

IN THE SUPREME COURT OF THE STATE OF NEVADA

KATARINA KURZ,

Appellants,

vs.

SCOTT ANTHONY,

Respondents.

No. 83231

**DOCKETING STATEMENT
CIVIL APPEALS**

Electronically Filed
Aug 03 2021 11:42 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

GENERAL INFORMATION

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

WARNING

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

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

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

1. Judicial District – Department – County – Judge – District Ct. Case No.

Eighth Judicial District Court, Department I
Clark County, Nevada The Honorable Sunny Bailey
District Court Case No. D-20-618325-C

2. Attorney filing this docketing statement:

Denise A. Gallagher, Esq.
Gallagher Attorney Group, LLC
1291 Galleria Drive, Suite 230
Henderson, Nevada 89014
(702) 448-1099

Attorney for Appellants: Katarina Kurz

3. Attorney representing respondents:

Joseph Houston, Esq.
430 S. Seventh Street
Henderson, Nevada 89101
(702) 982-1200

Attorney for Respondents: Scott Anthony

4. Nature of Disposition below:

Judgment after evidentiary hearing.

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

 x Child Custody
 Venue
 Termination of parental rights

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

NONE.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal and their dates of disposition:

Divorce trial, District Court, Douglas County, Nebraska – July 29, 2019.

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

This was an action brought by the Respondent, to change custody of the parties' one minor child. The District Court granted the Respondent's motion following an evidentiary hearing.

9. Issues on appeal. State concisely the principal issue(s) in this appeal:

Whether or not the Respondent's relocation from the State of Nebraska to the State of Nevada was a sufficient change in circumstances under Ellis v. Carucci, 123 Nev. 145, 153, 161 P.3d 239, 244 (2007).

Whether or not the court erred when it failed to admit into evidence the findings of the Nebraska Court which found that the Respondent had committed domestic violence against the Appellant.

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

Not Applicable.

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

Not Applicable.

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

- ☐ Reversal of well-settled Nevada precedent
- ☐ An issue arising under the United State and/or Nevada Constitutions
- ☐ A substantial issue of first impression
- ☐ An issue of public policy
- ☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions.
- ☐ A ballot question

Not Applicable.

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

This matter should be assigned to the Court of Appeals under NRAP 17(b)(10).

- 14. Trial.** If this action proceeded to trial, how many days did the trial last?
Was it a bench or jury trial?

One day bench trial.

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

Not Applicable.

TIMELINESS OF NOTICE OF APPEAL

- 16. Date of entry of written judgment or order appealed from:**

June 22, 2021.

- 17. Date written notice of entry of judgment was served:**

June 23, 2021 via electronic service.

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

Not Applicable.

- 19. Date notice of appeal filed:**

July 13, 2021.

- 20. Specify statute or rule governing the time limit for filing the notice of appeal:**

NRAP 4(a).

SUBSTANTIVE APPEALABILITY

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

NRAP 3(b)(1).

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

(a) Parties:

- Katarina Kurz
- Scott Anthony

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

Not Applicable.

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

- Katarina Kurz – seeking an order affirming her as the sole legal and physical custodian of the child
- Scott Anthony – seeking joint legal and joint physical custody of the minor child

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

Yes.

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

Not Applicable.

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

The order is independently appealable.

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

- The latest-filed complaint, counterclaims, cross-claims, and third party claims
See attachments.
- Any tolling motion(s) and order(s) resolving tolling motion(s)
None.
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal.
See Attachments.
- Any other order challenged on appeal
None.
- Notices of entry for each attached order

DATED this 3rd day of August, 2021.

GALLAGHER ATTORNEY GROUP, LLC

/s/ Denise A. Gallagher, Esq.
DENISE A. GALLAGHER, ESQ.
Nevada Bar No. 005739
1291 Galleria Dr., Suite 230
Henderson, NV 89014
(702)448-1099
Attorney for Appellants

VERIFICATION

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

Katarina Kurz
Name of appellant

Denise A. Gallagher, Esq.
Name of counsel of record

8.3.21
Date

/s/ Denise A. Gallagher, Esq.
Signature of counsel of record

State of Nevada, County of Clark
State and County where signed

CERTIFICATE OF SERVICE

I certify that on the 3rd day of August, 2021, I served a copy of this completed docketing statement upon all counsel of record by mailing it by first class mail with sufficient postage prepaid to the following addresses:

Joseph W. Houston, Esq.
430 S. Seventh Street
Las Vegas, Nevada 89101
Attorney for Respondent, Scott Anthony

Lansford Leavitt, Esq.
4230 Christy Way
Reno, NV 89519
Supreme Court Settlement Judge

Dated this 3rd day of August, 2021

/s/ Stacie Graham
Signature

Steven D. Grierson

1 JOSEPH W. HOUSTON II, ESQ.
2 State Bar #1440
3 430 South 7th Street
4 Las Vegas, Nevada 89101
5 (702) 982-1200
6 jwh7408@yahoo.com
7 Attorney for Defendant
8 SCOTT M. ANTHONY

CASE NO: D-20-618325-C
Department: To be determined

DISTRICT COURT
CLARK COUNTY, NEVADA

9 SCOTT M. ANTHONY,
10 Plaintiff,

CASE NO.
DEPT. NO.

11 vs.

12 KATARINA E. KURZ,
13 Defendant.
14

15
16 COMPLAINT FOR CUSTODY PURSUANT TO NRS 125C
17

18
19 COMES NOW, the Plaintiff, SCOTT M. ANTHONY, by and through his
20 attorney, Joseph W. Houston II, and alleges as follows:

21
22 1.

23 That the Plaintiff is a resident of Clark County, Nevada having come into
24 Nevada on October of 2020.

25 *///*
26
27
28

2.

That the Defendant is a resident of Clark County, Nevada, having resided in Nevada since 2018 and that since August of 2019 has been resided in the state of Nevada, the primary residence of the child being with her since August of 2019.

3.

That the minor child is MICHAEL SCOTT ANTHONY whose date of birth is February 23, 2014.

4.

That Nevada is now the home state of the minor child as pursuant to NRS 125A085 the state wherein the child has lived for a last period of six consecutive months and the child has resided primarily in the state of Nevada since August of 2019, being over one year.

5.

That pursuant to NRS 125A325(2), the state of Nevada has jurisdiction to modify custody orders from another state and this statute states that "A court of this state may not modify a child custody determination made by a court of another state unless a court of this state can make an initial determination pursuant to paragraph (a) or (b) of subsection 1 of NRS 125A305. . ."

The Plaintiff satisfied the first part of that required statute as Nevada is the home state of the minor child pursuant to NRS 125A.085, in that the minor child has lived in the state of Nevada in excess of six months as his primary residence and in fact in excess of one year.

6.

That NRS 125A325 has a second requirement which can be satisfied in either of two ways. The second way the requirement can be met is set forth in subsection 2 which states "If a court of this state... determines that the child, the

1 child's parents...do not presently reside in the other state..." The current
2 custody orders are from the state of Nebraska, where neither of the parties or the
3 minor child currently reside. Therefore, the Plaintiff has complied with this
4 requirement for the state of Nevada to take jurisdiction of this matter without
5 the need to confirm with the state of Nebraska as is set forth in subsection 1 of
6 the possible two requirements, only one of which needed to be met.

7
8 7.

9 The parties were divorced in the state of Nebraska by a Decree of Divorce
10 filed September 19, 2019. A copy of that Decree of Divorce is attached hereto
11 as **EXHIBIT A**.

12 8.

13 That at the time of the decision of the Decree of Divorce, the Nebraska
14 judge had to make a determination as to which parent the child would be
15 residing with because the Plaintiff was residing in the state of Nebraska and the
16 Defendant had moved over a year before to the state of Nevada. The child
17 would be beginning his Kindergarten school year in September of 2019 and
18 therefore the court had to make an order in regards to custody of the child.

19 9.

20 That the court could not continue its previous order which had been made
21 over a year before wherein the child was alternating a month to month custody
22 schedule between the parties, because school was to begin in August/September
23 of 2019.

24 10.

25 That the court did however, prior to this time did order, that the custody
26 schedule was on an alternating month to month and that order existed for over a
27 year. This court order shows that even the Nebraska judge believed there should
28 be a joint physical custody arrangement which was only interrupted because of

1 the fact that the child was now going to begin his Kindergarten school year and
2 obviously could not continue a month to month custody schedule between the
3 parties. The Decree of Divorce makes no finding whatsoever as to why it was in
4 the best interest of the minor child to be in the custody of the Defendant, except
5 to the extent of allowing her to move to the state of Nevada. There are no
6 factual findings whatsoever as to the basis of the court's ruling.

7 11.

8 That pursuant to paragraph 20 of the parties' parenting plan and pursuant
9 to the practice of the Eighth Judicial District Court, the parties should be first
10 referred to mediation to attempt to agree upon a parenting plan for modification
11 of the custody order.

12 12.

13 That the Plaintiff is requesting a modification of the Nebraska court order
14 to an order awarding the parties Joint Legal Custody and Joint Physical
15 Custody. Pursuant to *Ellis v. Carucci* 123 Nev 145, 161 P3d 239 (2007) set forth
16 a standard for modification of primary custody if it warranted when there has
17 been a substantial change in circumstances affecting the welfare of the child and
18 the modification served the best interest of the child. At this point in time there
19 has been compliance in both of these requirements as the Plaintiff has moved to
20 the state of Nevada which constitutes substantial change in circumstances and
21 even the court in Nebraska said that it was in the best interest of the child to
22 have a 50/50 timeshare in it's month to month order prior to the time that it had
23 to make a decision as to in which state the child would reside to attend school.

24 13.

25 NRS 125C.001 sets forth the state policy of the state of Nevada as
26 follows:

27 " 1. To ensure that minor children have frequent associations and a
28 continuing relationship with both parents after the parents have ended their

1 relationship, become separated or dissolved their marriage;
2 2. To encourage such parents to share the rights and responsibilities of
3 child rearing; and. . ."

14.

4 NRS 125C.0025 sets forth that there is a preference for an award of Joint
5 Physical Custody.


15.

6 That there are no other current court proceedings in any state at this time.
7 The only previous court proceeding was in the state of Nebraska and now both
8 parties have since moved from the State of Nebraska to the state of Nevada and
9 there are no current court proceedings in any state whatsoever, other than the
10 state of Nevada.

16.

13 That to the Plaintiff's knowledge there is no other person that claims a
14 right to custody of the minor child other than the parties herein.

15 Dated this 4 day of December, 2020.

18
19 
20 Joseph W. Houston II, Esq.
21 State Bar #1440
22 430 South 7th Street
23 Las Vegas, Nevada 89101
24 (702) 982-1200
25 Attorney for the Plaintiff
26
27
28

VERIFICATION

STATE OF NEVADA)

) ss:

COUNTY OF CLARK)

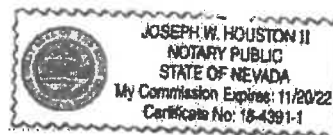
SCOTT ANTHONY, under penalty of perjury, makes the following assertions:

That he is the Plaintiff in the above-entitled action, that he has read the above and foregoing COMPLAINT FOR CUSTODY PURSUANT TO NRS 125C, knows the contents thereof, and that the same is true of his own knowledge, except for those matters therein stated on information and belief, and as for those matters he believes them to be true.


SCOTT ANTHONY

SUBSCRIBED and SWORN to
before me this 4 day of

December, 20 20




Notary Public in and for said
County and State



1 AACC
2 DENISE A. GALLAGHER, ESQ
3 Nevada Bar No. 005739
4 GALLAGHER ATTORNEY GROUP, LLC
5 1291 Galleria Drive, Suite 230
6 Henderson, Nevada 89014
7 Ph: (702) 448-1099
8 denise@gallagherattorneygroup.com
9 Attorney for Defendant

7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**
9 **FAMILY DIVISION**

9 SCOTT M. ANTHONY,

Case No.: D-20-618325-C

10 Plaintiff,

Dept.: I

11 vs.

12 KATARINA E. KURZ,

13 Defendant.
14

15 **ANSWER AND COUNTERCLAIM**

16 COMES NOW, the Defendant, KATARINA KURZ, by and through her attorney,
17 DENISE A. GALLAGHER, ESQ, of GALLAGHER ATTORNEY GROUP, LLC, and for her
18 answer to the Plaintiff's Complaint for Custody Pursuant to NRS 125C, admits, denies, and
19 alleges as follows:
20

21 1. Answering paragraphs 1, 2, 3, 4, 5, 6, 7 and 8 of Plaintiff's Complaint on file herein,
22 Defendant/ Counterclaimant admits each and every allegation contained therein.
23

24 2. Answering paragraph 9 of the Plaintiff's Complaint on file herein, the Defendant denies
25 that the Court's reason for its final order was based solely on school beginning in
26 August/September of 2019.

27 3. Answering paragraph 10 of the Plaintiff's Complaint on file herein, the Defendant
28 denies the allegation that the "Nebraska judge believed there should be a joint physical custody

1 arrangement which was only interrupted by the fact that the child was now going to begin his
2 Kindergarten school year and obviously could not continue a month-to-month custody schedule”.

3 The Defendant denies each and every other allegation contained in paragraph 10.

4 4. Answering paragraph 11, the Defendant admits each and every allegation contained
5 therein.
6

7 5. Answering paragraph 12 of the Plaintiff's Complaint, the Defendant agrees that Ellis
8 v. Carucci is the controlling authority in a modification of primary custody case. The Defendant
9 denies each and every remaining allegation contained in paragraph 12.

10 6. Answering paragraph 13 of the Plaintiff's Complaint, Divorce, the Defendant admit
11 each and every allegation contained therein.
12

13 7. Answering paragraph 14 of the Plaintiff's Complaint, the Defendant denies each and
14 every allegation contained therein.

15 8. Answering paragraphs 15 and 16 of Plaintiff's Complaint, the Defendant admits each
16 and every allegation contained therein.
17

18 WHEREFORE, Defendant prays for the following relief:

- 19 1. That the Plaintiff take nothing by way of his Complaint on file herein;
20 2. That the Court award the Defendant attorney's fees for the necessity of having to retain
21 counsel to defend this action; and
22 3. For such other and further relief as the Court may deem necessary and proper in the
23 premises.
24

25 **COUNTERCLAIM**

26 COMES NOW, the Defendant/Counterclaimant, KATARINA KURZ, by and through her
27 attorney, DENISE A. GALLAGHER, ESQ., of GALLAGHER ATTORNEY GROUP, LLC, and
28

1 for her cause of action against the Plaintiff/ Counterdefendant, SCOTT ANTHONY, alleges and
2 states as follows:

3 **I.**

4 That the parties were divorced by way of a trial in the State of Nebraska in 2019. A copy
5 of their Decree of Divorce is attached to the Plaintiff's Complaint as Exhibit A.
6

7 **II.**

8 That the parties are the parents of one (1) minor child born during the marriage, to-wit:
9 MICHAEL SCOTT ANTHONY, born February 23, 2014. All issues regarding the custody, care
10 and support of the minor child were settled in the parties' Decree of Divorce.
11

12 **III.**

13 The Court, at the time of trial, made best interest findings and awarded sole legal and sole
14 physical custody to the Defendant/Counterclaimant.
15

16 **IV.**

17 That Nevada is the home state of the minor child.

18 **V.**

19 That the Defendant moving to Nevada is not a sufficient change of circumstances to
20 disturb an order for sole legal and sole physical custody.
21

22 **VI.**

23 That based upon the Plaintiff's relocation, a modification of both visitation and holidays
24 should occur with the parties attempting resolution through the Family Mediation Center.
25

26 **VII.**

27 That no modification of the Plaintiff's child support should occur.
28

VIII.

That there is community property belonging to the parties, the exact amounts and descriptions of which are unknown to Defendant at this time, and thus, Defendant prays leave of the Court to amend this Complaint to insert the same when they have come known to her or at the time of the trial in this matter; that this Court should make a fair and equitable division of all the community property of the parties.

IX.

That the Plaintiff should continue to cover the minor child on his medical insurance at his sole cost.

X.

That it has been necessary for Defendant to engage the services of an attorney to prosecute this action and Plaintiff should be ordered to pay Defendant's reasonable attorney's fees and costs in this matter pursuant to Wright v. Osburn, 970 P.2d 1071 (1998) and NRS 18 et.seq.

WHEREFORE, the Defendant/Counterclaimant prays for judgment as follows:

1. That she be granted the relief requested in her Counterclaim;
2. For an award of attorney's fees; and
3. For such other and further relief as the Court may deem necessary and proper in the premises.

DATED this 30th day of October, 2020.

GALLAGHER ATTORNEY GROUP, LLC

By: Denise A. Gallagher

DENISE A. GALLAGHER, ESQ.

Nevada Bar No. 005739

1291 Galleria Drive, Suite 230

Henderson, Nevada 89014

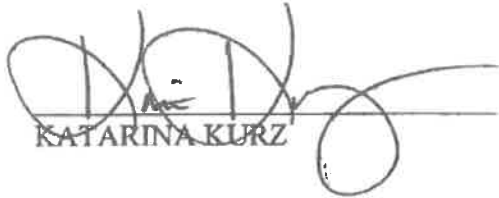
Attorney for Defendant

1 VERIFICATION

2 STATE OF NEVADA)
3) ss.
4 COUNTY OF CLARK)

5 The Defendant, KATARINA KURZ, being first duly sworn, deposes and states:

6 That I am the Defendant in the above-entitled action. I have read the foregoing
7 Counterclaim and know the contents thereof; that the pleadings are true and correct to the best of
8 my knowledge, except as to those matters herein stated on information and belief, and as to those
9 matters, I believe them to be true.

10
11 
12 KATARINA KURZ

13 SUBSCRIBED and SWORN to before me
14 this 29th day of December, 2020.

15 
16 NOTARY PUBLIC in and for
17 said County and State



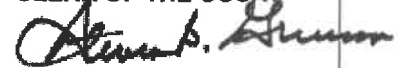
DAVID M. GRANT
NOTARY PUBLIC
STATE OF NEVADA
Appt. No. 06-102843-1
My Appt. Expires Feb. 7, 2022

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Joseph W. Houston, II, Esq.
jwh7408@yahoo.com
Attorney for Plaintiff

/s/ Esthela Silva

An Employee of Gallagher Attorney Group, LLC



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jwh7408@yahoo.com
Attorney for Defendant
SCOTT M. ANTHONY

**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.

1 DAO

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4 *****

5 SCOTT M. ANTHONY,
6 Plaintiff,

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

7 vs.

DATE OF HEARING:
06/14/2021

8 KATARINA E. KURZ,
9 Defendant,

TIME OF HEARING: 9:00 A.M.

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

21

1 SUMMARY

2 The parties divorced in Douglas County, Nebraska in 2019. After a trial,
3 Katarina was granted sole legal and primary physical custody of Michael with
4 relocation to Nevada. Katarina alleged the Nebraska Court based its orders on a
5 finding that Scott committed domestic battery. Scott disputes the alleged finding
6 and claims no such finding was made by the Court.

7 Since the Decree was filed, Scott relocated to Nevada from Nebraska.
8 Scott requests the Court modify the Nebraska court order to an order awarding the
9 parties Joint Legal Custody and Joint Physical Custody pursuant to Ellis v. Carucci,
10 123 Nev. 145 (2007). Additionally, Scott requests the Court modify the child
11 support order in conformity with Wright v. Osburn, 114 Nev. 1367 (2008).

12 Katarina argued Scott did not overcome his burden under Ellis to support a
13 change of custody. Scott argued his move to Las Vegas constituted a substantial
14 change in custody and the best interest of the child warranted a change to joint
15 physical custody.

16 Counsel for the parties acknowledged the Decree is silent as to domestic
17 violence. The parties stipulated to the admissibility of the transcript from the trial.
18 The parties also stipulated the Court may review the transcript and the relevant
19 Nebraska statutes to determine, if possible, whether the Nebraska Court
20 substantiated the domestic violence allegation.

21

1 The Court finds Scott overcame his burden under Ellis to support a change
2 of custody. The Court also finds it is in Michael's best interest for the parties to
3 share Joint Legal Custody and Joint Physical Custody.

4 FINDINGS OF FACT

5 1. Scott lives in a two bedroom apartment located at 7955 Badura
6 Avenue in Las Vegas, Nevada.

7 2. Scott and Katie (aka Katarina, Scott referred to her as Katie throughout
8 the hearing) share one (1) minor child Michael (hereinafter referred to as
9 "Michael"). He is seven (7) years old and will start second (2nd) grade in the
10 upcoming school year. Scott does not have any other children.

11 3. When Scott and Katie/Katarina first separated, Katie/Katarina
12 relocated from Nebraska to Nevada with Scott and Michael staying behind in
13 Nebraska.

14 4. The Nebraska Court ordered joint legal and joint physical custody of
15 Michael on a two-week schedule at the hearing on April 23, 2018. *See* Exhibit 1.

16 5. Scott and Katie/Katarina decided to modify that order without court
17 intervention to cut down on travel costs. They agreed to implement a month on/
18 month off schedule until the trial in July of 2019.

19 6. After the trial, the Nebraska Court granted Katie/Katarina sole legal
20 and physical custody of Michael with a visitation schedule for Scott. *See* Exhibit 2.

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.

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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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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*
things:

17 *(a) The wishes of the child if the child is of sufficient age and*
18 *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.*

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

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

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

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,
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
other child.*

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

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

21

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

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

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

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

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

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

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

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

19 **III. Child Support**

20 In regards to child support, NAC 425.115 states:

21 ***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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1 programs, significant changes in social environment, and health care of
2 the child.

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

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

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

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

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

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

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

13 I. Each party shall be entitled to reasonable telephone
14 communication with the child. Each party is restrained from
15 unreasonably interfering with the child's right to privacy during such
16 telephone conversation. Telephone conversations shall be initiated
17 either by the child or parent and are to occur during reasonable
18 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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1 **IT IS FURTHER ORDERED** Scott shall be entitled to claim the child tax
2 credit for Michael in odd years. Katie/Katarina shall be entitled to claim the child
3 tax credit for Michael in even years. The parties shall equally divide any stimulus
4 funds received by either party.

5 **IT IS FURTHER ORDERED** both parties shall be responsible for their
6 own attorney's fees and costs.

7 **IT IS FURTHER ORDERED** Attorney Houston shall prepare the Notice
8 of Entry of Order upon receipt of this filed Decree.

9 STATUTORY NOTICES

10 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 125C.0045(6):

11 PENALTY FOR VIOLATION OF ORDER: THE
12 ABDUCTION, CONCEALMENT OR DETENTION OF A
13 CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE
14 AS A CATEGORY D FELONY AS PROVIDED IN NRS
15 193.130. NRS 200.359 provides that every person having a
16 limited right of custody to a child or any parent having no right
17 of custody to the child who willfully detains, conceals or
removes the child from a parent, guardian or other person
having lawful custody or a right of visitation of the child in
violation of an order of this court, or removes the child from the
jurisdiction of the court without the consent of either the court or
all persons who have the right to custody or visitation is subject
to being punished for a category D felony as provided in NRS
193.130.

19 **NOTICE IS HEREBY GIVEN** that pursuant to NRS 25C.0045(7)(8):
20 The terms of the Hague Convention of October 25, 1980, adopted by the 14th
21 Session of the Hague Conference on Private International Law, apply if a parent
 abducts or wrongfully retains a child in a foreign country as follows:

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

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

5 (b) Upon motion of one of the parties, the court may order the
6 parent to post a bond if the court determines that the parent
7 poses an imminent risk of wrongfully removing or concealing
8 the child outside the country of habitual residence. The bond
9 must be in an amount determined by the court and may be used
10 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.

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

12 1. If JOINT PHYSICAL CUSTODY has been established
13 pursuant to an order, judgment or decree of a court and one
14 parent intends to relocate his or her residence to a place outside
15 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:

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

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

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

21 (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
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

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**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

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.

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 | DAD | MOM |
| March 21 | | |
| Festival of Ridvan | MOM | DAD |
| April 21 | | |
| Declaration of the Bab | DAD | MOM |
| May 23 | | |
| Ascension of Baha'u'llah | MOM | DAD |
| May 29 | | |
| Martyrdom of Bab | DAD | MOM |
| July 9 | | |
| Birth of the Bab | MOM | DAD |
| October 20 | | |
| Birth of Baha'u'llah | DAD | MOM |
| November 12 | | |

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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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.

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

Year-Round School

7 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.

In-Service/Professional Development Days

9 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
10 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.

Transportation

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

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4
5
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

15 Denise Gallagher

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