy Maddox. Defendant, Janea Marie Huber, present with counsel, Kelly Vaneburgt.

Vaneburgt invoked the rule of exclusion as well as motioned the Court to close the hearing.

The Court granted the rule of exclusion. The Court will decide if he will close the hearing later.

The Court gave some procedural history regarding this case. The Court further stated that the controlling document is the Findings of Fact, Conclusions of Law and Decree of Divorce filed on April 1, 2016. The Court further stated that the Plaintiff filed an Ex Parte Emergency Motion Regarding children on April 14, 2017, and the Court granted the motion and issued an Order Granting Immediate Custody of Children that was then filed on April 14, 2017. At the time the Plaintiff filed the Ex Parte Motion he was acting in proper person. The Defendant filed no response.

The Court stated that counsel had met with him in chambers prior to coming into Court and shared with him that there are a number of witnesses subpoenaed. Further the Court stated that Vaneburgt had asked the Court to oversee as one family one judge the case before Judge Shirley regarding the Plaintiff's current wife and her ex-husband. Also, the Court stated that Maddox had made a reference that the Court's wife may have been involved with the children as a counselor through the Humboldt County School District. The Court believes his wife is no longer involved but he will look into it. The Court does not want any conflicts.

The Court addressed the fact that he has issued two (2) separate Court orders in this matter in which the Defendant has failed to comply with. The Court further stated his concerns with the Defendant not complying with the Court's order. The Court further informed the Defendant that should she not comply with the Court's orders he would hold her in contempt. Should the Defendant object to something she needs to file the appropriate documents. The Court further stated that based upon the statements of the plaintiff in his motion on page two the Court issued the ex parte order.

The Court addressed Kevin Pasquale, Humboldt County Deputy District Attorney from the galley regarding a possible investigation with the Defendant and/or Plaintiff.

Pasquale responded.

The Court asked Vaneburgt for an offer of proof regarding an investigation in Idaho.

Vaneburgt concurred that there is an ongoing investigation in Idaho.

The Court offered Maddox the same.

Maddox stated they are aware of the investigation in Idaho but has no knowledge of CPS being involved in Idaho.

The Court stated he is inclined to issue an order that the Defendant's boyfriend is to stay away from the minor children. The Court will give counsel time to discuss this with their clients.

After a brief recess, Vaneburgt informed the Court that the Defendant is willing to say with her mother in Idaho and limit contact between her boyfriend and children.

The Court stated he would be ordering no contact with the children.

Vaneburgt stated the Defendant would comply.

Maddox objected to Vaneburgt offer. Maddox further stated that the Plaintiff does not feel the Defendant would comply with the Court's order as previously seen with the other Court orders.

The Court ordered that the Defendant's boyfriend is not to reside in the home with the minor children. The Court further stated that Nevada has current jurisdiction and failure to comply could affect future custody orders. The Court further ordered that the temporary order shall be dissolved and the boyfriend shall not be allowed any contact with the minor children pending further order of this Court. There must be a motion filed and an order issued before any contact will be allowed. Should the Defendant fail to comply with this Court order the Court shall take into consideration who shall have primary physical custody of the minor children. Further, the Defendant shall pay the Plaintiff's attorney fees for today in defiance of the Court orders. Maddox is to submit a memo as to attorney fees to the Court with the appropriate affidavit. Should Maddox wish some form of sanction for the Defendant violating the visitation order, she would need to present evidence. As to the other issues of possible conflict of interest, the Court shall look into the matter and if need shall recuse himself. As to the motioned for one family one judge the Court shall determine if there is a conflict of interest first.

Vaneburgt to prepare the order regarding the vacating of the emergency temporary order to include in the order that the Defendant's boyfriend is to have no contact with the minor children.

Maddox motioned the Court for a makeup visit between the Plaintiff and his children.

Vaneburgt stated the matter is not before the Court today.

The Court suggested Vaneburgt speak with her client regarding the visit.

CV 20,454

Waylon Huber vs. Janea Huber

Judge: Michael Montero

Clerk: Elisha Formby

JUNE 22, 2017

HEARING ON EXPARTE MOTION TO SUSPEND VISITATION

Waylon Huber, present with Wendy Maddox.

Janea Huber, present with Roderic Carucci.

The record reflected that this matter was set for an exparte motion to suspend visitation.

The Court closed the Courtroom.

The Court stated that this matter was set on the calendar for one (1) hour and he would allow each attorney thirty (30) minutes.

Counsel concurred.

Carruci stated that he would like to call three (3) witnesses that are under subpoena.

Dr. Matthew Cox, duly sworn and testified.

Direct by Carucci.

Defendant's exhibit A, report from Dr. Cox, offered and admitted.

Carucci reads exhibit A to the Court and explained that there is still an ongoing investigation with the alleged allegations against Mr. Huber.

Cross-examination by Maddox.

Discussion ensued about the shape, color and the age of the bruising that appeared on the minor child.

Redirect by Carruci.

Re-cross by Maddox.

The Court ask Carucci if Dr. Matthew Cox was under subpoena.

Carruci concurred.

The Court released Dr. Cox from said subpoena.

Duly sworn and testified, Kim Schmeling (**testimony sealed by the Court**).

The Court asked for offer of proof should Officer Ochoa be called to the stand.

Carruci stated that he was the officer that responded to a call at the Huber's home over Memorial Day weekend.

The Court stated that was already part of the record as there was a police report attached to the motion and that what Officer Ochoa has to offer is not significant in this hearing today but there may be a need in the future.

Maddox stated that she has one witness to call, Dustin Grate, but he would be appearing by telephone.

Maddox asked the Court if he is requesting an offer of proof on behalf of Dustin Grate, that she had filed a written report by him and that he has spent a significant amount of time in the children's home in Idaho.

The Court stated that he is in receipt of that report and that it was attached as an exhibit to Maddox's opposition. The Court further noted that those exhibits are filed confidential.

The Court ordered that based on the sworn testimony given in this case today, the evidence before him, the testimony and report by Mr. Cox, the testimony given by Kim Schmeling and the ongoing investigation it is the order of this Court to extend the order to suspend visitation with Waylon Huber.

The Court further admonished Ms. Huber and stated that if she was in violation of said the Court would take action on that issue and would reserve ruling on that.

Ms. Huber concurred.

CV 20,464

Waylon Jay Huber, Plaintiff vs. Janea Marie Huber, Defendant.

Judge: Michael R. Montero

Clerk: Jody Clark

JANUARY 5, 2018

REVIEW HEARING

PRESENT: Plaintiff, Waylon Jay Huber, present with counsel, Wendy Maddox. Defendant, Janea Marie Huber, present (telephonically) in proper person.

CLOSED HEARING

The record reflected that this matter comes before the Court as a review hearing that had been requested by Maddox. The record further stated that he had previously denied a request for hearing and at some point granted the request and set today's hearing.

The Court asked Maddox for opening comments as to what her intentions are today.

Maddox stated she intends to achieve contact between the Plaintiff and his children. Maddox continued to make additional comments.

The Court addressed the Defendant regarding an email she sent to the Court via his Judicial Assistant, Kathy Brumm.

The Defendant stated she is requesting the continuance due to her attorney being out of the country.

The Court stated he did not grant the continuance but did allow the Defendant to appear telephonically. The Court then asked the Defendant of her status in hiring counsel.

The Defendant stated her counsel is Roderic Carucci and he is out of the country so is unable to communicate with him and is waiting for additional documents.

The Court asked the Defendant if she was still represented by Carucci.

Maddox stated that Carucci filed an Order Allowing Withdrawal of Counsel on September 14, 2017.

The Court asked the Defendant if she was aware of Carucci withdrawing.

The Defendant stated she is aware and spoke with Carucci and he is willing to take her back as a client. The Defendant further stated she is in the process of gathering monies for a retainer.

The Court stated that Carucci has not filed any notice of representation as of today's date.

The Defendant stated her understanding.

The Court stated he does not intent to have an evidentiary hearing today, he just wanted an update as to the status of the matter.

Maddox informed the Court that she has obtained police reports for submission as evidence and that Kim Schmeling has been subpoenaed to testify. Maddox further motioned the Court that should he not be inclined to hear testimony, if he would then have an in-camera review of her documents.

The Court asked Maddox to explain to him what she intends him to review in-camera.

Maddox responded.

The Court stated that the Defendant should be afforded the opportunity to obtain counsel. The Court further stated that he is inclined to review the documents Maddox intends to offer into evidence subject to objection. The Court then asked to address each document.

Maddox stated the first document is the Findings of Division of Child and Family Services filed under seal.

The Court asked the Defendant if she had any objections to the Court reviewing the document in-camera.

The Defendant had no objections to the Court reviewing the document in-camera.

Maddox stated the second document is a Winnemucca Police Report.

A discussion ensued between the Court and Maddox regarding the report.

Maddox further informed the Court of the NIA Nevada Initial Assessment.

The Defendant had no objections to the Court reviewing the NIA in-camera.

The Court informed counsel and parties where he is at in the matter. The Court is inclined to review the documents with the exception of the police report at this time. The Court may consider the report at an evidentiary hearing.

The Court asked the Defendant for her position as to the Plaintiff having contact with children.

The Defendant stated she is hesitant and further stated her concerns.

A discussion ensued between the Court and Defendant regarding contact between her and the Plaintiff.

The Court took a brief recess.

After a brief recess, the Court called in Kim Schmeling to speak with her regarding documents given to Maddox.

Schmeling stated she had received a subpoena to appear today.

The Court shall review the documents discussed in-camera and will then determine if the current order suspending visitation should be modify based upon the evidence.

The Court set this matter for an Evidentiary Hearing on Friday, February 2, 2018, at 10:00 a.m.

The Court informed the Defendant that she must be present in person for the next hearing and would need to have retained counsel.

The Defendant stated Carucci would not be back by then.

The Court informed the Defendant that she would need to work the matter out with her attorney. The Court further informed counsel and parties that this matter is a second set to a criminal jury trial. The

Court further informed the parties that he would notify them if he elects not to modify the current order.

Maddox asked the Court if the children needed to be present.

The Court will not order the children to be present. Should the Court elect to modify the current order he may then order the children to be present.

Maddox stated her concerns should the order be modify to allow visitation in getting the children from Idaho to Nevada.

The Court stated he is well aware and expects if the Court is to modify the order there needs to be some re-acquaintance time and that professional assistants may be needed.

Maddox motioned the Court for some kind of contact between the Plaintiff and his children.

The Court stated he would need to review the documents first.

CV 20,464

Waylon Huber vs. Janea Huber

Judge: Michael Montero

Clerk: Elisha Formby

MARCH 30, 2018

EVIDENTIARY HEARING

PRESENT: Plaintiff, Waylon Huber, present in proper person. Defendant, Janea Huber present with counsel, Steven Evenson.

The Court asked the parties what evidence they had to offer to the Court today.

Waylon responded that he has subpoenaed, Kim Schmeling. Waylon stated that the agreement in the Divorce was for Janea to move to Idaho for a short period to allow her to finish school and then return to Winnemucca with the children. Waylon stated he just wants to see his kids.

Evenson responded and informed the Court that he has just recently been retained as counsel by Ms. Huber, that he had requested a copy of the file from past counsel and was unable to obtain that, that the children are enrolled in school in Idaho, it would be difficult to remove them in the middle of the year to return them to their father. Evenson further stated that he was unimpressed with the prior orders and motions and reminded the Court that the allegations against Mr. Huber are still pending and under investigation by the State. Evenson informed the Court of the children's recent diagnosis of special needs and would motioned the Court to deny the motion for the mother to relocate back to Winnemucca.

The Court stated that this matter before him today is a disaster. That the last time this matter was in Court the other party had counsel, now that party does not have counsel and the other party does have counsel. That in the mean time there are children who lives are being affected who have the right to see both of their parents. The Court further stated now Waylon states that the relocation of the children to Idaho was for a period of time to allow Ms. Huber to finish school, by the Decree it was agreed that the children would be returned to Winnemucca tomorrow. The Court stated that his hope today was that both parties would appear before him with counsel and witnesses. The Court is very concerned on how that will be accomplished now.

Waylon informed the Court that he has done everything possible to retain new counsel. Waylon stated that the allegations against him remain allegations at this point.

The Court asked Waylon where the evidence is that indicate that these are merely allegations. The Court needs testimony to prove that.

The Court address Evenson and Ms. Huber, it is not appropriate that Mr. Huber has not been allowed to see his children for over a year. The Court made the parties aware that he will be ordering supervised visitation between the children and their father.

Evenson concurred and stated he had already prepared his client of this and they fully agree with supervised visitation.

Waylon informed the Court that he had been in contact with the District Attorney's Office regarding the allegations against him and it was reported to Waylon that the State has no intention to close this case until the Statue of Limitations runs out.

The Court took a short recess to review the parties Divorce Decree and Marital Agreement.

The Court returned after a short recess and released Kim Schmeling from subpoena.

Janea Huber and Waylon Huber duly sworn.

Evenson informed the Court that he smelt alcohol coming off Waylon's breath and person when they were speaking in the hallway.

The Court addressed Waylon, the Court will need to make an assessment that Waylon is of sound mind and able to represent himself, here, today.

Waylon confirmed that he did consume alcohol last night, but has not had anything to drink today.

The Court confirms that Waylon does not appear to be inebriated or unable to represent himself.

Evenson reminds the Court of Waylon's alcohol problem.

The Court took note of Evenson's concern and will intervene if the Court feels there is a problem or if Mr. Huber becomes unable to represent himself. The Court stated that Mr. Huber gave sworn testimony that he did drink last night but has not drank today. The Court directed Evenson to move on and asked where the parties wanted to go from here without evidence or witnesses.

The Court asked Mr. Huber if he intends on hiring an attorney and if he has had any training or schooling on being an attorney.

Waylon stated he is adequate and knowledgeable to represent himself and will determine after today if an attorney is necessary.

The Court states that the evidence he was hoping to have before him, in Court today, is not here. Discussion ensued about the ongoing investigation. The Court stated all things that are being said regarding the investigation will be considered hearsay without the witness to give testimony. The Court asked Mr. Huber if he understood.

Waylon stated he understood.

The Court asked permission from Evenson to address his client about school.

Evenson concurred.

Janea answered the question put to her by the Court regarding her schooling and the children's schooling.

The Court stated there is a problem here, that the relocation of the children was temporary, that Ms. Huber was fully aware of this agreement in the Divorce Decree and signed it, that Ms. Huber has had two years to complete schooling and still has a lot of schooling left to do, that there is no motion before the Court asking him to modify the marital agreement or a request to remain in Idaho with the children any longer.

The Court address the parties and stated he is inclined to order therapeutic reunification between the children and their father. The Court asked the parties for suggestions on how this transition could occur. The Court further stated that he will be ordering supervised visitation and will allow the parties to make a schedule that works or the Court may be inclined to have Ms. Huber relocate back to Winnemucca with the children.

Evenson addressed the Court, thought this matter was set for a review hearing today, that the Court is unaware of the recent circumstances, that Mr. Huber has an obligation to remain sober and cannot do that, that there is no evidence that marital agreement is in the best interest of the children. Evenson stated his concerns for Mr. Huber's drinking problem.

The Court stated he understands Evenson's concern about Mr. Huber's drinking; however the provision only states that Mr. Huber cannot drink in the presence of the children. Therefore that is not an issue today.

Evenson asked the Court to address Mr. Huber looking at him and his client in an aggressive manner.

The Court addressed Mr. Huber.

Evenson motioned the Court to enforce that Mr. Huber undergo an alcohol test prior to his visitation with the children and that Mr. Huber travel to Idaho for his supervised visitation. Evenson further stated that the children are already established with a therapist in Idaho.

The Court asked Waylon if he would be willing to agree to those terms.

Waylon asked the Court to consider allowing him visitation with the children in Winnemucca and Idaho.

The Court feels that therapeutic involvement in both Winnemucca and Idaho would be confusing to the children. That resources are limited in Winnemucca there may be more resources in Idaho.

Waylon concurred and will do anything he has to see his children, weekends are best. Waylon further agreed to seek therapeutic sessions for the children on a Friday's.

The Court asked if there were people available to provide supervision for Mr. Huber and the children in Idaho.

Evenson stated he would comply with whatever the Court sets forth.

Janea stated there are many resources in Idaho and people that will help with supervised visits.

The Court asked Mr. Huber if twice a month, supervised visitation with the children would be sufficient to start.

Mr. Huber concurred and asked the Court for a time-line to on that.

The Court stated that he wants this matter to come back before the Court for an evidentiary hearing, with proper pleadings, motions, evidence and witnesses. The addressed Mr. Huber and told him that if he continues to represent himself that he will be held to the same standard as an attorney. The Court further stated that if Mr. Huber cannot remain sober that he will not see his children.

Waylon and Evenson concurred.

Waylon informed the Court that he has an app on his phone that he can reactivate for purposes of testing.

The Court ordered that the supervised visitation and therapeutic intervention begin immediately, in Idaho. The Court also addressed Waylon and stated that if he does not arrive to see the children sober, that he will not see the children.

Waylon concurred.

The Court directed Evenson to prepare a temporary order, be realistic, arrangements need to be made and set up by April 13, 2018. The Court ordered that therapeutic sessions be set up on Friday's and that Waylon can exercise supervised visitation on Saturday's. That the extent of the supervised visits will be at the discretion of the treating therapist. That said visitation would occur twice a month.

Evenson stated that he does not want to be the intermediary on this and asked the Court to direct the parties to communicate.

The Court is looking out for the best interest of the children, that there are allegations that warranted a criminal investigation and is looking out for the children's safety. Engage in this slowly. The Court directed the parties to learn to communicate.

Evenson asked the Court if the Court was imposing that Mr. Huber test prior to visitation with the children Friday and Saturday.

Discussion ensued about a monitoring device or PBT.

The Court ordered that Waylon be sober while visiting the children, the use of a smart start alcohol-monitoring device or valid device, or an actual PBT urinalysis.

Janae stated her concerns with the smart devices that Waylon has used in the past.

The Court responded that the visitation would be taking place in a therapeutic and supervised setting, if Mr. Huber appears to be intoxicating that would be reported by the third-party.

Evenson asked the Court to clarify what his definition of "sober" is.

The Court stated that he would use .08 as the basis; if there were evidence of violation of this, the Court will address this matter at a later date.

The Court directed Ms. Huber to provide all necessary documents pertaining to the children and their therapy to counselor.

Ms. Huber concurs.

The Court stated that a therapist needs to be employed that understands that there are allegations against Mr. Huber and made aware that Mr. Huber had not seen the children is over a year. The Court will allow the therapist to determine who will or will not participate in those therapeutic sessions.

Discussion ensued about who will pay for the therapist, transportation and lodging.

The Court ordered that Waylon pay for transportation to and from the children and Janae will cover the cost of therapy.

Janae stated that the children have an established therapist in Idaho, Terry Riley.

The Court directed Ms. Huber to provide the therapist information to Mr. Huber.

Ms. Huber concurred.

The Court ordered that the therapeutic sessions and supervised visitation begin April 6th or April 13th depending on how soon the therapist can set that appointment up. The Court wants that to occur twice a month, at a schedule that works best for both parties. The Court stated that he does not want this matter to drag out any longer.

Evenson motioned the Court to rescind the No Contact Order between the children and Ms. Huber's boyfriend.

Discussion ensued.

Waylon addressed the Court on the No Contact order and objected to the Court rescinding that order. Waylon informed that Court that he has never even met Ms. Huber's boyfriend.

The Court denied the motion to rescind the No Contact Order and wants evidence on who the boyfriend is. The Court wants to meet the boyfriend.

Evenson asked if Mr. Huber would be willing to meet the boyfriend and allow the children to be around the boyfriend if there were supervised.

Waylon agrees to meet Janae's boyfriend and disagrees with the children being around the boyfriend even supervised, as he cannot enforce that from here.

The Court states that the No Contact order stands.

CV 20,464

Waylon Huber vs. Janea Huber

Court: Michael Montero

Clerk: Elisha Formby

OCTOBER 24, 2018

STATUS HEARING

PRESENT: Waylon Huber, present in pro per. Janea Huber, not present. Steven Evenson also not present.

The Court stated that purpose of today's hearing and the procedural history of said case. The Court noted that this matter is set for a status hearing to begin at 2:30; it is now 3:07 p.m... The Defendant and her counsel are still not present. It was reported to the Court that Mr. Evenson was seen in the Courthouse at approximately 2:53 p.m. The Court's notes indicate that this hearing was set back in August between the Court's staff and Mr. Evenson's staff. The Court notes that Mr. Huber is present in the courtroom and has been since 2:00 p.m. The Court cannot proceed without all parties and their counsel.

The Court orders that Mr. Evenson show cause why he failed to prepare an order after the evidentiary hearing held on March 30, 2108; show cause why the Defendant has failed to comply with the Court's order of March 30, 2018; show cause why the Defendant and Counsel have failed to appear for today's hearing and that the Defendant and Counsel must appear in person for the Show Cause hearing set for November 20, 2018 at 2:30 p.m.

CV 20,464

Waylon Huber vs. Janea Huber

Judge: Michael Montero

Clerk: Elisha Formby

NOVEMBER 20, 2018

SHOW CAUSE HEARING

PRESENT: Waylon Huber, present in proper person. Janea Huber, present with counsel, Steven Evenson.

The Court stated that this matter is set for a show cause hearing.

Evenson stated that it was his fault that the Defendant did not make it to the last hearing. She has recently had a baby and was unable to travel. Evenson informed the Court that he told Huber she did not need appear. Evenson could call Huber to testify about her medical condition that did not allow her to travel.

The Court informed Evenson that the Defendant's failure to appear at the last hearing was one of several reasons in the Show Cause.

Evenson responded.

Janea Huber, duly sworn and testified under the direct examination of Evenson. Huber testified that due to the recent birth of her baby, she was unable to travel for said hearing and that Mr. Evenson had advise her that is was not necessary for her to travel to that hearing. Huber testified to the fact that she was aware of the previous order for March of 2018. Huber informed the Court that Mr. Huber had not participated in any therapy/counseling appointments with the children as those appoints happen to be scheduled while he was on vacation with his wife. Huber stated that she has not heard from Mr. Huber until today and he has not attempted any contact with the children since the last hearing.

The Court now closed the courtroom and asked everyone to sit in the hallway.

Evenson continues to question the witness, Ms. Huber.

Huber answered questions put to her by the Court. The Court asked Huber if she was aware of the Court's previous order, ordering that the children begin therapeutic counseling immediately. Huber concurred. The Court than asked if those sessions ever occurred. Huber responded no, that she tried to arrange those with Mr. Huber, but Mr. Huber was in the hospital and then traveled to Texas and was unable to make those appointments.

Waylon Huber, duly sworn and testified under the direct examination of Evenson. Huber explained that he filed an Exparte Motion with the Court and a proposed order. Huber further explained to the Court about his recent stay in the hospital and his visit in Texas. Huber stated he continues to try to see his children. Evenson motioned to the Court to have Waylon take a BPT test. Huber objected to a BPT test.

Steven Evenson duly sworn and explained to the Court why he failed to prepare and provide a proposed order to the Court from a previous hearing. Evenson stated he would submit said order to the Court immediately after this hearing. Evenson further explained to the Court that the Defendant's failure to comply with the Court previous order is that Mr. Huber makes it impossible for the Defendant to

communicate with for purposes of the children. Mr. Huber does not make himself available and takes the orders of this Court to try and force Ms. Huber into doing things she is not comfortable doing and that Mr. Huber continues to harass Ms. Huber. Evenson further apologized to the Court for him and his client's failure to appear at the last hearing. Evenson overbooked his calendar and was trying to be in two places at one time. Evenson explained to the Court that Ms. Huber has been doing everything she can to comply with the order.

The Court stated the procedural history of said case and read aloud the Clerk's minutes from the March 2018 to the parties. The Court then asked the parties if they remember that hearing and if they understood the order of the Court. The parties both concurred. The Court then informed the parties that whether there was a paper order from the Court or Court not, that was an order and the parties were to comply. The Court further stated that based on the evidence given by Ms. Huber today, that there was a first and second attempt to the therapeutic sessions, it is now November and there still has not been any other sessions. Evenson responded. The Court does not have any evidence in front to indicate what Evenson stated is accurate. The Court further stated that if there was a problem for the parties to comply with the order than counsel should have reached out to the Court to have this matter placed on the calendar so that the Court be informed of the problem. That a non-resolution only benefits Ms. Huber. Evenson stated that he tried to encourage the parties work together. The Court also pointed out that it is the responsibility of counsel to ensure that his/her client is complying with the order. Evenson concurred, but stated that it is Mr. Huber's responsibility too. The Court is more concerned that not one visitation session has occurred between Mr. Huber and the children since the last hearing and no one is making that happen and when the Court set this matter for hearing to help assist in the matter counsel and his client did not show up.

Evenson that submitted to the Court a proposed order from the March hearing, which was marked as Exhibit "A". The Court made some modification and directed Evenson to make those appropriate changes and resubmit it to the Court by no later than tomorrow at noon.

The Court informed Mr. Huber that there is a process as to how things work when acting as your own attorney.

Waylon asked the Court about his custodial status.

The Court responded, that was the purpose of the Court ordering therapeutic sessions and visitations was to hopefully get the children comfortable and to set out a visitation schedule eventually.

The Court informed both parties that he does not want any more delays in the therapeutic sessions. Those are to begin immediately and failure to comply this time will result in direct contempt.

The Court finds that based on the evidence given today, that Mr. Evenson is Guilty of contempt and ordered to pay \$500.00 to One Promise Nevada. The Court further finds the Defendant in contempt of Court for failure to appear and Ms. Huber's sanction will be that she must now appear in person at all further hearings and that Ms. Huber is no longer be allowed to appear telephonically.

CV ~~20,646~~ 20,464

Waylon Huber, Plaintiff vs. Janae Huber, Defendant

Judge: Judge Montero

Clerk: Jody Clark

FEBRUARY 26, 2019

STATUS HEARING

PRESENT: Plaintiff, Waylon Huber, present telephonically, in proper person. Janae Huber, Defendant, present telephonically, in proper person.

The Court stated that counsel, Steve Evenson for the Defendant has filed a Motion to Withdraw as Attorney of Record on January 23, 2019. An Order granting the motion was filed on February 8, 2019.

The Court further stated that this matter was originally set to begin today at 2:30 p.m. The Defendant called chambers and informed his staff that she was unable to come to Winnemucca from Boise, Idaho due to the weather. The Court has agreed to continue the hearing. The Court is not willing to conduct further hearings in this matter and both parties must be present at any future hearings absent the Court's control as to mother nature. The Court shall set another hearing date.

The Court stated that an Order After Hearing had been filed on November 30, 2018, ordering therapeutic visitation begin between the children and their father in Idaho. To this date the visitations have not started. The Court further stated that the Defendant sent a letter to the Court stating that additional language was needed by Idaho in the order to reflect the type of therapeutic visitation that needed to occur. The Court wants the Court order followed. The Court wants the information previously sent by the Plaintiff to be emailed to his office.

The Court addressed the order entered back in April 2016, in the parties Decree of Divorce. The Court informed the Defendant that order allowed her to move to Idaho for two (2) years to continue her education. That time has run. The Court informed the Defendant to be prepared to explain to the Court why he should not enforce the temporary agreement. Why she should be given the opportunity to continue to live in Idaho when there is an order currently in place to have the Defendant return to Humboldt County after two (2) years.

The Court set this matter for a Continued Status Hearing on Thursday, March 14, 2019, at 1:30 p.m.

CV 20,464

Waylon Jay Huber, Plaintiff vs. Janea Marie Huber, Defendant.

Judge: Michael R. Montero

Clerk: Jody Clark

MARCH 14, 2019

EVIDENTIARY HEARING

PRESENT: Plaintiff, Waylon Jay Huber, present in proper person. Defendant, Janea Marie Huber, present in proper person.

The Court closed the hearing and directed all spectators to wait outside of the courtroom.

The record reflected that this matter is a continuance from the hearing held on February 26, 2019. At that hearing a discussion ensued regarding an order filed November 30, 2018, ordering therapeutic visitation was to begin between the children and their father in Idaho.

Waylon informed the Court that he called Janea in an attempt to set something up with the new therapist as to phone visitation with the children. Janea refused. Waylon further stated that he emailed what had been requested by the Court to his Judicial Assistant, Kathy Brumm.

Janea stated she has not heard anything regarding a new therapist and has not communicated with Waylon regarding phone visitations.

The Court directed the Clerk to swear in the parties.

Waylon Jay Huber and Janea Marie Huber, duly sworn.

A discussion ensued between the Court, Waylon and Janea regarding clarification as to the language needed in an order from this Court as to therapeutic supervised visitation in Idaho. Janea updated the Court as to how the children are doing. Waylon motioned the Court for change in custody. A discussion ensued regarding his motion.

The Court stated that the last order regarding supervised visitation and support was filed on November 30, 2019.

Waylon informed the Court that he had filed an Ex Parte Motion for Change of Custody in early January.

The Court stated he does not find the motion in the file nor on the case summary.

A discussion ensued regarding the need for records to be subpoenaed.

The Court clarified with both parties that this Court does not subpoena records. The Court further stated that he shall modify the current order to include the language required by Idaho. The Court also informed both parties they are putting the Court in a difficult position when they file inappropriate pieces of paper. The documents mean nothing unless a properly sworn affidavit is attached.

CV0020464

Waylon Jay Huber VS. Janea Marie Huber

Judge: Gabrielle J. Carr

Clerk: Mikayla Mecham

November 26, 2019

Settlement Conference

PRESENT: Waylon Huber, Plaintiff, present in proper person with his wife, Ashlie Huber. Janea Calkins, Defendant, present telephonically, in proper person.

The Court stated that she was not present in any judicial capacity, rather serving as a mediator for the parties. Prior to going on the record, the parties had participated in an informal settlement conference and negotiated some terms in order to come to an agreement.

The Court directed the Clerk to swear in the parties; the parties were sworn.

Janea Calkins had agreed to contact the children's current therapist, Lenore Smith, within twenty-four (24) hours, and provide her with a copy of the order from March 15, 2019, as well as obtain an updated opinion from her as to whether she believes it is in the best interest of the children to participate in therapeutic services through a program comparable to Kid Safe Services. Further, Janea would provide a copy of the update from the therapist to the Court by December 20, 2019.

Both parties agreed to research and identify options for therapeutic supervised visitation services that are comparable to Kids Safe Services in Idaho and provide to the Court by December 20, 2019. Parties are welcome to research options in Nevada as well if they wish to do so.

Both parties agreed to a continued mediation set for one hour on December 19, 2019 at 11 a.m. as well as a continued mediation set for two hours on January 9, 2020 at 1 p.m. A hearing on the pending motions will be scheduled after January 9, 2020 and will be scheduled by Judge Montero after looking at his calendar.

Janea asked for clarification as to when the research for services available for the children should be conducted.

The Court informed the parties that they could research available services prior to having the opinion from the therapist, but that whether the children participate in those services would be dependent on the therapist's update.

The Court canvassed Janea as to her understanding of the agreement made today.

Janea stated her understanding and agreed to all terms.

The Court canvassed Waylon as to his understanding of the agreement made today.

Waylon stated his understanding and agreed to all terms.

The Court asked Calkins if she was able to find the order that she was referring to prior to the recess.

Calkins stated she had not found it.

The Court asked Huber if he had located the list of possible locations for the therapeutic reunification that he had compiled.

Huber stated that it was an email to Court Master Carr and that he did not have a copy with him.

The Court reviewed the minutes from the hearing in March of 2018, where Evenson, counsel for Calkins, had stated that he had informed his client that the Court may order supervised visitation for Huber and the minor children, and Evenson indicated that he and his client were in agreement with supervised visitation. The Court then began a process to help facilitate supervised visitation. The Court further stated that Evenson was supposed to prepare an order after the hearing, but never did, so the parties came back before the Court in November 2018. The parties met again in March of 2019 and indicated that supervised visitation was not occurring, due to the therapist in Idaho requiring an order with specific language regarding the visitation. The Court then re-drafted an order. The Court read from the order of March 15, 2019.

The Court stated that he was unaware of any case during his time on the bench that there has been such a flagrant disregard for a Court's order.

The Court ordered that both parties comply with therapeutic supervised visitation. The Court stated that if either party does not comply they will be held in contempt of Court. The Court informed the parties what that could entail. The Court stated that this is akin to fleeing the jurisdiction of the Court as well as child abduction. The Court stated that if supervised visitation is not initiated within thirty (30) days of today's date he will hold either party in contempt.

CV00201464

Waylon Jay Huber VS. Janea Marie Calkins

Judge: Michael R. Montero

Clerk: Mikayla Mecham

February 27, 2020

EVIDENTIARY HEARING

PRESENT: Waylon Huber, Plaintiff, present in proper person. Janea Calkins, Defendant, present in proper person.

The Court referred to a document entitled the Commission on Judicial Discipline Advisory Opinion issued by the State of Nevada Standing Committee on Judicial Ethics and Election Practices dated August 17, 2006, in order to make a disclosure to the parties that Huber is, and has been for some time, participating in Family Treatment Court as a result of another case. The Court asked if either party had an objection to this Court presiding over the matter; no objections were heard.

The record reflected that this matter comes before the Court today for an evidentiary hearing. The parties had previously participated in settlement conferences on three separate occasions, but were unable to come to an agreement.

The Court gave some procedural history of the case since the last time the parties appeared before this Court on March 14, 2019. An order was filed on March 15, 2019 clarifying a November 30, 2018 order regarding supervised visitation. Since March 15, 2019, the Plaintiff had filed a total of ten (10) motions as well as several statements, with no response from the Defendant to any of the motions. The only filing by the Defendant had been a Motion to Vacate and Reschedule Hearing, filed on November 22, 2019.

The Court directed the Clerk to swear in the parties; the parties were sworn. The Court requested that each party give the Court a brief opening statement as to what has occurred since the last hearing on March 14, 2019.

Huber gave his opening statement to the Court. He stated that reunification was not happening and he was being alienated from his children by their mother. He requested the Court grant him custody of the minor children.

Calkins gave his opening statement to the Court. She stated that Huber's goal was for the Court to enter an order compelling her to move back to Nevada.

The Court asked what evidence the parties had to present today.

Huber responded.

The Court directed Huber to focus on compliance or non-compliance with the Court's orders, and provide evidence based on that.

Huber had no evidence to present, other than the fact he has not seen his children. He stated that he was in contact with Chris from Kid Services to schedule supervised reunification, but was told that nothing could be done until Calkins contacted Kid Services, which she had not, according to Chris. Huber

stated that Kid Services was charging \$840 per visit, so at one of the settlement conferences, Huber brought the issue up with Court Master Carr, who informed him to create a list of other possibilities for therapeutic reunification visits at a lower cost.

The Court directed Huber to locate his list of possible places for therapeutic reunification visits, and while doing so, the Court would turn to Calkins for her evidence.

Calkins referred to the November 30, 2018 Order of this Court, where it stated that if a therapist was against visitation, the matter must be brought back before the Court. She stated that the wording was the same in the Order from March 15, 2019 as well, but did not have that order with her.

The Court stated that the order from November 30, 2018 was modified by the order from March 15, 2019, due to issues with Kid Services not accepting the first order.

A discussion ensued regarding the language contained in both orders. The Court stated that the language referred to by Calkins in the November 30, 2018 was not included in the order from March 15, 2019.

The Court took a recess to allow Huber to review the sixteen (16) exhibits that Calkins wished to have marked and admitted, and to allow Calkins to obtain a copy of the March 15, 2019 order of the Court.

Upon returning from the recess, Calkins offered the sixteen (16) exhibits, and the Court directed the Clerk to mark them Defendant's exhibits one through sixteen (1-16).

Huber stipulated to the admission of Exhibit 5, but objected to the admission of the remaining exhibits on the grounds of relevancy and hearsay.

The Court stated he would like to go through each exhibit one at a time before allowing their admission.

Calkins offered Defendant's Exhibit 1-Nevada Present Danger Plan.

Huber objected to the admission of Defendant's Exhibit 1, stating that it was irrelevant as it pre-dated the Court's March 15, 2019 order, and that the document was hearsay.

The Court sustained the objection to Exhibit 1 as hearsay.

Calkins argued with the Court that the document was self-authenticating and permissible pursuant to NRS 51.115 statements for purposes of medical diagnosis.

The Court would still sustain the objection as to Exhibit 1 as hearsay, and explained to Calkins why the document was deemed to be hearsay.

Calkins offered Defendant's Exhibit 2-Police Report.

The Court sustained Huber's objection to Exhibit 2 as hearsay.

Calkins offered Defendant's Exhibit 3-Newspaper Mugshot.

The Court sustained Huber's objection to Exhibit 3 as hearsay.

Calkins offered Defendant's Exhibit 4-Newspaper Court Disposition.

The Court sustained Huber's objection to Exhibit 4 as hearsay.

Calkins offered Defendant's Exhibit 5-Motion to Modify Custody and Related Relief Filed 1/23/19.

The Court would allow the admission of Defendant's Exhibit 5.

Calkins offered Defendant's Exhibit 6-Page from Divorce Decree.

The Court would allow the admission of Defendant's Exhibit 6.

Calkins offered Defendant's Exhibit 7-Letter from Matthew Cox, MD St. Luke's Children's CARES.

The Court would allow the admission of Defendant's Exhibit 7.

Calkins offered Defendant's Exhibit 8-2nd Letter from Matthew Cox, MD St. Luke's Children's CARES.

The Court would allow the admission of Defendant's Exhibit 8.

Calkins offered Defendant's Exhibit 9-Memorandum of Points and Authorities.

The Court would allow the admission of Defendant's Exhibit 9.

Calkins offered Defendant's Exhibit 10-Progress Notes from Sidra A. Beckett, LCPC.

The Court sustained Huber's objection to Exhibit 10 as hearsay.

Calkins offered Defendant's Exhibit 11-Letter from Sidra A. Beckett, LCPC.

The Court sustained Huber's objection to Exhibit 11 as hearsay.

Calkins offered Defendant's Exhibit 12-2nd Letter from Sidra A. Beckett, LCPC.

The Court sustained Huber's objection to Exhibit 12 as hearsay.

Calkins offered Defendant's Exhibit 13-Letter from Lenore Smith, LCSW.

The Court sustained Huber's objection to Exhibit 13 as hearsay.

Calkins offered Defendant's Exhibit 14-2nd Letter from Lenore Smith, LCSW.

The Court sustained Huber's objection to Exhibit 14 as hearsay.

Calkins offered Defendant's Exhibit 15-Therapist Annie Prince's Reports.

The Court sustained Huber's objection to Exhibit 15 as hearsay.

Calkins offered Defendant's Exhibit 16-Temporary Order after hearing filed on 6/19/17.

The Court would allow the admission of Defendant's Exhibit 16.

Huber offered Plaintiff's Exhibit 1-Email from Chris Jones.

Calkins objected to the admission of Plaintiff's Exhibit 1.

The Court sustained Calkins' objection to Exhibit 1 on the grounds of authenticity.

Argument by Huber.

Argument by Calkins.

IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF HUMBOLDT

CV00020464

WAYLON JAY HUBER

VS

JANAE MARIE CALKINS

Judge: Michael R. Montero

Clerk: Jody Clark

JULY 15, 2020

HEARING

PRESENT: Plaintiff, Waylon Jay Huber, present with counsel, Massey K. Mayo and Max Stovall. Defendant, Janae Marie Calkins, present in proper person.

The record reflected that this matter comes before the Court on an order pursuant to NRS 125C.005 to immediately produce minor children to the Court.

Mayo informed the Court that the minor children are currently in the hallway.

Jeff Moreno, duly sworn, testified under the direct examination of Mayo. Plaintiff's Exhibit "1," Jeff Moreno's report, offered and admitted. Cross by Calkins. Redirect by Mayo. Recross by Calkins.

Janae Calkins, duly sworn, testified under the direct examination of Mayo.

Waylon Huber, duly sworn, testified under the direct examination of Mayo.

Argument by Mayo.

Argument by Calkins

The Court some comments regarding the same issues coming before the Court as well as previous orders. The Court also made comments regarding Calkins relocating to Idaho for educational purposes only and that it was to be a temporary move.

The Court, based upon the evidence before the Court today and previous reunification efforts not working finds the following; 1. That this Court has continuing exclusive jurisdiction to enter custodial orders concerning the two (2) minor children; 2. That the Mother received notice of this hearing and did comply with the directive to produce the minor children; 3. That the Mother's move to Idaho was for the purpose of completing her education and that the Mother would return to Nevada no later than two (2) years after her move to Idaho. The Mother has never returned to

Nevada per her agreement and has resided in the Boise, Idaho area for the last four (4) years; 4. That this Court has had several hearings these last (4) four years regarding custody of the minor children in which various orders have been entered; 5. That the Mother has resisted, contested and deflected reunification of the father and minor children and has disobeyed and/or ignored prior Court orders; 6. That the Mother's testimony is not credible. Her testimony was in direct contradiction of Moreno's testimony regarding termination of services for the minor children due to the Mother's failure to appear and the time of the no shows when the Father was afforded an opportunity to have contact with his children; 7. That the Mother's minimal efforts towards reunification between the Father and minor children negatively influence the minor children & 8. That the Mother is in violation of this Court's order that there shall be no contact between her husband, Justin Calkins and the minor children. The Mother testified that her husband would resume living with her and the children in the same home upon his release from prison in August of this year.

Based upon the above findings the Court orders the following: 1. That the Father is granted temporary sole physical custody of the minor children, immediately; 2. That the Father and Mother shall continue to share joint legal custody the minor children; 3. That the minor children shall be placed with the paternal grandmother, Debbie or the paternal cousin, Tessa James, pending reunification efforts between the Father and children commencing; 4. That the Mother's visitation shall be supervised and occur telephonically or an audio visual format. The Mother shall be entitled to speak with the children at 6:00 p.m. or 7:00 p.m. (Idaho time) each day, however the placement of the children or their Father shall have the discretion to terminate the contact should the Mother discuss this litigation with the children or disparage the Father or other family members with the children present. Further visitation between the Mother and children shall be recommended if appropriate by a therapeutic professional assisting with the reunification; 5. That should the Mother return to Nevada, the Court will revisit the terms of visitation and entertain a modification order; 6. That the Father shall employ the services of Dr. Herbert Coard to assist in the reunification process. Both parties are ordered to cooperate with Dr. Coard; 7. That Dr. Coard shall be authorized to release a full and complete copy of any evaluation and/or report concerning the parties and minor children to the Court and to counsel of either party or if not represented, directly to that party. No party shall disclose the contents of the evaluation and/or report to any third party without permission of this Court or the recommendation of Dr. Coard; 8. That the Mother shall forward Dr. Coard all medical records, educational records relating to the children's special needs as well as therapeutic records for the minor children, within fifteen (15) days of today's date. The Mother shall further cooperate in signing any documents necessary to include HIPA releases. The Mother shall also disclose to Dr. Coard any and all medical and mental health treatment the children received while in her care and custody from 2017 to 2020; 9. The attorney fee issue shall be reserve for another time & 10. The Father's child support obligation is stayed commencing July 1, 2020.

DEBBIE JAMES

vs. Janea Calkins

Hearing on 2/27/20

CV0020464

	I.D.	MARKED	OFFERED	ADMITTED
A <u>Nevada Present Danger Plan</u>	<u>1</u>	<u>02/27/20</u>	<u>02/27/20</u>	
B <u>Police Report</u>	<u>2</u>	<u>02/27/20</u>	<u>02/27/20</u>	
C <u>Newspaper Mugshot</u>	<u>3</u>	<u>02/27/20</u>	<u>02/27/20</u>	
D <u>Newspaper Court Disposition</u>	<u>4</u>	<u>02/27/20</u>	<u>02/27/20</u>	
E <u>Motion to Modify Custody and Related Relief Filed 1/23/19</u>	<u>5</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>02/27/20</u>
F <u>Page from Divorce Decree</u>	<u>6</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>02/27/20</u>
G <u>Letter from Matthew Cox, MD St. Luke's Children's CARES</u>	<u>7</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>02/27/20</u>
H <u>2nd Letter from Matthew Cox, MD St. Luke's Children's CARES</u>	<u>8</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>02/27/20</u>
I <u>Memorandum of Points and Authorities</u>	<u>9</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>02/27/20</u>
J <u>Progress Notes from Sidra A. Beckett, LCPC</u>	<u>10</u>	<u>02/27/20</u>	<u>02/27/20</u>	
K <u>Letter from Sidra A. Beckett, LCPC</u>	<u>11</u>	<u>02/27/20</u>	<u>02/27/20</u>	
L <u>2nd Letter from Sidra A. Beckett, LCPC</u>	<u>12</u>	<u>02/27/20</u>	<u>02/27/20</u>	
M <u>Letter from Lenore Smith, LCSW</u>	<u>13</u>	<u>02/27/20</u>	<u>02/27/20</u>	
N <u>2nd Letter from Lenore Smith, LCSW</u>	<u>14</u>	<u>02/27/20</u>	<u>02/27/20</u>	
O <u>Therapist Annie Prince's Reports</u>	<u>15</u>	<u>02/27/20</u>	<u>02/27/20</u>	
P <u>Temporary Order After Hearing Filed on 6/19/17</u>	<u>16</u>	<u>02/27/20</u>	<u>02/27/20</u>	<u>2/27/20</u>
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vs. Janea Huber

CV 20,464

	I.D.	MARKED	OFFERED	ADMITTED
A <u>Proposed Order After Hearing</u>	<u>A</u>	<u>11/20/18</u>		
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CERTIFICATION OF COPY

STATE OF NEVADA,
COUNTY OF HUMBOLDT,

I, TAMI RAE SPERO, the duly elected, qualifying and acting Clerk of Humboldt County, in the State of Nevada,
and Ex-Officio Clerk of the District Court, do hereby certify that the foregoing is a true , full and correct copy
of the original: Notice of Appeal; Case Appeal Statement; District Court Docket Entries; Order Denying
Defendant's Motion for Change of Custody and Entering Permanent Custody Order; Notice of Entry of Order;
District Court Minutes; Exhibit Lists;

Waylon Huber,

Plaintiff,

vs.

Janea Calkins,

Defendant.

CASE NO. CV0020464

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto set
my hand and affixed the seal of the Court at my
office, Winnemucca, Nevada, this _10th_
day of June, 2021, A.D.


TAMI RAE SPERO, CLERK