

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

JANAE CALKINS
Appellant

vs.

WAYLON HUBER
Respondent

No. 83053
Electronically Filed
Jul 16 2021 04:30 p.m.
DOCKETING Elizabeth N. Brown
CIVIL APPEALS Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District SIXTH Department II
County HUMBOLDT Judge MICHAEL R MONTERO
District Ct. Case No. CV 0020464

2. Attorney filing this docketing statement:

Attorney ELIZABETH M. BITTNER Telephone 775-357-8733
Firm BITTNER LEGAL LLC
Address 1225 WESTFIELD AVE
SUITE 7
RENO, NEVADA 89509

Client(s) JANAE CALKINS

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

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

Attorney IN PRO PER Telephone _____
Firm _____
Address _____

Client(s) WAYLON HUBER

Attorney _____ Telephone _____
Firm _____
Address _____

Client(s) _____

(List additional counsel on separate sheet if necessary)

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

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

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

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

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

N/A

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

WAYLON HUBER v. JANAE CALKINS
CASE NO. CV0020464
SIXTH JUDICIAL DISTRICT COURT

ORDER DENYING DEFENDANT'S MOTION FOR CHANGE OF CUSTODY AND
ENTERING PERMANENT CUSTODY ORDER - May 10, 2021

ORDER MODIFYING TEMPORARY CUSTODY OF TWO MINOR CHILDREN AND
OTHER RELATED MATTERS - July 24, 2021

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

The action before the district court was initially divorce with custody of the parties' two minor children at issue. A Decree of Divorce was issued April 1, 2016, wherein the parties agreed to joint legal and physical custody, but that Ms. Calkins would temporarily relocate to Idaho with the children for approximately 2 years to complete her education. During the following four years (2016 - 2020) the parties filed numerous motions regarding custody and a hearing was held on July 15, 2020 which resulted in a temporary order modifying custody to Mr. Huber (sole physical custody) on July 24, 2020. Ms. Calkins was to have limited visitation via audiovisual means and counseling with the children was to take place. On April 12, 2021, Ms. Calkins filed a motion to modify the temporary custody, on May 3, 2021 Mr. Huber filed an opposition and counterclaim, and on May 10, 2021, the court issued an Order Denying Defendant's Motion to Change Custody and Entering Permanent Custody Order. This motion permanently changed custody based on Mr. Huber's May 3rd counterclaim without allowing Ms. Calkins the opportunity to respond, and without a hearing.

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

1. Denial of Defendant/Appellant's Motion for Change of Custody.

The Court did not allow for proper motion practice (ability to file a Reply), nor hold a hearing to allow for evidence regarding the children's best interests.

2. Granting of Plaintiff/Respondent's Cross Motion for Permanent Custody Order granting Father sole physical custody and joint legal custody of the minor children.

The Court did not allow for proper motion practice (ability to file an Opposition), nor hold a hearing to allow for evidence regarding the children's best interests.

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

None known.

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

☒ N/A

☐ Yes

☐ No

If not, explain:

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

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

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

☐ A substantial issue of first impression

☐ An issue of public policy

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

☐ A ballot question

If so, explain:

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

Court of Appeals per NRAP 17(b)(10)

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

Was it a bench or jury trial? _____

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from May 12, 2021

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

17. Date written notice of entry of judgment or order was served May 12, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

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

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

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

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

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed Jun 10, 2021

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

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

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

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

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:
The Order Denying Defendant's Motion to Change Custody and Entering Permanent Custody Order is a final judgment entered in an action commenced in the court in which the judgment is rendered.

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

(a) Parties:

JANAE CALKINS

WAYLON HUBER

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

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

In 2019 Plaintiff/Respondent, WAYLON HUBER filed an Ex Parte Motion to Change Custody. An Order Modifying Temporary Custody was issued by the Court July 24, 2020. Defendant/Appellant JANAE CALKINS filed a Motion for Change of Custody on March 8, 2021. Plaintiff/Respondent filed an Opposition to Mother's Motion and Cross Motion for Permanent Custody Order on May 3, 2021. An Order Denying Defendant's Motion to Change Custody and Entering Permanent Custody Order issued May 10, 2021.

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

☒ Yes

☐ No

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

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

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

VERIFICATION

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

JANAE CALKINS

Name of appellant

ELIZABETH M. BITTNER, ESQ.

Name of counsel of record

Date

/s/ Elizabeth M. Bittner

Signature of counsel of record

WASHOE COUNTY, NEVADA

State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 16th day of July, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Waylon Huber
4151 Two Rock Street
Winnemucca, Nevada 89445

Dated this 16th day of July, 2021

/s/ Elizabeth M. Bittner

Signature

EXHIBIT “1”

EXHIBIT “1”

FILED

2020 JUN 26 PM 4: 57

Spero
TAMARA SPERO
DIST. COURT CLERK

1 Case No. CV 20,464

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.

12 JANA E CALKINS

13 Defendant.
14

EX PARTE MOTION TO PRODUCE
MINOR CHILDREN AND GRANT
THIRD-PARTY CUSTODY PENDING
REUNIFICATION

15 COMES NOW, the Plaintiff, WAYLON HUBER, (hereinafter, "Father") above-named,
16 by and through his attorney, DOLAN LAW, LLC and MASSEY K. MAYO, ESQ., and presents
17 this "Ex Parte Motion to Produce Minor Children and Grant Third-Party Custody Pending
18 Reunification."
19

20 This Ex Parte Motion is based upon the attached Statement of Facts, Points and
21 Authorities, exhibits attached hereto and the Declaration of Petitioner, together with the
22 pleadings and papers on file herein.
23

24 DATED this 26th day of June, 2020.

25
26 *Massey K Mayo*
DOLAN LAW, LLC.

By: Massey K. Mayo, Esq.

Nevada Bar # 11201

Attorney for Waylon Huber
27
28

STATEMENT OF FACTS

1
2 1. **Reunification Efforts for Father and Children:** This matter involves the
3 parties' two minor children: BRYNLEE HUBER and BRYSON HUBER, born May 8, 2012, age
4 8. Commencing in November 2018, this Court issued an interim custodial order designed to
5 begin reunification efforts between Father and the two minor children. The Court reiterated this
6 directive in a subsequent Order on March 15, 2019. Over the course of the past 20 months,
7 Father has brought multiple motions before this Court to require JANEAL CALKINS (hereinafter,
8 "Mother") to comply the Court's directive and with reunification efforts (to no avail it seems).
9

10 2. On March 6, 2020, this Court issued a third Order pertaining to therapeutic
11 visitation and supervised visitation, for Father and the minor children. In said March 2020
12 Order, the Court stated "therapeutic visitation shall be the immediate goal of this family and the
13 Court." March 6th, 2020 Order, P. 4, lines 7-9.
14

15 3. The therapeutic visitation was Ordered to occur twice monthly, for two hours
16 each visit, and that said visitations "should not be suspend, cancelled, or modified without
17 further Order of this Court." *Id.* P.5, lines 12-13. Knowing that there was concern Mother would
18 fail to comply, the Order further placed the parties on notice that:
19

20 "Failure to comply with the terms of this Order may not only subject the parties to
21 contempt as allowed by law, but also to further order of this Court modifying
22 custody."
23

24 4. Following the March 6, 2020 Order, the children were scheduled for
25 therapeutic supervised visitation on April 22, April 30, May 7, and May 14 through
26 Stellar Mental Health & Wellness, with Jeffrey R. Moreno, LSCW. The children
27 attended two sessions with Mr. Moreno, and as they were scheduled to begin their first
28

1 "in-person" therapeutic visitation with Father, Mother ceased taking the children. Both
2 times, Mother called after the appointments were scheduled to announce that the children
3 were sick and/or unavailable. See, Exh. A, Status Report of Reintegration/Family
4 Therapy. Mother never sought this Court's permission to cancel the visitation in advance
5 or to ratify the cancellation. In fact, Father was informed that Mother cancelled the May
6 14th, 2020 appointment due to the children being sick. Later that same day, Father sent
7 Mother a cellular text message and asked how the children were doing. Mother's
8 response: "They're awesome! Very Happy." See, Exh B., cellular messages from Father
9 to Mother, dated May 14th, 2020.
10

11 5. Mr. Moreno noted that in the two session he had with the children it was
12 concerning that: (1) the children immediately disclosed alleged sexual abuse by Father of
13 them in adult language and context; and (2) that Mother identified Father as a perpetrator
14 of sexual abuse and the children's response was to state their Father needed to go to jail.
15 The children further relayed that when they were little Father kidnapped them from
16 Mother.
17

18 6. Mr. Moreno reported to the undersigned counsel that he is concerned that
19 Mother will continuously sabotage Father's efforts to reunify with his children, and that
20 the children are of the mindset to believe what Mother has told them occurred, did in fact
21 occur. Mr. Moreno advised Father to install security cameras in his home, should the
22 children return to his care and custody. Presumably this is to ensure that Father can
23 document his actions and behaviors so as to defeat any further salacious allegations. Mr.
24 Moreno is prepared to provide additional testimony for this Court, based upon his
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1 interactions with the children, and his professional experience in difficult reunification
2 matters.

3 7. Furthermore, Father recently learned that Mother unilaterally disenrolled
4 the children from their current therapist at St. Luke's and has informed Father the
5 children are attending "drama therapy" with an unlicensed professional at the Boise River
6 Birth Center. See, Exh. C., cellular text messages between Father and Mother dated June
7 4th, 2020 and Exh. D, biography of Jessica Northam of the Boise River Birth Center.
8 When Father requested to know why the children were disenrolled, Mother stated "it's
9 what judge Montero wanted." Of course, this is absurdity of and by Mother, the March 6
10 2020 Order does not reference any modifications of the children's individual therapists.
11

12 8. Mother has no intention of allowing Father an opportunity to reunite with
13 his children, nor does she have an intention to comply with this Court's Order. Father
14 understands, and is concerned, that his children believe that he perpetrated horrible things
15 upon them when they were little and in his care. Mother has programmed the children to
16 fear Father and to believe that she is their savior.
17

18 9. **Mother's Past History of Absconding with and/or Concealing Children:**
19 Mother has a documented history of absconding with the children and/or hiding her whereabouts.
20 In the past, Father has gone for months at a time not knowing where his children reside or with
21 whom. In May 2019, Father was able to obtain a possible address for Mother in Meridian, Idaho
22 due to a social media post concerning a garage sale. It was the first time in two years, that Father
23 was able to confirm where his children attended school. Of course, the address located by Father
24 was not the same address Mother had provided to this Court on the record (and presumably
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1 under oath). The prior address was that of her own Mother, whom she portrayed to be living with
2 at the time, which was false.

3 10. Mother will avoid communication with Father, and at times sever all contact.
4 Recently, Father has requested photographs of the children to be sent by Mother via cellular
5 message. She ignores the request. Unless Father initiates a "check-in" to Mother, he receives no
6 information concerning his children or their welfare. For two plus years, Mother has done less
7 than the bare minimum to stay afloat in this litigation and is using a fabricated trauma narrative
8 told through the mouths of her young children as a sword and a shield. Mother is a physical and
9 emotional safety risk to her children, given her willingness to disobey this Court and her history
10 of concealing the children from Father, no matter the consequences.
11

12 11. Also of concern is Mother's significant other, Justin Scott Calkins. Justin Calkins,
13 as of May 2020, was incarcerated in the South Idaho Correctional Institution on two offenses: (1)
14 Driving Under the Influence; and (2) Domestic Assault or Battery. Calkins is eligible for parole
15 as of August 2020. See, Exh. E, Idaho Department of Corrections Offender Search Details. This
16 Court previously issued an Order requiring no contact between Calkins and the minor children,
17 due to concerns of his substance use and violence. Mother has disregarded the Court's no
18 contact provision and if granted parole, Calkins will return to living with Mother and the minor
19 children.
20

21 12. **Father's Consultation for Best Interest of the Children:** Knowing that Mother
22 has not, will not, and will never comply with reunification efforts as Ordered by this Court,
23 Father has sought direction from both Mr. Moreno and Dr. Herbert Coard, a licensed
24 Psychologist in the State of Nevada, as to the best direction forward. Both professionals, and
25 Father, are concerned that an Order requiring the immediate return of the children to Father's
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1 sole care will cause damage to future reunification efforts given the children's state of mind and
2 what appears as potential brainwashing of and by Mother. While Father wants nothing more than
3 to have the immediate care and custody of his children, he is concerned that they will endure
4 further trauma (due to their current psychological state of mind) if placed in his home without
5 first engaging in the proper therapeutic process. As such, based upon Father's consultations with
6 the above-named professionals Father seeks the following:
7

- 8 ■ This Court issue an immediate Order for Mother to Produce the
9 Minor Children to Court at a specific date and time, to coincide
10 with a hearing on the instant Exparte Motion and Order;
11
- 12 ■ That should Mother fail to produce the children, a warrant for her
13 arrest issue;
14
- 15 ■ That an immediate Exparte Order be issued by the Court granting
16 temporary legal and physical custody of the minor children to the
17 parental grandmother, Debbie Castonguay and/or to Tessa James,
18 who is Father's first cousin and has a relationship with the
19 children; subject to the rights of Father to begin reunification
20 efforts with a qualified professional in Nevada and visitation as
21 recommended by the therapeutic provider and subject to
22 supervised visitation to Mother and/or contact to be recommended
23 by the therapeutic provider;
24
- 25 ■ That Father and Mother undergo parental capacity evaluations and
26 an assessment of parental alienation;
27
- 28 ■ That the Court issue a separate Order releasing any and all mental,
therapeutic, health and educational records of the minor children to
Father;
29
- 30 ■ That Mother reimburse Father for any out-of-pocket expenses
associated with the above therapeutic process and/or evaluations,
due to her bad faith.

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POINTS AND AUTHORITIES

Jurisdiction

13. This Court has exclusive jurisdiction to enter a custody Order given that Nevada has entered prior custodial Orders concerning the minor children granting exclusive continuing jurisdiction over the minor children. NRS 125A.315. Furthermore, per NRS 125C.0045(1), this Court may, at any time, during the pendency of an action, make orders for the custody, care, education, maintenance and support of the minor child as appears in his or her best interest.

Ex-Parte Emergency Relief

14. Generally, Exparte Orders in family law cases are reserved for serious matters, when a child's health and safety is in danger. (See by analogy, Rules of Practice for the Second Judicial District Court, Rule 43). Father submits that his minor children's health and safety are at serious risk if left in the care, custody and control of Mother. Mother has demonstrated a consistent pattern of parental interference with Father's custodial rights, has ignored and intentionally disobeyed this Court's Orders, and has unnecessarily restricted Father's contact with his children. The children's mental and emotional state are of serious concern, given that the children vocalize a trauma narrative wherein their Father was a violent, horrid individual. Yet, there is not, nor has there been, any credible evidence supporting the trauma narrative espoused by the children. Indeed, after a full investigation by the Winnemucca Police Department and the Nevada Division of Child Welfare Services, the claims against Father were not pursued.

15. The sole consideration for the Court in a child custody determination is the best interest of the child. NRS 125C.0035(1). Maintaining children's frequent associations and a continuing relationship with both parents after their parents have become separated or have

1 dissolved their marriage is Nevada's declared public policy, as well as, to encourage such parents
2 to share the rights and responsibilities of child rearing. (See, Davis v. Ewalefo, 352 P.3d 1139,
3 1144; 131 Nev. Adv. Rep. 45 (2015); Bluestein v. Bluestein, 345 P.3d 1044, 131 Nev. Adv. Rep.
4 14 (2015), former, NRS 125.480(1); 125.460(1)). However, this policy presumes that both
5 parents are fit and prioritize the health, safety and welfare of their child over all else. See
6 generally, Troxel v. Granville, 530 U.S. 57, 68, 120 S. Ct. 2054, 147 L. Ed. 2d 49 (2000).
7
8 Mother prioritizes her own twisted agenda over the developmental needs of her children. Mother
9 has used the children as pawns in a game of revenge against Father and in her pursuit of
10 alienating the children from their Father, has possibly caused irreparable damage to the
11 children's psyche. Mother shops therapeutic providers, searching for whatever "professional"
12 will buy the trauma narrative created of her own doing and told through the mouths of her babes.
13
14 Mother is not fit to parent her children and a psychological and parental assessment of Mother is
15 required before this Court can properly determine what, if any, contact Mother should have with
16 her children going forward.

17
18 16. NRS 125C.0035(3) states that in determining the best interest of the child, the
19 court shall consider and set forth its specific findings concerning, among other things:

- 20 (a) The wishes of the child if the child is of sufficient age and capacity to form
21 an intelligent preference as to his or her custody.
22 (b) Any nomination by a parent or a guardian for the child.
23 (c) Which parent is more likely to allow the child to have frequent associations
24 and a continuing relationship with the noncustodial parent.
25 (d) The level of conflict between the parents.
26 (e) The ability of the parents to cooperate to meet the needs of the child.
27 (f) The mental and physical health of the parents.
28 (g) The physical, developmental and emotional needs of the child.
(h) The nature of the relationship of the child with each parent.
(i) The ability of the child to maintain a relationship with any sibling.
(j) Any history of parental abuse or neglect of the child or a sibling of the child.

1 (k) Whether either parent or any other person seeking custody has engaged in
2 any act of domestic violence against the child, a parent of the child or any other person
3 residing with the child.

4 (l) Whether either parent or any other person seeking custody has committed
5 any act of abduction against the child or any other child.

6 17. For 20 months Mother has disregarded the Court's directive to assist and support
7 reunification efforts between Father and the children. Mother will never allow the children to
8 have frequent associations and a continuing relationship with their Father and will instead
9 encourage the children to respond in fear towards the thought of interacting with their Father.
10 (Id. Subpart (c)). The children are 8 years of age, and unfortunately a great deal of time has
11 passed since the children were afforded any since of "normalcy" with or around their Father.
12 There is much therapeutic work to begin, so that these children can have a healthy since of self
13 and develop into well-rounded adults.

14 18. Mother's mental health is in question. Mother's actions are that of a manipulative,
15 demented person who overlays her own agenda on that of the needs of her children. Father is
16 confident that a parental capacity assessment will aide this Court in determining what diagnosis
17 appropriately applies to Mother and what, if any, treatment Mother could engage in to re-wire
18 her constitution. Furthermore, Father asserts that it is Mother who is abusing and neglecting his
19 children by alienating the children from his parental affection and continuing to endorse a false
20 trauma narrative that is damaging to his children's psyche.

21 19. Furthermore, Mother has a documented history with this Court of concealing
22 and/or absconding with the children, including providing a false address and information
23 (presumably under Oath) of her whereabouts to the Court. Father has spent a great deal of time
24 and energy ensuring that he can maintain tabs on Mother's whereabouts. Father is vehemently
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1 concerned that when Mother learns of the Court's Order modifying custody that she will simply
2 vanish with the children.

3 20. Father ultimately desires to have custody of his children; however, Father heeds
4 the advice of professionals that if he were to request the twins to immediately resume living with
5 him, that could cause additional trauma. NRS 125C.004 allows this Court to award custody to a
6 non-parent, without the parent's consent, so long as there is a finding that an award of custody to
7 a parent "would be detrimental to the child and the award to a nonparent is required to serve the
8 best interest of the child." The continuation of custody to Mother is detrimental to the overall
9 health and safety of the children given that Mother is disobeying the Court, Mother wholly
10 disregards Father's parental rights. Mother continues to pursue a false trauma narrative despite
11 evidence that no such trauma occurred, Mother restricts the children's contact with Father and
12 other family, and Mother alienates the children from Father's parental affection. The Court must
13 take action to protect these children, while ensuring that Father secures the appropriate
14 therapeutic services for the children here in Nevada. This is the only chance the children have,
15 while at a young age, to repair the emotional, mental damage caused over the course of the past
16 two plus years.

17 21. This matter requires immediate Court intervention. Without the Court's
18 assistance, Father will likely never reunify with his children and Mother will continue with her
19 obstructionist and alienating behavior. This Court provided notice that should Mother fail to
20 comply with the March 6, 2020 Order pertaining to reunification the Court would consider a
21 modification of custody. Now is the time, and Father is ready and willing to assist his children to
22 obtain the therapeutic services required to propel his relationship forward while protecting their
23 best interests.

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22. Father will make himself readily available for a hearing on this matter.

Additionally, the therapeutic provider Jeffery Moreno indicated his willingness to appear and testify before the Court.

WHEREFORE the undersigned counsel respectfully prays that Father's Ex-Parte Motion To Produce Minor Children and Grant Third-Party Custody Pending Reunification be GRANTED, and for such other and further relief as may be just and proper.

DATED this 16th day of June, 2020.



DOLAN LAW LLC
By: Massey K. Mayo, Esq.
Nevada Bar No. 11201
545 Hanson Street
Winnemucca, Nevada 89445
Attorney for Waylon Huber

1 **AFFIDAVIT IN SUPPORT OF EXPARTE MOTION TO PRODUCE MINOR**
2 **CHILDREN AND GRANT THIRD-PARTY CUSTODY PENDING REUNIFICATION**

3 STATE OF NEVADA)
4 COUNTY OF HUMBOLDT):ss

5 **COMES NOW**, Waylon Huber, who being first duly sworn, under the pains and penalty
6 of perjury, under the laws of the State of Nevada, truthfully states the following:

7 1. That this Affidavit is based upon my personal knowledge and is made under the
8 penalties of perjury. That this Affidavit is filed in support of Affiant's Exparte Motion to
9 Produce Minor Children and Grant Third-Party Custody Pending Reunification.
10

11 2. Your Affiant is the Father of BRYNLEE HUBER and BRYSON HUBER, born
12 May 8, 2012, age 8. More than two years has elapsed since your Affiant had physical contact
13 with my children. Since the March 6, 2020 Order, I participated in two therapeutic sessions with
14 Jeff Moreno, LCSW, of Stellar Mental Health & Mediation. One on March 20, 2020 and one on
15 May 4, 2020. During these sessions, Mr. Moreno conducted an interview of myself, and my Wife
16 (during the second session). We discussed boundaries and expectations for the upcoming
17 audio/visual session with the twins, and that he would prepare my children as well for the first
18 "in-person" contact. Mother never allowed the children to return for the "in person" session,
19 which would have been the first time in nearly three years that I would have had the opportunity
20 to speak to my children.
21

22 3. Stellar Mental Health & Mediation informed your Affiant that Mother failed to
23 bring the children to the appointment, cancelling last minute. The appointment was rescheduled,
24 and she failed to bring the children a second time. On one of those dates, upon information and
25 belief, Mother cited the children being sick as the reason for the cancellation. That same day, I
26 sent Mother a cellular text message asking how the children were feeling and she responded
27
28

1 "They're awesome! Very Happy." Ultimately, Steller Mental Health & Mediation removed the
2 children from services due to Mother not keeping appointments as directed.

3 4. Your Affiant also learned that Mother has unilaterally disenrolled the children
4 form their current therapist at St. Luke's and has informed Father the children are attending
5 "drama therapy" with unlicensed professional at the Boise River Birth Center. This concerns
6 your Affiant as Mother has changed therapeutic providers for the children on multiple occasions
7 and appears to "shop" therapist. There is no continuity of care for my children at this time.

8 5. In the past, Mother has concealed the children from me, and even now she
9 provides very little information regarding the twins. Routinely I ask for pictures of the children,
10 Mother ignores all my requests. Mother has lied about her address to your Affiant, and the
11 Court, and it is my firm belief that Mother will abscond with the children if she knows the Court
12 is willing to modify custody.

13 6. Your Affiant has installed cameras in my home at the advice of Jeff Moreno to
14 ensure that my actions can be documented should the twins have visitation in the home. This is
15 done out of concern that the children will make additional allegations of abuse against me, due to
16 their current mental and emotional state, and the cameras are for protection. This causes me
17 great sadness, but I understand why the recommendation was made.


18 7. It is my desire that the children return to living in Nevada immediately. My
19 Mother, Debbie Castonguay and/or Tessa James, who is my first cousin are ready, willing and
20 able to take custody of the children. The twins have a prior relationship with both my Mother and
21 Tessa, and would be familiar. Additionally, my desire is that while the children reside with my
22 family they immediately begin therapeutic services in Nevada and that both myself and
23 Defendant, Janea Calkins, submit to a parental capacity examination and an assessment of the
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1 parental alienation be provided to this Court. In this regard, Dr. Herbert Coard, psychologist, was
2 contacted and agreed to provide the necessary services in conjunction with his colleagues. I am
3 willing to follow the recommendations of the providers.

4 8. That without immediate Court intervention my children's overall mental and
5 emotional well-being will continue to suffer. Mother has demonstrated a pattern of behavior
6 designed to ensure that my children continue to fear me as a person and are continued to be
7 alienated by me, and my family.

9 9. I have knowledge of and am competent to testify to the matters stated herein,
10 except to those matters stated on information and belief, and as to those matters, I believe them
11 to be true.

12 DATED this 26th day of June, 2020.

14 
15
16 WAYLON HUBER

17 Subscribed and Sworn to before me
18 By WAYLON HUBER
19 this 26th day of June, 2020.

20 
21 NOTARY PUBLIC

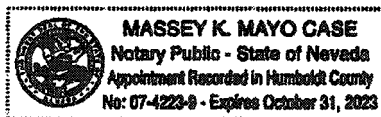


EXHIBIT A

EXHIBIT A

DATE: May 19, 2020

RE: **STATUS REPORT OF (REINTEGRATION/FAMILY THERAPY)**
CV-20-464
Brynlee & Bryson Huber

I. COMPLIANCE REPORT

Per the order for therapy in this case, writer is to submit a status report to the court every 30 days.

1. Appointments held: 4/22, 4/30, 5/7, 5/14
2. Attendance & punctuality for appointment: Poor
3. Mother has not been following established rules and missed two appointments:
4. Father has been following established rules:

II. TERMINATION OF THERAPY

I, Jeffrey R. Moreno, LSCW, hereby terminate my status as court-involved therapist for the family. Primary reason:

- ☐ Client missed two appointments in a row and called in after the appointments were already missed.

Level of Functioning at discharge:

The children were only seen two times upon the initial session they both reported sexual abuse. They clearly stated they were sexually abused and described the incidents as though they were adults not children. The level of exact information and detail was concerning and the children do not appear to be using words consistent with their age or developmental level. Mom identified that father is a perpetrator of sexual abuse and the children stated that "Waylon needs to go to jail" Below is an excerpt from the children.

"When I was 3 I was interviewed but, i couldn't really tell cause I was too little. he kidnapped us my mom was dating my step-dad and he kidnapped us and he took us away back to Nevada. When he abused us "my vagina... he was making it tear, it was bleeding and whenever I would take baths and stuff it would hurt from all of the abuse. It made my kidney disease worse." "He would touch my penis and make me touch his penis. He would put it in my mouth"

Respectfully submitted,

Sent electronically, without signature, to avoid delay.

Jeffrey R. Moreno, LCSW

EXHIBIT B

EXHIBIT B

12:08



Janea >



Now it's showing most of their presents will be their tomorrow. So just in time. How about some pics of the kids?

Fri, May 8, 7:47 AM

The gift accidentally came here yesterday. So I'll have to resend them. Tell the twins happy birthday and their dad loves them.

And I hope they have a wonderful day

Thu, May 14, 7:53 PM

How are the kids doing?

Thu, May 14, 10:49 PM

They're awesome! Very happy.

Sun, May 17, 8:18 AM

Can I get some recent pics of the kids please?

Are they doing school from home right now?

Sun, May 17, 10:12 AM

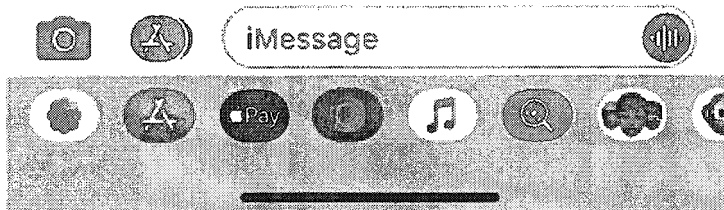


EXHIBIT C

EXHIBIT C



JD

Janea >



Is this the person they are seeing?

yep

Today 8:12 AM

How were you referred to this woman? St. Luke's referred you? What is going on with stellar reunification?

Today 1:57 PM

**Call steller and found out Waylon.
They are the ones who
communicate with you about it not
me!
You know who they are seeing.**

I know stellar and I know st Luke's
I don't know Jessica Northam. I
would like to be talked to before
yanking them out of the program
of st Luke's. How long and how
many times has Jessica Northam
seen them?

Read 2:47 PM



Message





JD

Janea >

Today 6:16 PM

Janea I spoke with St lukes today and the twins are discharged. Who are you taking the kids to now? This is not at all good for their mental wellbeing.

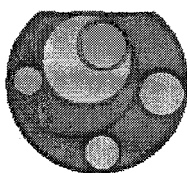
it's what judge montero wanted

What are you talking about? When did he ask you to change their therapist?

i'm the last hearing. i even commented on it

I don't think that is what he said, but who are they seeing now?

**regardless they switched to get a greater level of care. They are now seeing a Trauma Therapist.
Jessica Northam**



**Boise River
Birth Center**



iMessage

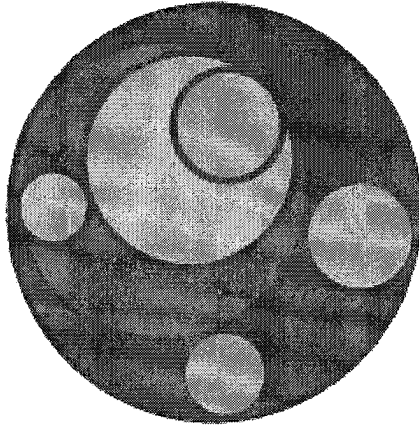


EXHIBIT D

EXHIBIT D

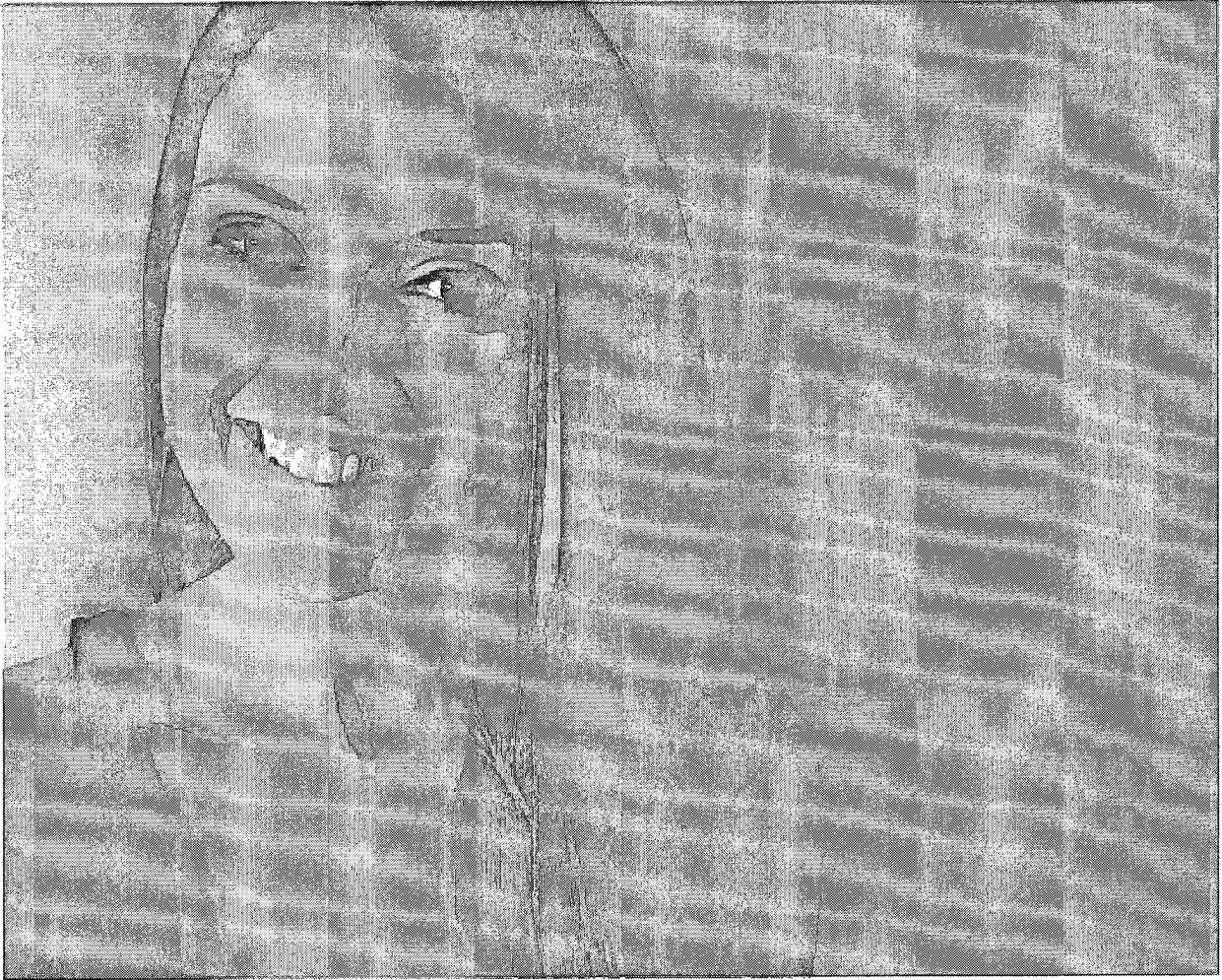
Mental Health: (208) 807-2867

182 W State St, Eagle, ID 83616



Boise River Birth Center





Jessica Northam

Birth Assistant/Student Midwife

Jessica Northam is a registered drama therapist of the North American Drama Therapy Association with specializations in trauma-centered psychotherapy and trauma-sensitive program development. She has worked in clinical, educational, and humanitarian settings in the United States and abroad. As a clinician, she has worked with children, adolescents, adults, and families with stress-related disorders including posttraumatic stress disorders, personality disorders, and eating disorders. In educational settings, she has

and community environments.

Her experience abroad has included working in programs in Latin America responding to mental health needs of victims of natural disasters, refugees, and displaced persons in humanitarian crises. Jessica is now a consultant for professionals and NGOs in fields of services looking to develop trauma-informed practices while also building their capacity to address countertransference, prevent secondary trauma and recover from compassion fatigue. She is a firm believer that psychoeducation of stress and trauma is crucial in preventing and overcoming trauma.

Jessica is available to facilitate groups, capacity building, workshops, and retreats in addition to providing consultation for businesses and organizations wanting to create trauma-informed practices that are culturally sensitive and follow a community based approach.

As a birth doula and a childbirth educator she is no stranger to the birth world. She knows that birth brings its own experiences for each woman and it is her desire to walk alongside women with support, knowledge and encouragement as they and their families bring a new child into the world.

Her own pregnancies and births showed her the strength and healing that can come from this season of life as well the struggles that can arise. Her international travels burdened her for the physical needs around the world. The combination of the two led her down the path of midwifery and she has loved every step of the journey.

If she had any free time she would love to make things – music, wood chips, quilts, yummy food... But, for now she is excited to be immersed in her studies and her dream is to one day be a midwife for women both locally and internationally.

Contact Us

Schedule A Tour

Women's Health

FILED

2020 JUL -1 PM 3:39

JANAE SPERO
DIST. COURT CLERK

Case No. CV 20,464

Dept. No. 2

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

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

WAYLON HUBER

Plaintiff,

vs.

JANAE CALKINS

Defendant.

**ORDER TO IMMEDIATELY
PRODUCE MINOR CHILDREN TO
COURT PER NRS 125C.0055 and
NOTICE OF EXPEDITED
HEARING RE: CUSTODY**

PREMISES HAVING BEEN CONSIDERED, and upon review of Plaintiff's, WAYLON HUBER, "Ex Parte Motion to Produce Minor Children and Grant Third-Party Custody Pending Reunification," submitted herein by and through the law office of Dolan Law, LLC, and the undersigned attorney Massey K. Mayo, Esq., and good cause appearing, the Court makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW as follows:

1. This Court has exclusive jurisdiction to enter a custody Order given that Nevada has entered prior custodial Orders concerning the minor children granting exclusive continuing jurisdiction over the minor children. NRS 125A.315. Furthermore, per NRS 125C.0045(1), this Court may, at any time, during the pendency of an action, make orders for the custody, care, education, maintenance and support of the minor child as appears in his or her best interest.

1 2. Plaintiff, WAYLON HUBER, (hereinafter, "Father") has provided sufficient
2 evidence that the Defendant, JANE CALKINS, if provided notice of the pending custody
3 proceedings would present a high flight-risk and either conceal and/or abscond with the two
4 minor children: BRYNLEE and BRYSON HUBER, born May 8, 2012, age 8. Said evidence
5 includes, Mother's past efforts to conceal the children from Father, including providing a false
6 address for where she and the children resided to the Court and Father, ceasing communication
7 between Father and the minor children (including, not providing information when asked about
8 the whereabouts of said children), and her recent failure to ensure the children attend therapeutic
9 reunification efforts designed to reengage the children in Father's life and the fact that Mother
10 has disenrolled the children from their therapeutic providers whom they had established a
11 professional relationship since 2019.
12

13
14 3. Furthermore, this Court is familiar with the parties of this case having multiple
15 post-divorce custody hearings since 2018, and is aware that Father has not had any meaningful
16 contact with this children for the past three years due to Mother's disobedience and defiance of
17 Court Orders. Due to Mother's defiance of several of this Court's Order concerning
18 reunification, Father's custodial rights are being infringed upon, which is contrary to the stated
19 public policy in Nevada that both parents have frequent and continuing associations with their
20 minor children post-separation.
21

22 4. The Court finds that the best interest of BRYNLEE and BRYSON HUBER may
23 be at risk given Mother's intentional unwillingness to comply with this Court's directives and the
24 past documented history of Mother concealing the children's location from Father and the Court.
25 The immediate produce of the children to this Court is necessary to ensure the minor children's
26 safety pending further determination of the future custody for said children.
27
28

1 NOW, THEREFORE, IT IS SO ORDERED as follows:

2 1. That Defendant, JANEAL CALKINS, shall immediately produce the minor
3 children, by having said children physically appear and be present for, a hearing to be held on
4 15th day of July ^{at 1:30 pm} 2020 at the Sixth Judicial District Court of the State of Nevada, County of
5 Humboldt located at 50 W. 5th Street, Winnemucca, Nevada 89445. Mother shall appear and
6 show cause as to why the Court should not hold her in contempt and/or cause her to pay
7 sanctions for her violation of this Court's March 6, 2020 Order.
8

9 2. Upon production of the minor children to this Court, the Court shall make further
10 disposition of the custody of the minor children.
11

12 3. **NOTICE: Should Defendant, JANEAL CALKINS, fail to appear and produce**
13 **the minor children, by physically delivering the minor children to the Court at said date**
14 **and time, this Court shall issue a warrant for Defendant, JANEAL CALKINS, arrest in**
15 **accordance with NRS 125C.0055 and this Court shall grant Plaintiff, with the assistance of**
16 **appropriate law enforcement, the ability to obtain physical custody of the minor children,**
17 **without further notice to Defendant.**
18

19 IT IS SO ORDERED this 15th day of July, 2020.
20

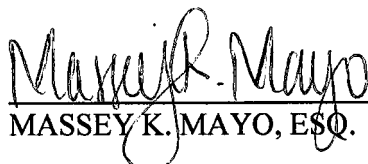
21 
22 DISTRICT COURT JUDGE
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of July, 2020, I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the ORDER TO IMMEDIATELY PRODUCE MINOR CHILDREN PER NRS 125C.0055 and NOTICE OF EXPEDITED HEARING RE: CUSTODY, addressed to the following:

Janea Huber Calkins
3033 W. Divide Creek
Meridian, Idaho 83646

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


MASSEY K. MAYO, ESQ.

FILED

2020 JUL 24 AM 10:57

TAMI RAE SPERO
DIST. COURT CLERK

C. Smock

Case No. CV 20,464

Dept. No. 2

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

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

WAYLON HUBER

Plaintiff,

vs.

JANAE CALKINS

Defendant.

**ORDER MODIFYING TEMPORARY
CUSTODY OF TWO MINOR
CHILDREN AND OTHER RELATED
MATTERS**

PREMISES HAVING BEEN CONSIDERED, this 15th day of July, 2020, wherein the Court held an expedited hearing on the *Order to Immediately Produce Minor Children to Court Per NRS 125C.0055 and Notice of Expedited Hearing Re: Custody*, issued on July 1, 2020, following an "Exparte Motion to Produce Children" filed by Plaintiff, WAYLON HUBER, (hereinafter "Husband") against Defendant, JANAE CALKINS (hereinafter, "Mother"), and Father being present and represented by Dolan Law, LLC and his counsel, Massey K. Mayo, Esq. and Mother being present and *pro per*, and the Court having heard testimony from Father, Mother, and Jeffery Moreno, LCSW, who was the designated therapeutic supervisor in Idaho, and the Court being familiar with the voluminous post-divorce litigation and Orders herein, and good cause appearing does make the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

1. This Court finds, and concludes as a matter of law, that it has continuing exclusive jurisdiction to enter custodial Orders concerning the two minor children: BRYNLEE

1 and BRYSON HUBER, born May 8, 2020, given that Father is a resident of the State of Nevada,
2 and the Court has issued prior custodial Orders concerning the minor children for the past four
3 years. NRS 125A.315.

4 2. **Notice and Production of Children Before the Court:** The Court finds that
5 Mother received notice of the expedited hearing set for July 15, 2020 and did comply with the
6 directive to produce the two minor children before the Court, at the time and date of said hearing.
7

8 3. **Procedural and Background History of Case:** The procedural history of this
9 case is significant. On April 1, 2016, this Court entered a Decree of Divorce for the parties,
10 adopting their Marital Settlement Agreement (hereinafter, "MSA") which awarded both parties
11 joint legal and physical custody. The parties' further agreed that for a temporary period of time
12 Mother would be allowed to relocated to Idaho from Nevada with the minor children, for the
13 purpose of completing her education, but that Mother would return from Idaho to Nevada with
14 the children no later than two (2) years. MSA, P. 5, 3. Mother has never returned to Nevada
15 per her agreement and has remained residing with the minor children in the Boise, Idaho area for
16 the past four years.
17

18 4. This Court held several hearings over the past four years since then regarding
19 custody of the minor children. Throughout 2017, this Court heard evidence regarding allegations
20 of Mr. Huber committing child abuse against his children and being unfit for substance abuse.
21 On June 9, 2017, this Court issued an Order Suspending Visitation for Father with the minor
22 children, while the allegations were investigated. The Division of Child and Family Services
23 investigated the allegations raised by Mother against Father and found them to be
24 unsubstantiated. See, "Notice of Findings," filed November 9, 2017. Additionally, the
25 Winnemucca Police Department investigated the allegations against Father and no criminal
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1 charges were ever filed against Father. By November 2018, this issue appeared to be put at rest
2 and the Court Ordered that “supervised visitation and therapeutic intervention begin immediately
3 in Idaho”, twice a month, between Father and the minor children. The November 2018 Order
4 was subsequently clarified by a March 15, 2019 Order, to comply with a request of a therapist
5 who was scheduled to commence therapeutic services for Father and the minor children. At that
6 time, no services or visitation had occurred for the Father and minor children, and again the
7 Court made it clear the expectation was that therapeutic supervised visitation would commence
8 within five days of the March 2019 Order.
9

10 5. Between March 2019 and the Court’s subsequent March 6, 2020 Order, Father
11 filed ten separate motions in *pro per* and Mother filed one motion in *pro per*. Mother never
12 responded or opposed Father’s Motions, that were all in pursuit of Mother complying with the
13 Court’s Order to facilitate visitation and contact between himself and the children. In February
14 2020, the Court learned that Father had zero visitation and zero therapeutic reunification efforts
15 with his children due to Mother’s non-compliance.
16

17 6. In the “Order” entered March 6, 2020, this Court took great care to outline its
18 frustration with Mother not engaging in therapeutic supervised visitation, and this Court noted its
19 “paramount concern to this Court is the time in which the minor children have had no contact
20 with their father, Mr. Huber.” Order 4:3-4. This Court informed the parties that “therapeutic
21 visitation shall be the immediate goal of this family and the Court.” *Id.* at 4:8-9.
22

23 7. This Court ordered the parties to contact Stellar Mental Health and Mediation in
24 Nampa, Idaho, within five days of that March 6, 2020, *Order*. This Court also ordered that Mr.
25 Huber would select an alternative therapeutic visitation service if Stellar Mental Health could not
26 accomplish the reunification services for any reason. *Id.* at 5-6. This Court further Ordered
27
28

1 that if there existed any difficulty scheduling, the parties would provide their schedules to the
2 provider who would then unilaterally determine when the therapeutic visitation would occur. Id.
3 at 7. Finally, this Court ordered visitation would not be suspended, cancelled, or modified
4 without further Court order. Id. at 9.

5 8. **Testimony at Hearing Held on July 15, 2020:** The Court heard from Jeff
6 Moreno, LCSW, who is employed by Stellar Mental Health and was the therapist scheduled to
7 provide reunification services to Father and the minor children. Mr. Moreno prepared a written
8 report dated May 19, 2020, which was admitted into evidence. Mr. Moreno testified Mother
9 made two appointments with the minor children, the intake appointment and one following. The
10 second appointment was shortened due to inclement weather conditions and only involved one of
11 the two children. Mr. Moreno testified that he met with Father on two occasions as well, both in
12 person, to prepare him for a session where contact between Father and the minor children would
13 occur. Father testified that the next scheduled sessions with Mr. Moreno was to involve a video
14 and/or telephone meeting between himself and the children; however, Mother failed to show and
15 called after the appointment time to cancel citing that one of the children was sick. Another
16 session was scheduled for the children, and again, Mother failed to appear and cancelled after the
17 appointment time.

18 9. Despite having limited time to interact with the children, Mr. Moreno testified
19 that he was concerned with the fact that within ten minutes of initially meeting the children both
20 were willing to describe in detail and adult-like description sexual abuse they alleged was
21 committed by Father against them, four years prior. Mr. Moreno testified that the children
22 reported the events as if it were "a common, everyday occurrence, like they were talking about
23 chewing bubblegum."
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1 10. Mr. Moreno testified that, in his ten years' experience, most children would
2 ordinarily require four to six sessions before opening up to a counselor. He also noted that the
3 minor children used words inappropriate for their age or developmental level. In his experience,
4 the children were being coached or encouraged to continue the trauma narrative. He further
5 testified, in his experience, children who receive a false trauma narrative can expect
6 maladjustment and consistent anxiety as the children grow into adulthood. Finally, he testified
7 that Mother was difficult with his staff in scheduling the minor children's therapy.
8

9 11. As for Mother, she testified that she missed two appointments—one due to her
10 own negligence in forgetting the appointment, and the other because one of the children was
11 sick. Mother testified that she never informed Father that she was, or had, missed the
12 appointments. Mother also testified that she did not know Father was scheduled to have a
13 telephonic and/or video meeting with the children at the sessions that were missed.
14

15 12. Mother was informed by Steller Mental Health that services were terminated due
16 to her missed appointments. During this same time frame, Mother unilaterally removed the
17 children from their individual therapeutic providers at St. Luke's (whom they had gone to for
18 several years prior) and enrolled the children with an unlicensed therapist whose "drama"
19 therapy is, from the evidence presented, unaccredited. Mother never consulted with Father
20 regarding this decision, or informed Father.
21

22 13. Furthermore, after services were terminated by Stellar Mental Health, Mother
23 then sought out another provider, "Molly and Me," despite the directive of this Court that Father
24 would determine the provider for therapeutic reunification services.
25

26 14. Ms. Calkins also testified that she is recently employed with the U.S. Census
27 Bureau and renting a home in Idaho. Mother testified that her Husband, Mr. Calkins, will be
28

1 released from incarceration in August 2020 and will return to residing with her and the minor
2 children. This is despite the fact that this Court has a "no contact" order between Mr. Calkins and
3 the minor children.

4 15. For his part, Father testified that he had not agreed to any of the counselor
5 changes before Ms. Calkins removed the children from the programs or was terminated. He
6 believed Ms. Calkins would never allow reunification based on her past conduct, including
7 moving from one address to another and essentially concealing the children from him. Father
8 testified that this was the first time he had physically seen his two children in three plus years
9 due to Mother's conduct of alienating the children. Based on his consultation with therapeutic
10 professionals, Father thought it best serves the children's interest that the children return to
11 Nevada to live with his family while he can ensure reunification services are implemented and
12 identified Dr. Herbert Coard as a provider who was willing to immediately assist with the
13 process.
14

15
16 16. **Specific Findings Supporting a Modification of Custody to Father:** Based
17 upon the above evidence, this Court finds that the best interest of the minor children are served
18 by granting Father the temporary sole physical custody of his two minor children, subject to
19 limited rights of visitation by Mother as outlined herein. The Court further finds, and concludes,
20 as a matter of law, that the parties shall continue to share the joint legal custody of the two minor
21 children.
22

23
24 ///

25 ///

26 ///

27 ///

28 ///

1 17. This Court may make a determination regarding the custody of a minor child at
2 any time as appears in the child's best interest. NRS 125C.0045. In considering the best interest
3 of the child the Court shall consider the following factors, which are non-exhaustive:

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

25 18. The Court finds that the efforts, from November 2018 to April 2020, to reunify
26 the children with Father, have not worked. This case is correctly described as difficult;
27 specifically, the Court has had to issue a culmination of three Court Orders, all of which stressed
28 and made clear, the expectation of the Court was that Father would have the opportunity to
reunify which is children with the assistance of therapeutic services. Now, 19 months later,
Father is appearing before the Court raising the same issue—his inability to have contact with his
children—due to Mother's actions and her unwillingness to ensure that Father is provided a
continuing relationship with the children.

1 19. The court further finds Mother's position in closing interesting given that prior to
2 this hearing Mother has resisted, contested, and deflected reunification between Father and the
3 children and has ignored or disobeyed this Court's prior Orders making excuses each time as to
4 why the reunification did not occur. Now, Mother asserts her desire to have the children
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12 written report prepared by Jeffery Moreno, which was admitted without objection by Mother.
13 After the services terminated, Mother then seeks out and establishes services with new providers,
14 including an unlicensed "therapist" without ever consulting Father.
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16 21. The Court finds, and concludes as a matter of law, that if the children remain in
17 Mother's care, custody and control, their best interest will not be served and Mother will likely
18 never ensure reunification efforts are made available between Father and the children. Mother is
19 not serving the best interest of the children, and her continued action will likely result in
20 maladaptive behavior by the children, as testified to by Jeffery Moreno. Mother disobeyed this
21 Court's "Order" from March 2020, by failing to consult with or notify Father based on the
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11 relationship between Father and the children, even when the burden to ensure therapeutic contact
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14 23. Lastly, the Court finds, and concludes as a matter of law, that Mother is in
15 violation of this Court's no contact Order between her Husband, Justin Calkins, and the minor
16 children. Mother testified that Mr. Calkins would resume living with her and the children upon
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18 Emergency Hearing." The Court has previously determined that Mr. Calkins presence around
19 the minor children is not in their best interest, and reiterates that Mr. Calkins has a history of
20 violent crimes including a past domestic violence charge, involving strangulation.
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22 24. Based on the testimony adduced at the hearing and the long history of this case,
23 this Court finds that there exists clear and convincing evidence for modifying custody.
24 Reunification must occur in Humboldt County and not Idaho. This Court finds that if this Court
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1 does not modify the custody of these children immediately, there will be significant
2 maladaptation of the children.

3 Based upon the foregoing FINDINGS OF FACT and CONCLUSION OF LAW, the
4 Court hereby ORDERS:

5 1. Father, WAYLON HUBER, is granted the temporary sole physical custody of the
6 two minor children: BRYNLEE and BRYSON HUBER, immediately.

7
8 2. Father and Mother, JANEAL CALKINS, shall continue to share the joint legal
9 custody of the two minor children. The Court is making this Order with the specific concern that
10 if Mother does not maintain joint legal custody she will not be able to participate in the
11 reunification efforts and therapeutic services the children will receive in Nevada.
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13 3. That the children shall be placed with either the paternal grandmother, Debbie, or
14 the paternal cousin, Tessa James, pending the reunification efforts between Father and the minor
15 children commencing.

16 4. Mother's visitation shall be supervised and occur via telephone or audio/visual
17 format. Mother shall be entitled to speak to the children at 6:00 p.m. PST/ 7:00 p.m. MST each
18 day; however, the placement for the children and/or Father have the discretion to terminate the
19 contact should Mother discuss this litigation with the children or disparage Father or other family
20 with the children present. Further visitation for Mother shall be recommended, if appropriate, by
21 the therapeutic professionals assisting with reunification.
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23 5. Should Mother relocate to Nevada, as understood in the original MSA, the Court
24 will revisit the terms of visitation and entertain a modification of this Order.
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27 reunification process. Both parties are Ordered to cooperate with Dr. Herbert Coard, and to
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1 provide any and all information necessary to allow Dr. Herbert Coard the ability to complete
2 evaluations, diagnosis, and formulate a treatment and/or reunification plan for the children and
3 parents. The parties shall equally share in the costs of Dr. Herbert Coard's services.

4 7. Dr, Herbert Coard shall be authorized to release a full and complete copy of any
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6 counsel for either party, or if not represented the party directly. No party or counsel shall disclose
7 the contents of said evaluation and/or report to any third-person without permission of the Court,
8 or at the recommendation of Dr. Herbert Coard.

10 8. Mother shall forward to Dr. Herbert Coard all medical records, educational
11 records relating to the children's special needs, and therapeutic records for the minor children,
12 within 15 days of the date of this Order. Mother shall further cooperate to sign any documents to
13 further this purpose, including any HIPAA releases. Mother shall disclose to Dr. Herbert Coard
14 all medical and mental health treatment the children received while in her sole care and custody
15 from 2017 to 2020.

17 9. The issue of attorney's fees shall be reserved for a later date.

18 10. Father's child support obligation is stayed commencing July 1st, 2020.

20 11. The Court further puts the parties on notice of the following general provisions:

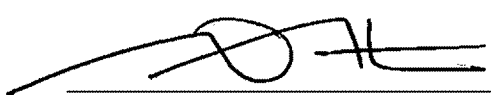
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22 CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF
23 THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS
24 PROVIDED IN NRS 193.130. NRS 200.359 provides that every person
25 having a limited right to custody of a child or any parent having no right of
26 custody to a child who willfully detains, conceals or removes the child from a
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1 parent, guardian or other person having lawful custody or a right of visitation
2 of the child in violation of an order of this court or all persons who have the
3 right to custody or visitation is subject to being punished for a category D
4 felony as provided in NRS 193.130.

- 5 B. The State of Nevada, United States of America, is the habitual residence of
6 the minor children. The terms of the Hague Convention of October 25, 1980,
7 adopted by the 14th Session of the Hague Conference on Private International
8 Law, apply if a parent abducts or wrongfully retains a child in a foreign
9 country.
10
11 C. That if either party is obligated to pay support, the parties here hereby notified
12 that his/her obligation may subject him/her to the child support enforcement
13 collection provisions contained in Chapters 31A, 125.450(2) and 425 of the Nevada
14 Revised Statutes and 425 of the Nevada Administrative Code.
15

16 **IT IS SO ORDERED.**

17 DATED this 23rd day of July, 2020.
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20 Hon. Michael Montero
21 Sixth Judicial District Court Judge
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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2020, I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the foregoing document, addressed to the following:

Janea Huber Calkins
3033 W. Divide Creek
Meridian, Idaho 83646

☒ First Class U.S. Mail

☐ Via Fax Transmission

☐ Box in District Court Clerk Office

☐ Box in Justice Court Clerk Office

☐ Hand Delivered

☐ Electronic Delivery: janeacalkins@yahoo.com

Max Stovall

1 Case No. CV 20,464

2 Dept. No. 2

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

FILED

2020 JUL 24 PM 12:07

TAMARA S. SPERO
DIST. COURT CLERK

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,

NOTICE OF ENTRY OF ORDER

11 vs.

12 JANA E CALKINS

13 Defendant.
14 _____ /

15 TO: ALL INTERESTED PARTIES.

16 YOU ARE HEREBY NOTIFIED that an *Order Modifying Temporary Custody of Two*
17 *Minor Children and Other Related Matters*, has been entered in the above entitled matter on July
18 24, 2020, a copy of which is attached hereto.
19

20 Dated this 24 day of July, 2020.

21
22 

23 DOLAN LAW, LLC.

24 By: Max A. Stovall, Esq.

Nevada Bar No. 14284

545 Hanson Street

Winnemucca, Nevada 89445

Telephone: 775-625-3200

Fax: 775-625-4286

Attorney for Minor Child.

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FILED

2020 JUL 24 AM 10:57

TAMARA STERO
DIST. COURT CLERK

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7 IN AND FOR THE COUNTY OF HUMBOLDT

8 WAYLON HUBER

9 Plaintiff,

10 vs.

11 JANA E CALKINS

12 Defendant.

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ORDER MODIFYING TEMPORARY
CUSTODY OF TWO MINOR
CHILDREN AND OTHER RELATED
MATTERS

15 PREMISES HAVING BEEN CONSIDERED, this 15th day of July, 2020, wherein the
16 Court held an expedited hearing on the *Order to Immediately Produce Minor Children to Court*
17 *Per NRS 125C.0055 and Notice of Expedited Hearing Re: Custody*, issued on July 1, 2020,
18 following an "Exparte Motion to Produce Children" filed by Plaintiff, WAYLON HUBER,
19 (hereinafter "Husband") against Defendant, JANA E CALKINS (hereinafter, "Mother"), and
20 Father being present and represented by Dolan Law, LLC and his counsel, Massey K. Mayo,
21 Esq. and Mother being present and *pro per*, and the Court having heard testimony from Father,
22 Mother, and Jeffery Moreno, LCSW, who was the designated therapeutic supervisor in Idaho,
23 and the Court being familiar with the voluminous post-divorce litigation and Orders herein, and
24 good cause appearing does make the following FINDINGS OF FACT and CONCLUSIONS OF
25 LAW:

26 1. This Court finds, and concludes as a matter of law, that it has continuing
27 exclusive jurisdiction to enter custodial Orders concerning the two minor children: BRYNLEE
28

1 and BRYSON HUBER, born May 8, 2020, given that Father is a resident of the State of Nevada,
2 and the Court has issued prior custodial Orders concerning the minor children for the past four
3 years. NRS 125A.315.

4 2. **Notice and Production of Children Before the Court:** The Court finds that
5 Mother received notice of the expedited hearing set for July 15, 2020 and did comply with the
6 directive to produce the two minor children before the Court, at the time and date of said hearing.
7

8 3. **Procedural and Background History of Case:** The procedural history of this
9 case is significant. On April 1, 2016, this Court entered a Decree of Divorce for the parties,
10 adopting their Marital Settlement Agreement (hereinafter, "MSA") which awarded both parties
11 joint legal and physical custody. The parties' further agreed that for a temporary period of time
12 Mother would be allowed to relocated to Idaho from Nevada with the minor children, for the
13 purpose of completing her education, but that Mother would return from Idaho to Nevada with
14 the children no later than two (2) years. MSA, P. 5, 3. Mother has never returned to Nevada
15 per her agreement and has remained residing with the minor children in the Boise, Idaho area for
16 the past four years.
17

18 4. This Court held several hearings over the past four years since then regarding
19 custody of the minor children. Throughout 2017, this Court heard evidence regarding allegations
20 of Mr. Huber committing child abuse against his children and being unfit for substance abuse.
21 On June 9, 2017, this Court issued an Order Suspending Visitation for Father with the minor
22 children, while the allegations were investigated. The Division of Child and Family Services
23 investigated the allegations raised by Mother against Father and found them to be
24 unsubstantiated. See, "Notice of Findings," filed November 9, 2017. Additionally, the
25 Winnemucca Police Department investigated the allegations against Father and no criminal
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1 charges were ever filed against Father. By November 2018, this issue appeared to be put at rest
2 and the Court Ordered that “supervised visitation and therapeutic intervention begin immediately
3 in Idaho”, twice a month, between Father and the minor children. The November 2018 Order
4 was subsequently clarified by a March 15, 2019 Order, to comply with a request of a therapist
5 who was scheduled to commence therapeutic services for Father and the minor children. At that
6 time, no services or visitation had occurred for the Father and minor children, and again the
7 Court made it clear the expectation was that therapeutic supervised visitation would commence
8 within five days of the March 2019 Order.
9

10 5. Between March 2019 and the Court’s subsequent March 6, 2020 Order, Father
11 filed ten separate motions in *pro per* and Mother filed one motion in *pro per*. Mother never
12 responded or opposed Father’s Motions, that were all in pursuit of Mother complying with the
13 Court’s Order to facilitate visitation and contact between himself and the children. In February
14 2020, the Court learned that Father had zero visitation and zero therapeutic reunification efforts
15 with his children due to Mother’s non-compliance.
16

17 6. In the “Order” entered March 6, 2020, this Court took great care to outline its
18 frustration with Mother not engaging in therapeutic supervised visitation, and this Court noted its
19 “paramount concern to this Court is the time in which the minor children have had no contact
20 with their father, Mr. Huber.” Order 4:3-4. This Court informed the parties that “therapeutic
21 visitation shall be the immediate goal of this family and the Court.” *Id.* at 4:8-9.
22

23 7. This Court ordered the parties to contact Stellar Mental Health and Mediation in
24 Nampa, Idaho, within five days of that March 6, 2020, *Order*. This Court also ordered that Mr.
25 Huber would select an alternative therapeutic visitation service if Stellar Mental Health could not
26 accomplish the reunification services for any reason. *Id.* at 5-6. This Court further Ordered
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1 that if there existed any difficulty scheduling, the parties would provide their schedules to the
2 provider who would then unilaterally determine when the therapeutic visitation would occur. Id.
3 at 7. Finally, this Court ordered visitation would not be suspended, cancelled, or modified
4 without further Court order. Id. at 9.

5 8. **Testimony at Hearing Held on July 15, 2020:** The Court heard from Jeff
6 Moreno, LCSW, who is employed by Stellar Mental Health and was the therapist scheduled to
7 provide reunification services to Father and the minor children. Mr. Moreno prepared a written
8 report dated May 19, 2020, which was admitted into evidence. Mr. Moreno testified Mother
9 made two appointments with the minor children, the intake appointment and one following. The
10 second appointment was shortened due to inclement weather conditions and only involved one of
11 the two children. Mr. Moreno testified that he met with Father on two occasions as well, both in
12 person, to prepare him for a session where contact between Father and the minor children would
13 occur. Father testified that the next scheduled sessions with Mr. Moreno was to involve a video
14 and/or telephone meeting between himself and the children; however, Mother failed to show and
15 called after the appointment time to cancel citing that one of the children was sick. Another
16 session was scheduled for the children, and again, Mother failed to appear and cancelled after the
17 appointment time.
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21 9. Despite having limited time to interact with the children, Mr. Moreno testified
22 that he was concerned with the fact that within ten minutes of initially meeting the children both
23 were willing to describe in detail and adult-like description sexual abuse they alleged was
24 committed by Father against them, four years prior. Mr. Moreno testified that the children
25 reported the events as if it were “a common, everyday occurrence, like they were talking about
26 chewing bubblegum.”
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1 10. Mr. Moreno testified that, in his ten years' experience, most children would
2 ordinarily require four to six sessions before opening up to a counselor. He also noted that the
3 minor children used words inappropriate for their age or developmental level. In his experience,
4 the children were being coached or encouraged to continue the trauma narrative. He further
5 testified, in his experience, children who receive a false trauma narrative can expect
6 maladjustment and consistent anxiety as the children grow into adulthood. Finally, he testified
7 that Mother was difficult with his staff in scheduling the minor children's therapy.
8

9 11. As for Mother, she testified that she missed two appointments—one due to her
10 own negligence in forgetting the appointment, and the other because one of the children was
11 sick. Mother testified that she never informed Father that she was, or had, missed the
12 appointments. Mother also testified that she did not know Father was scheduled to have a
13 telephonic and/or video meeting with the children at the sessions that were missed.
14

15 12. Mother was informed by Steller Mental Health that services were terminated due
16 to her missed appointments. During this same time frame, Mother unilaterally removed the
17 children from their individual therapeutic providers at St. Luke's (whom they had gone to for
18 several years prior) and enrolled the children with an unlicensed therapist whose "drama"
19 therapy is, from the evidence presented, unaccredited. Mother never consulted with Father
20 regarding this decision, or informed Father.
21

22 13. Furthermore, after services were terminated by Stellar Mental Health, Mother
23 then sought out another provider, "Molly and Me," despite the directive of this Court that Father
24 would determine the provider for therapeutic reunification services.
25

26 14. Ms. Calkins also testified that she is recently employed with the U.S. Census
27 Bureau and renting a home in Idaho. Mother testified that her Husband, Mr. Calkins, will be
28

1 released from incarceration in August 2020 and will return to residing with her and the minor
2 children. This is despite the fact that this Court has a “no contact” order between Mr. Calkins and
3 the minor children.

4 15. For his part, Father testified that he had not agreed to any of the counselor
5 changes before Ms. Calkins removed the children from the programs or was terminated. He
6 believed Ms. Calkins would never allow reunification based on her past conduct, including
7 moving from one address to another and essentially concealing the children from him. Father
8 testified that this was the first time he had physically seen his two children in three plus years
9 due to Mother’s conduct of alienating the children. Based on his consultation with therapeutic
10 professionals, Father thought it best serves the children’s interest that the children return to
11 Nevada to live with his family while he can ensure reunification services are implemented and
12 identified Dr. Herbert Coard as a provider who was willing to immediately assist with the
13 process.
14

15
16 16. **Specific Findings Supporting a Modification of Custody to Father:** Based
17 upon the above evidence, this Court finds that the best interest of the minor children are served
18 by granting Father the temporary sole physical custody of his two minor children, subject to
19 limited rights of visitation by Mother as outlined herein. The Court further finds, and concludes,
20 as a matter of law, that the parties shall continue to share the joint legal custody of the two minor
21 children.
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1 17. This Court may make a determination regarding the custody of a minor child at
2 any time as appears in the child's best interest. NRS 125C.0045. In considering the best interest
3 of the child the Court shall consider the following factors, which are non-exhaustive:

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

25 18. The Court finds that the efforts, from November 2018 to April 2020, to reunify
26 the children with Father, have not worked. This case is correctly described as difficult;
27 specifically, the Court has had to issue a culmination of three Court Orders, all of which stressed
28 and made clear, the expectation of the Court was that Father would have the opportunity to
reunify which is children with the assistance of therapeutic services. Now, 19 months later,
Father is appearing before the Court raising the same issue—his inability to have contact with his
children—due to Mother's actions and her unwillingness to ensure that Father is provided a
continuing relationship with the children.

1 19. The court further finds Mother's position in closing interesting given that prior to
2 this hearing Mother has resisted, contested, and deflected reunification between Father and the
3 children and has ignored or disobeyed this Court's prior Orders making excuses each time as to
4 why the reunification did not occur. Now, Mother asserts her desire to have the children
5 reunified and that she did not want the minor children to remember the contention between the
6 parties, as part of their childhood.
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8 20. The Court finds that Mother's testimony is not credible. Mother's testimony was
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13 After the services terminated, Mother then seeks out and establishes services with new providers,
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16 21. The Court finds, and concludes as a matter of law, that if the children remain in
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18 never ensure reunification efforts are made available between Father and the children. Mother is
19 not serving the best interest of the children, and her continued action will likely result in
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28

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9 country.
10
11 C. That if either party is obligated to pay support, the parties here hereby notified
12 that his/her obligation may subject him/her to the child support enforcement
13 collection provisions contained in Chapters 31A, 125.450(2) and 425 of the Nevada
14 Revised Statutes and 425 of the Nevada Administrative Code.
15

16 **IT IS SO ORDERED.**

17 DATED this 23rd day of July, 2020.



Hon. Michael Montero
Sixth Judicial District Court Judge

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of July, 2020, I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the foregoing document, addressed to the following:

Janea Huber Calkins
3033 W. Divide Creek
Meridian, Idaho 83646

☒ First Class U.S. Mail

☐ Via Fax Transmission

☐ Box in District Court Clerk Office

☐ Box in Justice Court Clerk Office

☐ Hand Delivered

☐ Electronic Delivery: janeacalkins@yahoo.com

Max Stovall

FILED

2021 MAR -8 PM 1:18

E. Dumond
TAMI RAE SPERO
DIST. COURT CLERK

1 Code: 2350
2 Name: Janea Calkins
3 Address: 1465 West Deer Crest H101
4 Meridian, Idaho 83646
5 Telephone: 208-780-9705
6 Email: janeacalkins@yahoo.com
7 Self-Represented Litigant

8
9 IN THE FAMILY DIVISION
10 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11 IN AND FOR THE COUNTY OF WASHOE
12

13 Janea Calkins,
14 Plaintiff / Petitioner / Joint Petitioner,

Case No. CV 20,464

15 vs.

Dept. No. 2

16 Waylon Huber,
17 Defendant / Respondent / Joint Petitioner.
18
19

20 MOTION FOR CHANGE OF CUSTODY OR VISITATION

21 **Type of Motion**

22 Place an "X" in the box(es) that describe what you are requesting from the Court.
23

24 1. ☒ A change in custody

25 ☒ A change in the general visitation schedule

26 ☐ Other: _____
27 //

28 //

Minor Child(ren)

On the lines below: Provide the information requested regarding each minor child born to, or adopted by, you and your spouse. You **MUST LIST** where the child currently lives, where the child has lived for the **PAST 5 YEARS**, and the name(s) and current address(es) of the person(s) with whom the child lived at each address.

2.

Child's Name: Brynlee Huber		Date of Birth: 05/08/2012	<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child
Child's Name: Bryson Huber		Date of Birth: 05/08/2012	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child
Child's Name:		Date of Birth:	<input type="checkbox"/> Male <input type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child

If more room is needed, attach additional sheets.

a. Please identify any other court case in which you have participated as a party, witness, or in any other way concerning the custody of or visitation with the minor child(ren) listed above.

If there are no other court cases, please check this box ☒.

Name(s) of minor child(ren) involved: _____

Court: _____

Case number: _____ Date of custody determination: _____

b. Please identify any court case that could affect this case, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, adoptions, guardianships, dependency, and paternity actions. If there are no other court cases, please check this box ☒.

Name(s) of minor child(ren) involved: _____

Court: _____ Type of case: _____

Case number: _____ Date of last order: _____

c. Please identify the name(s) and address(es) of any person(s) not a party to this court case who claim(s) a right to legal custody, physical custody or visitation with the minor child(ren).

If this is not applicable, please check this box ☒.

Name(s) of minor child(ren) involved: _____

Name(s) and address(es) of person(s) claiming custody or visitation rights: _____

If more room is needed, attach additional sheets.

Relief Requested and Argument

Describe what you want the Court to order. In detail, tell the Court what you are asking for and why you believe you should be granted your request(s).

3. Since Judge Montero's previous order taking the Children Brynlee and Bryson Huber on July 5, 2020 and placing them with their Father, Waylon, in Winnemucca, NV. I have adhered to all requests by the court to the best of my abilities. I have daily video/phone calls with my Children, when allowed by Waylon and their schedule as well. I feel that Waylon is not allowing the children to express their true feelings and often cuts off communication if they show any signs of "Missing Mom," attempt to say something is bothering them, or display any emotions or feelings." The children have on numerous occasions made comments that are concerning as well, indicating that Waylon is painting their mother as someone BAD. Nor have the children participated in therapy during the reunification with their father and being seperated from their mother, which this sort of process no doubt affects minor children. I've made numerous attempts to communicate with Dr. Coard, whom was appointed by the court to interview the children, myself, & father to make his recommendation to the court to begin the reunification process. With little to no response from Dr. Coard this has created a major delay in reuniting with my children (See Exhibit A.)

I ask the court for a modification in the current Custody and Visitation. That Brynlee and Bryson be allowed to return to Idaho residing with myself, my husband and their younger sibling. I would ask that they attend school year round in Idaho, spending one weekend a month with their father and step-mother. That summers can be split with them spending 4 weeks with their Father in Winnemucca. Holidays be alternated between both homes.

It is my attempt to restructure Brynlee and Bryson with a healthy home life, consisting of both of their parents active and engaged in their upbringing. It is my belief that this is both appropriate and neccassary at this time. I also believe that with proper co-parenting and parental therapy and coaching, Waylon and myself will be able to provide a stable, structured, and healthy environment that is condusive to the childrens health and well-being.

If more room is needed, attach additional sheets.

Section 4:

h. My relationship with Brynlee and Bryson has always been one of love, care, and encouragement. I strive to provide them with an environment where they are able to grow intellectually, spiritually, mentally, and physically. This separation has no doubt placed strain and confusion in this relationship, and without proper therapeutic oversight provided for them throughout the process it has made it very difficult for them to process and speak about it.

Best Interest

Answer each question.

Describe, in detail, why the requested custody and visitation schedule is in the best interest of the child(ren). If you need more room to answer the questions attach additional sheets.

4. The requested custody and visitation schedule is in the best interest of the minor child(ren) for the following reasons:

a. The minor child(ren) ☐ **IS/ARE** –OR– ☒ **IS NOT/ARE NOT** old enough and capable of having a preference in the custody and visitation.

If the minor child(ren) is/are, their age(s) and preference(s) is/are:

b. There ☐ **IS** –OR– ☐ **IS NOT** a nomination of a guardian. If there is, the name(s) of the nominated guardian(s) is/are:

c. ☒ **I AM** –OR– ☐ **THE OTHER PARENT** is more likely to allow the minor child(ren) to have frequent contact with and a continuing relationship with the other parent because:

–OR– ☐ **NOT APPLICABLE**

d. The level of conflict between the other parent and me is: improving, and in my belief
with the proper guidelines will be cohesive as co-parents.

therefore the proposed custody and visitation schedule is in the best interest of the minor child(ren).

e. ☒ Me and the other parent **ARE** able to cooperate to meet the needs of the minor child(ren).

–OR–

☐ Me and the other parent **ARE NOT** able to cooperate to meet the needs of the minor child(ren) and the proposed custody and visitation schedule is in the best interest of the minor child(ren) because:

f. My mental and physical health is: in good order. I am also attending Parent Coaching along with my husband to obtain additional knowledge and tools for effective parenting.

The other parent's mental and physical health is: appears to be fine and in good health.

I have concerns for the level of derogatory conversations that happen around the children.

g. The minor child(ren) have the following physical, developmental, and emotional needs:

Diagnosed with Global Developmental Delay being evaluated by court ordered professional

h. My relationship with the minor child(ren) is: I have always been fully engaged in their lives.

Currently speaking w/them daily, or as often as possibly allowed. (see attached section 4 h).

The other parent's relationship with the minor child(ren) is: Seems to have improved since reunification. However, I speak from a very limited view at this point.

i. This custody and visitation schedule ☒ **WILL** -OR- ☐ **WILL NOT** allow the minor child(ren) to maintain a relationship with siblings.

-OR- ☐ **NOT APPLICABLE**

j. I ☐ **HAVE** -OR- ☒ **DO NOT HAVE** a history of parental abuse or neglect of the minor child(ren) or any sibling of the minor child(ren), or a history of domestic violence against the minor child(ren), the other parent, or any other person who lives with the minor child(ren). If there is a history, the abuse, neglect, or act of domestic violence was:

(Include case number(s), if any and if known) _____

The other parent ☒ **HAS** -OR- ☐ **DOES NOT HAVE** a history of parental abuse or neglect of the minor child(ren) or any sibling of the minor child(ren), or a history of domestic violence against the minor child(ren), myself, or any other person who lives with the minor child(ren).

If there is a history, the abuse, neglect, or act of domestic violence was:

(Include case number(s), if any and if known) _____

1 k. I ☐ HAVE -OR- ☒ HAVE NOT committed an act of abduction against the minor
2 child(ren) or any other child.

3 If there is a history, the act of abduction was: _____
4 _____

5 The other parent ☐ HAS -OR- ☒ HAS NOT committed an act of abduction against the
6 minor child(ren) or any other child.

7 If there is a history, the act of abduction was: _____
8 _____

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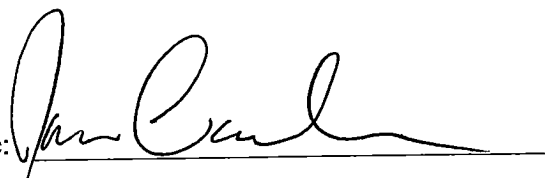
5. Motion/Opposition Notice

A.	Mark the CORRECT ANSWER with a X.	Yes	No
1.	Has a final decree or custody order been entered in this case? If <u>yes</u> , then continue to Question 2. If <u>no</u> , you do not need to answer any other questions.		X
2.	Is this a motion or an opposition to a motion filed to change a final order? If <u>yes</u> , then continue to Question 3. If <u>no</u> , you do not need to answer any other question.		X
3.	Is this a motion or an opposition to a motion filed only to change the amount of child support?		
4.	Is this a motion or an opposition to a motion for reconsideration or a new trial <u>and</u> the motion was filed within 14 days of the Judge's Order?		
	If the answer to Question 4 is <u>yes</u> , write in the <u>filing date</u> found on the front page of the Judge's Order.	<u>Date</u>	
B.	If you answered NO to either Question 1 or 2, or YES to Question 3 or 4, you are <u>exempt</u> from a filing fee. However, if the Court later determines you should have paid the filing fee, your motion will <u>not</u> be decided until the fee is paid.		

This document does not contain the personal information of any person as defined by NRS 603A.040.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing statements are true and correct.

Date: March 3rd, 2021

Your Signature: 

Print Your Name: Janea Calkins

When to File: If you do not file an opposition/response to this request with the Court within fourteen (14) days, beginning the day after service upon you, the person who filed this request may submit it to the Court for decision. **Please note: parties who are served by U.S. Mail have three (3) additional days, a total of seventeen (17) days, to file an opposition/response.**

EXHIBIT A

EXHIBIT A

E-Mails

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Bcc: Kathy Brumm

Tue, Feb 23 at 5:54 PM

Hello Dr. Coard,

I have been attempting to reach you via text, phone call, and email since our last phone call on January 19, 2021. Could you please inform me of the best method of contact for you?

I would like to follow up per our conversation on the 19th of January. You had stated that you would file your recommendations and documentation to the courts, myself, and to Waylon's attorney; Massy Mayo the beginning of the following week, being January 25th.

I feel left in the dark throughout this process. I know that there was some confusion about payments when speaking on our last phone call, and I have been attempting to follow up with you concerning this matter, amongst the reconciliation with my children through several methods of communications, including letters and certified mail to the address provided to me, only to find out that the address provided is now vacant. I would like to mention that there was no communication, response, or update between August 2020 and January 2021. It has been 8 months since July 25, 2020 when I last saw my children. I have been an active and engaged mother for 8 years and miss them immensely. In August during our assessment, you had assured me that at least visitation would be in affect no later than November 2020. To my knowledge, according to the most recent court order, this is the portion of the process that needs to be completed to begin that process.

Please let me know if there is anything that I can do to ensure that we move forward. I look forward to hearing from you.

Kind regards,

Janea' Calkins

C: 208.780.905

janeacalkins@yahoo.com

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Tue, Feb 16 at 4:03 PM

hi Dr. Coard! I left you another voicemail & text message; I'm trying to reach out and find out where we're at in the process & if there is anything else that you need from me. I mentioned in the voicemail that it has been over seven months since I've seen my kids, I am very eager to see them and start visitation. I am very hopeful that I will hear from you soon!

Sincerely,

Janea' Calkins

208.780.9705

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Thu, Feb 11 at 2:22 PM

Good Afternoon Dr. Coard. I've been trying to reach you to get an update on the report you said was going to be filed. Have you been receiving my emails, calls, or text messages? I also wanted to address any questions there might be regarding payment.

I really look forward to speaking with you

Janea' Calkins

208.780.9705

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Wed, Feb 10 at 2:37 PM

Good Afternoon Dr. Coard. I've been trying to reach you to get an update on the report you said was going to be filed. Have you been receiving my emails, calls, or text messages? I also wanted to address any questions there might be regarding payment.

I really look forward to speaking with you

Janea' Calkins

208.780.9705

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Fri, Feb 5 at 4:18 PM

Hello Dr. Coard,

I am sending another email to follow up per our conversation a few weeks ago. I sent an e-mail a week and a half ago, did you receive it? You mentioned you were submitting your report and/or

recommendations to the courts the week of January 25th; I was hoping that you could provide me an update.

Also, it sounds as if there is some confusion regarding any remaining balance; is there a balance or is everything current?

I'm very eager to see my kids. I miss them very much.

I look forward to hearing from you,

Janea' Calkins
208.780.9705

Janea Huber <janeacalkins@yahoo.com>

To: Herbert Coard

Mon, Jan 25 at 3:05 PM

Dr. Coard,

I am just following up per our conversation last week. You mentioned you were submitting your report and/or recommendations to the courts this week; I was hoping that you could provide me an update.

I have not seen my kids in 7 months other than via FaceTime. I am looking forward to the next step in this process.

Sincerely,

Janea' Calkins

C: 208.780.905

janeacalkins@yahoo.com

Janea Calkins <janeacalkins18@gmail.com>

To: Herbert Coard

Bcc: Janeacalkins@yahoo.com

Sat, Nov 14, 2020 at 4:52 PM

Hello Dr. Coard,

I haven't heard back from you for quite awhile. I would like to follow up with you regarding your evaluations & diagnosis for Brynlee and Bryson.

Have you formulated a treatment and/or reunification plan for Brynlee, Bryson, and myself?

I look forward to hearing from you!

--

Janea' Calkins
208.780.9705
janeacalkins18@gmail.com

Phone Calls

09/14/2020
01/02/2021
01/20/2021
02/04/2021
02/05/2021
02/10/2021
02/11/2021
02/16/2021

Text Messages

Wed, Feb 10, 2:35 PM

Good afternoon Dr. Coard. I've been trying to reach you to get an update on the report you said was going to be filed. I also wanted to address any questions there might be regarding payments.

Thu, Feb 11, 2:14 PM

Good Afternoon Dr. Coard. I've been trying to reach you to get an update on the report you said was going to be filed. I also wanted to address any questions there might be regarding payments.

Tue, Feb 16, 3:59 PM

Hi Dr. Coard! I left you another voicemail just trying to reach out and find out where were at in the process and if there is anything else that you need from me. I mentioned in the voicemail that it has been over seven months since I've seen my kids so I am very eager to see them and start visitation. I am very hopeful that I will hear from you soon

Fri, Feb 19, 2:36 PM

Dr. Coard this is Janea Calkins. I'm reaching out again. I'd really like a call back. Like I've mentioned before I'd like to speak with you directly and be sure you are not needing anything else from me.

1 Code: 2350
2 Name: Janea Calkins
3 Address: 1465 West Deer Crest H101
4 Meridian, Idaho 83646
5 Telephone: 208-780-9705
6 Email: janeacalkins@yahoo.com
7 Self-Represented Litigant

FILED
2021 APR 12 PM 2:29
TAMI RAE SPERO
DIST. COURT CLERK
C. Smock

8 IN THE FAMILY DIVISION
9 OF THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10 IN AND FOR THE COUNTY OF WASHOE

11 Janea Calkins,
12 Plaintiff / Petitioner / Joint Petitioner,

Case No. CV 20,464

13 vs.

Dept. No. 2

14 Waylon Huber,
15 Defendant / Respondent / Joint Petitioner.

16 MOTION FOR CHANGE OF CUSTODY OR VISITATION

17 **Type of Motion**

18 Place an "X" in the box(es) that describe what you are requesting from the Court.

- 19 1. ☒ A change in custody
20 ☒ A change in the general visitation schedule
21 ☐ Other: _____

22 //

23 //

Minor Child(ren)

On the lines below: Provide the information requested regarding each minor child born to, or adopted by, you and your spouse. You **MUST LIST** where the child currently lives, where the child has lived for the **PAST 5 YEARS**, and the name(s) and current address(es) of the person(s) with whom the child lived at each address.

2.

Child's Name: Brynlee Huber		Date of Birth: 05/08/2012	<input type="checkbox"/> Male <input checked="" type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child
Child's Name: Bryson Huber		Date of Birth: 05/08/2012	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child
Child's Name:		Date of Birth:	<input type="checkbox"/> Male <input type="checkbox"/> Female
Date Child Moved Here	Child's Address (Street Address, City, State)	Person(s) With Whom Child Lived (Name and Current Address)	Relationship To Child

If more room is needed, attach additional sheets.

1 a. Please identify any other court case in which you have participated as a party, witness, or in
2 any other way concerning the custody of or visitation with the minor child(ren) listed above.

3 If there are no other court cases, please check this box ☒.

4 Name(s) of minor child(ren) involved: _____

5 Court: _____

6 Case number: _____ Date of custody determination: _____

7
8 b. Please identify any court case that could affect this case, including proceedings for
9 enforcement and proceedings relating to domestic violence, protective orders, termination of
10 parental rights, adoptions, guardianships, dependency, and paternity actions. If there are no
11 other court cases, please check this box ☒.

12 Name(s) of minor child(ren) involved: _____

13 Court: _____ Type of case: _____

14 Case number: _____ Date of last order: _____

15
16 c. Please identify the name(s) and address(es) of any person(s) not a party to this court case
17 who claim(s) a right to legal custody, physical custody or visitation with the minor child(ren).

18 If this is not applicable, please check this box ☒.

19 Name(s) of minor child(ren) involved: _____

20 Name(s) and address(es) of person(s) claiming custody or visitation rights: _____

21 _____

22 _____

23 _____

24 _____

25 _____

26 _____

27 _____

28 If more room is needed, attach additional sheets.

Relief Requested and Argument

Describe what you want the Court to order. In detail, tell the Court what you are asking for and why you believe you should be granted your request(s).

3. Since Judge Montero's previous order taking the Children Brynlee and Bryson Huber on July 5, 2020 and placing them with their Father, Waylon, in Winnemucca, NV. I have adhered to all requests by the court to the best of my abilities. I have daily video/phone calls with my Children, when allowed by Waylon and their schedule as well. I feel that Waylon is not allowing the children to express their true feelings and often cuts off communication if they show any signs of "Missing Mom," Attempts to say something is bothering them, or any emotional feelings." The children have on numerous occasions made comments that are concerning as well, indicating that Waylon is painting their mother as someone BAD.

I've made numerous attempts to communicate with Dr. Coard, whom was appointed by the court to interview the children, myself, & father to make his recommendation to the court to begin the reunification process. With little to no response from Dr. Coard has created major delay in reuniting with my children. (attached is a log of all attempts to reach Dr Coard.)

I ask the court for a modification in the current Custody and Visitation. That Brynlee and Bryson be allowed to return to Idaho residing with myself, Husband and their younger Sibling. I would ask that they attend school year round in Idaho. That summers can be split with them spending 4 weeks with their Father in Winnemucca. One weekend a month with with their father and step mother. Holidays be alternated between both homes.

I have been portrayed that I am unwilling in the past to work with Waylon but with this offer of Splitting time I hope that it can be seen by all as good faith in creating a healthy and stable home pattern for the children. I would like to work with Waylon in choosing a professional to assist in maintaining healthy relationships with their Father and myself .

If more room is needed, attach additional sheets.

Best Interest

Answer each question.

Describe, in detail, why the requested custody and visitation schedule is in the best interest of the child(ren). If you need more room to answer the questions attach additional sheets.

4. The requested custody and visitation schedule is in the best interest of the minor child(ren) for the following reasons:

a. The minor child(ren) ☐ **IS/ARE** -OR- ☒ **IS NOT/ARE NOT** old enough and capable of having a preference in the custody and visitation.

If the minor child(ren) is/are, their age(s) and preference(s) is/are:

b. There ☐ **IS** -OR- ☐ **IS NOT** a nomination of a guardian. If there is, the name(s) of the nominated guardian(s) is/are:

c. ☒ **I AM** -OR- ☐ **THE OTHER PARENT** is more likely to allow the minor child(ren) to have frequent contact with and a continuing relationship with the other parent because:

-OR- ☐ **NOT APPLICABLE**

d. The level of conflict between the other parent and me is:

therefore the proposed custody and visitation schedule is in the best interest of the minor child(ren).

e. ☐ Me and the other parent **ARE** able to cooperate to meet the needs of the minor child(ren).

-OR-

☐ Me and the other parent **ARE NOT** able to cooperate to meet the needs of the minor child(ren) and the proposed custody and visitation schedule is in the best interest of the minor child(ren) because:

1 f. My mental and physical health is: in good order. I am regularly seeing a Therapist.

2
3 The other parent's mental and physical health is appears to be fine and in good health.

4 I do have concern for the image he portrays of me to our children.

5
6 g. The minor child(ren) have the following physical, developmental, and emotional needs:

7 Diagnosed with Global Developmental Delay being evaluated by court ordered professional

8
9 h. My relationship with the minor child(ren) is: I am the mother, I speak daily as much allowed
10 per prior order. But being held back due to Physciatrist requested not completing steps.

11 The other parent's relationship with the minor child(ren) is: He is the Father. Seems good
12 relationship currently but from limited point of view.

13
14 i. This custody and visitation schedule ☒ **WILL** -OR- ☐ **WILL NOT** allow the minor
15 child(ren) to maintain a relationship with siblings.

16 -OR- ☐ **NOT APPLICABLE**

17
18 j. I ☐ **HAVE** -OR- ☒ **DO NOT HAVE** a history of parental abuse or neglect of the minor
19 child(ren) or any sibling of the minor child(ren), or a history of domestic violence against
20 the minor child(ren), the other parent, or any other person who lives with the minor
21 child(ren). If there is a history, the abuse, neglect, or act of domestic violence was:

22 (Include case number(s), if any and if known) _____

23 The other parent ☒ **HAS** -OR- ☐ **DOES NOT HAVE** a history of parental abuse or
24 neglect of the minor child(ren) or any sibling of the minor child(ren), or a history of
25 domestic violence against the minor child(ren), myself, or any other person who lives with
26 the minor child(ren).

27 If there is a history, the abuse, neglect, or act of domestic violence was:

28 (Include case number(s), if any and if known) _____

1 k. I ☐ **HAVE** -OR- ☒ **HAVE NOT** committed an act of abduction against the minor
2 child(ren) or any other child.

3 If there is a history, the act of abduction was: _____
4 _____

5 The other parent ☐ **HAS** -OR- ☒ **HAS NOT** committed an act of abduction against the
6 minor child(ren) or any other child.

7 If there is a history, the act of abduction was: _____
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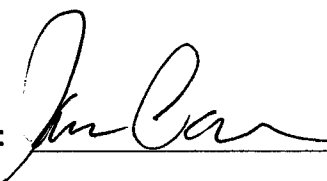
5. Motion/Opposition Notice

A.	Mark the CORRECT ANSWER with a X.	Yes	No
	1. Has a final decree or custody order been entered in this case? If yes , then continue to Question 2. If no , you do not need to answer any other questions.		X
	2. Is this a motion or an opposition to a motion filed to change a final order? If yes , then continue to Question 3. If no , you do not need to answer any other question.		
	3. Is this a motion or an opposition to a motion filed only to change the amount of child support?		
	4. Is this a motion or an opposition to a motion for reconsideration or a new trial and the motion was filed within 14 days of the Judge's Order?		
	If the answer to Question 4 is yes , write in the filing date found on the front page of the Judge's Order.	Date	
B.	If you answered NO to either Question 1 or 2, or YES to Question 3 or 4, you are exempt from a filing fee. However, if the Court later determines you should have paid the filing fee, your motion will not be decided until the fee is paid.		

This document does not contain the personal information of any person as defined by NRS 603A.040.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing statements are true and correct.

Date: 03/08/21

Your Signature: 

Print Your Name: Janea Calkins

When to File: If you do not file an opposition/response to this request with the Court within fourteen (14) days, beginning the day after service upon you, the person who filed this request may submit it to the Court for decision. **Please note: parties who are served by U.S. Mail have three (3) additional days, a total of seventeen (17) days, to file an opposition/response.**

1 Case No. CV 20,464

2 Dept. No. 2

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

FILED

2021 MAY -3 PM 3:41

E. Dumond
TAMI RAE SPERO
DIST. COURT CLERK

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.

12 JANA E CALKINS

13 Defendant.
14

OPPOSITION TO MOTHER'S
MOTION TO CHANGE CUSTODY
and CROSS MOTION FOR
PERMANENT CUSTODY ORDER

15 COMES NOW, the Plaintiff, WAYLON HUBER, (hereinafter, "Father") above-named,
16 by and through his attorney, DOLAN LAW, LLC and MASSEY K. MAYO, ESQ., and hereby
17 Opposes the Defendant. JANA E CALKINS, "Motion for Change of Custody or Visitation" filed
18 herein on April 12, 2021 and cross-moves this Court for an Order granting Father the sole legal
19 and sole physical custody of the two minor children.
20

21 This Opposition and Cross-Motion is based upon the Points and Authorities, pleadings
22 and papers herein, and any argument to be heard hereon.
23

24 DATED this 3rd day of May, 2021.

25 *Massey K. Mayo*
26 DOLAN LAW, LLC.
27 By: Massey K. Mayo, Esq.
28 Nevada Bar # 11201
Attorney for Waylon Huber

1
2 **INTRODUCTION**

3 On July 24, 2020 this Court entered an Order granting Father temporary sole physical
4 custody of the two minor children: BRYNLEE and BRYSON HUBER, born May 8, 2012, age 8,
5 due to Mother's unwillingness to ensure that Father had a relationship with his children, after
6 several Court Orders were entered to rebuild Father and the children's connection. The Court
7 further found that Mother's behaviors would likely result in "maladaptive behavior by the
8 children" as testified to by Jeffery Moreno, LCSW. The Court granted Mother supervised,
9 audio/telephonic visitation with the children and Ordered the parties to cooperate with Dr.
10 Herbert Coard, Ed. D., Psychologist to obtain evaluations of the parties and the children to
11 formulate a reunification plan and determine visitation and contact for Mother. The parties were
12 to share the costs of Dr. Coard. Upon information and belief, Mother has not cooperated, to the
13 fullest extent possible, with Dr. Coard and has not paid her portion of said services, resulting in
14 little to no progress for Mother. The children deserve a permanent Order and Father is requesting
15 that he be granted the sole legal and sole physical custody of the two children.
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18

19 **STATEMENT OF FACTS**

20 1. Since Father has had the sole physical care of the children, he has ensured the
21 following needs of the children were met:

22 A. **Continuing Relationship with Mother:** Father has ensured that the children
23 consistently call Mother. Father has allowed flexibility on the phone call times, due to Mother's
24 work schedule, and even ensured the kids called while he had the kids on vacation in Puerto
25 Rico. The only time that Father has terminated a phone call is due to Mother's behavior
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1 involving her husband, Justin Calkins. There is a no contact order for the children with Justin
2 Calkins, and on occasion Mother had Justin appear on the facetime call with the children.

3 Additionally, Father has sent Mother report cards, pictures, certificates, awards, and
4 information on any special events the kids have going on in Nevada. He informs her of
5 information from medical doctors and the dentist, as well.

6
7 Father does not disparage Mother, or make the children think that Mother is "BAD."

8 B. **Education:** The children were evaluated for special education services when they
9 enrolled in school at Sonoma Heights Elementary School and an Individual Education Program
10 (IEP) was developed for both children. Attached hereto as "Exhibit A" is a Status Letter, dated
11 April 21, 2021, authored by Paul O. Lords, Ph.D., the Humboldt County School District, School
12 Psychologist.
13

14 Dr. Lords indicates that, *inter alia*, both children have increased their standard scores in
15 excess of the average rate of students. Brynlee has grown 13 points in math and 9 points in
16 reading from September 28, 2020 to January 14, 2021. Bryson has grown 24 points in math and
17 8 points in reading, from September 28, 2020 to January 14, 2021. The children have good
18 attendance and self-report within the normal limits for their social-emotional learning.
19

20 When the children were in Mother's care, Brynlee was labeled with severe ADHD and
21 was on social security disability and Bryson was labeled with autism and on social security
22 disability. Mother received income in the form of disability payments from the federal
23 government, totaling \$82,798 from 2016 to December 2020. The children reported to Father that
24 Mother informed the kids how to "act out" when they were attending a doctor's appointment and
25 that Mother would interview the children prior to appointments and include their step-brother
26 (who is age 14) by having him pretend to be the doctor. The children have reported to Father
27
28

1 that when they went to therapy, that Mother would go over and over certain narratives to ensure
2 they would report details about Father's alleged sexual misconduct.

3 When the children first came to Father, they were consumed with talking about sexually
4 explicit acts, which were disturbing to say the least. Now, they do not speak about sex or sexual
5 activity and they have adjusted to being children who live in a secure home.

6
7 C. **Behavior:** Unfortunately, the children believed the narrative that Mother created.
8 When Father took custody, Bryson identified as Autistic and normalized behavior like
9 screaming, temper tantrums, covering his ears, and being scared of the dark. He would refuse to
10 do certain things (i.e. go across the monkey bars) because he said he was "autistic" and was
11 paralyzed by fear of life.

12
13 For Brynlee, she believed that she was subject to mood disorders and that she required
14 prescription medicine to stabilize her emotions. She was wearing prescription glasses, that she
15 did not need. She reported that she suffered from being lactose intolerant, acid reflux, and severe
16 kidney disease and she was focused on talking about her various illness, including with other
17 children which made her stand out in social interactions.

18
19 The children were underweight and did not use a fork or spoon. They could not pour a
20 glass of milk or tie their own shoes. They were not taught basic independent skills for their age.

21 Dr. Coard was able to assess the children, with input from both Father and Mother. He
22 determined that Bryson does not meet the diagnostic criteria for Autism Spectrum Disorder, but
23 show behaviors that would support a diagnosis of ADHD. As for Brynlee, Dr. Coard ruled out a
24 diagnosis of ADHD and determined that a prior diagnosis of "global developmental delay" was
25 inappropriate and inaccurate.
26
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1 Father reports that over the past nine months, Bryson has adjusted, and he is no longer
2 self-identifying as autistic. All the prior activities he feared doing, he has conquered. He is
3 responsible for completely chores at home, doing his homework, and taking care of the
4 household pets. Brynlee no longer talks about her illness or feeling depressed. She does not wear
5 glasses.

6
7 Bryson is loving and learns quickly. He rides his skateboard and participates on the
8 Winnemucca Whitewater swim team. He makes friends easily and has a positive attitude at
9 home. Brynlee loves ice cream, avocados, singing and making dance videos. She participates on
10 the swim team and also takes dance classes. They are both good older siblings to their step-sister.

11
12 D. **Medical Appointments:** Both Bryson and Brynlee had a well-child check up in
13 August 2020. They were underweight but overall healthy. They return for a yearly check up in
14 August 2021.

15 E. **Other Needs:** The children have bonded with their grandparents and extended
16 family and enjoy BBQs, holiday events, and birthday parties. They reach out to their Mother's
17 side of the family and keep in contact with uncles, grandparents and cousins in Idaho. They are
18 bonded with their step-siblings and have developed friendships with children in their community.
19 They attend the Boys and Girls Club after school and during the summer.

20
21 The children have realized that they are healthy kids, and never did suffer from the
22 various diagnosis imposed on them by Mother. On occasion, they have tried to confront Mother
23 about why she told them things that were not true, but Mother shifts the blame and will not
24 acknowledge what she did while parenting the kids. She often says she was "protecting" the
25 children.
26
27
28

1 2. Mother continues to live with her Husband, Justin Calkins, who was recently let
2 out of prison. What Mother's motives were in misrepresenting the health of her children, is
3 unknown. However, Father suspects that Mother was, in part, financially motivated to keep the
4 children on Social Security Disability income as she received approximately \$1500 per month
5 for the children, plus her child support.
6

7 3. Mother's Motion is devoid of any facts that would warrant a modification of the
8 current custodial Order. The children are doing well and are healthy, happy, and adjusted to life
9 with Father in Winnemucca. Mother clearly has no desire to return to Winnemucca, and she has
10 a documented history of selfishly manipulating her children giving no consideration to their best
11 interest. Should the Court return the children to Mother's care, even for limited visitation, she
12 will put their safety and well-being in substantial risk.
13

14 **POINTS AND AUTHORITIES**

15 **I. Standard of Review: Best Interest of the Children**

16 4. Under NRS 125C. 0045(1) the court may at any time during the minority of the
17 child make such an order for the custody, care, education, maintenance and support of the minor
18 children in their best interest or modify an order of custody.
19

20 5. The best interest of the child is the controlling factor in child custody cases, and
21 maintaining frequent associations and a continuing relationship with both parents after their
22 parents have become separated or have dissolved their marriage is Nevada's declared public
23 policy and to encourage such parents to share the rights and responsibilities of child rearing.
24 (See, Davis v. Ewalefo, 352 P.3d 1139, 1144; 131 Nev. Adv. Rep. 45 (2015); Bluestein v.
25 Bluestein, 345 P.3d 1044, 131 Nev. Adv. Rep. 14 (2015), former, NRS 125.480(1); 125.460(1)).
26 However, this policy presumes that both parents are fit and prioritize the health, safety and
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1 welfare of their child over all else. See generally, Troxel v. Granville, 530 U.S. 57, 68, 120 S. Ct.
2 2054, 147 L. Ed. 2d 49 (2000).

3 6. NRS 125C.0035(3) states that in determining the best interest of the child, the
4 court shall consider and set forth its specific findings concerning, among other things:

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

22 **II. Father Opposes Mother's Request to Modify the Custody of the Minor Children**
23 **and Return them to Idaho, Subject to Rights for Visitation by Father.**

24 7. Mother fails to provide sufficient evidence to support that a modification of the
25 current custodial order is in the best interest of the minor children. Mother has a documented
26 history of NOT prioritizing the health, safety and welfare of her children over all else. Mother
27 has manipulated and misled her children and caused detrimental, but reparable, harm to her
28 children. Mother's Motion fails to cite one piece of evidence as to why a return to Idaho and her
care would benefit the kids.

8. With this Court Mother defied no less than three Orders granting Father an
opportunity to reunify with his children. Mother takes no accountability for the circumstances

1 which she created, and even now, is blaming Dr. Coard as the person who is delaying her having
2 the children returned. Mother states that she wants Father to have the children one weekend per
3 month, alternating holidays, and share the summer; and by offering this schedule the Court
4 should accept that she is willing to work with Father and ensure he has contact.

5 9. Mother's overtures mean nothing. Mother defrauded the system and received
6 almost \$100,000 on behalf of her children due to false diagnosis. Mother is not a credible person
7 and she is not a safe parent. For three years she kept Father alienated from his children. She
8 shopped therapist and doctors, using her children like puppets with strings controlled by her
9 manipulation and false narratives.

10 10. The children have worked hard over the past nine months to normalize life with
11 Father. Mother has not taken into consideration that the children are thriving and well-adjusted
12 in Nevada. Father supports Mother as a parent, but he is sincerely concerned about any
13 unsupervised contact that Mother would have with the children going forward. Mother's
14 influence on the children is not healthy and Mother appears to have zero insight about why her
15 choices have harmed the children. Mother is not a fit parent. Mother's request to modify should
16 be denied.

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20 **III. The Best Interest of the Children Will be Served by Father Having Sole Legal and**
21 **Sole Physical Custody of the Minor Children Subject to Supervised Contact with**
22 **Mother.**

23 11. At the July 2020 hearing, the Court granted Mother continued legal rights to the
24 children; however, Mother is not a fit parent to retain the power to make significant decisions for
25 her children's best interest. Father has learned that Mother has defrauded the system, and used
26 the children as pawns, to obtain social security. The children came into Father's care with
27 maladaptive behaviors, resulting from Mother's false narratives about ailments and diagnosis the
28

1 children never suffered under. Mother should be divested of her right to make legal decisions on
2 her children's behalf immediately. Allowing Mother any access will place the children's over all
3 health and safety at continued risk.

4 12. Furthermore, Father seeks for the current custodial Order to be made permanent
5 as it serves the best interest of the children. The children are doing well in school, they are
6 engaged in extra curricular activities, all of their health needs are met, and they are bonded with
7 family and friends. Father ensures that Mother receives information regarding the children, that
8 the children speak to Mother on a continuous basis, and that the children remain in touch with
9 Mother's family.
10


11 13. Dr. Coard's evaluation of the parties remains outstanding. Upon information and
12 belief, Mother has not paid Dr. Coard for her portion of the services performed under the terms
13 of the Order. The status of Mother's mental health should be evaluated by this Court, and
14 Mother's statements that she attends therapy on a regular basis are not sufficient to ameliorate
15 the concerns of her diminished parenting skills. Mother has a documented history of lying to
16 professionals to seek gains for her own benefit. Unless Mother provides a full release of
17 information, the therapy progress should be given little weight by the Court.
18

19 14. Father loves his children. Father will continue to meet the needs of his children
20 and provide a safe and loving home for the twins. Father respects that Mother is a parent of the
21 children, but he has serious concerns regarding her ability to properly parent the children given
22 the serious impact her past decisions had on the children's welfare. Father is requesting this
23 Court award him primary physical custody of the minor child subject to supervised
24 telephonic/video contact by Mother.
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1 15. Lastly, should this Court find that Father has properly Opposed Mother's Motion
2 he requests an award of attorney fees and costs for having to defend against Mother's request to
3 modify custody. Father was forced to retain an attorney to protect his rights as a parent to his
4 children, having been alienated for three years, and now Father is incurring fees to defend
5 against Mother's efforts to modify the custodial Order and return the children to her care despite
6 demonstrating a change of circumstance that would warrant a modification in her favor.
7

8 WHEREFORE, the undersigned counsel respectfully prays that Mother's Motion for
9 Modification of Custody be Denied in its entirety and that Father's Cross-Motion to Modify the
10 Custody to award him Sole Legal and Primary Physical Custody be Granted, and award of
11 attorney fees and costs, and for such other and further relief as may be just and proper.
12

13 DATED this 3rd day of May, 2021.

14
15
16 
17 DOLAN LAW LLC
18 By: Massey K. Mayo, Esq.
19 Nevada Bar No. 11201
20 545 Hanson Street
21 Winnemucca, Nevada 89445
22 Attorney for Waylon Huber
23
24
25
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1 **DECLARATION IN SUPPORT OF OPPOSITION TO MOTION FOR MODIFICATION**
2 **OF CUSTODY AND CROSS-MOTION FOR CUSTODY**

3 STATE OF NEVADA)
4)ss
5 COUNTY OF HUMBOLDT)

6 **COMES NOW**, Waylon Huber, declares, under the pains and penalty of perjury, under
7 the laws of the State of Nevada, and pursuant to NRS 53.045 truthfully states the following:

8 1. That this Declaration is based upon my personal knowledge and is made as if
9 stated under the penalties of perjury. That this Declaration is filed in support of Declarant's
10 Opposition to Plaintiff, Janea Calkin's (hereinafter, "Mother") Motion to Modify Custody and
11 Declarant's Cross-Motion to Modify Child Custody and Visitation.

12 2. Your Declarant is the Father of BRYNLEE and BRYSON HUBER, age 8, born
13 May 8, 2012. That the children have been in my sole care since July 2020 pursuant to this
14 Court's *Order Modifying Temporary Custody of Two Minor Children and Other Related*
15 *Matters*, dated July 24, 2020.

16 3. Your Declarant has ensured that Mother has had regular and frequent contact with
17 the minor children per the terms of the Order, as set forth more fully in my pleading. I
18 encourage the children to have a relationship with Mother, and do not disparage Mother's
19 character or nature in front of the children. Over the course of the past nine months, I have
20 terminated a few phone calls because Mother will allow Justin Calkins, her Husband, to
21 participate and there is a "No Contact" order between Mr. Calkins and the children.

22 4. Your Declarant has met the educational needs of the children by having them
23 evaluated for their Individualized Education Plans, incorporating Dr. Coards's initial assessments
24 of the children. Both children have excelled and grown in school.
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1 5. When the children were in Mother's care, Brynlee was labeled with severe
2 ADHD and was on social security disability and Bryson was labeled with autism and on social
3 security disability. Your Declarant learned that Mother received income in the form of disability
4 payments from the federal government, totaling \$82,798 from 2016 to December 2020.

5 6. Furthermore, when the children came into my care they were were consumed with
6 talking about sexually explicit acts, which were disturbing to say the least. Now, they do not
7 speak about sex or sexual activity and they have adjusted to being children who live in a secure
8 home.
9

10 7. The children have reported that Mother would interview them before any doctor
11 or therapy appointment and ensure that they made certain statements, or acted in a specific way,
12 when in the appointment.
13

14 8. My children believed that they suffered from several illnesses, both physically
15 and mentally. My son, Bryson, identified as autistic and he lived a life of fear from doing certain
16 things because he was "autistic." My daughter, Brynlee, identified as having several physical
17 illnesses and suffering from ADHD and depression. They have since learned that they do not
18 have any diagnosis warranting concern about living a normal, health childhood.
19

20 9. When the children came into my care they were underweight. Brynlee wore
21 prescription glasses, which were determined to be unnecessary at her subsequent eye exam.
22

23 10. While in my home, the children have grown and adjusted to a more positive
24 outlook on life. Bryson is loving and learns quickly. He rides his skateboard and participates on
25 the Winnemucca Whitewater swim team. He makes friends easily and has a positive attitude at
26 home. Brynlee loves ice cream, avocados, singing and making dance videos. She participates on
27 the swim team and also takes dance classes. They are both good older siblings to their step-sister.
28

1 The children have bonded with their grandparents and extended family and enjoy BBQs, holiday
2 events, and birthday parties. They reach out to their Mother's side of the family and keep in
3 contact with uncles, grandparents and cousins in Idaho. They are bonded with their step-siblings
4 and have developed friendships with children in their community. They attend the Boys and
5 Girls Club after school and during the summer.

6
7 11. My children have come very far and returning them to Mother's care would
8 damage their well-being. Mother is not well-adjusted herself and has used our children to gain a
9 financial benefit based upon a fraud. Mother has told my children lies and told them to tell the
10 lies to professionals. I fear for my children if they are left unattended with Mother and believe
11 that she is a high flight risk with the children.

12
13 12. I am requesting that this Court enter a permanent Order granting me the sole
14 ability to make legal decisions on behalf of the children and primary custody over the children
15 with continued supervised telephonic/visual visitation with Mother. Mother is a dangerous
16 person to the children and is not fit to parent the children.

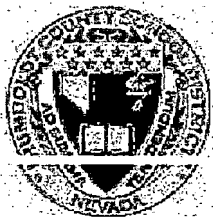
17
18 15. I declare that all the factual allegations contained in this Opposition and
19 Cross Motion are true and correct and that those stated on information and belief, your declarant
20 believes to be true. I have knowledge of and am competent to testify to the matters stated herein,
21 except to those matters stated on information and belief, and as to those matters, I believe them
22 to be true.

23
24 DATED this 3rd day of May, 2021.

25
26 
27 WAYLON HUBER
28

EXHIBIT A

EXHIBIT A



Humboldt County School District
Special Education Department
310 E. Fourth St
Winnemucca, NV 89445
(775) 623-8128, plords@hcsdnev.com

Status Letter

April 21, 2021

To Whom It May Concern:

Mr. Waylon Huber has requested that I complete a letter indicating the educational progress and current status of Brynlee and Bryson Huber. Brynlee and Bryson are both enrolled in the third grade at Sonoma Heights Elementary School in Winnemucca, NV. Both children were evaluated for special education services as they came to Nevada with an Individual Education Program (IEP) from Idaho. After the comprehensive evaluation, strengths and weaknesses were identified and an IEP was created for both children, individually. It is noted that academic deficits were identified and targeted within the IEP.

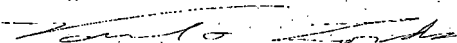
Over the course of the school year, Brynlee and Bryson have participated in Measurement of Academic Progress (MAP) assessments as part of the district-wide testing. Both students have made progress in their standard score (i.e., RIT). Brynlee has grown 13 points in math and 9 points in reading from 9/28/2020 to 1/14/2021. Bryson has grown 24 points in math and 8 points in reading during the same time period. RIT scores typically see 8 and 7 point growth from Fall to Winter of a school year in math and reading, respectively. The growth for both students in reading and math is above what is expected. Both students have had good attendance, both at 90% for the school year and 100% attendance over the past 20 school days.

When considering social-emotional learning (SEL), both Bryson and Brynlee rated themselves within normal limits on the School Climate Survey (administered to all students in March 2021). The areas measured included: Social Awareness, Self-Management, Self-Efficacy, Grit, and Growth Mindset. This indicates that both children have positive self-concept and pro-social skills.

During the course of the school year, I have been able to informally observe these children within the school environment, neighborhood environment, as well as family activities via vacation photos. Bryson and Brynlee present as happy children who are engaged in their environment. Since schools opened full-time on March 8, 2021, opportunities to build relationships at school have increased. It is my professional opinion that their current school and living arrangements have had a positive impact on their development. The growth academically and positive impressions around socio-emotional development indicate that their current placement has been positive.

Mr. and Mrs. Huber have been involved in these children's education and community activities. This engagement, as with any parent engagement, has been shown to have a positive impact on the children's success in school.

If there are any questions, please feel free to contact me at the phone number or email above.


Paul O. Lords, Ph.D.--School Psychologist

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of May, 2021, I have deposited, as stated below, at Winnemucca, Nevada, a true and correct copy of the OPPOSITION TO MOTION TO MODIFY CUSTODY and CROSS MOTION FOR PERMANENT ORDER, addressed to the following:

Janea Huber Calkins
3033 W. Divid Creek
Meridian, Idaho 83646

- ☒ First Class U.S. Mail
☐ Via Fax Transmission
☐ Box in District Court Clerk Office
☐ Box in Justice Court Clerk Office
☐ Hand Delivered
☒ Electronic Delivery: janeacalkins@yahoo.com


MASSEY R. MAYO, ESQ.

1 CASE NO. CV 0020464

2 DEPT. NO. II

FILED

2021 MAY 10 PM 2:01

TAMI RAE SHEPARD
DIST. COURT CLERK

3
4
5
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 _____ /
15 Before this Court is Defendant, Janeal Calkins ("Mother"), in pro per person, and her

16 *Motion for Change of Custody or Visitation* filed on March 8, 2021. Plaintiff, Waylon Huber

17 ("Father"), by and through his counsel of record, Massey K. Mayo, Esq. and Dolan Law,

18 LLC, filed his *Opposition and Cross Motion for Permanent Custody Order* on May 3, 2021.

19 This matter was submitted to the Court on May 5, 2021 for a decision on the merits.

20 Upon review of the filings, documents, and arguments herein, the Court hereby

21 **DENIES** Mother's motion for a change of custody based on the following:

22 The current Order in this matter, entered on July 24, 2020, granted Father temporary

23 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
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
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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.

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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

1 CASE NO. CV0020464

2 DEPT. NO. 2

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

FILED

2021 MAY 12 PM 2:43

E. Dumond
TAMI RAE SPERO
DIST. COURT CLERK

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

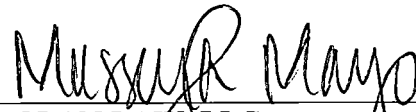
12 JANEAL CALKINS,

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.

By: MASSEY K. MAYO, ESQ.

Bar No. 11201

545 Hanson Street

Winnemucca, Nevada 89445

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

JANET W. BROWN
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
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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
23
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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
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.

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HONORABLE MICHAEL R. MONTERO
DISTRICT JUDGE

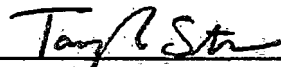


CERTIFICATE OF SERVICE

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

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