

1 guys are so weird.” tells him to shut the f*ck up, and challenges him
2 to a fight. A video of this exchange is available for the Court’s review.

3
4 4. Transportation to Extra-curricular Activities

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Clerk of Supreme Court

5 Also pursuant to the order from October 16, 2018, and confirmed in the
6 parties’ Decree of Divorce, both parties are required to transport the minor children
7 to their extracurricular activities. The following are incidents on which Devin has
8 refused to do so because he is unhappy with Amanda.
9

10 a. On May 21, 2019, Abby had a Girl Scout meeting during Devin’s
11 custodial time, which Amanda confirmed via Our Family Wizard on
12 April 29, 2019¹⁵. On May 11, 2010, Devin booked a trip to South
13 Carolina, and subsequently learned that he would miss Abby’s
14 Kindergarten graduation, which caused him to cancel his trip. Devin
15 blamed Amanda for missing his trip, and subsequently refused to take
16 Abby to her Girl Scout meeting on May 21, 2019.
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19 b. On September 21, 2019, Devin refused to bring Abby to her
20 cheerleading practice because he did not like that Amanda’s dad was
21 present at the parties’ custodial exchange¹⁶.
22

23 c. September 24, 2019: Devin refused to take the children to a Girl Scout
24 event that he previously agreed to take them to.
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26 ¹⁵ A copy of the communication is attached as **Exhibit “O”** in the Exhibits in Support of
27 Defendant’s Motion and is hereby fully incorporated herein by reference.

28 ¹⁶ A copy of the communication is attached as **Exhibit “P”** in the Exhibits in Support of
Defendant’s Motion and is hereby fully incorporated herein by reference.

- 1 d. On November 15, 2019, Devin refused to take Abby to Girl Scouts.
- 2 e. On January 26, 2020, Devin refused to take Abby to a game she was
- 3 required to attend for cheerleading.
- 4

5 5. Financial Orders

6 The following financial orders are included in the parties' Decree of Divorce:

- 7 (1) the parties are to abide by the 30/33 Rule for unreimbursed medical expenses;
- 8
- 9 (2) Devin is to pay child support in the amount of \$350.00 per months; and (3)
- 10 Devin is to pay to Amanda \$7,500.00 at the rate of \$208.33 per month until paid in
- 11 full, beginning March 1, 2020.
- 12

13 As of the filing of this Motion, Devin has failed to pay his share of

14 unreimbursed medical expenses incurred since February 11, 2020¹⁷; child support

15 for the month of April; and the payment of \$208.33.00 for the months of March and

16 April. Regarding the unreimbursed medical expenses, Amanda incurred an expense

17 in the amount of \$15.06 on March 3, 2020, requested reimbursed from Devin on the

18 same day, and as of April 7, 2020, more than thirty (30) days later, no

19 reimbursement has been paid.

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22 Concerns During Devin's Custodial Time

23 As Amanda has expressed in previous Motions before this Court, Devin

24 continues to provide inadequate care to the minor children during his custodial

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27 ¹⁷ Devin has refused to abide by the 30/30 rule for the entirety of this litigation. Amanda is only

28 including expenses after the date of the parties' settlement conference because all medical arrears were waived pursuant to the terms of the Decree of Divorce.

1 time. It is clear that he is unable to get the kids ready for school. He constantly
2 drops the children off to school dirty, unfed, in pajamas or clothes that are too
3 small, with their teeth and hair unbrushed. Amanda brushes and fixes Abby's hair
4 every day, even on Devin's custodial days, because he does not, and has been doing
5 so since October, 2018. If the children arrive to school early enough, Amanda
6 brushes their teeth; she keeps toothbrushes for them at school specifically so she
7 can do so. The children have told Amanda that they only brush their teeth on
8 Sundays when they take a shower.

11 Since Devin began working again, his son, Daniel, drops the children off.
12 Devin makes the children sleep in their clothes so that Daniel does not have to dress
13 them in the morning. Daniel wakes them up and immediately puts them in the car,
14 without feeding them or allowing them to even use the bathroom. The children
15 often arrive at school in clothes that are dirty or too small. On numerous occasions
16 Shawn has arrived at school with food on his face and clothes from dinner the night
17 before. When Amanda gets the children back after Devin's three-day custodial
18 period, they are often wearing the same underwear, and sometimes even the same
19 clothes, as the beginning of his custodial time. At the Court's request, Amanda is
20 prepared to provide videos of the children being dropped off to her at school, asking
21 to brush their teeth and in desperate need of using the bathroom. In one such video,
22 Abby's pants are so tight they will not even button.

1 Devin has begun using food as a weapon, telling Abby that he will only give
2 her food if she is good when he picks her up. Further, Shawn constantly arrives at
3 school visibly upset, and the children are often dropped off late. Devin is aware
4 that Amanda is waiting for the children to be dropped off, as she is the one who
5 receives them at the school's front doors, but Devin does not notify her when they
6 will be late or when they will arrive.
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9 Due to his violent behavior and failure to adequately care for the children,
10 including withholding food, Abby continuously refuses to go with Devin for his
11 custodial time. Devin makes no effort to retrieve Abby from Amanda; while Abby
12 clings to Amanda's leg and Amanda repeatedly tells her she has to go with Devin,
13 Devin simply stands back and says, "let's go Abby." On numerous occasions,
14 Devin has simply left without Abby, then alleged that Amanda has withheld
15 visitation. On other occasions, Devin throws Abby in the front seat of his truck and
16 drives away quickly, without her even buckled let alone in an appropriate car seat.
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18
19 Abby is hysterical during these custodial exchanges. On at least one
20 occasion, after putting Abby in the car, Devin asked Amanda to come to his car as
21 Abby wanted a kiss from her. While giving her a hug and kiss through the window,
22 Abby told Amanda, through tears, that Devin had said he was going to hit her when
23 they got home¹⁸.
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27 ¹⁸ Both parties continuously record the custodial exchanges. Video of the exchanges, showing
28 Abby in hysterics and Devin's behavior, are available at the Court's request.

1 Devin blames Abby's refusal to go with him on Amanda, but even when
2 Amanda is not around, Abby refuses. When Devin picks the children up from
3 school, he gets them straight from Safekey and Amanda is not part of the exchange,
4 yet still Abby refuses. On numerous occasions Devin has told Amanda to come get
5 Abby because she will not stop crying and will not go with him.
6

7
8 On one occasion Abby ran away from Devin and hid from him inside of the
9 school; Amanda had already left, but Devin sent her a text message alleging that
10 Amanda was still at the school and had hidden her car. Devin ultimately found
11 Abby after about an hour; he then told Abby, in the presence of a teacher at the
12 school, that Shawn had been locked in the car by himself the entire time¹⁹. Devin
13 never informed Amanda that he did find Abby and have her in his care. Later that
14 night, Abby called Amanda extremely upset, telling Amanda that she was "not ok."
15 The phone then hung up. Devin then sent Amanda a text message stating, "Well I
16 will never let them call you to make them feel better ever again²⁰."
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18
19 On or about March 24, 2020, when Devin got the children to his house to
20 start visitation, Devin took Abby into his bedroom, took a gun from his safe, and set
21 it next to her. He told Abby that if things get worse, he will use it. According to
22 Abby, after she had sat on the bed with the gun for a little bit, Devin put it back in
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26 ¹⁹ A copy of the communication is attached as **Exhibit "Q"** in the Exhibits in Support of
27 Defendant's Motion and is hereby fully incorporated herein by reference.

28 ²⁰ A copy of the communication is attached as **Exhibit "R"** in the Exhibits in Support of
Defendant's Motion and is hereby fully incorporated herein by reference.

1 the safe. He then told Abby that she can't cry at exchanges anymore and she has to
2 be good.

3
4 When Amanda is present for the custodial exchange, she has to physically
5 force Abby, who is always sobbing hysterically, to go with Devin. She has to either
6 force her into Devin's car, or Devin has to pull her off of Amanda and force her
7 into his car. Abby is clearly traumatized, which is confirmed by Dr. Paglini's
8 comments about the necessity of her continuing in therapy, and is only becoming
9 more traumatized by the nature of the custodial exchanges and Devin's ongoing
10 threats of physical harm.
11

12 II.

13 Legal Analysis

14 A. *Dr. Paglini's Recommendation should be adopted as a Order of this* 15 *Court.*

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17 As noted above, the parties stipulated on August 27, 2019, to have a custodial
18 evaluation performed by Dr. Paglini. Both parties participated fully in the
19 evaluation, meeting personally with Dr. Paglini and providing names of individuals
20 with whom Dr. Paglini could conduct collateral interviews. Amanda agreed to
21 withdraw her appeal in exchange for the custodial evaluation taking place. Both
22 parties had an equal opportunity to participate in the evaluation, and it was clearly
23 the intent of the parties to follow the recommendations of the jointly chosen expert;
24 if either party did not intend for the recommendations to be followed, they would
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1 not have agreed to utilize a *joint* expert.

2 Dr. Paglini's recommendations are clear, as are the reasons such
3 recommendations are made. There is no basis for Devin to object to such
4 recommendations, as Dr. Paglini was a jointly agreed-upon expert. As such,
5 Amanda respectfully requests that Dr. Paglini's recommendations be adopted as
6 follows:
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8

- 9 1. That Amanda be awarded sole legal custody, with Devin receiving
10 information related to educational, medical, and recreational activities.
- 11 2. The Devin be required to complete at least 20 anger management classes
12 and complete extensive parenting courses.
- 13 3. That Abby continue in therapy with Dr. Lisa Shaffer

14 B. **This Court should enter an Order to Show Cause why Devin should not**
15 **be held in contempt.**
16

17 Amanda requests that this Court take action to require Devin to comply with
18 the law and this Court's Orders by issuing an Order to Show Cause as to why he
19 should not be held in contempt for his violations of this Court's Orders.
20

21 NRS 22.010 states:

22 **22.010 Acts or omissions constituting contempt.** The
23 following acts or omissions shall be deemed contempt:

- 24 1. Disorderly, contemptuous or insolent behavior toward the
25 judge while he is holding court, or engaged in his judicial duties at
26 chambers, or toward masters or arbitrators while sitting on a reference
27 or arbitration, or other judicial proceeding.
28

1 2. A breach of the peace, boisterous conduct or violent
2 disturbance in the presence of the court, or in its immediate vicinity,
3 tending to interrupt the due course of the court or judge at chambers.

4 3. **Disobedience or resistance to any lawful writ, order,**
5 **rule or process issued by the court or judge at chambers...**
(emphasis added.)

6 The penalties for Contempt as set forth above are found, in part, under NRS
7 22.100 which states:

8
9 **22.100 Penalty for contempt.**

10 1. Upon the answer and evidence taken, the court or judge or jury, as
11 the case may be, shall determine whether the person proceeded against
12 is guilty of the contempt charged.

13 2. Except as otherwise provided in NRS 22.110, if a person is found
14 guilty of contempt, a fine may be imposed on the person not exceeding
\$500 or the person may be imprisoned not exceeding 25 days, or both.

15 3. In addition to the penalties provided in subsection 2, if a person is
16 found guilty of contempt pursuant to subsection 3 of NRS 22.010, the
17 court may require the person to pay to the party seeking to enforce the
18 writ, order, rule or process the reasonable expenses, including, without
19 limitation, attorney's fees, incurred by the party as a result of the
contempt.

20 Nevada law requires that an order for civil contempt must be grounded
21 upon one's disobedience of an order that spells out "the details of compliance in
22 clear, specific and unambiguous terms so that such person will readily know
23 exactly what duties or obligations are imposed on him." *Southwest Gas Corp. V.*
24 *Flintkote Company-U.S. Lime Division*, 99 Nev. 127, 131, 659 P.2d 861 (1983)
25 quoting *Ex Parte Slavin*, 412 S.W.2d 43, 44 (Tex.1967). This Court's Order
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