



Electronically Filed
Jul 19 2021 10:29 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 **NOAS**
2 DENISE A. GALLAGHER, ESQ
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5 Henderson, NV 89014
6 Ph: (702) 448-1099
7 denise@gallagherattorneygroup.com
8 Attorney for Appellant

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**
11 **FAMILY DIVISION**

12 SCOTT M. ANTHONY,

Case No.: D-20-618325-C

13 Plaintiff,

Dept.: I

14 vs.

15 KATARINA KURZ,

16 Defendant.

17 **NOTICE OF APPEAL**

18 Notice is hereby given that the Defendant, KATARINA KURZ, by and through their
19 appellate counsel, DENISE A. GALLAGHER, ESQ., of GALLAGHER ATTORNEY GROUP,
20 LLC, appeal to the Supreme Court of Nevada from the final judgment from the Findings of Fact,
21 Conclusions of Law, Decision and Order entered in this action by the Court on the 23rd day of

22 ///

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1 June, 2021 and all interlocutory orders and rulings made appealable thereby.

2 Dated this 13th day of July, 2021.

3 GALLAGHER ATTORNEY GROUP, LLC

4 /s/ Denise A. Gallagher, Esq.

5 DENISE A. GALLAGHER, ESQ.

6 Nevada Bar No. 005739

7 1291 Galleria Dr., Suite 230

8 Henderson, NV 89014

9 (702)448-1099

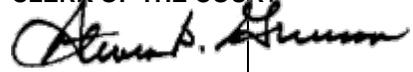
10 Attorney for Appellant

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that I am an employee of Gallagher Attorney Group, LLC and that
3 on the 13th day of July, 2021, I served a true and correct copy of the foregoing Notice of Appeal,
4
5 by First Class United States Mail, postage prepaid, address to the following:

6 Joseph Houston, Esq.
7 430 S. Seventh Street
8 Las Vegas, Nevada 89101
9 Attorney for Plaintiff

10 /s/ Stacie Graham
11 An Employee of Gallagher Attorney Group, LLC
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9 SCOTT M. ANTHONY,

Case No.: D-20-618325-C

10 Plaintiff,

Dept.: I

11 vs.

12 KATARINA KURZ,

13 Defendant.

14 **CASE APPEAL STATEMENTS**

15 **1. Name of appellants filing this case appeal statement:**

16 Defendant, KATARINA KURZ.

17 **2. Judge issuing the decision, judgment or order appealed from:**

18 Sunny Bailey, District Court Judge, Dept. I; Eighth Judicial District Court, Clark County.

19 **3. Counsel for Appellants:**

20 **Party:** Katarina Kurz
21 **Counsel:** Denise A. Gallagher, Esq.
22 Gallagher Attorney Group, LLC
23 1291 Galleria Drive, Suite 230
24 Henderson, Nevada 89014
25 Ph: (702)448-1099
26 denise@gallagherattorneygroup.com

27 **4. Counsel for Respondents:**

28 **Party:** Scott M. Anthony

1 **Counsel:** Joseph W. Houston, Esq.
2 430 S. Seventh Street
3 Las Vegas, Nevada 89101
4 Ph: (702) 982-1200
5 Jwh7408@yahoo.com

6 **5. Indicate whether any attorney identified in response to question 3 or 4 is not**
7 **licensed to practice laws in Nevada and, if so, whether the district court granted**
8 **that attorney permission to appear under SCR 42 (attach a copy of any district**
9 **court order granting such permission):**

10 Not applicable.

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

13 Counsel for appellant was retained.

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

16 Appellant retained counsel for the foregoing appeal.

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

19 No.

20 **9. Indicate the date the date the proceedings commenced in the district court**
21 **(e.g., date complaint, indictment, information, or petition was filed):**

22 12/28/20 Complaint for Custody

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

26 This is an appeal from a decision at the conclusion of an evidentiary hearing to change
27 custody of a minor child.

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

1 No.

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

3 This appeal is regarding child custody.

4
5 **13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:**

6 This appeal does involve the possibility of settlement.

7
8 Dated this 13th day of July, 2021.

9 GALLAGHER ATTORNEY GROUP, LLC

10 /s/ Denise A. Gallagher, Esq.
11 DENISE A. GALLAGHER, ESQ.
12 Nevada Bar No. 005739
13 1291 Galleria Dr., Suite 230
14 Henderson, NV 89014
15 (702)448-1099
16 Attorney for Appellant
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5 by First Class United States Mail, postage prepaid, address to the following:

6 Joseph W. Houston, Esq.
7 430 S. Seventh Street
8 Las Vegas, Nevada 89101
9 *Attorney for Respondent*

10 /s/ Stacie Graham
11 An Employee of Gallagher Attorney Group, LLC
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CASE SUMMARY

CASE NO. D-20-618325-C

Scott M. Anthony, Plaintiff.
vs.
Katarina E. Kurz, Defendant.

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Location: **Department I**
 Judicial Officer: **Bailey, Sunny**
 Filed on: **12/07/2020**

CASE INFORMATION

Statistical Closures

06/22/2021 Disposed After Trial Start (Bench Trial)

Case Type: **Child Custody Complaint**

Case Status: **06/22/2021 Closed**

Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	D-20-618325-C
Court	Department I
Date Assigned	01/04/2021
Judicial Officer	Bailey, Sunny

PARTY INFORMATION

Plaintiff

Anthony, Scott M.
 7955 Badura Avenue
 Apartment 252
 Las Vegas, NV 89113

Attorneys

Houston, Joseph W., II
 Retained
 702-982-1200(W)

Defendant

Kurz, Katarina E.
 8310 Canvas
 Las Vegas, NV 89113

Gallagher, Denise A
 Retained
 702-448-1099(W)

Subject Minor

Anthony, Michael Scott

DATE

EVENTS & ORDERS OF THE COURT

EVENTS

- 12/07/2020  Complaint for Custody
 Filed by: Attorney Houston, Joseph W., II; Counter Defendant Anthony, Scott M.
Complaint for Custody Pursuant to NRS 125C
- 12/07/2020  Notice of Hearing
 Filed By: Counter Defendant Anthony, Scott M.
Notice of Hearing on Petition
- 12/08/2020  Notice of Hearing
Notice of hearing
- 12/10/2020  Summons Electronically Issued - Service Pending
 Filed by: Counter Defendant Anthony, Scott M.
Summons
- 12/22/2020  Summons
 Filed By: Counter Defendant Anthony, Scott M.
Summons WITH Affidavit of Service
- 12/30/2020  Answer and Counterclaim
 Filed By: Counter Claimant Kurz, Katarina E.
Answer and Counterclaim

CASE SUMMARY

CASE NO. D-20-618325-C

- 01/04/2021 Administrative Reassignment - Judicial Officer Change
Judicial Reassignment to Judge Sunny Bailey
- 01/07/2021  Certificate of Service
Filed by: Counter Defendant Anthony, Scott M.
Certificate of Service
- 01/11/2021  Reply to Counterclaim
Filed By: Counter Defendant Anthony, Scott M.
Reply to Counterclaim
- 01/11/2021  Financial Disclosure Form
Filed by: Counter Defendant Anthony, Scott M.
PLAINTIFF'S Financial Disclosure Form
- 01/16/2021  Financial Disclosure Form
Filed by: Counter Claimant Kurz, Katarina E.
Defendant's Financial Disclosure Form
- 01/25/2021  Notice of Change of Address
Filed By: Counter Claimant Kurz, Katarina E.
Notice of Change of Address
- 01/25/2021  Order for Family Mediation Center Services
SKM_C45821012514560
- 01/27/2021  Supplemental
Filed By: Counter Defendant Anthony, Scott M.
Supplemental Affidavit of Plaintiff, Scott M. Anthony
- 01/29/2021  Notice
Filed By: Counter Defendant Anthony, Scott M.
Notice of E-Mail Address for Plaintiff
- 01/29/2021  Errata
Filed By: Counter Defendant Anthony, Scott M.
Errata
- 03/10/2021  Case Management Order
CMO D618325 ANTHONY
- 03/28/2021  Order
Filed By: Counter Claimant Kurz, Katarina E.
Order from March 10, 2021 Return Hearing and Case Management Conference
- 03/29/2021  Order
Order from January 25, 2021 Petition Hearing
- 03/29/2021  Notice of Entry of Order
Filed By: Counter Claimant Kurz, Katarina E.
Notice of Entry of Order from January 25, 2021 Petition Hearing
- 03/29/2021  Notice of Entry of Order
Filed By: Counter Claimant Kurz, Katarina E.
Notice of Entry of Order from March 10, 2021 Return Hearing and Case Management Conference
- 03/29/2021  Notice of Entry of Order
Filed By: Counter Claimant Kurz, Katarina E.
Notice of Entry of Order from March 10, 2021 Return Hearing and CMC
- 05/06/2021  Financial Disclosure Form
Filed by: Counter Defendant Anthony, Scott M.
Plaintiff's UPDATED Financial Disclosure Form
- 05/06/2021

CASE SUMMARY

CASE NO. D-20-618325-C

-  List of Witnesses
 Filed By: Counter Defendant Anthony, Scott M.
PLAINTIFF'S List of Witnesses
- 05/06/2021  Pre-trial Memorandum
 Filed By: Counter Defendant Anthony, Scott M.
PLAINTIFF'S Pre-Trial Memorandum
- 05/17/2021  Witness List
 Filed by: Counter Claimant Kurz, Katarina E.
List of Witnesses
- 06/01/2021  Pre-trial Memorandum
 Filed By: Counter Claimant Kurz, Katarina E.
Defendant's Pre-Trial Memorandum
- 06/14/2021  Order
confirmation of registration of child custody determination
- 06/14/2021  Notice of Entry of Order
 Filed By: Counter Defendant Anthony, Scott M.
Notice of Entry of Order
- 06/22/2021  Decision and Order
Decision and Order
- 06/23/2021  Notice of Entry of Order
 Filed By: Counter Defendant Anthony, Scott M.
Notice of Entry of Order
- 07/13/2021  Notice of Appeal
 Filed By: Counter Claimant Kurz, Katarina E.
NOTICE OF APPEAL
- 07/13/2021  Case Appeal Statement
 Filed By: Counter Claimant Kurz, Katarina E.
CASE APPEAL STATEMENT

HEARINGS

- 01/25/2021  **Hearing (8:45 AM)** (Judicial Officer: Bailey, Sunny)
Notice of Hearing on Petition
 Referred to Family Mediation;
 Journal Entry Details:
NOTICE OF HEARING ON PETITION Counsel and the parties appeared via BLUEJEANS. Court clerk trainee, Nicole Walker, also present. Court addressed exhibit 1, from the Divorce Decree, out of Nebraska was not provided. Further, the Nebraska Divorce Decree needs to be filed, in this case. COURT ORDERED: 1. Counsel shall FILE the NEBRASKA DIVORCE DECREE, in this case. 2. Parties REFERRED, to FAMILY MEDIATION CENTER (FMC). 3. Parties shall FILE their CURRENT E-MAIL ADDRESSES, with the Court. 3/10/21 9:30 am RETURN HEARING: FMC - mediation 3/10/21 9:30 am CASE MANAGEMENT CONFERENCE;
Referred to Family Mediation
- 03/10/2021 **Return Hearing (9:30 AM)** (Judicial Officer: Bailey, Sunny)
FMC - mediation
 Partial Parenting Plan; See all pending dated 3/10/21
Partial Parenting Plan
- 03/10/2021 **Case Management Conference (9:30 AM)** (Judicial Officer: Bailey, Sunny)
Set per Judge
 Non Jury Trial; See all pending dated 3/10/21
Non Jury Trial
- 03/10/2021  **All Pending Motions (9:30 AM)** (Judicial Officer: Bailey, Sunny)
 Matter Heard;
 Journal Entry Details:

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. D-20-618325-C

RETURN HEARING: FMC MEDIATION... CASE MANAGEMENT CONFERENCE All parties present via VIDEO CONFERENCE through the Bluejeans application. Court noted the parties have filed their Nebraska Decree of Divorce. Court further noted the parties were able to reach a partial Parenting Agreement during mediation, which includes Joint Legal Custody and a Holiday schedule. Upon inquiry, Defendant advised she allows Plaintiff frequent visitation with minor. Advised Plaintiff has visitation with minor on Thursdays, after school, until Saturday. Defendant further advised her parents, or husband, facilitates the exchanges. Mr. Houston stated concerns with Defendant's inability to co-parent. Mr. Houston advised the matter needs to be set for trial. Discussion regarding setting matter for trial. COURT ORDERED the following; Plaintiff and Defendant shall file UPDATED FINANCIAL DISCLOSURE FORMS thirty (30) days prior to trial; DISCOVERY shall be OPEN and shall CLOSE thirty (30) days prior to trial; Matter set for a NON-JURY TRIAL on June 14, 2021 at 9:00 AM (1/2 DAY - 90min per side) re: custody. Department I shall prepare and issue a TRIAL MANAGEMENT ORDER; Matter set for CALENDAR CALL on June 2, 2021 at 11:30 AM; PRE-TRIAL MEMORANDUMS, WITNESS LISTS and EXHIBITS shall be due by June 2, 2021; ;
Matter Heard

06/02/2021

 **Calendar Call** (11:30 AM) (Judicial Officer: Bailey, Sunny)

Matter Heard;

Journal Entry Details:

CALENDAR CALL All parties appearing via Video Conference. Court NOTED, the witness lists and pretrial memorandums are filed. Attorney Houston and Attorney Gallagher confirmed they are prepared to proceed. Attorney Gallagher requested the matter be heard in person, and that the witnesses be granted permission to appear via Blue Jeans. Attorney Houston does not object. COURT ORDERED the following: Parties shall electronically submit any EXHIBITS. Non- Jury Trial SET 6/14/21 at 9:00am in Courtroom 06 STANDS, with the parties to appear in person. The witnesses are GRANTED permission to appear via Blue Jeans.;
Matter Heard

06/14/2021

 **Non-Jury Trial** (9:00 AM) (Judicial Officer: Bailey, Sunny)

NJT (half day) (In Person / Witnesses may appear via Blue Jeans)

No Ruling;

Journal Entry Details:

NON- JURY TRIAL: HALF DAY All parties appearing in Open Court. Court NOTED, there are outstanding preliminary matters. Court NOTED, it is undisputed that there is a Decree from Nebraska. Court FURTHER NOTED, the Decree of Dissolution of Marriage from 9/19/19 is not registered. Attorney Gallagher does not object to the registration of the Decree. Pursuant to NRS125A.165, Court FINDS and CONFIRMS the registration of the Decree of Dissolution of Marriage entered on 9/19/19 in Douglas County Nebraska. Court will prepare the Order, and Attorney Houston to submit the Notice of Entry. Both parties stipulated that the Nebraska Decree of Divorce can be admitted as evidence. COURT ORDERED, Plaintiff's Exhibit 2 is ADMITTED. Both parties stipulated that Nebraska Transcripts can be admitted as evidence. COURT ORDERED, Plaintiff's Exhibit 6 and Defendant's Exhibit D are ADMITTED. Court referred to Defendant's proposed Exhibit E, and NOTED it is not a Court Order. Attorney Gallagher presented an offer of proof regarding proposed Exhibit E. Attorney Houston presented counter arguments regarding the offer of proof. COURT ORDERED, Defendant's Proposed Exhibit E is NOT admitted. Attorney Gallagher referred to Nebraska Revised Statute 43-2932. Both parties stipulated that the Court can review the Nebraska Revised Statute, case law, and the transcript and determine if the Court can make a decision regarding the domestic violence allegation. Attorney Houston requested to admit proposed Exhibit 1. Attorney Gallagher does not object. COURT ORDERED, Plaintiff's Exhibit 1 is ADMITTED. Attorney Gallagher requested to admit proposed Exhibits A, B and C. Attorney Houston does not object. COURT ORDERED, Defendant's Exhibits A, B and C are ADMITTED. Attorney Houston WAIVED Opening Statements. Attorney Gallagher WAIVED Opening Statements. Plaintiff's witnesses SWORN IN and TESTIFIED, pursuant to the worksheet: 1. Scott Anthony 2. Katarina Kurz Attorney Houston requested to admit proposed Exhibit 3. Attorney Gallagher objects. COURT ORDERED, Plaintiff's Proposed Exhibit 3 is NOT admitted. Defendant's witnesses SWORN IN and TESTIFIED, pursuant to the worksheet: 1. Katarina Kurz Plaintiff RESTS Defendant RESTS Plaintiff presented closing arguments. Defendant presented closing arguments. Plaintiff presented rebuttal closing arguments. COURT ORDERED, the Court will submit a written decision.;

No Ruling

SERVICE

12/11/2020

Summons

Kurz, Katarina E.

Unserved

1 **DAO**

2

3

**DISTRICT COURT
CLARK COUNTY, NEVADA**

4

5

SCOTT M. ANTHONY,

CASE NO.: D-20-618325-C

DEPT: I

6

Plaintiff,

DATE OF HEARING:

7

vs.

06/14/2021

8

KATARINA E. KURZ,

TIME OF HEARING: 9:00 A.M.

Defendant,

9

10

DECISION AND ORDER

11

THIS MATTER came before the Court for a Non-Jury Trial before the
12 Honorable Sunny Bailey on June 14, 2021. Plaintiff, Scott M. Anthony (hereinafter
13 referred to as “Scott”), appeared with counsel Joseph W. Houston II, Esq.
14 Defendant, Katarina E. Kurz (“Katarina” or “Katie”), appeared with counsel Denise
15 A. Gallagher, Esq.

16

The Court received and reviewed the evidence admitted into the record.
17 The Court had the opportunity to evaluate the demeanor and credibility of the
18 witnesses. Upon review of the record and evaluation of the credibility of the
19 testimony, this Court makes the following findings and orders as set forth herein.

20

....

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1 This schedule afforded Scott approximately 70-75 days of visitation with Michael
2 per year.

3 7. Scott denied the domestic violence allegations and presented evidence
4 at the trial.

5 8. The Decree did not place any restrictions or supervision on Scott's
6 visitations with Michael.

7 9. Scott testified he saw Michael on holidays and summers. They would
8 also Facetime.

9 10. He did not see Michael for a period due to COVID. However,
10 Katie/Katarina then gave him ten (10) weeks last summer instead of eight (8)
11 weeks.

12 11. Scott moved to Las Vegas to be closer to Michael. He had a good job
13 in Omaha that he quit in order to move to Las Vegas.

14 12. He moved to Las Vegas in October of 2020. At that time, he was
15 employed in staffing/ recruiting in Las Vegas.

16 13. Scott testified his job interfered with his visitation. He decided to quit
17 on January 4, 2021.

18 14. From January of 2021 to March of 2021, he was unemployed. He
19 offered to watch Michael while Katie/Katarina worked. He also requested more
20 time. Katie/Katarina declined his requests.

21

1 15. Another company hired him as an internal recruiter in March of 2021.
2 He works Monday through Friday from 8:30 a.m. to 5:30 p.m.

3 16. Scott testified Katie/Katarina never raised concerns about him not
4 caring for their son. He believes Michael is excited to spend time with him but
5 misses his Mom and misses Dad when he is with Mom. Katie/Katarina has been
6 flexible with visitations. However, she denied his request for a 50/50 time
7 schedule.

8 17. Scott testified there is not a physical or mental reason why he or
9 Katie/Katarina could not properly care for Michael. Michael goes between both he
10 and Katie/Katarina freely and without issue. He also believes Michael's needs are
11 met by both parents.

12 18. Although Katie/Katarina was granted sole legal custody, Scott testified
13 she informs him of medical, dental or other issues related to Michael. However,
14 Scott is not included with making decisions for Michael. Additionally,
15 Katie/Katarina pays for medical insurance and they split the costs equally.

16 19. Since he moved to Las Vegas, Katie/Katarina came up with a
17 schedule. The current time share for Scott is Thursday after school until Saturday
18 at 5:15 p.m. This schedule affords Scott approximately 104 days of visitation with
19 Michael per year.

20
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1 20. Scott's father picks up Michael on Thursdays from school. His retired
2 parents live in Utah but his father and sometimes his mother drive to Las Vegas to
3 help with Michael. Drop offs are at the home of Katie/Katarina's parents.

4 21. Scott and Michael hike, fish and visit his parents in Utah. They also
5 pay videogames together.

6 22. If granted additional visitation. His parents would assist with Michael.
7 Additionally, Scott's current job is flexible and he can work from home.

8 23. Katarina (referred to as Katie by Scott) is a legal assistant at Grant
9 Morris Dodd. She works in the office Monday through Friday from 9:00 a.m. to
10 5:00 p.m.

11 24. Her husband, Solomon Coleman, works from home and watches
12 Michael while she is at work.

13 25. Katie/Katarina admitted she did not have concerns with Scott's care of
14 Michael during the month to month custody arrangement prior to the trial.
15 However, she felt Scott's family was very mentally abusive towards her and does
16 not want them to have anything to do with Michael.

17 26. She and Scott went to trial because she wanted Michael to attend
18 school in Las Vegas and Scott wanted Michael to attend school in Nebraska.

19 27. After the trial, Katie/Katarina does not have any complaints in regards
20 to Scott's ability to care for Michael.

21

1 28. Michael is healthy and does not have any special needs.
2 Katie/Katarina arranges doctor and dentists appointments but keeps Scott informed.

3 29. Katie/Katarina denied Scott specifically asked for time.
4 Katie/Katarina testified she was more focused on online learning. She believed it
5 was difficult for Scott's father to help Michael, but it was difficult for everyone.
6 She was not prepared to adjust the schedule due to the school issue.

7 30. Michael struggled with reading. Katie/Katarina noted Michael's
8 stepsister, who is the same age, appeared to have a teacher better prepared for
9 distance learning.

10 31. Katie/Katarina testified she did not want to change the schedule to
11 50/50 or 40/60 because she feels Scott' parents were mentally abusive towards her.
12 She does not want them to watch Michael.

13 32. Currently, Katie/Katarina does not have an issue with Scott's parents
14 because they have limited contact. She has either her husband or her parents
15 conduct exchanges. Katie/Katarina has not ever heard Scott or his parents call her
16 bad names or speak ill of her.

17 33. Katie/Katarina testified her husband watches Michael. Even if he does
18 not work at home, he is off work at 3:00 p.m. and can pick up Michael after school.

19 34. Katie/Katarina and her husband are involved with the Church of Latter
20 Day Saints. They attend every Sunday. It is very important to her to maintain the
21 church schedule. As far as she is aware, Scott does not attend church.

1 **CONCLUSIONS OF LAW**

2 **I. Nebraska Domestic Violence Statute**

3 Nebraska Revised Statute 43-2932 *requires* the court to develop a
4 parenting plan if a preponderance of evidence demonstrates a parent has
5 committed domestic intimate partner abuse. NRS 43-2932(1)(a)(iii). (Emphasis
6 added). Specifically under NRS 43-2932(1)(b):

7 If a parent is found to have engaged in any activity specified by
8 subdivision (1)(a) of this section, limits *shall* be imposed that are
reasonably calculated to protect the child or child's parent from harm.

9 The limitations may include, but are not limited to:

10 (i) An adjustment of the custody of the child, including the allocation
of sole legal custody or physical custody to one parent;

11 (ii) Supervision of the parenting time, visitation, or other access
between a parent and the child;

12 (iii) Exchange of the child between parents through an intermediary
or in a protected setting;

13 (iv) Restraints on the parent from communication with or proximity
to the other parent or the child;

14 (v) A requirement that the parent abstain from possession or
consumption of alcohol or nonprescribed drugs while exercising
15 custodial responsibility and in a prescribed period immediately
preceding such exercise;

16 (vi) Denial of overnight physical custodial parenting time;

17 (vii) Restrictions on the presence of specific persons while the parent
is with the child;

18 (viii) A requirement that the parent post a bond to secure return of the
child following a period in which the parent is exercising physical
custodial parenting time or to secure other performance required by
the court; or

19 (ix) Any other constraints or conditions deemed necessary to provide
20 for the safety of the child, a child's parent, or any person whose
safety immediately affects the child's welfare.

21

1 Furthermore, if a parent is found to have engaged in an act of domestic
2 intimate partner abuse, the court *shall* not order legal or physical custody to be
3 given to that parent without making specific written findings that the child and
4 other parent can be adequately protected from harm by such limits as imposed
5 under NRS 43-2932 (b)(i) – (ix). *See* NRS 43-2932(3). (Emphasis added). This
6 Court finds no such findings in the Orders of the Nebraska Court.

7 The mandatory obligations of NRS 43-2932 require the court first make a
8 finding that a party committed an act of domestic intimate partner abuse.
9 Additionally, the court must also include provisions in the parenting plan to provide
10 for the safety of the children and the partner. *See* Gandara-Moore v Moore, 952
11 N.W. 2d 17 (Neb. 2020). The failure of the trial court to impose any limitations on
12 custody, or make special written findings that such limitations would protect the
13 child or spouse, the Court of Appeals would presume the trial court did not find the
14 other spouse committed domestic abuse. *See* Chmelka v Chmelka, 953 N.W.2d
15 288 (Neb. 2020).

16 Although testimony was received by the Nebraska Court as included in the
17 transcript, the Orders of the court are void of a finding of domestic abuse as
18 required by NRS 43-2932. A review of the Parenting Plan established sole legal
19 and primary physical custody to Katie/Katarina of Michael. Katie/Katarina
20 attempted to admit a letter from the trier of fact authored prior to the entry of the
21 Decree and Parenting Plan that contained one sentence that Scott committed

1 domestic abuse. However, even if this Court considered the hearsay document, the
2 subsequent Parenting Plan is void of any required written findings that provide for
3 the safety of either Michael or Katie/Katarina. *See* Exhibit 2.

4 On the contrary, the Parenting Plan requires the parties to communicate and
5 grants Scott unsupervised visitations with no extra requirements. The Court finds
6 the Parenting Plan terms consistent with an out of state visitation schedule. As the
7 Nebraska Court failed to make adequate written findings, this Court presumes the
8 trial court did not find Scott committed domestic abuse. *See* Chmelka v Chmelka.

9 **II. Modification of Custody**

10 A modification of primary physical custody is warranted only when (1) there
11 has been a substantial change in circumstances affecting the welfare of the child, and
12 (2) the child’s best interest is served by the modification. Ellis v Carucci, 123 Nev.
13 145, 150 (2014).

14 Any changes in circumstances must generally have occurred since the last
15 custody determination. Ellis v Carucci, 123 Nev. at 151. The substantial change
16 requirement is based on the principle of res judicata. Id. “In determining whether
17 the facts warrant a custody modification, courts should not take the ‘changed
18 circumstances’ prong lightly.” Id.

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1 A move to the same city as the minor child, standing alone, does not
2 automatically constitute a substantial change in circumstance under Ellis. However,
3 a major relocation to be near the minor child, coupled with other circumstances that
4 positively affect the welfare of the minor child, may be sufficient to meet this
5 requirement under Ellis.

6 It is undisputed that Michael now spends time with Scott on a weekly basis.
7 It is also undisputed that Michael enjoys his time with his father and they have a
8 loving relationship.

9 **THE COURT FINDS** Scott met his burden to demonstrate a substantial
10 change in circumstance that affects the welfare of the child.

11 The Court now turns its attention to the second prong, the child's best
12 interest is served by the modification.

13 The Court now turns its attention to the best interest of the child. NRS
14 125C.0035(4).

15 *4. In determining the best interest of the child, the court shall*
16 *consider and set forth its specific findings concerning, among other*
17 *things:*

18 *(a) The wishes of the child if the child is of sufficient age and*
19 *capacity to form an intelligent preference as to his or her physical*
20 *custody.*

21 At seven (7) years of age, Michael is not of sufficient age and capacity to
form an intelligent preference as to his physical custody.

...

1 ***(b) Any nomination of a guardian for the child by a parent.***

2 Nomination of guardianship is not relevant in these proceedings between
3 two parents and not involving a third party.

4 ***(c) Which parent is more likely to allow the child to have frequent***
5 ***associations and a continuing relationship with the noncustodial***
6 ***parent.***

6 The Court finds this factor neutral. Scott testified that although
7 Katie/Katarina had primary custody, she was extremely flexible in visitations.
8 Upon his move to Las Vegas, Katie/Katarina changed the schedule from the
9 holiday/ school break schedule outlined in the Decree to the current schedule of
10 Thursday through Saturday. However, Scott's request for additional time was
11 denied.

12 ***(d) The level of conflict between the parents.***

13 The Court finds this factor to be neutral. Katie/Katarina testified the
14 parties have conflict in their relationship. She testified Scott's parents were
15 emotionally abusive to her in the past. She does not want them to watch Michael.
16 Katie/Katarina also testified that she avoids contact with both Scott and his
17 parents due to this conflict and custodial exchanges occur at the home of her
18 parents. However, Katie/Katarina admitted that neither Scott nor his parents ever
19 spoke ill of her or called her names. Katie/Katarina did not testify as to any
20 conflict since the Decree was entered in 2019. Scott testified as to the absence of
21 any conflict between the parties.

1 (e) *The ability of the parents to cooperate to meet the needs of the child.*

2 The Court finds this factor to be neutral. Although Katie/Katarina was
3 granted sole legal custody, she still kept Scott informed about any medical or
4 school related issues with Michael. The Court found the testimony of the parties
5 established they had an amicable relationship and put the needs of Michael first.

6 (f) *The mental and physical health of the parents.*

7 The Court did not receive credible evidence as to this factor.

8 (g) *The physical, developmental and emotional needs of the child.*

9 The Court finds this factor neutral. It is undisputed Michael struggled with
10 distance learning this past school year. Katie/Katarina expressed concern Scott's
11 father was unable to assist Michael with distance learning. However, she also
12 noted distance learning was difficult on everyone. Katie/Katarina testified
13 Michael's teacher did not appear as apt as the teacher of his stepsibling with
14 distance learning. The Court notes Katie/Katarina's testimony further
15 demonstrates the maturity of the relationship between the parties and their ability
16 to co-parent Michael.

17 (h) *The nature of the relationship of the child with each parent.*

18 The Court finds this factor to be neutral. It is undisputed by either party
19 that Michael has a good relationship with each parent. It is also undisputed that
20 both Scott and Katie/Katarina love Michael very much. Scott testified Michael is

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1 happy to see him but also misses his Mom during visitations and vice versa.

2 Katie/Katarina agreed that Michael loves his father.

3 *(i) The ability of the child to maintain a relationship with any sibling.*

4 The Court finds this factor to be neutral. Neither Katie/Katarina nor Scott
5 has other biological children. Katie/Katarina testified that Michael has a
6 stepsibling of the same age. However, she did not testify as to the nature of their
7 relationship.

8 *(j) Any history of parental abuse or neglect of the child or a sibling
9 of the child.*

10 The Court did not receive credible evidence as to this factor.

11 *(k) Whether either parent or any other person seeking physical
12 custody has engaged in an act of domestic violence against the child,
13 a parent of the child or any other person residing with the child.*

14 As outlined in the analysis above, the Court did not receive credible
15 evidence that Scott engaged in an act of domestic violence against either Michael or
16 Katie/Katarina.

17 *(l) Whether either parent or any other person seeking physical
18 custody has committed any act of abduction against the child or any
19 other child.*

20 The Court did not receive credible evidence as to this factor.

21 **THE COURT FINDS** it is in Michael's best interest for Scott and
Katie/Katarina to exercise Joint Physical Custody.

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As to joint legal custody, NRS 125C.002 states:

- 1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:
 - (a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or
 - (b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.
- 2. The court may award joint legal custody without awarding joint physical custody.

The Nebraska Court granted Katie/Katarina sole legal custody of Michael.

As outlined above, the Court found it would be in Michael’s best interest for Scott and Katie/Katarina exercise Joint Physical Custody.

THE COURT FINDS it would be in the best interest of Michael for Katie/Katarina and Scott to exercise Joint Legal Custody.

III. Child Support

In regards to child support, NAC 425.115 states:

Determination of child support obligation in accordance with guidelines if no stipulation; adjustment of obligation based upon type of custody held by parent.

- 1. *If the parties do not stipulate to a child support obligation pursuant to NAC 425.110, the court must determine the child support obligation in accordance with the guidelines set forth in this chapter.*
- 2. *If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the child support obligation of the obligor must be determined.*

1 Scott filed a Financial Disclosure which established an average monthly
2 income of \$4,507.00. His child support obligation amounts to \$721.00.
3 Katie/Katarina filed a Financial Disclosure which established an average monthly
4 income of \$2,510.00. Her child support obligation amounts to \$401.00.
5 Therefore, Scott's monthly child support obligation is \$320.00 a month. This
6 obligation is payable to Katie/Katarina and due the first of every month.

7 Katie/Katarina also provides health insurance for Michael. Scott shall
8 reimburse Katie/Katarina one-half of the cost of any insurance.

9 **THE COURT FINDS** Scott's monthly child support obligation is
10 \$320.00 a month plus one-half the cost of any insurance, if applicable.

11 **ORDERS**

12 **NOW, THEREFORE, IT IS HEREBY ORDERED** that, except as
13 otherwise provided herein, all provisions of the parties' Decree of Dissolution of
14 Marriage and Parenting Plan entered on September 19, 2019, shall remain in full
15 force and effect.

16 **NOW, THEREFORE, IT IS FURTHER ORDERED** that the parties
17 shall exercise Joint Legal Custody of Michael and that the parties shall abide by the
18 following joint legal custody provisions:

19 A. The parties shall consult and cooperate with each other in
20 substantial questions relating to religious upbringing, educational

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programs, significant changes in social environment, and health care of the child.

B. The parties shall have access to medical and school records pertaining to the child and be permitted to independently consult with any and all professionals involved with the child.

C. The parties shall participate in decisions regarding all schools attended, and all providers of child care of the parties' minor child.

D. Each party shall be empowered to obtain emergency health care for the child without the consent of the other party. Each party is to notify the other party as soon as reasonably practicable of any illness requiring medical attention, or any emergency involving the child.

E. Each party is to provide the other party, upon receipt, information concerning the well-being of the child, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the child; samples of school work; order forms for school pictures; all communications from health care providers; the names, addresses, and telephone numbers of all schools, health care providers, regular day care providers and counselors.

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F. Each party is to advise the other party of the school, athletic, and social events in which the child participates. Both parties may participate in activities for the child, such as open house, attendance at an athletic event, etc.

G. Each party is to provide the other party with the address and telephone number at which the minor child resides, and to notify the other party prior to any change of address and provide the telephone number as soon as it is assigned.

H. Each party is to provide the other party with a travel itinerary and, whenever reasonably possible, telephone numbers and addresses at which the child can be reached whenever the child will be away from the parties' home for a period of two (2) nights or more.

I. Each party shall be entitled to reasonable telephone communication with the child. Each party is restrained from unreasonably interfering with the child's right to privacy during such telephone conversation. Telephone conversations shall be initiated either by the child or parent and are to occur during reasonable household hours.

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1 **IT IS FURTHER ORDERED** the parties shall exercise Joint Physical
2 Custody of Michael on an alternating week schedule as follows:

3 Week one:

4 Scott: Sunday 6:00 p.m. – to the following Sunday at 6:00 p.m.

5 Week two:

6 Katie/Katarina: Sunday 6:00 p.m. – to the following Sunday at 6:00 p.m.

7 **IT IS FURTHER ORDERED** the parties shall follow the Department I
8 Holiday scheduled attached as Exhibit 1.

9 **IT IS FURTHER ORDERED** that Scott’s child support obligation is
10 reduced to \$320.00 per month based upon NAC 425.150 (e) and NAC 425.150 (h).
11 The parties shall provide a tax return to the other party no later than April 30th of
12 each year beginning April 2022.

13 **IT IS FURTHER ORDERED** that Katie/Katarina will provide health
14 insurance for Michael. Whatever the cost of the premium is in an amount
15 attributable to the child, that amount should be equally split and added to Scott’s
16 child support obligation. Out of pocket medical expenses can be split equally under
17 the 30/30 day rule. The Parties are required to document expenses, timely
18 exchange receipts, or run the risk of request for reimbursement towards a medical
19 expense being deemed waived.

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If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.0065:

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

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

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

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

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

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

5 **NOTICE IS HEREBY GIVEN** that the non-custodial parent may be
6 subject to the withholding of wages and commissions for delinquent payments of
7 support pursuant to NRS 31A.010, *et. seq.* and NRS 125.007.

8 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125B.145, the
9 parties may request a review of child support every three years, or at any time upon
10 changed circumstances.

11 **NOTICE IS HEREBY GIVEN** that both parties shall submit the
12 information required by NRS125B.055, NRS 125.30 and NRS 125.230 on a
13 separate form to the Court and to the Welfare Division of the Department of Human
14 Resources within ten days from the date this Order is filed. Such information shall
15 be maintained by the Clerk in a confidential manner and not part of the public
16 record. The parties shall update the information filed with the Court and the
17 Welfare Division of the Department of Human Resources within ten days should
18 any of that information become inaccurate.

19 **NOTICE IS HEREBY GIVEN** that if you want to adjust the amount of
20 child support established in this order, you **MUST** file a motion to modify the order
21 with or submit a stipulation to the court. If a motion to modify the order is not filed
22 or a stipulation is not submitted, the child support obligation established in this

1 order will continue until such time as all children who are the subject of this order
2 reach 18 years of age or, if the youngest child who is subject to this order is still in
3 high school when he or she reaches 18 years of age, when the child graduates from
4 high school or reaches 19 years of age, whichever comes first. Unless the parties
5 agree otherwise in a stipulation, any modification made pursuant to a motion to
6 modify the order will be effective as of the date the motion was filed.

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Dated this 22nd day of June, 2021



**E0B 799 B824 B796
Sunny Bailey
District Court Judge**

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Exhibit 1

***Eighth Judicial District Court
Department I – Family Division
Holiday and Vacation Plan***

This schedule shall remain in effect unless: (1) the parties agree in writing, signed by both parties, to an alternate schedule; or (2) by subsequent order of the Court.

Precedence:

The *holiday* schedule shall take precedence over *vacation* periods; and *vacation* periods shall take precedence over regular timeshare periods. Where there is an overlap of conflicting holidays, the following priority shall prevail:

	<u>Odd Year</u>	<u>Even Year</u>
Overlap Precedent	DAD	MOM

Weekend Holidays

The parents will share weekend holidays based on the following schedule. The holiday weekend begins upon the release of school for the holiday period and continues until the morning school resumes following the holiday, at the first morning bell, unless otherwise noted. In the event that school is not in session, the following holiday time will begin on Friday at 3:00 p.m., and continue until 9:00 a.m., on the first weekday following the holiday.

	<u>Odd Year</u>	<u>Even Year</u>
Martin Luther King Day Weekend	MOM	DAD
President’s Day Weekend	DAD	MOM
Mother’s Day Weekend	MOM	MOM
Memorial Day Weekend	MOM	DAD
Father’s Day Weekend	DAD	DAD
Independence Day ¹	DAD	MOM
Labor Day Weekend	MOM	DAD
Nevada Admission Day Weekend	DAD	MOM
Halloween Day ²	DAD	MOM
Veterans’ Day Weekend ³	MOM	DAD

¹ Independence Day will include the weekend if the holiday occurs on a Friday, Saturday, Sunday or Monday of any given year. In the event the holiday occurs on Tuesday, Wednesday or Thursday, it will be treated as a one day holiday and shall begin at 9:00 a.m. on July 3rd and continue until July 5th at 9:00 a.m.

² Halloween will be celebrated as a one day holiday, beginning upon the release of school, or 9:00 a.m., if school is not in session, and continuing until the next morning when school resumes or 9:00 a.m., if school is not in session.

³ Veterans’ Day will include the weekend if it is attached to a weekend holiday period. In the event the holiday is celebrated as a one-day holiday by the school district, it shall begin at 9:00 a.m. on November 11th and continue until November 12th at 9:00 a.m. In the event the

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Birthdays

The parents will share birthdays based on the schedule set forth below. The birthday schedule will begin after school on the birthday (or if school is not in session, at 9:00 a.m.) and continue until the morning following the birthday at 9:00 a.m., or when school begins, at the first morning bell, if school is in session, when the regular residential schedule will resume. The designated parent shall be entitled to have ALL of the parties' children in his/her care during the birthday period.

	<u>Odd Year</u>	<u>Even Year</u>
Children's Birthdays	MOM	DAD

Easter/Spring Break

The parents will share the Easter/Spring Break based on the following schedule, with the holiday period to begin upon the release of school for the holiday period and continue until school resumes following the Spring Break at the first morning bell.

	<u>Odd Year</u>	<u>Even Year</u>
Easter/Spring Break	DAD	MOM

Thanksgiving

The parents will share the Thanksgiving Break based on the following schedule, with the holiday period to begin upon the release of school before Thanksgiving and shall continue until school resumes following the holiday.

	<u>Odd Year</u>	<u>Even Year</u>
Thanksgiving Break	MOM	DAD

Winter Break

The Winter Break holiday period will be divided into two segments based on the school calendar. Specifically, the first segment will begin on the day the school calendar releases for the break and shall continue until December 26th at 12:00 p.m. (noon), when the other parent's timeshare shall begin, to continue until school resumes following the Winter Break.

	<u>Odd Year</u>	<u>Even Year</u>
First Segment/Christmas	DAD	MOM
Second Segment/New Year's	MOM	DAD

Religious Holidays

When parents do not share the same religious beliefs, each parent shall have the right to provide religious instruction of their choosing to the child(ren). When both parents are of the same faith, both parents shall have the opportunity to enjoy the right to celebrate a religious holiday with the child(ren) on an alternating year basis. The following sample religious holiday schedules are intended to provide examples of shared holiday schedules for religious holidays and apply *only if* one or both parents have traditionally celebrated such holidays with the parties' child(ren):

school district does not provide a release from school for Veterans' Day, neither party shall be entitled to a variance from the regular timeshare for this holiday period.

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Sample Jewish Holiday

The following holidays begin upon the release of school before the holiday period, or if school is not in session at 3:00 p.m., and continue as designated until school resumes the day after the holiday period, or if school is not in session at 9:00 a.m.:

	<u>Odd Year</u>	<u>Even Year</u>
Passover [1 st two nights]	DAD	MOM
Rosh Hashanah [2 day holiday]	MOM	DAD
Yom Kippur [One day holiday]	DAD	MOM
Purim [One day holiday]	MOM	DAD
Sukkot [1 st two nights]	DAD	MOM
Hanukkah [1 st two nights]	MOM	DAD

Sample Baha'i Holy Days and Commemorative Days

The following holidays, when work is to be suspended, begin upon the release of school before the holiday period, or if school is not in session at 3:00 p.m., and continue as designated until school resumes the day after the holiday period, or if school is not in session at 9:00 a.m.:

	<u>Odd Year</u>	<u>Even Year</u>
Naw-Ruz March 21	DAD	MOM
Festival of Ridvan April 21	MOM	DAD
Declaration of the Bab May 23	DAD	MOM
Ascension of Baha'u'llah May 29	MOM	DAD
Martyrdom of Bab July 9	DAD	MOM
Birth of the Bab October 20	MOM	DAD
Birth of Baha'u'llah November 12	DAD	MOM

Summer/Track Vacation

Each parent shall have on fourteen (14) day uninterrupted summer timeshare with the child(ren) per year during the period of summer or track release for the Clark County School District. The fourteen (14) day period may not be added to regular timeshare dates to extend a parent's summer vacation beyond fourteen (14) days without the written consent of the other party.

///

1 The parent with selection priority shall provide notice of his/her summer vacation dates in
writing via email by March 1st with the other parent providing notice of her/his summer
2 vacation dates in writing via email by March 15th. Track vacation dates must be designated
at least thirty (30) days before the track break begins. Failure to provide notice of
3 summer/track vacation dates by deadline provided shall constitute a waiver of priority and the
other party shall have the right to provide written notice of his/her summer/track vacations
4 dates, which shall take precedence for that year only. If a party does not provide written
notice of his or her vacation dates by May 1st, that party shall have waived his/her right to
exercise a vacation period for that year only.

5

	<u>Odd Year</u>	<u>Even Year</u>
Vacation Selection Priority	DAD	MOM

6

7 ***Year-Round School***

In the event the parties' child(ren) attend year round school, the regular timeshare shall
continue during all track breaks unless: (1) either party has designated a vacation period, as
8 set forth above, or (2) otherwise agreed in a writing signed by both parties.

9 ***In-Service/Professional Development Days***

Undesignated school holidays shall follow the parties' regular timeshare schedule. However,
10 in the event an in-service day is attached to a weekend or other holiday period, the
undesignated holiday shall attach to the weekend or other holiday period and the parent
assigned the weekend or holiday period (including any undesignated period) until school
11 resumes following the weekend or other holiday period, at the first morning bell.

12 ***Transportation***

The receiving parent shall be responsible for providing transportation, unless otherwise
13 ordered by the Court.

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1 **CSERV**

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3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Scott M. Anthony, Plaintiff.

CASE NO: d-20-618325-C

7 vs.

DEPT. NO. Department I

8 Katarina E. Kurz, Defendant.

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 6/22/2021

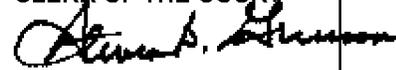
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17 Esthela Silva esthela@gallagherattorneygroup.com

18 Stacie Graham stacie@gallagherattorneygroup.com

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5 (702) 982-1200
6 jwh7408@yahoo.com
7 Attorney for Defendant
8 SCOTT M. ANTHONY

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

SCOTT M. ANTHONY,
Plaintiff,
vs.
KATARINA E. KURZ,
Defendant.

CASE NO. D-20-618325-C
DEPT. NO. I

NOTICE OF ENTRY OF ORDER

TO: KATARINA E. KURZ, Defendant herein; AND

TO: DENISE A. GALLAGHER, ESQ., Her attorney:

PLEASE TAKE NOTICE that on the 22nd day of June, 2021 an Order was entered in the above-referenced matter, a copy of which is attached hereto.

Dated this 23 day of June, 2021.



Joseph W. Houston II, Esq.
State Bar #1440
430 South 7th Street
Las Vegas, Nevada 89101

(702) 982-1200
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Joseph W. Houston II, Esq. and
that on the 23 day of June, 2021, I served a true and correct copy of the
NOTICE OF ENTRY OF ORDER on the parties addressed as shown below:

Denise A. Gallagher, Esq.
GALLAGHER ATTORNEY GROUP, LLC

X

Via Electronic Service [NEFR Rule 9]

Via Facsimile [EDCR 7.26(a)]

Via U.S. Mail [NRCP 5(b)]



An Employee of JOSEPH W. HOUSTON II, ESQ.

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

SCOTT M. ANTHONY,

Plaintiff,

CASE NO.: D-20-618325-C
DEPT: I

vs.

DATE OF HEARING:
06/14/2021

KATARINA E. KURZ,
Defendant,

TIME OF HEARING: 9:00 A.M.

DECISION AND ORDER

THIS MATTER came before the Court for a Non-Jury Trial before the Honorable Sunny Bailey on June 14, 2021. Plaintiff, Scott M. Anthony (hereinafter referred to as "Scott"), appeared with counsel Joseph W. Houston II, Esq. Defendant, Katarina E. Kurz ("Katarina" or "Katie"), appeared with counsel Denise A. Gallagher, Esq.

The Court received and reviewed the evidence admitted into the record. The Court had the opportunity to evaluate the demeanor and credibility of the witnesses. Upon review of the record and evaluation of the credibility of the testimony, this Court makes the following findings and orders as set forth herein.

....

1 This schedule afforded Scott approximately 70-75 days of visitation with Michael
2 per year.

3 7. Scott denied the domestic violence allegations and presented evidence
4 at the trial.

5 8. The Decree did not place any restrictions or supervision on Scott's
6 visitations with Michael.

7 9. Scott testified he saw Michael on holidays and summers. They would
8 also Facetime.

9 10. He did not see Michael for a period due to COVID. However,
10 Katie/Katarina then gave him ten (10) weeks last summer instead of eight (8)
11 weeks.

12 11. Scott moved to Las Vegas to be closer to Michael. He had a good job
13 in Omaha that he quit in order to move to Las Vegas.

14 12. He moved to Las Vegas in October of 2020. At that time, he was
15 employed in staffing/ recruiting in Las Vegas.

16 13. Scott testified his job interfered with his visitation. He decided to quit
17 on January 4, 2021.

18 14. From January of 2021 to March of 2021, he was unemployed. He
19 offered to watch Michael while Katie/Katarina worked. He also requested more
20 time. Katie/Katarina declined his requests.

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1 15. Another company hired him as an internal recruiter in March of 2021.
2 He works Monday through Friday from 8:30 a.m. to 5:30 p.m.

3 16. Scott testified Katie/Katarina never raised concerns about him not
4 caring for their son. He believes Michael is excited to spend time with him but
5 misses his Mom and misses Dad when he is with Mom. Katie/Katarina has been
6 flexible with visitations. However, she denied his request for a 50/50 time
7 schedule.

8 17. Scott testified there is not a physical or mental reason why he or
9 Katie/Katarina could not properly care for Michael. Michael goes between both he
10 and Katie/Katarina freely and without issue. He also believes Michael's needs are
11 met by both parents.

12 18. Although Katie/Katarina was granted sole legal custody, Scott testified
13 she informs him of medical, dental or other issues related to Michael. However,
14 Scott is not included with making decisions for Michael. Additionally,
15 Katie/Katarina pays for medical insurance and they split the costs equally.

16 19. Since he moved to Las Vegas, Katie/Katarina came up with a
17 schedule. The current time share for Scott is Thursday after school until Saturday
18 at 5:15 p.m. This schedule affords Scott approximately 104 days of visitation with
19 Michael per year.

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1 20. Scott's father picks up Michael on Thursdays from school. His retired
2 parents live in Utah but his father and sometimes his mother drive to Las Vegas to
3 help with Michael. Drop offs are at the home of Katie/Katarina's parents.

4 21. Scott and Michael hike, fish and visit his parents in Utah. They also
5 pay videogames together.

6 22. If granted additional visitation. His parents would assist with Michael.
7 Additionally, Scott's current job is flexible and he can work from home.

8 23. Katarina (referred to as Katie by Scott) is a legal assistant at Grant
9 Morris Dodd. She works in the office Monday through Friday from 9:00 a.m. to
10 5:00 p.m.

11 24. Her husband, Solomon Coleman, works from home and watches
12 Michael while she is at work.

13 25. Katie/Katarina admitted she did not have concerns with Scott's care of
14 Michael during the month to month custody arrangement prior to the trial.
15 However, she felt Scott's family was very mentally abusive towards her and does
16 not want them to have anything to do with Michael.

17 26. She and Scott went to trial because she wanted Michael to attend
18 school in Las Vegas and Scott wanted Michael to attend school in Nebraska.

19 27. After the trial, Katie/Katarina does not have any complaints in regards
20 to Scott's ability to care for Michael.

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1 28. Michael is healthy and does not have any special needs.
2 Katie/Katarina arranges doctor and dentists appointments but keeps Scott informed.

3 29. Katie/Katarina denied Scott specifically asked for time.
4 Katie/Katarina testified she was more focused on online learning. She believed it
5 was difficult for Scott's father to help Michael, but it was difficult for everyone.
6 She was not prepared to adjust the schedule due to the school issue.

7 30. Michael struggled with reading. Katie/Katarina noted Michael's
8 stepsister, who is the same age, appeared to have a teacher better prepared for
9 distance learning.

10 31. Katie/Katarina testified she did not want to change the schedule to
11 50/50 or 40/60 because she feels Scott' parents were mentally abusive towards her.
12 She does not want them to watch Michael.

13 32. Currently, Katie/Katarina does not have an issue with Scott's parents
14 because they have limited contact. She has either her husband or her parents
15 conduct exchanges. Katie/Katarina has not ever heard Scott or his parents call her
16 bad names or speak ill of her.

17 33. Katie/Katarina testified her husband watches Michael. Even if he does
18 not work at home, he is off work at 3:00 p.m. and can pick up Michael after school.

19 34. Katie/Katarina and her husband are involved with the Church of Latter
20 Day Saints. They attend every Sunday. It is very important to her to maintain the
21 church schedule. As far as she is aware, Scott does not attend church.

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CONCLUSIONS OF LAW

I. Nebraska Domestic Violence Statute

Nebraska Revised Statute 43-2932 *requires* the court to develop a parenting plan if a preponderance of evidence demonstrates a parent has committed domestic intimate partner abuse. NRS 43-2932(1)(a)(iii). (Emphasis added). Specifically under NRS 43-2932(1)(b):

If a parent is found to have engaged in any activity specified by subdivision (1)(a) of this section, limits *shall* be imposed that are reasonably calculated to protect the child or child's parent from harm.

The limitations may include, but are not limited to:

- (i) An adjustment of the custody of the child, including the allocation of sole legal custody or physical custody to one parent;
- (ii) Supervision of the parenting time, visitation, or other access between a parent and the child;
- (iii) Exchange of the child between parents through an intermediary or in a protected setting;
- (iv) Restraints on the parent from communication with or proximity to the other parent or the child;
- (v) A requirement that the parent abstain from possession or consumption of alcohol or nonprescribed drugs while exercising custodial responsibility and in a prescribed period immediately preceding such exercise;
- (vi) Denial of overnight physical custodial parenting time;
- (vii) Restrictions on the presence of specific persons while the parent is with the child;
- (viii) A requirement that the parent post a bond to secure return of the child following a period in which the parent is exercising physical custodial parenting time or to secure other performance required by the court; or
- (ix) Any other constraints or conditions deemed necessary to provide for the safety of the child, a child's parent, or any person whose safety immediately affects the child's welfare.

1 Furthermore, if a parent is found to have engaged in an act of domestic
2 intimate partner abuse, the court *shall* not order legal or physical custody to be
3 given to that parent without making specific written findings that the child and
4 other parent can be adequately protected from harm by such limits as imposed
5 under NRS 43-2932 (b)(i) – (ix). *See* NRS 43-2932(3). (Emphasis added). This
6 Court finds no such findings in the Orders of the Nebraska Court.

7 The mandatory obligations of NRS 43-2932 require the court first make a
8 finding that a party committed an act of domestic intimate partner abuse.
9 Additionally, the court must also include provisions in the parenting plan to provide
10 for the safety of the children and the partner. *See* Gandara-Moore v Moore, 952
11 N.W. 2d 17 (Neb. 2020). The failure of the trial court to impose any limitations on
12 custody, or make special written findings that such limitations would protect the
13 child or spouse, the Court of Appeals would presume the trial court did not find the
14 other spouse committed domestic abuse. *See* Chmelka v Chmelka, 953 N.W.2d
15 288 (Neb. 2020).

16 Although testimony was received by the Nebraska Court as included in the
17 transcript, the Orders of the court are void of a finding of domestic abuse as
18 required by NRS 43-2932. A review of the Parenting Plan established sole legal
19 and primary physical custody to Katie/Katarina of Michael. Katie/Katarina
20 attempted to admit a letter from the trier of fact authored prior to the entry of the
21 Decree and Parenting Plan that contained one sentence that Scott committed

1 domestic abuse. However, even if this Court considered the hearsay document, the
2 subsequent Parenting Plan is void of any required written findings that provide for
3 the safety of either Michael or Katie/Katarina. *See* Exhibit 2.

4 On the contrary, the Parenting Plan requires the parties to communicate and
5 grants Scott unsupervised visitations with no extra requirements. The Court finds
6 the Parenting Plan terms consistent with an out of state visitation schedule. As the
7 Nebraska Court failed to make adequate written findings, this Court presumes the
8 trial court did not find Scott committed domestic abuse. *See Chmelka v Chmelka.*

9 **II. Modification of Custody**

10 A modification of primary physical custody is warranted only when (1) there
11 has been a substantial change in circumstances affecting the welfare of the child, and
12 (2) the child’s best interest is served by the modification. *Ellis v Carucci*, 123 Nev.
13 145, 150 (2014).

14 Any changes in circumstances must generally have occurred since the last
15 custody determination. *Ellis v Carucci*, 123 Nev. at 151. The substantial change
16 requirement is based on the principle of res judicata. *Id.* “In determining whether
17 the facts warrant a custody modification, courts should not take the ‘changed
18 circumstances’ prong lightly.” *Id.*

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1 A move to the same city as the minor child, standing alone, does not
2 automatically constitute a substantial change in circumstance under Ellis. However,
3 a major relocation to be near the minor child, coupled with other circumstances that
4 positively affect the welfare of the minor child, may be sufficient to meet this
5 requirement under Ellis.

6 It is undisputed that Michael now spends time with Scott on a weekly basis.
7 It is also undisputed that Michael enjoys his time with his father and they have a
8 loving relationship.

9 **THE COURT FINDS** Scott met his burden to demonstrate a substantial
10 change in circumstance that affects the welfare of the child.

11 The Court now turns its attention to the second prong, the child's best
12 interest is served by the modification.

13 The Court now turns its attention to the best interest of the child. NRS
14 125C.0035(4).

15 *4. In determining the best interest of the child, the court shall*
16 *consider and set forth its specific findings concerning, among other*
17 *things:*
18 *(a) The wishes of the child if the child is of sufficient age and*
capacity to form an intelligent preference as to his or her physical
custody.

19 At seven (7) years of age, Michael is not of sufficient age and capacity to
20 form an intelligent preference as to his physical custody.

21 . . .

1 **(b) Any nomination of a guardian for the child by a parent.**

2 Nomination of guardianship is not relevant in these proceedings between
3 two parents and not involving a third party.

4 **(c) Which parent is more likely to allow the child to have frequent**
5 **associations and a continuing relationship with the noncustodial**
6 **parent.**

6 The Court finds this factor neutral. Scott testified that although
7 Katie/Katarina had primary custody, she was extremely flexible in visitations.
8 Upon his move to Las Vegas, Katie/Katarina changed the schedule from the
9 holiday/ school break schedule outlined in the Decree to the current schedule of
10 Thursday through Saturday. However, Scott's request for additional time was
11 denied.

12 **(d) The level of conflict between the parents.**

13 The Court finds this factor to be neutral. Katie/Katarina testified the
14 parties have conflict in their relationship. She testified Scott's parents were
15 emotionally abusive to her in the past. She does not want them to watch Michael.
16 Katie/Katarina also testified that she avoids contact with both Scott and his
17 parents due to this conflict and custodial exchanges occur at the home of her
18 parents. However, Katie/Katarina admitted that neither Scott nor his parents ever
19 spoke ill of her or called her names. Katie/Katarina did not testify as to any
20 conflict since the Decree was entered in 2019. Scott testified as to the absence of
21 any conflict between the parties.

1 (e) *The ability of the parents to cooperate to meet the needs of the child.*

2 The Court finds this factor to be neutral. Although Katie/Katarina was
3 granted sole legal custody, she still kept Scott informed about any medical or
4 school related issues with Michael. The Court found the testimony of the parties
5 established they had an amicable relationship and put the needs of Michael first.

6 (f) *The mental and physical health of the parents.*

7 The Court did not receive credible evidence as to this factor.

8 (g) *The physical, developmental and emotional needs of the child.*

9 The Court finds this factor neutral. It is undisputed Michael struggled with
10 distance learning this past school year. Katie/Katarina expressed concern Scott's
11 father was unable to assist Michael with distance learning. However, she also
12 noted distance learning was difficult on everyone. Katie/Katarina testified
13 Michael's teacher did not appear as apt as the teacher of his stepsibling with
14 distance learning. The Court notes Katie/Katarina's testimony further
15 demonstrates the maturity of the relationship between the parties and their ability
16 to co-parent Michael.

17 (h) *The nature of the relationship of the child with each parent.*

18 The Court finds this factor to be neutral. It is undisputed by either party
19 that Michael has a good relationship with each parent. It is also undisputed that
20 both Scott and Katie/Katarina love Michael very much. Scott testified Michael is

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1 happy to see him but also misses his Mom during visitations and vice versa.

2 Katie/Katarina a agreed that Michael loves his father.

3 *(i) The ability of the child to maintain a relationship with any sibling.*

4 The Court finds this factor to be neutral. Neither Katie/Katarina nor Scott
5 has other biological children. Katie/Katarina testified that Michael has a
6 stepsibling of the same age. However, she did not testify as to the nature of their
7 relationship.

8 *(j) Any history of parental abuse or neglect of the child or a sibling
9 of the child.*

10 The Court did not receive credible evidence as to this factor.

11 *(k) Whether either parent or any other person seeking physical
12 custody has engaged in an act of domestic violence against the child,
a parent of the child or any other person residing with the child.*

13 As outlined in the analysis above, the Court did not receive credible
14 evidence that Scott engaged in an act of domestic violence against either Michael or
15 Katie/Katarina.

16 *(l) Whether either parent or any other person seeking physical
17 custody has committed any act of abduction against the child or any
18 other child.*

19 The Court did not receive credible evidence as to this factor.

20 **THE COURT FINDS** it is in Michael's best interest for Scott and
21 Katie/Katarina to exercise Joint Physical Custody.

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As to joint legal custody, NRS 125C.002 states:

1. When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:

(a) The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

2. The court may award joint legal custody without awarding joint physical custody.

The Nebraska Court granted Katie/Katarina sole legal custody of Michael.

As outlined above, the Court found it would be in Michael's best interest for Scott and Katie/Katarina exercise Joint Physical Custody.

THE COURT FINDS it would be in the best interest of Michael for Katie/Katarina and Scott to exercise Joint Legal Custody.

III. Child Support

In regards to child support, NAC 425.115 states:

Determination of child support obligation in accordance with guidelines if no stipulation; adjustment of obligation based upon type of custody held by parent.

1. *If the parties do not stipulate to a child support obligation pursuant to NAC 425.110, the court must determine the child support obligation in accordance with the guidelines set forth in this chapter.*

2. *If a party has primary physical custody of a child, he or she is deemed to be the obligee and the other party is deemed to be the obligor, and the child support obligation of the obligor must be determined.*

1 Scott filed a Financial Disclosure which established an average monthly
2 income of \$4,507.00. His child support obligation amounts to \$721.00.
3 Katie/Katarina filed a Financial Disclosure which established an average monthly
4 income of \$2,510.00. Her child support obligation amounts to \$401.00.
5 Therefore, Scott's monthly child support obligation is \$320.00 a month. This
6 obligation is payable to Katie/Katarina and due the first of every month.

7 Katie/Katarina also provides health insurance for Michael. Scott shall
8 reimburse Katie/Katarina one-half of the cost of any insurance.

9 **THE COURT FINDS** Scott's monthly child support obligation is
10 \$320.00 a month plus one-half the cost of any insurance, if applicable.

11 **ORDERS**

12 **NOW, THEREFORE, IT IS HEREBY ORDERED** that, except as
13 otherwise provided herein, all provisions of the parties' Decree of Dissolution of
14 Marriage and Parenting Plan entered on September 19, 2019, shall remain in full
15 force and effect.

16 **NOW, THEREFORE, IT IS FURTHER ORDERED** that the parties
17 shall exercise Joint Legal Custody of Michael and that the parties shall abide by the
18 following joint legal custody provisions:

19 A. The parties shall consult and cooperate with each other in
20 substantial questions relating to religious upbringing, educational

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programs, significant changes in social environment, and health care of the child.

B. The parties shall have access to medical and school records pertaining to the child and be permitted to independently consult with any and all professionals involved with the child.

C. The parties shall participate in decisions regarding all schools attended, and all providers of child care of the parties' minor child.

D. Each party shall be empowered to obtain emergency health care for the child without the consent of the other party. Each party is to notify the other party as soon as reasonably practicable of any illness requiring medical attention, or any emergency involving the child.

E. Each party is to provide the other party, upon receipt, information concerning the well-being of the child, including, but not limited to, copies of report cards; school meeting notices; vacation schedules; class programs; requests for conferences; results of standardized or diagnostic tests; notices of activities involving the child; samples of school work; order forms for school pictures; all communications from health care providers; the names, addresses, and telephone numbers of all schools, health care providers, regular day care providers and counselors.

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F. Each party is to advise the other party of the school, athletic, and social events in which the child participates. Both parties may participate in activities for the child, such as open house, attendance at an athletic event, etc.

G. Each party is to provide the other party with the address and telephone number at which the minor child resides, and to notify the other party prior to any change of address and provide the telephone number as soon as it is assigned.

H. Each party is to provide the other party with a travel itinerary and, whenever reasonably possible, telephone numbers and addresses at which the child can be reached whenever the child will be away from the parties' home for a period of two (2) nights or more.

I. Each party shall be entitled to reasonable telephone communication with the child. Each party is restrained from unreasonably interfering with the child's right to privacy during such telephone conversation. Telephone conversations shall be initiated either by the child or parent and are to occur during reasonable household hours.

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IT IS FURTHER ORDERED the parties shall exercise Joint Physical Custody of Michael on an alternating week schedule as follows:

Week one:

Scott: Sunday 6:00 p.m. – to the following Sunday at 6:00 p.m.

Week two:

Katie/Katarina: Sunday 6:00 p.m. – to the following Sunday at 6:00 p.m.

IT IS FURTHER ORDERED the parties shall follow the Department I Holiday scheduled attached as Exhibit 1.

IT IS FURTHER ORDERED that Scott’s child support obligation is reduced to \$320.00 per month based upon NAC 425.150 (e) and NAC 425.150 (h). The parties shall provide a tax return to the other party no later than April 30th of each year beginning April 2022.

IT IS FURTHER ORDERED that Katie/Katarina will provide health insurance for Michael. Whatever the cost of the premium is in an amount attributable to the child, that amount should be equally split and added to Scott’s child support obligation. Out of pocket medical expenses can be split equally under the 30/30 day rule. The Parties are required to document expenses, timely exchange receipts, or run the risk of request for reimbursement towards a medical expense being deemed waived.

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If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

NOTICE IS HEREBY GIVEN that, pursuant to NRS 125C.0065:

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

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

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

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

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

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

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

NOTICE IS HEREBY GIVEN that the non-custodial parent may be subject to the withholding of wages and commissions for delinquent payments of support pursuant to NRS 31A.010, *et. seq.* and NRS 125.007.

NOTICE IS HEREBY GIVEN that pursuant to NRS 125B.145, the parties may request a review of child support every three years, or at any time upon changed circumstances.

NOTICE IS HEREBY GIVEN that both parties shall submit the information required by NRS125B.055, NRS 125.30 and NRS 125.230 on a separate form to the Court and to the Welfare Division of the Department of Human Resources within ten days from the date this Order is filed. Such information shall be maintained by the Clerk in a confidential manner and not part of the public record. The parties shall update the information filed with the Court and the Welfare Division of the Department of Human Resources within ten days should any of that information become inaccurate.

NOTICE IS HEREBY GIVEN that if you want to adjust the amount of child support established in this order, you **MUST** file a motion to modify the order with or submit a stipulation to the court. If a motion to modify the order is not filed or a stipulation is not submitted, the child support obligation established in this

1 order will continue until such time as all children who are the subject of this order
2 reach 18 years of age or, if the youngest child who is subject to this order is still in
3 high school when he or she reaches 18 years of age, when the child graduates from
4 high school or reaches 19 years of age, whichever comes first. Unless the parties
5 agree otherwise in a stipulation, any modification made pursuant to a motion to
6 modify the order will be effective as of the date the motion was filed.

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Dated this 22nd day of June, 2021



E0B 799 B824 B796
Sunny Bailey
District Court Judge

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Exhibit 1

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***Eighth Judicial District Court
Department I – Family Division
Holiday and Vacation Plan***

This schedule shall remain in effect unless: (1) the parties agree in writing, signed by both parties, to an alternate schedule; or (2) by subsequent order of the Court.

Precedence:

The *holiday* schedule shall take precedence over *vacation* periods; and *vacation* periods shall take precedence over regular timeshare periods. Where there is an overlap of conflicting holidays, the following priority shall prevail:

	<u>Odd Year</u>	<u>Even Year</u>
Overlap Precedent	DAD	MOM

Weekend Holidays

The parents will share weekend holidays based on the following schedule. The holiday weekend begins upon the release of school for the holiday period and continues until the morning school resumes following the holiday, at the first morning bell, unless otherwise noted. In the event that school is not in session, the following holiday time will begin on Friday at 3:00 p.m., and continue until 9:00 a.m., on the first weekday following the holiday.

	<u>Odd Year</u>	<u>Even Year</u>
Martin Luther King Day Weekend	MOM	DAD
President’s Day Weekend	DAD	MOM
Mother’s Day Weekend	MOM	MOM
Memorial Day Weekend	MOM	DAD
Father’s Day Weekend	DAD	DAD
Independence Day ¹	DAD	MOM
Labor Day Weekend	MOM	DAD
Nevada Admission Day Weekend	DAD	MOM
Halloween Day ²	DAD	MOM
Veterans’ Day Weekend ³	MOM	DAD

¹ Independence Day will include the weekend if the holiday occurs on a Friday, Saturday, Sunday or Monday of any given year. In the event the holiday occurs on Tuesday, Wednesday or Thursday, it will be treated as a one day holiday and shall begin at 9:00 a.m. on July 3rd and continue until July 5th at 9:00 a.m.

² Halloween will be celebrated as a one day holiday, beginning upon the release of school, or 9:00 a.m., if school is not in session, and continuing until the next morning when school resumes or 9:00 a.m., if school is not in session.

³ Veterans’ Day will include the weekend if it is attached to a weekend holiday period. In the event the holiday is celebrated as a one-day holiday by the school district, it shall begin at 9:00 a.m. on November 11th and continue until November 12th at 9:00 a.m. In the event the

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Birthdays

The parents will share birthdays based on the schedule set forth below. The birthday schedule will begin after school on the birthday (or if school is not in session, at 9:00 a.m.) and continue until the morning following the birthday at 9:00 a.m., or when school begins, at the first morning bell, if school is in session, when the regular residential schedule will resume. The designated parent shall be entitled to have ALL of the parties' children in his/her care during the birthday period.

	<u>Odd Year</u>	<u>Even Year</u>
Children's Birthdays	MOM	DAD

Easter/Spring Break

The parents will share the Easter/Spring Break based on the following schedule, with the holiday period to begin upon the release of school for the holiday period and continue until school resumes following the Spring Break at the first morning bell.

	<u>Odd Year</u>	<u>Even Year</u>
Easter/Spring Break	DAD	MOM

Thanksgiving

The parents will share the Thanksgiving Break based on the following schedule, with the holiday period to begin upon the release of school before Thanksgiving and shall continue until school resumes following the holiday.

	<u>Odd Year</u>	<u>Even Year</u>
Thanksgiving Break	MOM	DAD

Winter Break

The Winter Break holiday period will be divided into two segments based on the school calendar. Specifically, the first segment will begin on the day the school calendar releases for the break and shall continue until December 26th at 12:00 p.m. (noon), when the other parent's timeshare shall begin, to continue until school resumes following the Winter Break.

	<u>Odd Year</u>	<u>Even Year</u>
First Segment/Christmas	DAD	MOM
Second Segment/New Year's	MOM	DAD

Religious Holidays

When parents do not share the same religious beliefs, each parent shall have the right to provide religious instruction of their choosing to the child(ren). When both parents are of the same faith, both parents shall have the opportunity to enjoy the right to celebrate a religious holiday with the child(ren) on an alternating year basis. The following sample religious holiday schedules are intended to provide examples of shared holiday schedules for religious holidays and apply *only if* one or both parents have traditionally celebrated such holidays with the parties' child(ren):

school district does not provide a release from school for Veterans' Day, neither party shall be entitled to a variance from the regular timeshare for this holiday period.

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Sample Jewish Holiday

The following holidays begin upon the release of school before the holiday period, or if school is not in session at 3:00 p.m., and continue as designated until school resumes the day after the holiday period, or if school is not in session at 9:00 a.m.:

	<u>Odd Year</u>	<u>Even Year</u>
Passover [1 st two nights]	DAD	MOM
Rosh Hashanah [2 day holiday]	MOM	DAD
Yom Kippur [One day holiday]	DAD	MOM
Purim [One day holiday]	MOM	DAD
Sukkot [1 st two nights]	DAD	MOM
Hanukkah [1 st two nights]	MOM	DAD

Sample Baha'i Holy Days and Commemorative Days

The following holidays, when work is to be suspended, begin upon the release of school before the holiday period, or if school is not in session at 3:00 p.m., and continue as designated until school resumes the day after the holiday period, or if school is not in session at 9:00 a.m.:

	<u>Odd Year</u>	<u>Even Year</u>
Naw-Ruz March 21	DAD	MOM
Festival of Ridvan April 21	MOM	DAD
Declaration of the Bab May 23	DAD	MOM
Ascension of Baha'u'llah May 29	MOM	DAD
Martyrdom of Bab July 9	DAD	MOM
Birth of the Bab October 20	MOM	DAD
Birth of Baha'u'llah November 12	DAD	MOM

Summer/Track Vacation

Each parent shall have on fourteen (14) day uninterrupted summer timeshare with the child(ren) per year during the period of summer or track release for the Clark County School District. The fourteen (14) day period may not be added to regular timeshare dates to extend a parent's summer vacation beyond fourteen (14) days without the written consent of the other party.

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The parent with selection priority shall provide notice of his/her summer vacation dates in writing via email by March 1st with the other parent providing notice of her/his summer vacation dates in writing via email by March 15th. Track vacation dates must be designated at least thirty (30) days before the track break begins. Failure to provide notice of summer/track vacation dates by deadline provided shall constitute a waiver of priority and the other party shall have the right to provide written notice of his/her summer/track vacations dates, which shall take precedence for that year only. If a party does not provide written notice of his or her vacation dates by May 1st, that party shall have waived his/her right to exercise a vacation period for that year only.

	<u>Odd Year</u>	<u>Even Year</u>
Vacation Selection Priority	DAD	MOM

Year-Round School

In the event the parties' child(ren) attend year round school, the regular timeshare shall continue during all track breaks unless: (1) either party has designated a vacation period, as set forth above, or (2) otherwise agreed in a writing signed by both parties.

In-Service/Professional Development Days

Undesignated school holidays shall follow the parties' regular timeshare schedule. However, in the event an in-service day is attached to a weekend or other holiday period, the undesignated holiday shall attach to the weekend or other holiday period and the parent assigned the weekend or holiday period (including any undesignated period) until school resumes following the weekend or other holiday period, at the first morning bell.

Transportation

The receiving parent shall be responsible for providing transportation, unless otherwise ordered by the Court.

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CSERV

DISTRICT COURT
CLARK COUNTY, NEVADA

Scott M. Anthony, Plaintiff.	CASE NO: d-20-618325-C
vs.	DEPT. NO. Department I
Katarina E. Kurz, Defendant.	

AUTOMATED CERTIFICATE OF SERVICE

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

Service Date: 6/22/2021

- | | |
|--------------------|------------------------------------|
| Denise Gallagher | denise@gallagherattorneygroup.com |
| Joseph Houston, II | jwh7408@yahoo.com |
| Esthela Silva | esthela@gallagherattorneygroup.com |
| Stacie Graham | stacie@gallagherattorneygroup.com |

D-20-618325-C

3/10/21 9:30 am RETURN HEARING: FMC - mediation

3/10/21 9:30 am CASE MANAGEMENT CONFERENCE

INTERIM CONDITIONS:

FUTURE HEARINGS:

PRINT DATE:	07/15/2021	Page 2 of 9	Minutes Date:	January 25, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

COURT ORDERED the following;

Plaintiff and Defendant shall file UPDATED FINANCIAL DISCLOSURE FORMS thirty (30) days prior to trial;

DISCOVERY shall be OPEN and shall CLOSE thirty (30) days prior to trial;

Matter set for an NON-JURY TRIAL on June 14, 2021 at 9:00 AM (1/2 DAY - 90min per side) re: custody. Department I shall prepare and issue a TRIAL MANAGEMENT ORDER;

Matter set for CALENDAR CALL on June 2, 2021 at 11:30 AM;

PRE-TRIAL MEMORANDUMS, WITNESS LISTS and EXHIBITS shall be due by June 2, 2021;

INTERIM CONDITIONS:

FUTURE HEARINGS: Jun 02, 2021 11:30AM Calendar Call
Courtroom 06 Bailey, Sunny

Jun 14, 2021 9:00AM Non-Jury Trial
NJT (half day) (In Person / Witnesses may appear via Blue Jeans)
Courtroom 06 Bailey, Sunny

PRINT DATE:	07/15/2021	Page 4 of 9	Minutes Date:	January 25, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

person. The witnesses are GRANTED permission to appear via Blue Jeans.

INTERIM CONDITIONS:

FUTURE HEARINGS: Jun 02, 2021 11:30AM Calendar Call
Courtroom 06 Bailey, Sunny

Jun 14, 2021 9:00AM Non-Jury Trial
NJT (half day) (In Person / Witnesses may appear via Blue Jeans)
Courtroom 06 Bailey, Sunny

PRINT DATE:	07/15/2021	Page 6 of 9	Minutes Date:	January 25, 2021
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Plaintiff's Exhibit 6 and Defendant's Exhibit D are ADMITTED.

Court referred to Defendant's proposed Exhibit E, and NOTED it is not a Court Order. Attorney Gallagher presented an offer of proof regarding proposed Exhibit E. Attorney Houston presented counter arguments regarding the offer of proof. COURT ORDERED, Defendant's Proposed Exhibit E is NOT admitted.

Attorney Gallagher referred to Nebraska Revised Statute 43-2932. Both parties stipulated that the Court can review the Nebraska Revised Statute, case law, and the transcript and determine if the Court can make a decision regarding the domestic violence allegation.

Attorney Houston requested to admit proposed Exhibit 1. Attorney Gallagher does not object. COURT ORDERED, Plaintiff's Exhibit 1 is ADMITTED.

Attorney Gallagher requested to admit proposed Exhibits A, B and C. Attorney Houston does not object. COURT ORDERED, Defendant's Exhibits A, B and C are ADMITTED.

Attorney Houston WAIVED Opening Statements.
Attorney Gallagher WAIVED Opening Statements.

Plaintiff's witnesses SWORN IN and TESTIFIED, pursuant to the worksheet:

1. Scott Anthony
2. Katarina Kurz

Attorney Houston requested to admit proposed Exhibit 3. Attorney Gallagher objects. COURT ORDERED, Plaintiff's Proposed Exhibit 3 is NOT admitted.

Defendant's witnesses SWORN IN and TESTIFIED, pursuant to the worksheet:

1. Katarina Kurz

Plaintiff RESTS
Defendant RESTS

Plaintiff presented closing arguments.
Defendant presented closing arguments.
Plaintiff presented rebuttal closing arguments.

COURT ORDERED , the Court will submit a written decision.

INTERIM CONDITIONS:

PRINT DATE:	07/15/2021	Page 8 of 9	Minutes Date:	January 25, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

FUTURE HEARINGS:

PRINT DATE:	07/15/2021	Page 9 of 9	Minutes Date:	January 25, 2021
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Notice: Journal entries are prepared by the courtroom clerk and are not the official record of the Court.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

DENISE A. GALLAGHER, ESQ.
1291 GALLERIA DR., STE. 230
HENDERSON, NV 89014

DATE: July 15, 2021
CASE: D-20-618325-C

RE CASE: SCOTT M. ANTHONY vs. KATARINA E. KURZ

NOTICE OF APPEAL FILED: July 13, 2021

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- Order
- Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DECISION AND ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

SCOTT M. ANTHONY,

Plaintiff(s),

vs.

KATARINA E. KURZ,

Defendant(s),

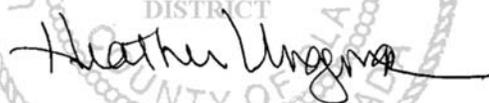
Case No: D-20-618325-C

Dept No: I

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 15 day of July 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

